

RFP-FQ12204/WJG



WASHINGTON
METROPOLITAN
AREA TRANSIT
AUTHORITY
(WMATA)

REQUEST FOR PROPOSAL

DIVISION 00
PROCUREMENT AND CONTRACTING REQUIREMENTS

AF TRACK CIRCUIT REPLACEMENT
ROUTE SEGMENT'S C, E, F, G, AND K

JULY 2013

Division 00

- Introductory Information (00000)
- Proposing Requirement (00100 – 00400)
- Contracting Requirements (00500 – 00600) (For Awarding Only)
- General Conditions (00700)
- Supplemental Conditions (00800)
- Addenda and Modifications (00900)

00015 List of Project Drawings

AF TRACK CIRCUIT REPLACEMENT ROUTE SEGMENT'S C, E, F, G, AND K

Blue/Yellow, Green/Yellow, Blue and Orange Lines

Route Segments C, E, F, G, & K

Locations: C11, C12, C13, C14, C15, C97, C98

E01, E02, E03,

F01, F02, F03, F04, F05, F06

G01, G02, G03

K05, K06, K07, K08

Contract No. FQ12204

June 2012

Gannet Fleming
Transit & Rail Systems

Hatch Mott
MacDonald

General Railway Signal Company

Installation Plan Track Equipment Route 'K'

Location: Dunn Loring Automatic Train Control

Drawing No(s) K07-G-7
K07-G-8
K07-G-9
K07-G-10
K07-G-11

April 3, 1986

End of 00015

Proposing Requirements

00100 Project Information – Request for Proposal and Proposal Solicitation

Notice to Proposers

RFP FQ12204/WJG includes Projects Manuals and Project Drawing Sets for **AF TRACK CIRCUIT REPLACEMENT ROUTE SEGMENT'S C, E, F, G, AND K**

Technical Proposals and Cost Proposals for the work described herein shall be submitted separately by the Offeror as to be received at the Office of Procurement, Washington Metropolitan Area Transit Authority, Office of Procurement, Room 3C-02, 600 Fifth Street, NW Washington, DC 20001. Questions may be directed in writing to William J. Geroux, Contract Administrator at wgeroux@wmata.com

DIRECTIONS FOR SUBMITTING OFFER: Read and comply with the Solicitation Instructions, the following must be completed and submitted separately as part of the offer:

Technical Proposal:

- Technical Proposal Form (you must sign)¹
- Technical Proposal

Price Proposal:

- Price Proposal Form (you must sign)¹
- Price Schedule
- Proposal Guarantee
- Proposal Data Form with Supporting Data
- Representations and Certifications
- List of DBE-Certified Firms, if applicable²

The separately sealed Technical and Cost Proposals must be marked with offer under Solicitation RFP No. FQ12204/WJG and Amendment(s) must be acknowledged on the Technical Proposal Form and Price Proposal Form.

¹ The separately sealed Technical and Price Proposal Forms must be marked with offer under Solicitation RFP No. FQ12204/WJG and with acknowledgment 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 calculation; Refer to 00453 DBE Information.

00101 General Statement of Work

- A. This solicitation is for the submittal of separate Technical and Price Proposals through a negotiated method of procurement for both design and construction/installation services. The Contractor shall complete the AF Track Circuit Replacement Route Segment's C, E, F, G, and K .
- B. The Contractor, through itself or others, shall provide professional design and engineering services as well as technical, sub-professional, clerical and other services necessary for the complete design and preparation of the Final Design and Final Design Drawings and Specifications, as well as the schedules, cost estimates, cost accounting, quality assurance/control and other Contract requirements. The Contractor shall also furnish all labor, equipment, materials, quality assurance/quality control, construction and environmental/security/safety superintendence, and field engineering services required for the installation phase of the Project. The Contractor is responsible for program and project management, coordinating with jurisdictional agencies and utilities; obtaining all necessary permits, approvals, providing submittals, field engineering support, and 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, all in accordance with the Contract requirements. No attempt has been made to separate the work by trades or types of construction, and the Contractor shall make its own decision as to who does what to accomplish the work.
- C. It is the responsibility of the Contractor to gather all data necessary for the performance of the Work under this Contract and to develop a complete and final design of the project. The Authority will furnish the Contractor Project Manual and Attachments to the Project Manual which include Design Criteria (the WMATA-provided Program Criteria, applicable WMATA Standard and Technical Specifications, Project Drawings, the WMATA Construction Safety and Environmental Manual, the Safety and Security Certification Program Plan and the System Safety Program Plan and other design related information) for the Contractor's use in developing the Final Design Specifications and Drawings.
- D. All work under this Contract shall be performed in accordance with the terms and conditions of the Contract and in a logical sequence as dictated in its schedule, developed by the Contractor and approved by the Authority. The Authority reserves the right to review and approve the sequence of work.

00102 General Scope of Services

In accordance with the Technical Specifications contained herein.

00103 Project Solicitation Schedule

Scheduled Event	Date
RFP Release	July 22, 2013
Pre-Proposal Conference	August 12, 2013
Site Visit	August 12 – 19, 2013
Deadline for Proposer Questions	August 30, 2013
WMATA Response to Proposer Questions	September 6, 2013
Deadline for Proposal Submission	September 23, 2013
Contract Execution	January 9, 2014
Notice to Proceed	January 21, 2014
System Acceptance	NTP + 1,440 Days

End of 00100

00200 Instructions to Proposers

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

00201 General Instructions

A. Definitions as used herein

The term “Solicitation” used in this document means this Request for Proposal (“RFP”)

The terms “Offer” and “Proposal” are synonymous and mean a response to this solicitation

The terms “Offeror” and “Proposer” are synonymous and refer to the Contractor that submits a response to this solicitation

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” negotiated procurement that will result in a Firm Fixed Price Contract.
2. The Authority reserves the right to award without 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 00204
 - (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 determines that they are necessary. If so, the Authority will establish a competitive range¹ of all of the most highly rated proposals.
3. The Authority will make a single award to one proposer as the result of this solicitation. See Notes to Proposers on Section 00434 PRICE SCHEDULE for further Award information.
4. A written award of acceptance of offer mailed or otherwise furnished by the Authority to the successful proposer within the specified Acceptance Period shall result in a binding contract

¹ To determine which Offeror’s proposals are within or not within a competitive range following the evaluation of the cost/price and technical proposals. The objective is to eliminate proposals that do not comply substantially with the requirements as submitted or that even if discussions with the Offeror are held and the Offeror is permitted to revise the proposal that the proposal does not have a reasonable chance to be selected for award

without further action by either party. The Authority may accept an offer 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

The Proposer shall complete the Proposal Forms furnished in Section 00400, or copies thereof, submit them according to the instructions given in this RFP. If erasures or other changes appear on the forms, such erasures and changes must be initialed by the person signing the proposal.

Proposer shall furnish the information required by the solicitation. Proposer is expected to examine the drawings, specifications, schedule, and all instructions and exhibits. Failure to do so will be at the proposer's risk.

F. Explanation to Proposer

Any explanation desired by a Proposer regarding the meaning or the interpretation of this RFP or any other solicitation document must be requested in writing and with sufficient time allowed for a reply to reach all proposers before the submittal of their proposal. Oral explanations or instructions given before the award of the Contract will not be binding. Any information given to proposer concerning the solicitation will be furnished as an amendment to this RFP.

The Authority reserves the right to revise or amend the RFP prior to the date set for receipt of proposal or final offer. Such revisions and amendments, if any, will be announced by an amendment or amendments to this RFP.

If the revisions under amendments would require material changes in the proposal, the date set for the receipt of proposal may be postponed by such number of days as in the opinion of the Authority will enable proposer to revise their proposal. In such cases, the amendment will include an announcement of the new date for the receipt of proposals.

G. Acknowledgment of Amendments

Proposer is 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.

Proposals previously submitted may be resubmitted to address an amendment provided they are received at the office designated in this RFP by the Proposal due date and time. Modifications of either Technical Proposal or Price Proposal shall be enclosed separately and sealed.

If this solicitation is amended, all terms and conditions which are not modified remain unchanged.

H. Submission/Withdrawal of Proposals/Offers

Technical and Cost Proposals shall be sealed, marked, addressed and submitted separately as directed in this Paragraph H.

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 proposal, the solicitation 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.

Proposal may be mailed or delivered in person to the Washington Metropolitan Area Transit Authority, Office of Procurement, Room 3C-02, 600 Fifth St. N.W., Washington D.C., 20001 prior to the date for receipt of proposal unless otherwise specified.

Telegraphic and facsimile proposal will not be considered, unless authorized by the Authority.

Proposal may be withdrawn by written notice or telegram (including mailgram) before award. Proposal 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

Any offer received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it:

Was sent by registered or certified U.S. mail not later than the fifth calendar day before the date specified for receipt of offers (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);

Was sent by mail, and it is determined by the Authority that the late receipt was due solely to mishandling by the Authority after receipt;

Was sent by U.S. Postal Service Express Mail Next Day Service Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of offers. The term "working days" excludes weekends and U.S. Federal holidays; or

Is the only offer received

Any modification of an offer, except a modification resulting from the Contracting Officer's request for a "best and final" offer, is subject to the conditions stated above.

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.

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.

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

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, will be cause for rejection of the proposal.

A proposal guarantee shall be in the form of a firm commitment, such as a proposal bond (form supplied in Section 00431), 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, 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:

To unsuccessful proposers: As soon as practicable after the receipt of proposals.

To the successful proposer: Upon execution of such further contractual documents and bonds as may be required by the proposal as accepted.

If the successful proposer, upon acceptance of its Proposals by the Authority within the Acceptance Period, fails to execute such further contract documents 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

"Acceptance Period", as used in this provision, means the number of calendar 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 (BAFO's) if applicable.

This provision supersedes any language pertaining to any period for acceptance that may appear elsewhere in this solicitation.

The Authority requires a minimum Acceptance Period of 150 calendar days from the latest date of receipt of Proposals.

L. Contract and Bonds

The proposer whose Technical and Price Proposal are accepted shall, within the time established in the Contract Documents, enter into a written contract with the Authority and furnish

performance and payment bonds on standard Authority forms in the amounts indicated in the General Conditions of the Contract.

M. Solicitation Documents

The RFP and Appendices are available for download from WMATA's web site at:

http://www.wmata.com/business/procurement_and_contracting/solicitations/index.cfm

N. Conditions Affecting the Work

Proposer is strongly urged to visit the site and take such other steps as may be reasonably necessary to ascertain the nature and location of the work and the general and local conditions which can affect the work or the cost thereof. See Section 00252 (Site Inspection) for further details.

Failure to do so will not relieve proposer from the responsibility for estimating properly the difficulty and cost of successfully performing the work.

The Authority will assume no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to the execution of the Contract, unless included or referenced in this Request for Proposal.

O. Opportunity for Disadvantaged Business Enterprises to Propose

The Washington Metropolitan Area Transit Authority hereby notifies proposer that the Proposer shall affirmatively 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 or national origin in consideration for award.

Disadvantaged Business Enterprises: (See Invitation for Bidders Appendix B)*

It is the policy of the Authority (WMATA) that Disadvantaged Business Enterprises (DBE's) shall have an equal opportunity to receive and participate in performing WMATA contracts, including contracts and subcontracts at any tier, and also 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 (FORMERLY APPENDIX B), and in Section 00772 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 \$100,000 or greater. The DBE goal percentages, if applicable, are listed in Section 00872.

If the proposer is not a DBE, then the DBE goal set forth in Section 00872, if any, shall be met by subcontracts or joint ventures with DBE's.

The documentation requirements of Section 00453, if applicable, should be completed and submitted, at the time set forth in Section 00453, to the Authority. Any proposer who fails to

complete and return this information, if applicable, may be deemed to be not responsible and may 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 VENTURE with agreed price sufficient to meet the DBE goal set forth in Section 00872; 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. Request must be made on company stationery and signed by the responsible official.

Proposers that fail to meet the DBE goal set forth in Section 00872, if any, and fail to demonstrate “good faith efforts” to justify waiver of the DBE goal, if any, may be deemed to be not responsible and will be ineligible for contract award.

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 Appendix B, if applicable, by subcontracting portions of the work to disadvantaged firms, by entering into joint ventures with disadvantaged firms, or both.

The DBE policy of the Authority underwent a complete revision October 1, 1999 to meet revised Federal requirements. The DBE provisions of this RFP are subject to revision by amendment.

If there is no goal in this Contract, DBE participation is encouraged and pursuant to the Authority’s race neutral program, is anticipated to be as specified in Section 00872.

P. Civil Rights

The Contractor will be required to comply with all applicable Equal Employment Opportunity laws and regulations of Section 00770, CIVIL RIGHTS, of this Contract.

Q. Debarred or Ineligible Proposers

The proposer is required to certify that they are not on any list of ineligible or debarred contractors (see Section 00451, REPS AND CERTS).

R. Notice of Protest Policy

WMATA policy and procedure for the administrative resolution of protests is set forth in Chapter 20 of the Procurement Policy 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.

Alleged violations on other grounds must be submitted to the Contracting Officer who will decide the protest.

The judicial authorities having jurisdiction over court actions concerning protest decisions are 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.

S. Requirement for Cost Data Prior to Contract Award

The Authority will require the proposer to submit cost data in sufficient detail to permit analysis of the cost elements which make up the proposed price. The preparation, submittal and

certification of Certified Cost or Pricing Data shall be as described by FAR 15.4 and in the General Conditions (Section 00700) of this Project Manual.

T. Davis-Bacon Wage Determination Decision

The Authority's Compact requires that all mechanics and laborers employed by Contractor 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 the RFP. The Wage Determination Decision of the Secretary of Labor is referred to in the RFP and attached as APPENDIX D.

U. WMATA's Tax Exempt Status

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:

"the Authority and the Board 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."

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 Contractors for physical incorporation into the project 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 Contractor to determine its liability for any and all taxes applicable to this project. Assessment or payment of taxes by the Contractor, 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 00779, FEDERAL, STATE AND LOCAL TAXES.

By submission of its proposal, the proposer certifies that none of the taxes as 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.

V. Advance Cost Agreement

Within 30 days after Notice of Award, the Contractor shall make available for audit review, information on its accounting system used to project fixed and variable overhead rates applicable

to possible Contract changes. The Authority's Office of the Auditor 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 Contractor. The Cost Agreements shall be a supplemental agreement to the Contract.

W. Proprietary Data in Proposals

The Authority shall provide all reasonable precautions to insure 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 any proprietary data submitted with the solicitation the following legend:

"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.

This information does not limit the Authority's right to use information contained in this data if it is or has been obtained by the Authority from another independent legitimate source.

Except for the foregoing limitation, the Authority may duplicate, use, and disclose in any manner and for any purpose whatsoever and have others so do, all data furnished in response to this solicitation."

X. 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 General Proposal Instructions

- 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 1. The type size for figures and tables shall be no smaller than 8 point.
- B. **Identify each volume with the RFP number, the Contract Title 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, and the number of copies specified in this Section, and electronic media for all documents. The electronic media shall be in the form of USB Flash Memory Drive in an AutoCAD (.DWG) file format of the original Proposal Drawings and USB Flash Memory Drive of the original Proposal Set pages in current Microsoft WORD version. Electronic media shall also be submitted for any amendments.
- C. **Proposal Page Count Limits:** Proposals are limited to the page limits listed in Section 00204, 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 not be used for text. Material exceeding the page limits may not be evaluated and may be returned to the proposer.
- D. **Elaboration:** Legibility, clarity, and completeness are essential. Unnecessarily elaborate brochures or other presentation 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.
- E. **Completeness:** Include all formal project specific information as required in the 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 unacceptable, and the offer may be subsequently rejected.

00203 Not Used

00204 Proposal Format, Instructions/Requirements, Evaluation

1. The Offeror shall submit their Proposal as follows:

a. Proposal Format

The original of Volumes I, II and III shall be unbound and shall have the RFP number, the Offeror's identity, volume number, and volume title printed on the cover page.

Volumes shall be submitted in the following order:

Volume I – Cost/Price – One (1) original AND one (1) electronic copy of Volume I submitted on Universal Serial Bus (USB) Drive. All information relating to cost or pricing must be included in this Volume. Under no circumstances shall cost or pricing data be included elsewhere in the Offeror's proposal.

Volume II – Technical - One (1) original AND five (5) electronic copies of Volume II submitted on Universal Serial Bus (USB) Drive; **Technical proposal shall not include cost/price information.**

Volume III – Contractual - One (1) original AND five (5) electronic copies of Volume III submitted on Universal Serial Bus (USB) Drive; shall contain completed, signed solicitation documents to include Representation, Certifications, Pre-Award Data, Certificate of Insurance, DBE requirements, and Amendments, if any.

b. Technical Proposal

The technical proposal shall enable WMATA evaluating personnel to make a thorough evaluation and arrive at a sound determination as to whether or not the proposal will meet the specifications in accordance with WMATA's requirements. Technical proposals shall be specific, detailed, and complete and demonstrate that the Offeror has a thorough knowledge and understanding of the requirements.

c. Technical Proposal Content

The Technical Proposal shall include Offeror's approach in removing the existing GRS Track Circuits and replacing these with a fully operational state-of-the-art Automatic Train Protection (ATP) Train Circuit System for indicated locations. The Technical Proposal shall include a design, installation and testing details addressing the current state including necessary measures needed to work around an operating system. Offeror's shall also submit a design and construction proposal to install new ATP modules and all associated Train Control Room (TCR) and wayside equipment at Location C97 (Duke Street). The Offeror will demonstrate that each proposed track circuit to be installed at C97 will be a direct replacement of the existing track circuit and will be installed with minimal impact to train Operations and with the limited access available to the track area for field installation work. The proposal shall explicitly address the limited space available in the TCR for any additional equipment or equipment racks and for any additional for new equipment within existing racks. A **mandatory site visit will be scheduled to Location C97** prior to the proposal due date.

The contents and requirements for the Technical Proposal are described in detail in the following sections. The Contractors Technical Proposal shall contain each of the following sections, and be separated by an appropriate tab:

- a) **Title Page:** (Limited to one (1) page) The Technical Proposal must contain a Title Page.
- b) **Cover Letter:** (Limited to two (2) pages), the Cover Letter must be signed by an Officer authorized to make a binding commitment for the firm(s) making the proposal. This letter shall include:
 - The Solicitation/RFP Number
 - Offeror name, address, telephone, facsimile numbers, and website address of the Offeror (if applicable)
 - A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item
 - Names, titles, and telephone and facsimile numbers and electronic (Email) addresses of persons authorized to negotiate on the Offeror's behalf with the Authority in connection with this solicitation and;
 - Name, title and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agents' authority.
 - This letter shall include acknowledgement of all addenda issued by WMATA.
- c) **Table of Contents:** (Limited to no more than two (2) pages), the technical proposal must contain a Table of Contents that delineates all sections in the proposal.
- d) **Executive Summary:** (Limited to no more than three (3) pages, **including matrix**), the Offeror shall provide a short executive summary that describes the significant attributes of the proposal. **This executive summary will include a matrix/table that maps each of the factors/sub-factors to a specific section/page/paragraph within the Offeror's proposal.** See below Table A for Sample Matrix.

Table A – Sample Matrix

Factor Reference	Section in Proposal	Page in Proposal	Paragraph In Proposal
Factor 1: Past Performance	22 Past Performance (22.1, 22.2, 22.3)	Tab H – Pages 1-6	Paragraph 1
Factor 2: Organizational Structure	25 Management Practices and Policies	Tab H – Pages 3-7	Paragraphs 1-10

- e) The information supplied shall be closely aligned with the procurement under consideration and shall be free from ambiguities. Ambiguous statements or statements with dual meanings will be interpreted in the manner representing the best interest to the Authority. The prime contractor will be held responsible for the validity of information supplied by potential subcontractors. While all pertinent information is essential to a successful technical proposal, it should be noted that voluminous proposals containing nonessential information are undesirable.

- f) The proposal shall be formatted as presented for ease of correlation. Each response to a paragraph will use the same paragraph numbering system as in the specification, and shall be self-sustaining without referenced to any other response or literature for support.

2. Technical Proposal Evaluation Procedures

Each Technical Proposal will be reviewed and evaluated individually by the Authority in accordance with procurement policy and procedures.

DEFINITIONS

CLARIFICATIONS	Communication with an Offeror for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal; unlike discussions, clarification does not give the Offeror an opportunity to revise or modify its proposal, except to the extent that correction of apparent clerical mistakes results in revision.
DISCUSSIONS	Oral or written communications including negotiations between the Authority and an Offeror (other than clarifications) that; involves information essential for determining the acceptability of the proposal or to cure identified defects in the proposal.
DEFICIENCIES	Defects in the proposal with preclude acceptance. Involves any part of the offeror's proposal which would not satisfy the Authority's minimum requirements established in the solicitation. Includes failures to meet specifications, submit information, or questionable technical or management approaches. Items disclosed during discussions will be evaluated in two categories: material-basis for rejection because further discussions would be meaningless; curable - may be corrected by clarification or discussions and brought into the competitive range.
WEAKNESS	Includes ambiguities and conflicts within the proposal, lack of complete descriptions, errors in interpretation, omissions of essential information, inadequate information that prevents the evaluators from knowing the intent of the proposal, all of which are considered curable in discussions. An excessive number of clarifications may in itself constitute a weakness.
STRENGTHS	Elements of the proposal that meets or exceeds the minimum requirements of the Solicitation and provides an identified benefit to the Authority
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: <u>Exceptional</u> : Exceeds specified performance or capability in a beneficial way to WMATA, and has no weaknesses <u>Acceptable</u> : Meets evaluation standards and any weaknesses are readily correctable. <u>Marginal</u> : Fails to meet evaluation standard; however any significant deficiencies are correctable. Lack essential information to support proposal

Unacceptable: Fails to meet an acceptable evaluation standard and the deficiency is uncorrectable. Proposal would have to undergo a major revision to become acceptable. Demonstrated lack of understanding of the Authority's requirements or omissions of major areas

3. Price Proposal Evaluation Procedures

Price offers will be evaluated only for those proposers whose technical offers have been determined to be technically acceptable. The Authority will evaluate the proposal for its completeness, clarity, conciseness, realism and responsiveness to the RFP-requested requirements.

- The Authority will evaluate the Price Proposal 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.
- The Authority may determine that an offer 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 over or underestimated as indicated by the application of price analysis techniques. A materially unbalanced price presents an unacceptable risk to the Authority.
- Price Risk: Price risk refers to any aspect of the Offeror's proposals that could have significant negative price consequences for the Authority. Proposals will be assessed to identify potential price risk. Where price risk is assessed, it may be described in quantitative terms or used as a best-value discriminator.

4. Technical Evaluation Factors

The Technical Factor shall be determined by assessing whether or not the information provided by the contractor displays the capability to perform all areas required by this solicitation. In addition, the Offeror's versatility in design and installation for replacement of existing GRS track circuits at site C97 will be a major factor in the selection of the Contractor.

FACTOR 1 – PAST PERFORMANCE

The Offeror will submit and the Authority will evaluate the Offeror's past performance. Offeror's must demonstrate the ability to meet successfully or exceed requirements on contracts of similar scope and size. This includes quality of previous contracts, project management ability, and past adherence to reporting standards. **The Contractor must demonstrate experience in the installation of a fully operation state-of-the art Automatic Train Protection Track Circuit System within the last five (5) years, per the scope of work (SOW).** This factor will be used to determine the risks of non-performance, defective performance, and/or late performance by evaluating each offeror's reported quality of work and relative experience with a type of solicited requirement. In evaluating Past Performance, the Authority may contact some or all of the references provided by the Offeror and may contact other sources of information. The Authority may evaluate the performance of the

Offeror's proposed key subcontractors or key personnel who have relevant experience to the extent warranted. To assess the quality of work and relevant work experience with the type of solicited services, the Offeror's must submit no more than five (5) references including contact name, phone number, contract number, project title, and brief description of the project.

The Offeror shall provide key personnel who have relevant experience, or subcontractors that will perform major or critical aspects of the requirement (20% or more of contract value) when such information is relevant to the instant acquisition. The contracts that the Authority will deem relevant shall be of a similar scope and magnitude as this effort. Furnish the following information for each contract referenced:

- Company/Division name
- Product/Service
- Contracting Agency/Customer
- Contract Number
- Contract Dollar Value
- Period of Performance
- Verified, up-to-date name, address, FAX & telephone number of the contracting officer
- Comments regarding compliance with contract terms and conditions
- Comments regarding any known performance deemed unacceptable to the customer, or not in accordance with the contract terms and conditions
- Submit information on key personnel, major subcontractors, and work performed as team or joint venture partner if prime contract history is not available.

If a teaming arrangement or joint venture is contemplated, provide complete information as to the arrangement, including any relevant and recent past/present performance information on previous teaming arrangements with same partner. If this is a first time joint effort, each party to the arrangement must provide a list of past and present relevant contracts.

Provide any information currently available (letters, metrics, customer surveys, independent surveys, etc.) which demonstrates customer satisfaction with overall job performance and quality of completed product for same or similar type contract. Describe corrective actions taken to mitigate the aforementioned to address cost overruns, extended performance periods, numerous warranty calls, etc.

FACTOR 2 – ORGANIZATIONAL STRUCTURE

The Offeror shall provide sufficient information to enable WMATA to understand and evaluate the Offeror's Team. Provide the identity of and information about the Key Personnel listed Section 01111 Design-Builder Key Staff. Description of and actual resumes for the necessary key positions and position descriptions, which demonstrate requisite education, experience, and/or special skills needed to perform the tasks listed within the SOW.

Furnish an organizational chart showing the "chain of command" of all companies, including individuals responsible for pertinent disciplines, proposed on the Offeror's team. Identify major functions performed and their reporting relationships in managing, designing and installation of the Project. The organizational chart should show a clear separation and independence between the Quality Control (QC) and Quality Assurance (QA) programs for installation activities and the project management of the project as a whole. The organizational chart should also show role of the safety superintendent due to nature of the task being in and around active trackways. Additionally, furnish a narrative describing the functional relationships and communication among participants, including design and installation team interaction throughout the Project. Demonstrate the ability of the Prime to perform seventy percent (70%) of the work.

The team proposed by Offeror, including but not limited to the Offeror's organizational structure, lead contractor, lead designer, Key Personnel, subcontractor's and other individuals identified shall remain on the Offeror's team for the duration of the procurement process and, if the Offeror is awarded the contract, the duration of the contract. If extraordinary circumstances require a proposed change, it must be submitted in writing to WMATA's POC, who, in his/her sole discretion, will determine whether to authorize a change. Unauthorized changes to the Offeror's team at any time during the procurement process may result in the elimination of the Offeror from consideration.

FACTOR 3 – DESIGN, MANUFACTURING, FIELD INSTALLATION AND TESTING

Offeror shall propose technical approach to Design, Manufacturing, Field Installation and Testing to accomplish the overall contract technical work and tasks as listed in the Technical Specifications to include, but not limited to:

- Submission of a design proposal that addresses the design and installation of new ATP modules and all associated TCR and wayside equipment at Location C97 as described in the Technical Specifications.
- Controls to be microprocessor based
- Compatibility with existing field terminations, space requirements and data formats
- Acceptance data for equipment not previously used within the WMATA system
- Method to deliver manufactured equipment on the contract schedule
- Factory test procedures, data sheets, and factory test reports as required by the schedule
- Equipment technical requirements, provided technical manuals and drawings and conduct training
- Ensure provided products interface with existing WMATA equipment
- Method for acquiring supplies, materials, and items throughout the life of the contract
- Demonstrate ability to adhere to mutually agreed scheduled Contract milestones and field work schedules

- Method to provide positive testing for all equipment and to provide positive testing for vital equipment
- Method to provide field test procedures, data sheets and field test reports as required by the schedule

FACTOR 4 – SAFETY PLAN / SAFETY PROGRAM

Offeror will submit corporate safety plan or safety program similar to this project. This plan shall clearly state the Contractor's accident prevention plan, emergency response plan, and safety organization. The following information should be included: Lost Time Injury Rate (LTIR) and medical cases for past five years; copy of the organizational safety program and the proposed safety program for this Contract that complies with the Metro Construction Safety Methods Manual and the Safety Requirements Article of this Contract.; the name and address of present compensation and liability insurance carrier; the name, address, and telephone number of the person in charge of the organizational safety program included in the organizational chart.

5. Oral Technical Presentations

Oral presentations will be requested only from proposers, which 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, **to include the proposed project manager for this project**. Proposers' proposed major subcontractors/DBE representatives are urged to attend. Total presentation time, including clarifications, shall be no longer than two hours.

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.

If held at the Authority Headquarters, the presentations will be held in a conference room with conference room style seating.

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 their strengths, deficiencies, or weaknesses during the presentation.

No cost/price information shall be included in the oral presentation or in any accompanying written information.

The proposer shall provide six printed copies of its presentation in 8.5" x 11" format to the Authority Representative 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.

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 two-hour time limit.

The Authority reserves the right to videotape or to audiotape each proposer's oral presentation.

6. Clarifications/Discussions/Negotiations:

- a. Anytime during the evaluation process of the Technical and Price Proposals, the Authority may engage in limited exchanges with the proposer 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.
- b. The Authority contemplates that discussions may be necessary to maximize the Authority's ability to obtain best value negotiated price.
- c. Discussions will be held at the Headquarters of the Washington Metropolitan Area Transit Authority at 600 Fifth Street, N.W., Washington, D.C. 20001.
- d. Negotiations will be conducted and may include bargaining and/or trade-offs. The Authority will establish pre-negotiation objectives with regard to price and technical factors. The Authority may negotiate with proposer to increase its performance for additional technical merit.

7. Best Value Determination

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.

00210 Supplementary Instructions to Proposers

- A. This Section includes procedures for product substitutions during the proposal period.

00211 Brand Name or Equal

- A. Use of brand names with 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. Proposer 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.
 4. If the Proposer proposes to modify a product so as to make it conform to the requirements of the Standard and Technical Specifications, he shall (i) include a clear description of such proposed modifications, and (ii) clearly mark any descriptive material to show the proposed modifications.
 5. **CAUTION TO PROPOSER:** The Authority is not responsible for locating or securing any information, which is not identified and reasonably available to the Authority. Accordingly, to insure that sufficient information is available, the Proposer must furnish all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the Authority to (i) determine whether the product offered meets the salient characteristics requirements of the Standard and Technical Specifications and (ii) establish exactly what the Proposer proposes to furnish and what the Authority would be binding itself to purchase by approval of submittals by the Authority. The information furnished may include specific references to information previously furnished or to information otherwise available to the Authority.

00250 Pre-Proposal Conference / Meetings Schedule:

A Pre-Proposal Conference for all interested parties will be held for this RFP; Offeror’s are to limit participants to no more than five (5). Offeror’s are to submit the names and titles of their representatives who will participate in the Conference by close of business on August 2, 2013.

Date and Time	August 12, 2013 @ 9:00 AM
Location	Washington Metropolitan Area Transit Authority 600 5 TH Street, NW Washington, DC 20001 Room: JGB Meeting Room – Lobby Level

00251 Site Inspection

Offeror's will be taken to a nearby Train Control Room immediately following the Pre-proposal meeting. Site inspections to all or a portion of actual Train Control Room work locations can be arranged upon request. Plan for 3 – 4 days to visit all Train Control Rooms.

WMATA Wayside Safety Certification will be needed for getting on to trackways and/or in TCR's. WMATA will only allow up to three representatives from each Offeror.

00260 Pre-Award Meeting

- A. This Section includes requirements and schedules for a Pre-Award meeting.

00261 Pre-Award Conference

- A. See Section 01320 Project Meetings for requirements of Pre-Award Conference.

End of 00200

00300 Information Available to Proposers

This Section includes information made available to the proposer.

00301 Information Documents

The preliminary documents referenced in this Section informational in nature. The information contained in the documents is provided as an aid for the proposer's preparation of their proposals. The Contractor shall be solely responsible for its design, whether or not it was based in part on information provided on Recommended and Information Documents.

00302 Design Criteria

See references in Technical Specifications and Section 0112

00303 Information Drawings

See Section 00301 above

00320 Geotechnical Information Data

Not Used

00321 Geotechnical Information

Not Used

00330 Existing Conditions

Refer to sections 00101, 00251 and 00331.

00331 Description of Project Conditions

Not Used

00340 Environmental Assessment Information

Not Used

00341 Environmental Report

Not Used

00370 Safety Manuals

This Section lists the required Safety Manuals for the Project and is provided as an aid for the proposer's preparation of their proposals.

00371 Required WMATA Construction and Environmental Safety Manual Requirements

The required WMATA Construction Safety and Environmental Manual (CSEM) is an attachment to the Project Manual and is a compilation of the Safety and Reporting Requirements for the project.

00380 Safety and Security Certification

This Section lists the required WMATA Safety and Security Certification Program Plan (SSCPP) for the Project and is provided as an aid for the proposer's preparation of their proposals.

00381 Required Safety and Security Certification Program Plan Requirements

The required WMATA Safety and Security Certification Program Plan (SSCPP) is an attachment to the Project Manual and is a compilation of the safety and security certification requirements for the project.

00390 System Safety Program Plan

This Section lists the required WMATA System Safety Program Plan (SSPP) for the Project and is provided as an aid for the proposer’s preparation of their proposals. Generally this plan refers to WMATA overall safety plan.

00391 Required System Safety Program Plan Requirements

The required WMATA System Safety Program Plan (SSPP) is an attachment to the Project Manual and is a compilation of the system safety requirements for the project.

End of 00300

00400 Proposal Forms and Supplements

This Section includes forms and supplements for submitting proposals.

00410 Proposal Forms

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

- 00412 - Technical Proposal Form
- 00413 - Price Proposal Form
- 00431 - Proposal Bond
- 00432 - Compliance/Exception Information
- 00433 - Brand Name or Equal
- 00434 - Price Schedule
- 00451 - Representations and Certifications
- 00452 - Proposal Data Form
- 00453 - DBE Data

00412 Technical Proposal Form

Date of Request: July 22, 2013

Project: FQ12204

AF TRACK CIRCUIT REPLACEMENT ROUTE SEGMENT’S C, E, F, G, AND K

REQUEST FOR TECHNICAL PROPOSAL containing information requested herein shall be submitted by the Proposer so as to be received before 3:00 PM on September 23, 2013 at the Washington Metropolitan Area Transit Authority, Office of Procurement, Room 3C-02, 600 Fifth Street, N.W., Washington, D.C. 20001. Questions may be directed to Mr. William J. Geroux, Contract Administrator at wgeroux@wmata.com

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 calendar 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 calendar 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: FQ12204/WJG**

- Amendment Number __, dated _____.
- 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 not responsive to the request, which would require rejection of the Technical Proposal as unacceptable.

Proposer:

PROPOSER

Firm

Firm Name

Printed name

Address

Title

Zip Code

Email address

Telephone Number

DUNS Number

Representative Authorized
To Act on Proposer’s Behalf

Alternate Authorized Representative

DIRECTIONS FOR SUBMITTING OFFER

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
 CONTRACT ADMINISTRATOR – WILLIAM J. GEROUX (202) 962-2467 wgeroux@wmata.com
TECHNICAL OFFER UNDER RFP: FQ12204/WJG
 OFFICE OF PROCUREMENT
 600 FIFTH STREET, N.W.
 WASHINGTON, D.C.

TECHNICAL PROPOSALS SHALL BE TIMELY MAILED OR HAND DELIVERED TO REACH WMATA BEFORE 3:00PM (LOCAL TIME) ON DAY OF PROPOSAL CLOSING. REFER TO SECTION 00100 OR AS MODIFIED BY AMENDMENT

00413 Price Proposal Form

Date of Request: July 22, 2013

Project: FQ12204

AF TRACK CIRCUIT REPLACEMENT ROUTE SEGMENT’S C, E, F, G, AND K

REQUEST FOR PRICE PROPOSAL containing information requested herein shall be submitted by the Proposer so as to be received before 3:00 PM on September 23, 2013 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 Mr. William J. Geroux, Contract Administrator at wgeroux@wmata.com

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 Price Schedule. If awarded the Contract within the Proposal Acceptance Period, the undersigned agrees to execute the Design-Build Contract within 10 calendar 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 calendar 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: FQ12204/WJG**

- Amendment Number __, dated _____.
- 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 not responsive to the request, which would require rejection of the Technical Proposal as unacceptable.

PROPOSER:

PROPOSER

Firm

Firm Name

Printed name

Address

Title

Zip Code

Email address

Telephone Number

DUNS Number

Representative Authorized
To Act on Proposer's Behalf

Alternate Authorized Representative

DIRECTIONS FOR SUBMITTING OFFER

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.

Price Proposal Form and related required documents must be sealed, marked, and addressed as follows:

WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY
ROOM 3C-02
CONTRACT ADMINISTRATOR – WILLIAM J. GEROUX (202) 962-2467
WGEROUX@WMATA.COM
PRICE OFFER UNDER FQ12204
OFFICE OF PROCUREMENT
600 FIFTH STREET, N.W.
WASHINGTON, D.C.

**PRICE PROPOSALS SHALL BE TIMELY MAILED OR HAND DELIVERED TO REACH
WMATA BEFORE 3:00 PM (LOCAL TIME) ON DAY OF PROPOSAL CLOSING.**

00430 Proposal Form Supplements

00431 Proposal Security (Proposal Bond Form)

Submit with Proposal

PROPOSAL BOND

Request for Proposal No.:

Proposal Closing Date:

Penal Sum of Bond:

5% of total offering price

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 (sixty [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 (ten [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 his 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 sixty (60) calendar days in addition to the period originally allowed for acceptance of the proposal.

Firm Name and Address:	Corporate Seal
Signature: _____	
Name and Title:	State of Inc.:

Firm Name and Address:	Corporate Seal
Signature: _____	
Name and Title:	State of Inc.:

Firm Name and Address:

Corporate Seal

Signature: _____

Name and Title:

State of Inc.:

PROPOSAL SECURITY (PROPOSAL BOND FORM) – (Cont.)

Surety A:

Surety Name and Address: Corporate Seal

Signature: _____ Liability Limit: \$ _____

Name and Title:

Surety B:

Surety Name and Address: Corporate Seal

Signature: _____ Liability Limit: \$ _____

Name and Title:

Surety C:

Surety Name and Address: Corporate Seal

Signature: _____ Liability Limit: \$ _____

Name and Title:

Attach additional pages as needed.

Instructions

This form is authorized for use whenever a proposal guaranty is required in connection with design-build work.

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.

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.

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)".

Corporations executing the bond shall affix their corporate seals.
The name of each person signing this proposal bond should be typed in the space provided.

00432 Compliance / Exception Information**Submit with Technical Proposal**

Indicate whether the proposal submitted is intended to fully comply with the Project Requirements of this Request for Proposals, or if certain exceptions are taken. If exceptions are taken, the proposer shall clearly identify any exception 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 any 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 exceptions are taken, explain the exceptions per the following instructions.

- The proposer certifies that its proposal is intended to comply fully with all Project Requirements.

- The proposer certifies that its proposal is intended to comply fully with all Project Requirements, except as noted (add additional sheets to explain).

00433 Brand Name or Equal Form

Submitted 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 if any, are not listed here, the proposal will be viewed as providing the as-specified products, if any.

Spec Section/Product Specified: _____

Manufacturer: _____

Product Offered: _____

Manufacturer: _____

Spec Section/Product Specified: _____

Manufacturer: _____

Product Offered: _____

Manufacturer: _____

Spec Section/Product Specified: _____

Manufacturer: _____

Product Offered: _____

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.

00434 Price Schedule

AUTOMATIC TRAIN PROTECTION (ATP) TRACK CIRCUIT REPLACEMENT

Price Schedule

AF Track Circuit Replacement

RFP: FQ12204

Item No	Description	Est. Qty	Unit	Unit Price	Amount
1	ATP Track Circuit Systems for () Location				
1.A	Track Circuit Junction Box Report	1	LS	\$ -	\$ -
1.B	Engineering Labor	1	LS	\$ -	\$ -
1.C	Power Supply Replacement	1	LS	\$ -	\$ -
1.D	Supply Train Control Room Equipment	1	LS	\$ -	\$ -
1.E	Supply Wayside Equipment	1	LS	\$ -	\$ -
1.F	Replacement of Wayside and TCR Equipment	1	LS	\$ -	\$ -
1.G	Interlock Negative Return Bonding Replacement	1	LS	\$ -	\$ -
1.H	Approve As-Built Drawings	1	LS	\$ -	\$ -

THE ABOVE PRICE SCHEDULE MUST BE COMPLETED FOR EACH LOCATION INCLUDING K07

C11	Potomac Yard
C12	Braddock Road
C13	King Street
C14	Eisenhower
C15	Huntington
C97	Duke Street
C98	Telegraph Road

E01	Mt. Vernon
E02	Shaw
E03	U Street

F01	Gallery Place
F02	Archives
F03	L'Enfant Plaza
F04	Waterfront
F05	Navy Yard
F06	Anacosta

G01	Benning Road
G02	Capitol Heights
G03	Addison Road

K05	East Falls Church
K06	West Falls Church
K07	Dunn Loring
K08	Vienna

Route Segments: C E F G K

Price Schedule

AF Track Circuit Replacement

RFP: FQ12204

Item No	Description	Est. Qty	Unit	Unit Price	Amount
24	Common Items				
24.A	Equipment Engineering and Design	1	LS	\$ -	\$ -
24.B	Operations and Maintenance Manuals	1	LS	\$ -	\$ -
24.C	Training Manuals	1	LS	\$ -	\$ -
24.D	Test Equipment	1	LS	\$ -	\$ -
24.E	First Article Testing (FAT)	1	LS	\$ -	\$ -
24.F	Spare Parts	1	LS	\$ -	\$ -
24.G	Mobilization	1	LS	\$ -	\$ -
24.H	Safety Analysis (FMECA)	1	LS	\$ -	\$ -
24.I	Schedule				
24.I.1	Approved Baseline Schedule	1	LS	\$ -	\$ -
24.I.2	Approved Monthly Progress Reports and Schedules	1	LS	\$ -	\$ -
24.I.3	Approved Final Schedule	1	LS	\$ -	\$ -
24.J	QA/QC Plan				
24.J.1	Approved QA/QC Plan	1	LS	\$ -	\$ -
24.J.2	Approved Initial QA/QC Report	1	LS	\$ -	\$ -
24.J.3	Monthly QA/QC Reports	1	LS	\$ -	\$ -
24.J.4	Approved Final Report	1	LS	\$ -	\$ -
24.K	Training	1	LS	\$ -	\$ -
24.L	Partnering	1	LS	\$ -	\$ -
24.M	Contingency for Small Claims	1	LS	\$ -	\$ -
25	Junction Boxes Replacement (TJ, BJ and DJ)	600	EA	\$ -	\$ -

NOTES:

Item 24.I Price breakdown to extend throughout the project period

Item 24.J Price breakdown to extend throughout the project period

Route Segments: C E F G K

00434-2 HOURS OF RAIL OPERATION

Work hours within WMATA Rail System are very restrictive and the large majority of work must be performed either during non-revenue service or non-peak hours.

Work performed in the Right of Way (ROW) must be performed under a supervisory or red tag outage. This work must be scheduled at least three (3) weeks in advance. WMATA ROW training shall be acquired by the contractor as necessary.

The Contractor shall submit and review a complete schedule showing the times and personnel requirements to perform the work. The Contractor shall secure approval of the schedule at least three (3) weeks prior to the scheduled work in the Rail System.

A WMATA Escort shall be present at the Site all time when the Rail System is shutdown. The Contractor shall be under escort at all times when moving about the Rail System. The Contractor shall complete all preliminary work preparation possible prior to performing work in the Right of Way to minimize impact to WMATA Rail Operations.

Hours of Operation

In accordance with Section 01141 Access to Site

Notification of Cancellation

- A. Access to work areas may be cancelled by the Authority or the Contractor within the following guidelines:

- Weeknights: Up to five (5) hours before the planned start time
 - Weekends: Up to twenty-four (24) hours before the planned start time

- B. If, single tracking is scheduled on weeknights or weekends and, the Authority must cancel access to a work area for an extended period, defined as a full shift or an entire weekend, and notified the Contractor fewer than five (5) hours before the start time for weeknights or fewer than twenty-four (24) hours before the stated time on weekends, Standby Cost of not more than four (4) hours per Contractor's crew member will be paid. Certified payrolls must support actual costs.

00450 Representations and Certifications

00451 Reps and Certs

REPRESENTATIONS

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

Submit with Price Proposal only

By signing and dating this offer, each proposer certifies that:

1. TYPE OF BUSINESS ORGANIZATION (RC-101, MAY 07)

By submission of this offer, the proposer 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 _____.

2. AFFILIATION AND IDENTIFYING DATA (RC-102, MAY 07)

Each proposer shall complete (a), (b) if applicable, and (c) below, representing that:

(a) It is, is not, owned or controlled by a parent company. For this purpose, a parent company is defined as one which either owns or controls the activities and basic business policies of the proposer. To own another company means the parent company must own at least a majority, i.e., more than 50 percent, 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 basic business policy decisions of the proposer, such other company is considered the parent of the proposer. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements or otherwise.

(b) If the proposer 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)

(c) If the proposer 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. No. of its parent company).

Proposer E.I. Number: _____ or, Parent Company's E.I. Number: _____

(d) If a Data Universal Numbering Systems (DUNS), number has not been established for the address entered on the Solicitation, Offer, and Award Form, the Authority will

arrange for the assignment of this number after award of a contract and will notify the Contractor accordingly.

3. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (RC-103, MAY 07)

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

- (a) 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; which prohibits discrimination on the basis of race, color, creed, national origin, sex, age; and
- (b) It [] has, [] has not, filed all required compliance reports; and
- (c) Representations indicating submittal of required compliance reports signed by proposed subcontractors will be obtained prior to subcontract awards.

4. DISADVANTAGED BUSINESS ENTERPRISE (RC-104, MAY 07)

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

- (a) It [] is, [] is not, a disadvantaged business enterprise.
"Disadvantaged Business Enterprise" means a for-profit small business concern that is at least 51% owned by one or more individuals who are both socially and economically disadvantaged individuals or, in the case of a corporation, in which 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 Individuals" is defined in Appendix B, Section 4, paragraph I; and
- (b) It [] is, [] is not, currently certified by WMATA as a disadvantaged business enterprise.

5. AFFIRMATIVE ACTION COMPLIANCE (RC-105, MAY 07)

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

- (a) It has a workforce of _____ employees.
- (b) 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 CFR Parts 60-1 and 60-2), or
- (c) It [] has not previously had contracts subject to the written affirmative action program requirements of the rules and regulations of the Secretary of Labor.

CERTIFICATIONS**6. COVENANT AGAINST GRATUITIES (RC-106, MAY 07)**

By submission of this offer, the proposer 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 director, officer or employee of the Authority with the view toward securing favorable treatment in the awarding, amending, or the making of any determination with respect to the performing of the contract.

7. CONTINGENT FEE (RC-107, MAY 07)

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

- (a) It [] has, [] has not, employed or retained any company or persons (other than a full-time, bona fide employee working solely for the proposer) to solicit or secure this contract, and
- (b) 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 proposer) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this contract.

8. CLEAN AIR AND WATER CERTIFICATION (RC-108, MAY 07)

This certification is applicable if the contract will be federally assisted and the offer exceeds \$100,000, or the Contracting Officer believes that orders under an indefinite contract in any year will exceed \$100,000 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 Water Act (33 U.S.C. 1319(c)) and is listed by the U.S. Environmental Protection Agency (EPA) as a violating facility, and the acquisition is not otherwise exempt:

- (a) Any facility to be utilized in the performance of this proposed contract [] is, or [] is not listed on the EPA list of Violating Facilities;
- (b) Proposer 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 which it proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and
- (c) Proposer will include a certification substantially the same as this certification, including this paragraph, in every non-exempt subcontract.

9. DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNANTARY EXLCUSION (RC-109, MAY 07)

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

- (a) 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.
 - (1) In accordance with the provisions of Appendix A to 49 Code of Federal Regulations (CFR) Part 29, the proposer certifies to the best of its knowledge and belief that it and its principals:

- (i) are not currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
 - (ii) have not, within a three-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;
 - (iii) 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
 - (iv) have not, within a three-year period preceding this offer, had one or more public transactions (Federal, State, or local) terminated for cause or default.
 - (v) As evidence for compliance to this provisions, the Proposer is requested to provide (i.e. attach) verifiable evidence that the proposed contractor was not on the current Federal debarred or suspension listing, by searching “System for Award Management” under the Federal website, www.sam.gov and attaching the document performed by the Proposer that indicates a search was made.
- (2) Where the proposer is unable to certify to any of the statements in this certification, the proposer shall attach an explanation to this offer.
- (b) 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 the prime contract.
- (1) In accordance with the provisions of Appendix B to 49 Code of Federal Regulations (CFR) Part 29, 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.
 - (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.
- (c) The Certification required by subparagraph (b), above, shall be included in all applicable subcontracts and a copy kept on file by the prime contractor. The prime contractor shall be required to furnish copies of certifications to the Contracting Officer upon the Contracting Officer's request.

10. DISCLOSURES OF INTERESTS OF WMATA BOARD MEMBERS (RC-117, MAY 2013)

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 interest includes 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 your knowledge, information and belief in connection with this procurement:

- (a) 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.
- (b) 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

- (c) The certification required by subparagraphs (a) and (b) 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 the contracting officer’s request.

11. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION (RC-110, MAY 07)

- (a) By submission of this offer, the proposer certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:
 - (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 proposer or with any other competitor, as to any matter relating to such prices;

- (2) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the proposer and will not be knowingly disclosed by the proposer prior to the opening of bids (in the case of a sealed bid solicitation) or prior to award (in the case of a negotiated procurement), directly or indirectly, to any other proposer or to any competitor; and
 - (3) No attempt has been made or will be made by the proposer to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.
- (b) Each person signing this offer certifies that:
- (1) He or she is the person in the proposer=s organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above; or
 - (2) He or she is not the person in the proposer=s organization responsible within that organization for the decision as to 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 (a)(1) through (a)(3) above, and as their agent does hereby so certify.

12. CERTIFICATION OF NONSEGREGATED FACILITIES (RC-111, MAY 07)

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

- (a) By submission of this offer, the proposer certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:
- (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.
 - (2) The proposer agrees that a breach of this certification is a violation of the Equal Opportunity Clause in the contract.
 - (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 which 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.
 - (4) It further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will:
 - (a) Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;
 - (b) Retain such certifications in its files; and

- (c) 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 which 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).

13. NONDISCRIMINATION ASSURANCE (RC-112, MAY 07)

By submission of this offer, the proposer 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, national origin, sex, age in the performance of this contract. The proposer is required to insert the substance of this clause in all subcontracts and purchase orders. Failure by the 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 Authority deems appropriate. The proposer further agrees by submitting this offer that it will include this certification, without modification, in all subcontracts and purchase orders.

14. CERTIFICATION OF RESTRICTIONS ON LOBBYING (RC-113, MAY 07)

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

- (a) By submission of this offer, the proposer 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:
- (1) No Federal 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.
 - (2) If any funds other than Federal 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."
 - (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers and that all sub-recipients shall certify and disclose accordingly.

- (b) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. 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.

15. BUY AMERICA ACT CERTIFICATION (RC-114, MAY 07)

The Buy America requirements apply to federally assisted construction contracts, and acquisition of goods or rolling stock contracts valued at more than \$100,000.

- (a) By submission of this offer, the proposer 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 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.
- (b) Proposer must submit to the Authority the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors. Mark the applicable certifications below:

(1) Certification requirement for procurement of steel, iron, or manufactured products:

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The bidder or proposer hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)

The bidder or proposer 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.

SIGNATURE BLOCK FOR ALL REPRESENTATIONS AND CERTIFICATIONS	
Name of Proposer:	_____
Name and Title of Authorized Representative:	_____
	Print and Sign Name

(RC-115, MAY 07)

00452 Proposal Data Form

Submit with Price Proposal

Project: FQ12204

AF TRACK CIRCUIT REPLACEMENT ROUTE SEGMENTS C, E, F, G & K

1. Name of Firm: _____

2. Legal Address: _____

3. Individual Partnership Corporation Joint Venture

4. Date Organized _____

State in which incorporated _____

5. Names and Addresses of Officers or Partners:

a. _____

b. _____

c. _____

d. _____

e. _____

f. _____

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

7. Attach as Schedule 7 a list of current contracts, each with contract amount, owner, architect-engineer, 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.

8. 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 five years.

9. What is the estimated work placement value required per year to complete the work described in Schedule 8:

2009:_____ 2010: _____ 2011:_____ 2012: _____

10. Have you ever been denied an award on which you were low bidder? _____, if YES, attach as Schedule 10 the full particulars regarding each occurrence.

11. Have you ever failed to complete a contract, other than current, on which you were the low bidder? _____, if YES, attached as Schedule 11, the full particulars regarding each occurrence.

12. Have you ever been assessed liquidated damages or actual damages for late completion within the last five years? _____, if YES, attach as Schedule 12 the full particulars regarding each occurrence.

13. Financial resources available as working capital for this Contract:

a. Cash on hand \$_____ Date _____

b. Sources of Credit _____

14. Attach as Schedule 14 certified financial statements and letters from banks, regarding credit as required by Section 00200 of this Contract.

15. 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.

16. Attach as Schedule 16 a Prime Contractor Performance percentage of the work (contract amount) which you will perform.

17. Attach as Schedule 17 a list of all principal subcontractors and the percentage and character of work (contract amount) which each will perform.

18. Attach as exhibits completed Proposal Data Forms for each of the subcontractors listed in Schedule 17 above.

19. If the Proposer 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: _____ DUNS Number: _____
(Name of Firm)

Signature: _____

Title: _____

Dated: _____

Location: _____

End of 00452

00453 DBE Data

NOTICE OF REQUIREMENTS
FOR
DISADVANTAGED BUSINESS ENTERPRISE (DBE)

March 2012

00490 Proposing Addenda (See Section 00910 Addenda for Amendment Letters)

This Section provides an area for conforming the Project Manual with the Technical and Price Proposals as finally accepted.

00491 Technical Proposal As Finally Accepted

00492 Price Proposal as Negotiated and Accepted

End of Section 00400

Section 00453 DBE Data

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

March 2012

**** * ****

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/proposer is not a DBE, the bidder/proposer 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 **12%** 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. 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 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent 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 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 CFR §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 CFR §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 DBE's 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 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 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 CFR Part 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.
 - (3) 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, 100 percent 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, 60 percent 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 with 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 certified as a DBE by the Authority at the time of the due date for bids or offers on a contract, 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 the contract by a firm who has been decertified as a DBE by the MWUCP 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. BID AND PROPOSAL REQUIREMENTS (WITH THE BID/PROPOSAL):

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

- A. Completed "Schedule of DBE Participation" (Attachment B-1) sufficient to meet the above goal. If the bidder/proposer 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 bidder/proposers 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/proposer 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/proposal, the bidder/proposer fails to meet the DBE goal above, the bidder/proposer has the burden of furnishing sufficient documentation with its bid/proposal 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 which shall be considered as part of the bidder's/proposer'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/proposal meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to

perform the work of the contract. The bidder/proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder/proposer 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) (a) Negotiating in good faith with interested DBEs. It is the bidder's/proposer'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.
 - (b) A bidder/proposer 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/proposer'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 work of a contract with its own organization does not relieve the bidder/proposer 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.
- (5) 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/proposals in the contractor's efforts to meet the project goal.

- (6) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- (7) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (8) 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 AND PROPOSAL REQUIREMENTS (APPARENT SUCCESSFUL BIDDER/PROPOSER):

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

- 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 100 percent of the allowable credit for expenditures to DBE manufacturers/suppliers (Attachment B-4). By submission of this Affidavit, the bidder/proposer 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, 2, 3, 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/proposer wants to receive the maximum allowable credit of 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, that they are a regular dealer of the material(s) or supplies. By submission of this statement, the bidder/proposer 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 Section 00872, DBE GOAL REQUIREMENTS, the proposer shall submit with its initial Price Proposal a list of DBE-certified firms that it intends to enter into subcontract agreements

with for this Contract. If no goal is specified in Section 00872 of the solicitation and 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 DBE-certified firms. The documentation requirements of Section 00453 of the solicitation shall be completed and submitted at the time set forth for the submittal of Best and Final Offer (BAFO) to the Authority for any Contract in which a DBE goal is applicable or for any Contract in which there was no goal established, but the proposer identified DBE-certified firms that it intends to enter into subcontract agreements with in its initial Price Proposal. Any proposer who fails to complete and return the following information, if applicable, with their BAFO Price Proposal may be deemed to be not responsible and may be ineligible for contract award. Proposers that fail to meet the DBE goal, if any, specified in Section 00872 and fail to demonstrate a good faith effort and 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 the General Provisions of 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, which may result in termination of this contract or such other remedy as the Buyer 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 their payment request, of any situation in which scheduled subcontractor payments have not been made and the reason therefore.

(2) The Contractor shall require each sub-contractor to complete and forward to the DBE Liaison Officer on a monthly basis a “Prompt Payment Report-Subcontractor’s Report” (Attachment B-7). The sub-contractor 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 bid/proposal, but only where the contracting officer or other delegated authority's 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 bidder/proposer 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 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 for a DBE subcontractor, regardless of the reason for substitution. Failure to obtain Authority approval could result in the Authority declaring the Contractor ineligible to receive further Authority contracts for three years from the date of the finding.

- 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's representative determines that the Contractor has failed to comply with this Appendix B, he/she will notify the Contractor of such non-compliance 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's 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, but the Contractor's failure to meet its Appendix B goal shall shift to it the requirement to come forward with evidence to show that it has met the good faith requirements of this Appendix. Where the Contractor, after exhausting all its administrative and legal remedies and procedures is found to have failed to exert a "good faith effort" to involve DBE's in the work as herein provided, the Authority may declare the Contractor ineligible to receive further Authority contracts for three years from the date of the finding.
- 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 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 which such representative may require.
- H. If the Authority, the 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.
- I. Failure by the Contractor to carry out the requirements of this Appendix is a material breach of this Contract, which may result in the termination of this Contract under the Default provision of this Contract or such other remedy as the Authority deems appropriate.

SUMMARY OF SUBMITTALS**With the Bid/Proposal**

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 and Proposal Requirements (Apparent Successful Bidder/Proposer)

1. All DBEs must submit a copy of their current WMATA or DC DOT certification letters or a certification letter issued by the MWUCP.
2. DBE Manufacturer's Affidavit, if applicable, must be submitted in order to receive 100 percent 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/PROPOSAL
SCHEDULE OF DBE PARTICIPATION

Contract No. _____

Project Name _____

Name of Bidder/Proposer

The bidder/proposer 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 for the work/supplies of these firms shall be at prices amounting to at least the DBE percentage goal of the total contract price. The bidder/proposer agrees to enter into a formal agreement with the DBE firm(s) listed for the work and at, 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

M 23.26a (Rev 02/12) _____ Date

Contract Number: _____

Project Name: _____

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

TO: _____
(Name of Bidder/Proposer)

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 / PROPOSAL

DBE UNAVAILABILITY CERTIFICATION

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

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

DBE Contractor

*Work Items
Sought*

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 proposal, for the following reason(s):

Signature: _____

Date: _____

_____ was offered an opportunity to 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 a bid on this project.

(Signature of DBE Contractor)

(Title)

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 proposal.

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) 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 CFR Part 26.81(d) of the Certification Procedures requires a firm to be certified as a DBE in its "home state", where it has its principal place of business, in order to become certified outside such "home state". Therefore, you must attach a copy of a valid DBE Certification letter from your home state Department of Transportation to the MWUCP Application. 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 documents under General)

- 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
- Stock Ownership Options
- Copy of Stock Certifications of Each Holder
- Copy of Voting Rights
- Record of First Organizational Meeting

Partnerships

- Partnership Agreement

Proprietorships

- IRS Employer ID Number
- WMATA Vendor ID#

Limited Liability Companies

Operating Agreement
Certificate of Formation, Operating Agreement with any amendments
U.S. Corporate or Partnership 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. Those firms which have undergone changes in circumstances must submit a Notice Regarding Change for review by the Office of Procurement and Materials, DBE Unit. 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) **M**

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, DC 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, DC DOT or MWUCP DBE certification? Yes No

.....
Describe the nature of the Joint Venture 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

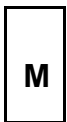
Company affiliation: _____

3. Supervision of field operations:

Name: _____ Race: _____

Title: _____ Sex: Male Female

Company affiliation: _____
.....



23.06c (Rev 10/99)

Information For Determining Joint Venture Eligibility

.....

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)



.....
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: _____

.....

M

 23.06c (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: _____

Washington Metropolitan Area Transit Authority

DISADVANTAGED BUSINESS ENTERPRISE (DBE)
MONTHLY PROMPT PAYMENT REPORT

SUBCONTRACTOR'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 Subcontractor: _____ DBE – Yes or No

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

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

Contracting Requirements

00500 Agreement

- A. This Section includes Contract Forms and Attachments to be submitted by the successful proposer.

00510 Notice of Award

- A. This Section provides an area for conforming Award of Contract Letter issued by the Authority.

00511 Award Letter

- A. Instructions: Insert here all award letters issued to conform the Project Manual.

00520 Agreement Form

- A. This Section includes 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 Contractor. PROPOSER'S INFORMATION NOTICE: The following form is included for the proposer's information and use in the event he is awarded the Contract. It is not required to be submitted with the proposal.

00521 Design-Build Contract Form

CONTRACTOR:

CONTRACT NUMBER:

DATE:

CONTRACT FOR: AUTOMATIC TRAIN PROTECTION (ATP) TRACK CIRCUIT REPLACEMENT

CONTRACT FIRM FIXED PRICE: \$ _____

CONTRACT PRICE (Adjustment Factors)

Normal Working Hours Adjustment Factor: _____

Other Than Normal Working Hours Adjustment Factor: _____

Non-Pre-Priced Adjustment Factor: _____

CONTRACT PERFORMANCE TIME: _____ months after notice to proceed

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 he individual, partnership, joint venture or corporation named above (hereinafter, the Contractor), mutually agree to perform this Contract in strict accordance with its provisions. The Contract consists of: this RFP and its amendments, if any; all documents referenced or attached to the RFP including the following:

- Project Manual as defined in the General Conditions including the Project Drawings and other attachments to the Project Manual
- Technical Proposal and Price Proposal as finally accepted
- Other publications referenced in the Contract Documents
- Amendment Number(s): _____

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

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

Contractor

Attest: _____ *By: _____

Contractor

Attest: _____ *By: _____

Contractor

Attest: _____ *By: _____

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

By: _____

Note: Execution for the Contractor that is an individual, corporation or partnership shall be accompanied by the Power of Execution that follows. A Joint Venture Contractor must complete the Power of Attorney that follows. All persons executing this Contract must complete the appropriate Certification of the person's authority to act on behalf of the Contractor.

00540 Attachments to Agreements Form

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

00541 Power of Attorney

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS,

That _____

constituting all of the ventures of the joint venture know as _____

which is desirous of entering into a contract with the Washington Metropolitan Area Transit Authority, do

hereby designate and appoint _____

one of the ventures herein 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 order, 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 venture 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 ____.

Contractor

Attest: _____ By: _____

Contractor

Attest: _____ By: _____

Contractor

Attest: _____ By: _____

Power of Attorney
Page 1 of 1

00542 Power of Execution

POWER OF EXECUTION

The undersigned, a _____ under the laws of the State of _____
Corporation, Partnership, Individual

having principal office or registered agent at _____ hereby nominates, constitutes
and appoints with full power to act alone or with another person, on behalf of _____
Name of Company

to make, execute, seal and deliver on its behalf as Contractor and as its act and deed, any and all contracts, change orders, monthly and final payment certificates and other like instruments.

Such contracts, change orders, monthly and final payment certificates and other like instruments shall be binding upon said company as fully and to all intents and purposes as if such instruments had been duly executed and acknowledged and delivered by the authorized officers of the company when duly executed, as indicated above, by either of the aforementioned persons.

Contractor: _____ By: _____
Signature

Address: _____

ATTEST: _____ Date: _____

Attachment to Contract: _____

KNOW ALL MEN BY THESE PRESENTS,

That _____ constituting all of the ventures 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 ventures herein one of the ventures 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 venture 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 ____.

Contractor

Attest: _____ By: _____

Contractor

Attest: _____ By: _____

Contractor

Attest: _____ By: _____

00550 Notice to Proceed

This Section provides an area for conforming Notice to Proceed Letter issued by the Authority.

00551 Notice to Proceed Letter (NTP)

Instructions: Insert here Notice to Proceed letters issued to conform the Project Manual.

End of Section 00500

00600 Bonds and Certificates

This Section includes documents that are to be submitted relating to the Contracting Requirements.

00610 Bonds

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

00611 Bond Requirements

- A. Requirements: Within 10 calendar 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 shall be executed and delivered to the Contracting Officer or other delegated Authority Representative, 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 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:
 - a. The penal sum of the performance bond shall equal 100 percent of the Firm Fixed Contract Price.
 2. Payment Bond:
 - a. The penal sum of the payment bond shall be in the amount of \$2,500,000.00 (Two Million Five Hundred Thousand Dollars) for this contract.
- B. Failure to furnish: In the event the required bonds are not furnished as specified, the Contracting Officer or other delegated Authority Representative may not issue the Notice to Proceed and no payment will be made to the Contractor until the required bonds are furnished.

00612 Performance Bond

PROPOSER’S INFORMATION NOTICE: The following is included for the proposer’s information and use in the event he is awarded the Contract. It is not required to be submitted with the proposal.

Contract No.: FQ12204

Contract 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 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 Contractor, 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.

Principal(s)

1. Firm Name and Address: Corporate Seal

Signature:

Name and Title: State of Inc.:

Performance Bond

Page 1 of 4

2. Firm Name and Address:

Corporate Seal:

Signature:

Name and Title:

State of Inc.:

3. Firm Name and Address:

Corporate Seal:

Signature:

Name and Title:

State of Inc.:

**Performance Bond
Page 2 of 4**

Corporate Surety(ies)

Surety A	Surety Name & Address Signature: _____ Name & Title: State of Inc:	Liability Limit \$	(Seal)
Surety B	Surety Name & Address Signature: _____ Name & Title: State of Inc:	Liability Limit \$	(Seal)
Surety C	Surety Name & Address Signature: _____ Name & Title: State of Inc:	Liability Limit \$	(Seal)

Attach additional pages as needed.

Bond Premium Schedule	Total Premium	\$
-------------------------------------	---------------	----

Performance Bond Instructions

1. 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.
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 his authority must be furnished.
3. 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)".
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.

Performance Bond
Page 4 of 4

00613 Payment Bond**Contract No.:** FQ12204**Contract 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 Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (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 Owner 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:

Payment Bond
Page 1 of 3

- a. Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to the Principal within ninety (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 he maintains an office or conducts business, or his 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 (1) 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 performance bond and have affixed their seals on the date set forth above.

Principal(s)

4. Firm Name and Address: Corporate Seal

Signature:

Name and Title: State of Inc.:

5. Firm Name and Address: Corporate Seal:

Signature:

Name and Title: State of Inc.:

6. Firm Name and Address: Corporate Seal:

Signature:

Name and Title: State of Inc.:

Corporate Surety(ies)

Surety A	Surety Name & Address Signature: _____ Name & Title: State of Inc:	Liability Limit \$	(Seal)
Surety B	Surety Name & Address Signature: _____ Name & Title: State of Inc:	Liability Limit \$	(Seal)
Surety C	Surety Name & Address Signature: _____ Name & Title: State of Inc:	Liability Limit \$	(Seal)

Attach additional pages as needed.

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 his 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.

00614 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.

00620 Certificates

- A. This Section provides an area for conforming the Project Manual with required Affidavits and Certificates provided by the Design-Builder; i.e., Certificates of Acceptance, Applications for Payment, Insurance, Compliance including ADAAG Design and Construction Compliance and Checklists, Substantial Completion, Final Performance and Completion, and Final Settlement.

00621 Certs

- A. Instructions: Insert here all required Certificates to conform the Project Manual.

CERTIFICATION

PARTNERSHIP POWER OF EXECUTION

I, _____, certify that I am a Partner of the firm named as Contractor herein; that _____ who signed this Statement on behalf of the Contractor was then a Partner of said partnership; that said Statement was duly signed for and on behalf of said partnership by authority of its partners and is within the scope of their powers.

Date Executed: _____

By: _____

CORPORATE POWER OF EXECUTION

I, _____, certify that I am an _____ of
_____, that _____, who signed this Statement on behalf
of said corporation was then an officer of said Corporation ; that said Statement was duly signed for and
on behalf of said Corporation.

Date Executed: _____

By: _____

End of Section 00620

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 defines duties and limits of authority for design professionals and construction management in performance of contract administration. This Section 00700 shall be read in conjunction with Section 00800, Supplementary Conditions, which specifies any modifications to these General Conditions, and which will be cited in the 00800 Section using the same last 2 digits of the Section number; i.e., a mod to Section 00724 will be indicated as Section 00824.

00701 Definitions

- A. As used throughout the Contract Documents the following terms shall have the meanings set forth below:
1. Agreement: The term Agreement means the Authority's form titled "Design-Build Contract Form" in this RFP, which, upon execution by the Contractor and the Authority, creates the Contract between the two parties for the services specified in this Project Manual, and as graphically described in the attachments to the Project Manual.
 2. Amendment and Modifications: Written or graphic instructions issued to clarify, revise, add, or delete Contract requirements that are issued either before or after the execution of the Agreement:
 - a. Amendment: A document which is added to the original Contract Documents during the proposing period.
 - b. Contract Modification: A document which is added to the Contract Documents after the execution of the Agreement.
 3. Approval: Approval of a submittal or any other item shall be solely for the purpose of establishing conformance to the Mandatory Documents as described in Section 00719, AUTHORITY REVIEWS, Section 00720, SUBMITTALS. Where the specifications require approval by the Authority, the Contractor shall obtain such approval before proceeding with the affected work. Where specifications call for submittals to be made to the Authority but do not state a requirement for Authority approval, the Authority may disapprove such submittals, but it shall not be required to respond to or to approve such submittals.
 4. Approved, acceptable, satisfactory or words of like import: Approved by, acceptable to or satisfactory to the Contracting Officer or the Authority Representative or his designated representative, unless otherwise expressly stated.
 5. As-built Contract Drawings (Contractor Provided): The term As-built Contract Drawings prepared by or through the Contractor reflect all known changes from the approved Final Design Drawings, including as applicable As-built Standard Drawings and As-built Information Drawings; and also include As-Built Shop, Working, and Manufacturers' Shop Drawings and Field Installation Details.

6. **As-Built Specifications (Contractor Provided):** The term As-Built Specifications means those specifications prepared by or through the Contractor in CSI format consisting of written technical descriptions of materials, equipment, construction systems, standards, and workmanship that were actually applied in construction of the Project and annotated to show revisions from the Final Design Specifications.
7. **As shown, as indicated, as detailed or words of similar import:** It shall be understood that the reference is made to the Project Drawings accompanying this Project Manual unless stated otherwise. The word provided as used herein shall be understood to mean provided complete in place, which is furnished and installed.
8. **As specified, as indicated, as described, or words of similar import:** It shall be understood that the reference is made to this Project Manual unless stated otherwise.
9. **Authority:** The term Authority means the Washington Metropolitan Area Transit Authority, created effective February 20, 1967, by Interstate Compact by and between Maryland, Virginia and the District of Columbia, pursuant to Public Law 89-774, approved November 6, 1966.
10. **Authority Representative:** The Authority Representative is the person responsible for post award execution of an Authority contract in the most effective, economical, and timely manner. The Authority Representative is the Authority's primary point of contact with its Contractor. In addition, the Authority Representative is delegated authority to modify this Contract within specified dollar limits which are available upon request. The Authority may designate additional individuals, usually in the supervisory chain as the Authority Representative, who have dollar authority in excess of the Authority Representative's stated authority (see also definition of Contracting Officer). The Authority Representative may, at his or her discretion, delegate Project responsibilities to a Project Representative and certain other responsibilities to other designees. Unless the Contractor is directed to the contrary, all correspondence with respect to this Contract shall be sent to the Authority Representative.
11. **Basis of Design:** The Contractor shall utilize for the design of this project and for the preparation of the Final Design Specifications and Final Design Drawings, WMATA Design Criteria; Standard and Technical Specifications; and the Project Description, WMATA Standard and Design Directive Drawings as applicable.
12. **Board of Directors:** The term Board of Directors means the Board of Directors of the Washington Metropolitan Area Transit Authority.
13. **Builder:** The term Builder refers to all members in the Design-Build team that take part in the manufacture, fabrication, installation, and construction of the Project.
14. **Claim:** The term Claim means a written demand or assertion by one of the parties 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.
15. **Contract:** The term Contract means the written Agreement between the Authority and the Contractor covering the Work as set forth in all the Contract Documents.

16. **Contract Documents:** The term Contract Documents means all documents included in the Contract as defined above. The Contract Documents consist of: This Project Manual and the Project Drawings and all documents referenced herein or appended hereto; all addenda or modifications issued before, on, or after the effective date of the Contract; the Notice to Proceed; and the Contractor's Price and Technical Proposals, as finally accepted.
17. **Contract Record Drawings (Contractor Provided):** The term Contract Record Drawings means those final as-built drawings prepared by or through the Contractor consisting of all the tangible, graphic manifestations of the technical descriptions of materials, equipment, construction systems, standards, and workmanship that were actually applied in construction of the Project including the As-built Final Design Drawings, Shop Drawings, Working Drawings, Standard Drawings, Record Drawings for Authority-Provided Information Drawings, Manufacturers' Shop Drawings, Field Drawings, and installation details.
18. **Contracting Officer:** A Contracting Officer is an employee within the Authority's Office of Procurement and Materials with authority duly delegated from the powers of the General Manager and CEO to legally bind the Authority by signing a contractual instrument. The Office of Procurement and Materials has been delegated broad authority regarding acquisition functions, independent from the project office. Contracting Officers have the authority to make related determinations and findings, and take other significant actions normally reserved for the Office of Procurement and Materials including, but not limited to: awards, modifications above the Authority Representative's level of authority, final payments, suspensions, terminations, debarments, assessment of liquidated damages, and issuances of final decisions under Section 00732, DISPUTE RESOLUTION. The term includes certain other representatives of the Authority acting within delegated limits of authority. In general, the Authority's primary point of contact for pre-award administration and fiscal closeout resides with the Contracting Officer, and the primary point of contact for the post-award contract administration is the Authority Representative.
19. **Contracting Requirements:** Documents related to the Contracting Requirements including Contract Forms and Attachments to be submitted by the successful proposer which includes Agreement and Bonds and Certificates.
20. **Contractor:** The term Contractor means the Contractor that contracts with the Authority to furnish design and construction (design-build) services for the Project. The term Contractor is synonymous with Contractor.
21. **Day:** The term day shall mean calendar day except where the term working day or like term is used.
22. **Contractor:** The term Contractor means 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 (design-build) services described in the Contract, including all incidentals which are necessary to complete the Work in accordance with the Contract. The term Contractor is synonymous with Contractor.
23. **Design Professional:** The term Design Professional or Designer means the individual(s), partnership(s), firm(s), corporation(s) or other business entity(s) that is either the

- Contractor, or employed or retained by the Contractor, to manage and perform the design services for the Project.
24. Directed, required, ordered, designated, prescribed or words of like import: It shall be understood that the direction, requirement, order, designation or prescription of the Contracting Officer or his designated representative is intended, unless otherwise expressly stated.
 25. Engineer: The term Engineer is used in numerous locations in the specifications. The term Engineer is synonymous with the term Resident Engineer, Project Representative, or if no individual has been so designated, the Authority Representative.
 26. Final Completion and Acceptance means that all Work has been finally completed and accepted. All design and construction completed; all punch list items completed; all Contract Record Drawings, manuals and other close-out submittals including spare parts completed; all turned over to the Authority; and all parts of the Work are accepted by the Authority.
 27. Final Design Drawings (Contractor Provided): The term Final Design Drawings means those drawings prepared by or through the Contractor and approved for construction by the Authority consisting of the tangible, graphic manifestations of the technical descriptions of materials, equipment, construction systems, standards, and workmanship as applied to the construction of the Project.
 28. Final Design Specifications (Contractor Provided): The term Final Design Specifications means those specifications prepared by or through the Contractor and approved for construction by the Authority consisting of written technical descriptions of materials, equipment, construction systems, standards, and workmanship as applied to the construction of the Project as well as administrative details related thereto.
 29. General Provisions: The term General Provisions is synonymous with General Conditions, Supplementary Conditions and General Requirements.
 30. Geotechnical information, logs and borings, water-level readings of existing observation wells, data and drawings of the jurisdictional highway and traffic department, plats of sidewalk vaults, existing building and utility plans and cross sections, street widths and traffic counts, building codes and design standards, environmental information, survey data and existing site conditions as applicable are provided as a part of the Information Documents and have been included for information only as an aid for the proposers' preparation of their proposals.

Including/Consisting of:
 - a. Including: Introduces a partial, representative listing of things or actions.
 - b. Consisting of: Introduces a complete listing of things or actions which constitute the whole. **[NOT USED]**
 31. Information Documents (Authority-Provided): The term Information Documents means those Contract Documents that are informational and recommended in nature, and which are provided to the Contractor for its information and use, but which the Contractor is not

necessarily required to comply with. Information Documents are listed in Section 00300 of the Proposing Requirements.

32. Issued for Construction: The term Issued for Construction refers to drawings, specifications and other documents that are approved to be issued by the Contractor for the construction, fabrication, or other implementation of its design.
33. Jurisdictional Authorities: The term Jurisdictional Authorities refers to Federal, State and local authorities or agencies having jurisdiction over work to which reference is made.
34. Legal Requirements: The term Legal Requirements means 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) regulations and other regulations of any government or quasi-government entity that are applicable to the Project as specified in Section 00708, RESPONSIBILITY OF THE CONTRACTOR FOR DESIGN-RELATED SERVICES, AND Section 00707, PERMITS AND RESPONSIBILITIES.
35. Mandatory Documents (Authority-Provided): The term Mandatory Documents means the Mandatory Requirements of the Project Manual and Attachments to the Project Manual which the Contractor must comply with, and are further described in Section 00300 of the PROPOSING REQUIREMENTS.
36. Operations Readiness Date (ORD): Operations Readiness Date is the date upon which WMATA certifies that the system and equipment are complete and capable of supporting revenue rail service.
37. Projects: The term Projects means the design and construction (Design-Build) of the facilities described in the Contract Documents. The Projects also involves the integration of new systems into existing Authority systems as applicable. The Projects are broken into three classifications;
 - a. Design-Build Project; The term Design-Build Project means a project that the Contractor is contractually obligated to the Authority to furnish, through itself or others, the design and construction (design-build) services described in the Contract, including all incidentals which are necessary to complete the Work in accordance with the Contract.
 - b. Bid Build Project; The term Bid Build Project means a project that the Contractor is contractually obligated to the Authority to construct, through itself or others, according to the drawings and specifications provided by the Authority and including all incidentals which are necessary to complete the Work in accordance with the Contract.
 - c. Job Order Contract (JOC) Project; The term Job Order Contract (JOC) Project means a project that the Contractor is contractually obligated to the Authority to construct, through itself or others, according to the scope of work provided by the Authority after the award of the contract and priced in accordance with the Contract.

38. Project Drawings (Authority-Provided):

- a. Project Drawings: The term Project Drawings means the plans, profiles, cross sections, elevations, schedules and details listed or referenced in the Project Manual and which are an Attachment to the Project Manual, and that show the locations, character, dimensions and details of the work to be performed and include the Mandatory Project Description, WMATA Standard and Design Directive Drawings and the Information Drawings as applicable.
 - (1) Design Directive Drawings: The term Design Directive Drawings means those drawings that have been prepared by the Authority that are a part of the Mandatory Documents, and that have been prepared to serve as standard designs for WMATA projects that the Contractor shall utilize as applicable in the preparation of the Final Design Drawings.
 - (2) Project Description Drawings: The term Project Description Drawings means those drawings that have been prepared by the Authority that are a part of the Mandatory Documents, and that have been prepared specifically for this project. The Contractor shall utilize these in the preparation of the Final Design Drawings.
 - (3) WMATA Standard Drawings: The term Standard Drawings means those drawings prepared by the Authority that are a part of the Mandatory Documents, and that have been prepared to serve as standard for all WMATA projects. The Contractor shall include the applicable WMATA Standard Drawings in the Final Design Drawings.
 - (4) Information Drawings: The term Information Drawings means those Recommended Layout and Detail Drawings and As-Built Drawings that have been reproduced from similar or previous Authority projects and that have been included for information only.

39. Project Manual (Authority-Provided): Compilation of the Contract Specifications including Introductory Information, Proposing Requirements, Contracting Requirements, General Requirements, WMATA Standard Specifications and include all Technical Specifications that have been referenced as part of this complete Contract documents.

- a. Introductory Information: Documents related to the Introductory Information for proposers including Project Title Page, Certifications Page, Division 00 Table of Contents, and List of Project Drawings.
- b. Proposing Requirements: Documents related to the Proposing Requirements including Project Information - Request for Proposal and Proposal Solicitation which includes a statement and scope of work and a solicitation schedule, Instructions to Proposers which includes the procedures with which proposers must comply and conditions affecting award of Contract, Information Available to Proposers which includes information made available to the proposer, and Proposal Forms and Supplements which includes forms and supplements for submitting proposals.

- c. **General Conditions:** The term General Conditions means a compilation of contractual and legal requirements that list the rights, responsibilities and relationships of the parties to a contract and defines duties and limits of authority for design professionals and construction management in performance of contract administration.
- d. **Supplementary Conditions:** The term Supplementary Conditions means modifications to the General Conditions for requirements unique to a specific project.
- e. **General Requirements:** The term General Requirements means a compilation of the conditions and requirements peculiar to the specific contract that governs the execution of the Design and Construction work including

Summary of Work	Division 01, Section 01100
Price and Payment Procedures	Division 01, Section 01200
Administrative Requirements	Division 01, Section 01300
Quality Requirements	Division 01, Section 01400
Temporary Facilities and Controls	Division 01, Section 01500
Product Requirements	Division 01, Section 01600
Execution and Closeout Requirements	Division 01, Section 01700
Performance Requirements	Division 01, Section 01800

- f. **Program Criteria:** The term Program Criteria means written design criteria prepared by the Authority that have been created to establish the minimum basis of design for any specific contract.
 - g. **WMATA Standard and Technical Specifications:** The term WMATA Standard Specifications means those specifications prepared by the Authority that have been created to serve as standard requirements for materials and construction methods for all WMATA projects and are unedited. The Contractor shall use the Standard Specifications and edit accordingly in the preparation of the Contract-specific Final Design Specifications. Some of the Technical Specifications may have already been edited by WMATA to specify Contract-specific project requirements for materials and construction methods. The Contractor shall use the WMATA Technical Specifications in the preparation of the Contract-specific Final Design Specifications.
40. **Project Representative:** The term Project Representative means the individual(s), including but not limited to the Resident Engineer, to whom the Authority Representative has delegated Project responsibilities. If a Project Representative is appointed, the Project Representative represents the Authority Representative on the Project within the limits of that delegation with respect to any part of the Work.
41. **Proposer:** The prospective Contractor who submits Proposals to perform the Work of the Contract. The term Bidder is synonymous with the term Proposer.
42. **Related Documents:** In specifications in Division 00 (General and Supplementary Conditions), in Division 01 (General Requirements), the term “Related Documents” is

used to identify documents that directly relate to the Section in question. This is done in order to assist the reader in finding some of the other most relevant Sections of the Contract Documents and the Final Design Specifications and Final Design Drawings. However, this shall not be interpreted as diminishing any other requirement set out in the Contract Documents that are not referred to under "Related Documents". The Contract Documents shall be read and interpreted as a whole.

43. Request for Proposal (RFP): The term RFP means the written document prepared in anticipation of the negotiation and award of the Design-Build Contract for the design and construction of the Project.
44. Revenue Operations Date (ROD): Revenue Operations Date is the date upon which the new system segment is opened for revenue (passenger) service.
45. Section: An element of the Project Manual bearing its own Alphanumeric designation.
46. Shall/Will/May:
 - a. Shall: Indicates action which is mandatory on the part of the Contractor.
 - b. Will: Indicates probable action by the Authority or its representatives.
 - c. May: Indicates permissible action.
47. Shop Drawings (Contractor Provided): Fabrication, erection, layout, setting, schematic and installation drawings prepared by the Contractor for permanent structures, equipment and systems designed by him to comply with the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings including manufacturer's drawings and literature, materials list, product data, product substitution requests, schedules, wiring and control diagrams, catalog cuts or entire catalogs, descriptive literature, performance and test data.
48. Similar: Generally the same but not necessarily identical; details shall be worked out in relation to location and relation to other parts of the work.
49. Submit: Unless otherwise specified, transmit to the Authority Representative for approval or to the Contracting Officer through the Authority Representative for approval.
50. Submittal: The term Submittal means a written, or graphic or electronic document prepared by the Contractor, which the Contract Documents and the Final Design Specifications and Final Design Drawings require be submitted to the Authority. Submittals include, but are not limited to, drawings, specifications, progress schedules, shop drawings, product data, safety and quality control plans, samples, and schedules of value for the Work.
51. WMATA Safety Manual (Authority-Provided): The term WMATA Safety Manual, and associated insurance document if applicable, means a compilation of the appropriate safety and reporting requirements for the project that are a part of the Mandatory Documents as specified in Section 00371.

52. WMATA Safety and Security Certification Program Plan (Authority-Provided): The term WMATA Safety and Security Certification Program Plan means a compilation of the appropriate safety and security certification requirements for the project that are a part of the Mandatory Documents as specified in Section 00381.
53. WMATA System Safety Program Plan (Authority-Provided): The term means a compilation of the appropriate system safety requirements for the project that are a part of the Mandatory Documents as specified in Section 00391.
54. Work: The term Work means all of the design and construction services, including supervision, quality control and quality assurance, labor, materials, machinery, equipment, tools, supplies and facilities required to complete the all Projects, or the various separately identifiable parts thereof, in accordance with the terms of the Contract.
55. Working Drawings (Contractor Provided): Plans prepared by the Contractor for temporary structures such as decking, temporary bulkheads, support of excavation, support of utilities, groundwater control systems, and forming and false-work; for underpinning; and for such other work as may be required for construction which but do not become an integral part of the completed project.

00702 Order of Precedence

- A. Any inconsistency in this solicitation or Contract shall be resolved by giving precedence in the following order:
1. Contract Modifications in Division 0, Section 00940, MODIFICATIONS.
 2. The Agreement Form and Attachments in Division 0, Section 00521, CONTRACT FORM; Section 00541, POWER OF ATTORNEY; and Section 00542, POWER OF EXECUTION, respectively.
 3. Bonds and Certificates in Division 0, Section 00612, PERFORMANCE BOND; Section 00613, PAYMENT BOND; and Section 00621 CERTS.
 4. Representations and Certifications in Division 0, Section 00451, REPS AND CERTS.
 5. Price Proposal as Negotiated and Accepted in Division 0, Section 00492, PRICE PROPOSAL AS NEGOTIATED AND ACCEPTED (including the Price Schedule in Division 0, Section 00434, PRICE SCHEDULE).
 6. General Conditions and Supplementary Conditions in Division 0, Section 00800, SUPPLEMENTARY CONDITIONS, and Section 00700, GENERAL CONDITIONS respectively.
 7. WMATA Standard Specifications and WMATA Technical Specifications.
 8. WMATA Project Description, Standard, and Design Directive Drawings Issued as an Attachment to the Project Manual.
 9. Approved Final Design Specifications issued for Installation.
 10. Approved Final Design Drawings issued for Installation.
 11. Technical Proposal as Finally Accepted in Division 0, Section 00491, TECHNICAL PROPOSAL AS FINALLY ACCEPTED.
 12. Remainder of the Division 0 Sections.
- B. In the event of a conflict within, between or among the above listed order of precedence, the more stringent requirement shall apply.

00703 General Requirements, Drawings and Specifications

- A. During the Design Phase of the project, the Contractor shall keep at the work site a copy of the Project Manual and Project Drawings and during the Installation Phase of the project shall keep at the jobsite a copy of the Final Design Specifications and Final Design Drawings, and shall at all times give the Authority Representative(s) access thereto.
- B. Anything mentioned in the Project Manual and not shown on the Project Drawings, or shown on the Project Drawings and not mentioned in the Project Manual, shall be of like effect as if shown or mentioned in both.
- C. In case of discrepancy between the Project Manual and Project Drawings, the Project Manual shall govern. In case of discrepancy in the figures between the Project Drawings, the matter shall be promptly submitted in writing to the Authority Representative. Notification of conflicts among the requirements and criteria either indicated in the Project Manual and/or Project Drawings or required by local, state or federal jurisdictions or utilities that affect the scope, cost or quality of this work shall be promptly submitted in writing to the Authority Representative for a written determination. Any adjustment by the Contractor without such a determination shall be at the Contractor's own risk and expense.
- D. Wherever in the Project Manual and in the Final Design Specifications the imperative form is used such as the words "directed," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the "direction," "requirement," "order," "designation," or "prescription" of the Authority Representative or Project Representative, as specified, is intended, and similarly the words "approved," "acceptable," "satisfactory," or words of like import, shall mean "approved by," "acceptable to," or "satisfactory to" the Authority Representative or Project Representative, as specified, unless otherwise expressly stated.
- E. Should it appear that the work to be performed is not sufficiently detailed or explained in the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings, then the Contractor shall promptly apply to the Authority Representative for such written explanations as may be necessary and shall conform to the explanation provided. The Contractor shall promptly notify the Authority Representative of all errors, omissions, inconsistencies, or other defects including inaccuracies which it may discover in the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings, shall provide options to the Authority Representative to remedy such errors, omissions or other defects, and shall obtain in writing from the Authority Representative specific instruction regarding any such error, omission or defect before proceeding with the design work affected thereby. Omission of details of the work from the Mandatory Documents or the miss-description of details of work which are necessary to carry out the intent of the Mandatory Documents, or which are customarily preformed, shall not relieve the Contractor from performing such omitted work, no matter how extensive, or miss-described details of the work and they shall be performed as if fully and correctly set forth and described in the Mandatory Documents, without entitlement to a Change Order hereunder.

0704 Intent of Contract

1. The Contractor shall, upon execution of this Contract and receipt of Notice to Proceed (NTP), perform all work as defined herein to complete the Projects as described in this Contract. The Authority has detailed its requirements in the Mandatory Requirements of the Contract Documents. The Authority has not specified the precise details of performing the Work, except as the Authority considered such details to be essential for the successful completion of the Work. Therefore, the Contractor shall not deviate from the Mandatory Requirements without the written approval of the Authority.
2. For each Design-Build Project the Contractor shall conduct a pre-design meeting jointly with the Authority, and during the design of a Design-Build Project, the Contractor and the Authority shall meet periodically and confer about the progress of the design. At these design review meetings, the Contractor shall identify the evolution of the design and any changes or deviations from the requirements of the Mandatory Documents, as well any associated potential changes to the Contract Price or Performance Time. The Contractor in a timely manner shall provide minutes of all such meetings for all attendees to review and approve or correct. The Authority will review and approve subsequent design submittals that are consistent with the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings as modified by agreements reached at the design review meetings and documented in meeting minutes approved by the Authority. Any agreement that involves changes to the Contract Documents shall be documented in writing.
3. It is the intent of the Contract Documents to describe a functionally complete Project to be designed and constructed in accordance with the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings. Any work, materials or equipment that may reasonably be inferred from the Mandatory Documents, from prevailing custom, or from trade usage as being required to produce the intended results will be furnished and performed whether or not specifically called for. Unless otherwise defined in the Contract, when words or phrases having a well-known technical, construction industry, or trade meaning are used to describe work, labor, services, materials, tools or equipment, such words or phrases shall be interpreted in accordance with that meaning.
4. The Contractor accepts the relationship of trust and confidence established between it and the Authority by the Agreement. The Contractor agrees to furnish the architectural, engineering and construction services set forth herein, and agrees to furnish efficient business administration and superintendence, including quality control and quality assurance, and use its best efforts, to complete the Projects in the best and soundest way and in the most expeditious and economical manner consistent with the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings. The Contractor agrees to perform its design services in accordance with the responsibilities and requirements set forth in Section 00708, RESPONSIBILITY OF THE CONTRACTOR FOR DESIGN RELATED SERVICES, and Section 00709, REQUIREMENTS FOR PROFESSIONAL REGISTRATION.
5. The Contractor shall be responsible for performing or furnishing services and related services in all phases of all the Projects and require its subcontractors to perform the services in accordance with the best general practice. Only new materials and workmanship of best standard quality shall be used. Unless otherwise specified, the Contractor shall furnish all work, services, labor, materials, tools, equipment and incidentals which are necessary to complete the Work in a proper, substantial and workmanlike manner in accordance with the

Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings.

6. Nothing contained in these Contract Documents shall create a contractual relationship between the Authority and any party other than the Contractor. However, it is understood and agreed that the Authority is an intended third party beneficiary of all contracts for design, engineering or construction services and all such subcontracts, purchase orders, and other agreements between the Contractor and third parties related to those services. The Contractor shall incorporate the obligations of this Contract into its respective subcontracts, supply agreements, and purchase orders.

00705 Legal Requirements

- A. The Contractor shall perform the Work in accordance with all Legal Requirements as specified in Section 00707, PERMITS AND RESPONSIBILITIES, and in Section 00708, RESPONSIBILITY OF THE CONTRACTOR FOR DESIGN RELATED SERVICES. The Contract Price and/or Period of Performance shall be adjusted to compensate the Contractor for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work. Such effects may include, without limitation, revisions the Contractor is required to make to the Contract Documents and the Final Design Specifications and Final Design Drawings because of changes in Legal Requirements. Notwithstanding the foregoing, any change in Legal Requirements which affects the method and/or manner of performance of the work but not the Final Design of the work incorporated into a Project shall be at the Contractor's risk and at no additional cost to the Authority.
- B. The Contractor's failure to design or construct the Work in conformance to all applicable Legal Requirements in force as of the Notice to Proceed shall not be the basis for a change to either the Contract Price or Contract Performance Period. The Contractor shall remedy all such failures to design or construct the Work in conformance to all such Legal Requirements at its own expense.
- C. The Contractor shall be responsible for remaining informed of all changes in the Legal Requirements that may occur after the Notice to Proceed and shall perform the Work in accordance with such changed Legal Requirements.

00706 Not Used

00707 Permits and Responsibilities

- A. If applicable, the Contractor shall, without additional expense to the Authority, be responsible for obtaining any necessary licenses, permits, and/or easements and for complying with any applicable International, Federal, State, Local or Municipal laws, codes or regulations, in connection with the prosecution of the Work.
- B. The Contractor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence or that of its subcontractors or anyone directly or indirectly employed by the Contractor, or anyone for whose acts the Contractor may be liable, subject to an allocation or proportion of any such liability, loss, cost or expense if caused in part by a party indemnified hereunder. The Contractor shall take proper safety and health precautions to protect the Work, the workers, the public and the property of others. The Contractor shall also be responsible for all materials delivered and Work performed until completion and Acceptance of the entire Work, except for any completed unit of construction thereof which theretofore may have been accepted in writing by the Authority.

00708 Responsibility of the Design-Builder for Design-Related Services

- A. The Contractor shall be responsible for performing or furnishing design professional services and related services in all phases of the Project and require its Design Professional to perform the services in accordance with the specifications and requirements of the Contract and in accordance with professional standards of skill, care, and diligence adhered to by firms recognized for their expertise, experience and knowledge in performing services of a similar nature. The Contractor shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the services, it being understood that the Authority will be relying upon such professional quality, technical accuracy, completeness, and coordination in utilizing the services for construction and implementation of the Projects.
- B. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications, and other services. In addition, the Contractor in performing its design services herein 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 Contractor shall likewise be liable to the Authority for all costs to the Authority of any kind caused by or resulting from the Contractor's failure to perform design services consistent with the terms and conditions of this Contract. Failure to agree to the responsibility for costs, either those incurred by the Contractor or by the Authority, for corrective actions required by this Section, shall constitute a dispute concerning a question of fact within the meaning of Section 00732, DISPUTE RESOLUTION.
- D. Neither the Authority's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the Authority in accordance with applicable law for all damages to the Authority caused by the Contractor's performance of any of the services furnished under this Contract.
- E. The Contractor shall be responsible to the Authority for acts, errors and omissions of its Design Professional, subcontractors, suppliers, agents, and employees of those in privity with the Contractor, whether employed directly or through subcontracts or other means.
- F. The rights and remedies of the Authority provided for under this Contract are in addition to any other rights and remedies provided by law.

00709 Requirements for Professional Registration

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

00710 Project Management and Superintendence and Key Personnel

- A. The Contractor shall provide project management and direct superintendence of the Work.
- B. The Contractor shall provide personnel for the positions specifically identified by the Authority in this Contract as required key personnel and in addition, for those and other personnel essential for performance of the work as identified by the Contractor (see the Contractor's TECHNICAL PROPOSAL AS FINALLY ACCEPTED, Section 00491), and for any other positions the Contractor deems necessary for the successful execution during performance of the Contract work. All positions shall be filled by competent personnel satisfactory to the Authority Representative. Each position shall be held by a separate full-time employee, unless otherwise specifically approved by the Authority. Individuals holding these, or any key position shall not be changed without permission of the Authority Representative. The Contractor shall acquire written Authority approval for substitutions of any key personnel. The Contractor shall provide the Authority with any information as may be reasonably requested regarding any substitution and any proposed substitute will share similar or better qualities than the person substituted for. The Authority shall be entitled to satisfactory performance of all services described in this Contract and the Contractor shall promptly remove from a Project any employee or other person performing services hereunder in an unsatisfactory manner.
- C. The Contractor shall present, as specified in Section 00726, COMMENCING THE WORK, confirmation of the credentials of the individuals submitted in the TECHNICAL PROPOSAL AS FINALLY ACCEPTED, Section 00491, to the Authority Representative for the Authority Representative's review and acceptance.

00711 Work by Contractor

- A. The Contractor shall perform, with its own organization, work equivalent to at least the percentage specified in Section 00811 of the Supplementary Conditions for the construction work.
- B. The percentage shall be determined by the dollar value of the construction work done by his own organization in comparison to total value of construction work in the Contract. The cost of the work performed by skilled and unskilled labor carried on the Contractor's own payroll, together with the cost of materials installed, may be included in the above percentage. The Contractor's markup for overhead and profit on work performed by subcontractors shall not be included in determining the percentage.
- C. If, during the progress of the Work, the Contractor requests a reduction in such percentage and if the Authority Representative determines that it would be to the Authority's advantage, the Authority Representative may approve such a reduction at his/her sole discretion.

00712 Other Contracts

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

00713 Confidentiality

The Contractor or its subcontractors shall not divulge any confidential information which is so designated by the Authority to Contractor or its subcontractors or acquired in the course of performance of the work under this Contract.

00714 Conditions Affecting the Work

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

00715 Site Investigation

The Contractor acknowledges that it has investigated and satisfied itself as to the conditions affecting the work including, but not restricted to, those bearing upon transportation, disposal, handling and storage of materials; availability of labor, water, electric power and roads; and uncertainties of weather, river stages, tides or similar physical conditions at the site, the conformation and conditions of the ground, and the character of equipment and facilities needed preliminary to and during prosecution of the work. The Contractor further acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Authority, as well as from information provided by the Authority and made a part of this Contract, the character and extent of existing work within or adjacent thereto, and any other work being performed thereon at the time of the submission of its proposal. Any failure by the Contractor to acquaint itself with the available information will not relieve it from responsibility for estimating properly the difficulty or cost of successfully performing the work. The Authority assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the Authority.

00716 [Not Used]

00717 Differing Site Conditions

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

00718 Role of the Authority

- A. The character and extent of the Work to be performed by the Contractor shall be subject to the general oversight and general approval of the Authority.
- B. The Authority will not supervise, direct or have control over, nor be responsible for, the Contractor's means, methods, techniques, sequences, or procedures of design and construction or the safety precautions and programs incident to the Work, or for any failure of the Contractor to comply with Legal Requirements. The Authority will not be responsible for the Contractor's failure to perform or furnish the Work in accordance with the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings.

00719 Authority Reviews

- A. The Authority shall review information submitted by the Contractor, furnish required information and required approvals, and render decisions pertaining thereto, in order to facilitate the orderly progress of the Work in cooperation with the Contractor and in accordance with the planning, scheduling and budgetary requirements and restraints of the Projects.
- B. The Authority will review and approve design submittals solely for the purpose of establishing their conformance to the Authority's Mandatory Requirements in the Contract Documents. Such review and approval shall not be deemed to transfer any liability from the Contractor to the Authority.
- C. The Authority will review and approve construction submittals solely to determine if the items covered by the submittal will, after installation or incorporation in the construction, conform to the Mandatory Requirements set forth in the Final Design Specifications and Final Design Drawings, be compatible with the design concept of the completed Project as a functioning whole, as indicated by the Mandatory Requirements. The Authority's review and approval of construction submittals will not extend to means, methods, techniques, sequences or procedures of construction (except where a particular means, method, technique sequence or procedure of construction is specifically and expressly called for by these Mandatory Requirements) or to safety precautions or programs incident thereto. The Authority's approval will be general and shall not be construed as: (1) permitting any departure from the Mandatory Requirements; (2) relieving the Contractor of the responsibility for any errors including details, dimensions and materials; or, (3) approving departures from details furnished by the Contractor and/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 Mandatory Requirements of the Contract Documents or the Final Design Specifications and Final Design Drawings and compromises the integrity of the structure. The Authority's review, approval, or acceptance of any submittal required under this Contract shall not be construed to operate as a waiver of the Contractor's responsibility for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, construction and other services provided by the Contractor under this Contract.

00720 Submittals

- A. The Contractor shall submit for review and approval a preliminary Schedule of Required Submittals that the Authority reserves the right to review and approve, and the times for submitting, reviewing and processing each Submittal. Contractor will refer to Division 01 Section 01330, DESIGN AND CONSTRUCTION SUBMITTAL PROCEDURES for additional requirements.
- B. The Contractor shall maintain a Contract Documents submittal log for each Project, 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 are to be turned over to the Authority at the completion of the Project as part of the Project records.
- C. The Authority will timely review and approve those submittals that it deems necessary during the design and 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 as such will not indicate approval of the assembly in which the item functions. The Contractor shall make corrections to submittals as required and shall return the required number of corrected copies for additional review and approval.
- D. The Authority's review and approval of any submittal that it deems necessary to review and approve shall not relieve the Contractor from responsibility for any variations from the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings unless the Contractor has in writing called the Authority's attention to each such variation at the time of submission in the submittal letter of transmittal, and the Authority has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the submittal.
- E. Where a submittal is required by the Contract Documents or the Final Design Specifications and Final Design 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 Contractor.

00721 Value Engineering Incentive

- A. This Section applies to those Value Engineering Change Proposals (VECP's) which are initiated and developed by the Contractor during the performance of the Contract to modify the Authority's Design Criteria, or other requirements of this Contract including commitments made in the Contractor's proposal as finally accepted. In order to be accepted under this Section each VECP shall:
1. Be identified by the Contractor at the time of submittal to the Contracting Officer or Authority Representative or other delegated Authorized Representative as submitted pursuant to this Section using the prescribed Authority VECP proposal form;
 2. Require a significant change to this Contract and Mandatory Requirements;
 3. Decrease the Contract price;
 4. Maintain the Contract requirements such as safety, service life, reliability, economy of operation, ease of maintenance and necessary standardized and architectural features of the facility or system;
 5. Not require an unacceptable extension of original Contract duration; and
 6. Be reviewed and evaluated by way of a two-phase process.
- B. Phase One - Conditional Approval: In addition to the use of the Authority VECP proposal form, any VECP the Contractor submits shall be in sufficient detail to clearly define the proposed change including the following items:
1. A description of the difference between the existing and the proposed Contract requirements, and the comparative advantages and disadvantages of each;
 2. Contract requirements recommended by the Contractor to be changed;
 3. Separate detailed cost estimates for both the basic Contract requirement and the proposed change, and an estimate of the change in Contract price including an accounting of the costs of development and implementation and Authority review of the VECP and the sharing arrangement as set forth in the following Paragraph E.;
 4. A statement from the Contractor predicting any effects the proposed VECP will have on the life-cycle cost of the work to include and identify separately the cost for increased or decreased maintenance and operations;
 5. A statement of the time by which the proposal must be accepted so as to obtain the maximum price reduction effect and not delay the original Contract completion time. The time required for VECP review shall be considered and included in this statement and also in a separate bar chart;
 6. A list of codes and the Authority standards applicable to the work to be carried out by the VECP and a statement that the proposed VECP will be in compliance with the requirements set forth in listed codes and standards;

7. The identification of a project where the materials, methods of construction and special equipment, where required, have been previously and successfully performed on construction similar to that which is being proposed for implementation on this Contract;
 8. Preliminary architectural and engineering analysis, including calculations and 11 x 17 inch drawings in sufficient detail for each requirement of the Contract which must be changed if the VECP is accepted, with recommendations for accomplishing each change and its effect on unchanged work.
- C. The Contracting Officer or other delegated Authorized Representative may at any time during the two-phase review and evaluation process reject part or all of the VECP by giving the Contractor written notice thereof. Until final approval is issued, the Contractor shall remain obligated to perform in accordance with the terms of the original Contract. VECP's will be processed expeditiously; however, the Authority shall not be liable for any delay in acting upon any proposal submitted pursuant to this Section. The decision of the Contracting Officer or other delegated Authorized about acceptance or rejection of any such proposal shall be final and shall not be subject to Section 00732, DISPUTE RESOLUTION.
1. The Contractor has the right to withdraw part or all of the VECP at any time prior to acceptance or rejection by the Authority. Such withdrawal shall be made in writing to the Contracting Officer through the Authority Representative. If the Contractor desires to withdraw the proposal, it shall be liable for the cost incurred by the Authority in reviewing the proposal.
- D. Upon notice of conditional approval of the concept of the VECP, the Contractor shall proceed with final VECP design in accordance with the agreed schedule.
- E. Phase Two - Final Approval: Final approval of the VECP by the Authority will be contingent upon the following items:
1. The Contractor shall address, to the Authority's satisfaction, all design issues and review comments and submit the VECP to the Authority for approval.
 2. An equitable adjustment in the Contract price and appropriate changes in any other affected provisions of the Contract shall be made and the Contract modified in accordance with Section 00753, CHANGES, or other applicable Sections of this Contract.
 3. The net savings resulting from the change shall be shared between the Contractor and the Authority on the basis of 50 percent for the Contractor and 50 percent for the Authority. Net savings shall be determined by deducting from the estimated gross savings, the Contractor's costs of developing and implementing the proposal, including any amount attributable to a subcontractor, and the estimated amount of increased costs to the Authority resulting from the change, such as costs for review, implementation, inspection, related items and Authority-furnished property. Estimated gross savings shall include Contractor's labor, material, equipment, overhead, profit and bond. The Contract price shall be reduced by the sum of the Authority's costs and share of the net savings.

4. The Contractor is entitled to share in instant Contract savings only, to the full extent provided for in this Section. For purposes of sharing, the term 'instant contract' shall not include any supplemental agreements to or other modifications of this Contract, executed subsequent to acceptance of the particular VECP, by which the Authority increases the quantity of any item or adds any item.
 5. Notwithstanding any review, approval or acceptance of any VECP by the Authority; the Contractor agrees to be liable to the Authority for all costs of any kind whatsoever caused by or resulting from any error, omission, deficiency or negligence, or combination thereof, of any kind in the design, drawings or specifications submitted to the Authority in connection with any VECP proposal under this Contract. The rights and remedies of the Authority provided in this Section are in addition to any other rights or remedies provided by law or under this Contract.
- F. The Contractor will use its best efforts to include Value Engineering arrangements in any subcontract, which in its judgment, appears to offer sufficient value engineering potential.
- G. A VECP identical to one submitted under any other contract, by this or any other contractor, may also be submitted under this Contract.
- H. The Contractor may restrict the Authority's right to use any VECP data by marking it with the following statement:

"This data, furnished pursuant to the VALUE ENGINEERING INCENTIVE Section of this Contract, shall not be duplicated, used or disclosed, in whole or in part, for any purpose except to evaluate the VECP, unless the proposal is accepted by the Authority. This restriction does not limit the Authority's right to use information contained in this data if it is or has been obtained, or is otherwise available, from the Contractor or from other source, without limitations. When this proposal is accepted by the Authority, the Authority shall have the right to duplicate, use and disclose any data in any manner and for any purpose whatsoever, and have others do so whether under this or any other Authority contract."

00722 Quality Control/Quality Assurance

- A. In accordance with Division 01, Section 01400 QUALITY REQUIREMENTS, the Contractor shall be responsible for conducting an ongoing Design-Build Quality System during the entire term of the Contract based on the approved detailed Design-Build Quality System. The purpose of the Design-Build Quality System is to effectively and economically assure technical quality in the Final Design, other Contract deliverables, and construction of the Work, thus reducing the potential for:
1. adverse construction schedule and cost impacts;
 2. personal and public safety problems and incidents and their attendant costs;
 3. those operational and maintenance problems, disruptions, and costs that result from design errors and omissions; and,
 4. a poor quality design,
 5. poor construction quality,
 6. design deliverables and completed work which does not comply with applicable codes and regulations.
- B. An effective Design-Build Quality Program is fundamental to all work performed by the Contractor and will be considered by the Authority in assessing the Contractor's progress, performance, and earnings entitlement.

00723 Project Management Software System

The Contractor will be required to use the Authority's internet based project management software system for submitting, reviewing and tracking documents of this Contract. The system is provided and administered by the Authority and is currently identified as "Procore".

The Contractor shall use this internet, web-based software system to manage all documents issued to the Authority. This system was selected by the Authority and is designed to address the record keeping and communications requirements for Authority contracts, to include this Contract.

The Contractor is encouraged to include this requirement in contracts with its subcontractors to facilitate the flow of documentation. If a subcontract is executed without this requirement it shall not relieve the Contractor's obligation to the Authority.

1. The Authority retains control and ownership of the system's database during the duration and upon completion of the Contract
2. The Contractor shall, at no additional cost to the Authority, provide the necessary equipment and services at the Contractor's facilities to actively participate in the above mentioned internet based project management software system
3. As a minimum, this requirement shall include:
 - a. All hardware to operate the system at the Contractor's facilities
 - b. The necessary telephone or other data lines to connect the hardware to the internet at the Contractor's facilities [**Digital Subscriber Line (DSL) is the minimum recommended connection for optimum performance**]
 - c. An internet service provider for access by the Contractor's personnel to the web-site of the internet based project management software system; and
 - d. The necessary project personnel to participate
4. The Authority will provide informal training to Contractor's key project personnel in using the software system. Training will be provided at the Authority's location that will be determined after contract award. The number of individuals that will be trained shall be limited to only those Contractor employees who will actively participate in the system.
5. The Authority reserves the right during the period of this Contract to expand the data that is to be entered into the system for document control.

00724 Progress Schedules and Requirements for Maintaining Progress Records

- A. In accordance with Division 01, Section 01320 CONTRACT PROGRESS REPORTING, the Contractor shall submit a Schedule to the Contracting Officer or other delegated Authority's Representative for approval showing the order in which the Contractor proposes to carry on the work, the dates on which he will start the several major features, including design submittals procurement of materials, plant and equipment, and the contemplated dates for completing the same.
- B. The Contractor shall prepare a Monthly Status Report (MSR) containing all Project and cost information. The format shall include the contract number and project number, a brief task description, and the reporting period. It shall also contain staffing, cost, deliverable data and a summary of activity accomplished by individuals in specific tasks. It may also include any significant issues, problems, and resolutions. This report shall also cover but is not limited to the following categories of information:
- Labor hours for the reporting period and cumulative to date
 - Other direct costs for the reporting period and cumulative to date
 - Staffing and turnover rate
- C. Failure to comply with the terms of this Article may affect the processing of progress payment requests submitted by the Contractor.
- D. If, in the opinion of the Contracting Officer or other delegated Authority's Representative, the Contractor falls significantly behind the approved progress schedule, the Contractor shall take any and all steps necessary to improve his progress. The Contracting Officer or other delegated Authority's Representative, in this instance, may require the Contractor to increase the number of shifts, initiate or increase overtime operations, increase days of work in the work week, or increase the amount of construction plant, or all of them. The Contracting Officer or other delegated Authority's Representative may also require the Contractor to submit for approval supplemental progress schedules detailing the specific operational changes to be instituted to regain the approved schedule, all without additional cost to the Authority.
- E. Failure of the Contractor to comply with the requirements of the Contracting Officer or other delegated Authority's Representative under this provision shall be grounds for determination by the Contracting Officer or other delegated Authority's Representative that the Contractor is not prosecuting the work with such diligence as will ensure completion within the time specified. Upon such determination the Contracting Officer or other delegated Authority's Representative may terminate the Contractor's right to proceed with the work, or any separate part thereof, in accordance with the TERMINATION FOR DEFAULT, DAMAGES FOR DELAY AND TIME EXTENSIONS Article of these General Conditions

00725 Period of Performance and Project Schedule

- A. The Contractor shall perform, complete and advance all Work under this Contract in accordance with the schedule set out in Section 00825, PERIOD OF PERFORMANCE AND PROJECT SCHEDULE REQUIREMENTS.
- B. The Authority may modify the Contract, pursuant to Section 00753 CHANGES, to extend the period of performance as often and in time periods as deemed necessary until completion of the Work under this Contract
- C. Early Completion: If the Contractor shall submit a schedule or express an intention to complete the Work earlier than any required milestone, interim or final completion date, the Authority shall not be liable for any costs incurred because of delay or hindrance should the Contractor be unable to complete the Work before such milestone, interim or final completion date. The duties, obligations and warranties of the Authority to the Contractor shall be consistent with and applicable only to the completion of the Work and completion dates set forth in this Contract.

00726 Commencing the Work

- A. The Contractor shall commence the work within ten (10) calendar days after the date of receipt of Notice to Proceed (NTP) and shall prosecute the Work diligently to complete it within the time specified in the Contract to meet all specified interim milestone dates.
- B. A Pre-Design-Build Conference attended by the Authority and the Contractor and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the design concepts, schedules, procedures for handling Submittals, processing Applications for Payment, maintaining required records, quality control, and other matters.
- C. The following items require approval prior to commencement of any design activities, construction activities, and/or offsite fabrication associated with the Project:
 - 1. Executed Contract as specified in Section 00521, DESIGN-BUILD 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 00612, PERFORMANCE BOND and Payment Bond, as specified in Section 00613, PAYMENT BOND; Insurance Certificates as specified in Section 00787, INDEMNIFICATION AND INSURANCE REQUIREMENTS AND SPECIAL PROVISIONS OF INSURANCE FURNISHED BY CONTRACTOR within ten (10) calendar days after Award of Contract.
 - 2. Designer, Builder, Major Subcontractors and Key Project Personnel Confirmation as specified in Section 00710, PROJECT MANAGEMENT AND SUPERINTENDENCE AND KEY PERSONNEL within ten (10) calendar days after Award of Contract.

00727 Suspension of Work

- A. The Authority may order the Contractor in writing to suspend, delay or interrupt all or any part of the work for such period of time as he or she may determine to be appropriate for the convenience of the Authority.
- B. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed or interrupted by an act of the Contracting Officer or other delegated Authority's Representative in the administration of this Contract, or by his or her failure to act within the time specified in this Contract, or if no time is specified, within a reasonable time, an adjustment shall be made for any increase in the cost of performance of this Contract, excluding profit, necessarily caused by such unreasonable suspension, delay or interruption and the Contract modified in writing accordingly. However, no adjustment shall be made under this Section for any suspension, delay, or interruption to the extent.
 - 1. That performance would have been so suspended, delayed or interrupted by any other cause including the fault or negligence of the Contractor or
 - 2. For which an equitable adjustment is provided for or excluded under any other provision of this Contract.
- C. No claim under this Section shall be allowed
- D. For any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer or other delegated Authority's Representative in writing of the act or failure to act involved, but this requirement shall not apply as to a claim resulting from a suspension order, and
 - 1. Unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay or interruption, but no later than the date of final payment under this Contract.
- E. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of Section 00732, DISPUTE RESOLUTION.

00728 Termination for Default, Damages for Delay, and Time Extensions

- A. If the Contractor refuses or fails to prosecute the Work, or any separable part thereof, with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, or fails to complete said Work within such time, the Contracting Officer may, by written notice to the Contractor, terminate its right to proceed with the Work or such part of the Work as to which there has been delay. In such event the Contracting Officer may take over the Work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the Work such design product, materials, appliances, plant, and other work product as may be on the site of the Work and necessary therefore, all of which shall become the property of the Authority. Whether or not the Contractor's right to proceed with the Work is terminated, the Contractor and its sureties shall be liable for any damage to the Authority resulting from its refusal or failure to complete the Work in the specified time.
- B. If fixed and agreed liquidated damages are provided in the Contract and if the Contracting Officer so terminates the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until such reasonable time as may be required for final completion of the Work together with any increased costs occasioned the Authority in completing the Work.
- C. If fixed and agreed liquidated damages are provided in the Contract and if the Contracting Officer does not so terminate the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until the Work is completed or accepted.
- D. The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage under the following circumstances:
1. Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Authority in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.
 2. If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless –
 - a) The subcontracted supplies or services were obtainable from other sources;
 - b) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and
 - c) The Contractor failed to comply reasonable with this order.
 3. The following schedule of monthly anticipated adverse weather delays labeled WORK DAYS represents work-day delays which may be expected in each month named within

the Washington Metropolitan Area, based on a five-day work week. The Contractor's progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities.

Month	Work Days
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 work 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.
5. If the Contractor, within ten (10) calendar days from the beginning of any such delay, unless the Contracting Officer grants a further period of time before the date of final payment under the Contract, notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the Work when, in the Contracting Officer's judgment, the findings of fact justify such an extension. The Contracting Officer's findings of fact shall be final and conclusive on the parties, subject only to appeal as provided Section 00732, DISPUTE RESOLUTION.
6. If, after notice of termination of the Contractor's right to proceed under the provisions of this Section, it is determined for any reason that the Contractor was not in default under the provisions of this Section, or that the delay was excusable under the provisions of this Section, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Section 00730, TERMINATION FOR CONVENIENCE OF THE AUTHORITY of these General Conditions.
7. The rights and remedies of the Authority provided in this Section are in addition to any other rights and remedies provided by law or under this Contract.

00729 Delay Types

- Delay, Compensable: Delay caused by actions or omissions of the Authority, which entitle a contractor to an adjustment in price and/or extension of time.
- Delay, Excusable: A delay that is caused by forces beyond the control and without the fault or negligence of the contractor.
- Delay, Inexcusable: Delays that are considered within the contractor's control, such as delays due to inclement weather, but which is considered within a normal range of bad weather; subcontractor's actions; delays due to inadequate supervision of the project; or delays of failure to obtain proper equipment, etc. An inexcusable delay is one for which the contractor assumes the risk of the cost and consequences.

00730 Termination for the Convenience of the Authority

- A. The Authority may terminate this Contract in whole or, from time to time, in part, for the convenience of the Authority, the performance of Work under this Contract may be terminated by the Authority in accordance with this subsection, in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Authority. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the nature, extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.
- B. After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:
1. Immediately discontinue all services and stop work under the Contract on the date and to the extent specified in the Notice of Termination;
 2. Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the Work under the Contract as is not terminated;
 3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
 4. Assign to the Authority, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Contracting Officer shall have the right to settle or authorize payments on any or all claims arising out of the termination of such orders and subcontracts;
 5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contracting Officer, to the extent he or she may require, which approval or ratification shall be final for all the purposes of this Section;
 6. Transfer title and deliver the following to the Authority in the manner, at the times, and to the extent, if any, directed by the Contracting Officer:
 - a. The fabricated or un-fabricated parts, work in process, completed work, supplies, and other material procured as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination.
 - b. All data, Design Specifications and Design Drawings, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process, shall become the property of the Authority.

- c. All data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.
 7. Use its best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (6) above, provided, however, that the Contractor:
 - a. Shall not be required to extend credit to any purchaser, and
 - b. May acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Authority to the Contractor under this Contract or shall otherwise be credited to the price or cost of the Work covered by this Contract or paid in such other manner as the Contracting Officer may direct.
 8. Complete performance of such part of the Work as shall not have been terminated by the Notice of Termination; and
 9. Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the Authority has or may acquire an interest.
- C. After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer through the Authority Representative its termination claim in the form and with certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than one year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such one year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, the Contracting Officer may receive and act upon any such termination claim at any time after such one year period or any extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to the Contracting Officer, the amount, if any, due to the Contractor by reason of the termination and shall thereupon authorize payment to the Contractor the amount so determined.
- D. Subject to the provisions of Paragraph C. the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this Section, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The foregoing notwithstanding, the Contracting Officer shall allow no anticipated profit on services not performed by the Contractor.
- E. The Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in Paragraph F. of this Section, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon

- the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Section shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to Paragraph D. above.
- F. In the event of the failure of the Contractor and the Contracting Officer to agree, as provided in Paragraph D. upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Section, the Contracting Officer shall authorize payment to the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed upon in accordance with Paragraph D.:
1. With respect to all Contract Work performed prior to the effective date of the Notice of Termination, the total, without duplication of any items, of the following:
 - a. The cost of such work;
 - b. The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in Paragraph B.5. above, exclusive of the amount paid or payable on account of supplies or materials delivered or services furnished by the subcontractors or suppliers prior to the effective date of Notice of Termination of work under this Contract, which amounts shall be included in the cost on account of which payment is made under Paragraph D. above; and
 - c. A sum, as profit on Paragraph D. above, determined by the Contracting Officer to be fair and reasonable, provided, however, that the Contracting Officer shall allow no anticipated profit on design services not performed by the Contractor, and, further, if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed and an appropriate adjustment shall be made reducing the amount of the settlements to reflect the indicated rate of loss; and
 2. The reasonable cost of the preservation and protection of property incurred pursuant to Paragraph B.9.; and any other reasonable cost incidental to termination of work under this Contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under this Contract.
- G. The total sum to be paid to the Contractor under Paragraph F. above shall not exceed the total Contract price as reduced by the amount of payments made and as further reduced by the Contract price of work not terminated. Except for normal spoilage, and except to the extent that the Contracting Officer shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under this Section 00793, the fair value, as determined by the Contracting Officer, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Authority, or to a buyer pursuant to subparagraph B.7.
- H. The Contractor shall have the right of appeal, under Section 00732, DISPUTE RESOLUTION, from any determination made by the Contracting Officer under Paragraphs C. or E. above, except that if the Contractor has failed to submit its claim within the time provided in Paragraph C. above and has failed to request extension of such time, he shall

- have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under Paragraphs C. or E. above, the Authority shall pay to the Contractor the following:
1. If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer; or
 2. If an appeal has been taken, the amount finally determined on such appeal.
- I. In arriving at the amount due the Contractor under this Section, the following shall be deducted:
1. All un-liquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this Contract.
 2. Any claim which the Authority may have against the Contractor in connection with this Contract.
 3. The agreed price for, or the proceeds of sale of any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this Section, and not otherwise recovered by or credited to the Authority.
- J. If the termination hereunder be partial, prior to the settlement of the terminated portion of this Contract, the Contractor may file with the Contracting Officer, through the Authority Representative, a request in writing for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract, i.e., the portion not terminated by the Notice of Termination, and such equitable adjustment as may be agreed upon shall be made in such price or prices.
- K. The Authority may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this Contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this Section, such excess shall be payable by the Contractor to the Authority upon demand for the period from the date such excess payment is received by the Contractor to the date on which such excess payment is repaid to the Authority upon demand, together with interest computed at the rate of six percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess payment is repaid to the Authority; provided, however, that no interest shall be charged with respect to any such excess, payment attributable to a reduction or other disposition of termination inventory until ten days after date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.
- L. Unless otherwise provided for in this Contract, or by applicable statute, the Contractor, from the effective date of termination and for a period of three years after final settlement under this Contract, shall preserve and make available to the Authority at all reasonable times at the office of the Contractor but without direct charge to the Authority, all its books, records, documents and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the work terminated hereunder, or to the extent determined by the Contracting Officer, photographs, microphotographs or other authentic reproduction thereof.

00731 Assignment

- A. The Contractor shall not transfer or assign this Agreement or any portion thereof or any of the rights and/or obligations of the Contract to any other party. The Contracting Officer may recognize a third party as successor in interest to the Contract where the third party's interest is incidental to the transfer of all the assets of the Contractor, i.e., sales of assets, transfer of assets pursuant to merger or consolidation, or incorporation of a proprietorship or partnership. Such recognition of the transfer shall be within the sole discretion of the Authority after review of the facts and circumstances surrounding each request submitted, but the assignment shall not be approved unless the surety, in writing, agrees to that assignment and accepts the assignee as the Contractor and principal on the payment and/or performance bonds.
- B. If this Contract provides for payments aggregating \$1,000 or more, claims for moneys due or to become due the Contractor from the Authority under this Contract may be assigned to a bank, trust company or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Notice of such assignment shall be made to the Contracting Officer and submitted through the Authority Representative, but the assignment shall not be approved unless the surety, in writing, agrees to that assignment and accepts the assignee as the Contractor and principal on the payment and/or performance bonds. Any such assignment or reassignment shall cover all amounts payable under this Contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made one party as agent or trustee for two or more parties participating in such financing. It is the Authority's intent to recognize assignments only to bona fide lending institutions, therefore, assignment to any private corporation, business or individual which does not qualify as such is specifically prohibited.
- C. Any attempt to transfer by assignment not authorized by this Section shall constitute a breach of the Contract and the Contracting Officer may for such cause terminate the right of the Contractor to proceed as provided in Section 00728, TERMINATION FOR DEFAULT, DAMAGES FOR DELAY AND TIME EXTENSIONS, and the Contractor and its sureties shall be liable to the Authority for any excess costs incurred by the Authority.

00732 Dispute Resolution

- A. Except as otherwise provided in this Contract, any dispute arising under or related to this Contract including allegations of breach of contract or similar allegations which are not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer is final and conclusive unless, within thirty (30) calendar days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written notice of appeal addressed to the Authority Board of Directors. Such notice should indicate that an appeal is intended and should reference the decision and Contract number. The decision of the Board of Directors or its duly authorized representative for the determination of such appeals shall be final and conclusive unless in proceedings initiated by either party for review of such decision in a court of competent jurisdiction, the court determines the decision to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence. In connection with any appeal proceeding under this Section, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending
- B. final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contracting Officer's decision. The Armed Services Board of Contract Appeals is the authorized representative of the Board of Directors for finally deciding appeals to the same extent as could the Board of Directors.
- C. This Section does not preclude consideration of questions of law in connection with decisions provided for in Paragraph A above. Nothing in this Contract, however, shall be construed as making final the decisions of the Board of Directors or its representative on a question of law.

00733 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 Contractor, notwithstanding the provisions of Section 00707, PERMITS AND RESPONSIBILITIES, shall be relieved of the responsibility for loss or damage to the work other than that resulting from the Contractor's fault or negligence or that of its subcontractors or agents. If such prior possession or use by the Authority delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment in the Contract price or the time of completion will be made and the Contract shall be modified in writing accordingly.

00734 Not Used

00735 Acceptance and Inspection of Work

- A. "Acceptance," as used in this Section, means the act of the Authority Representative, or the Project Representative, by which the Authority approves specific services as partial or complete performance of the Contract. As used in this Section, "Correction" means the elimination of a defect.
- B. Unless otherwise provided in this Contract, acceptance by the Authority shall be made as promptly as practicable after completion and inspection of all Work required by this Contract. Acceptance shall be final and conclusive except as regards latent defects, fraud or such gross mistakes as may amount to fraud, or as regards to the Authority's right under any warranty or guarantee. All punch list items identified during final inspections and noted at the time of Acceptance shall be corrected by the Contractor as soon as is practically possible.
- C. The Authority Representative shall give written notice of any defect or nonconformance to the Contractor if and when discovered, but no later than final acceptance of the construction work designed under this Contract, except for latent defects which may be discovered following such acceptance. This notice shall state either:
1. that the Contractor shall correct or re-perform any defective or nonconforming services; or,
 2. that the Authority does not require correction or re-performance. The Contractor shall be liable to the Authority for all costs incurred of any kind caused by or resulting from the Contractor's defective workmanship or noncompliance with the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings.
- D. Should it be considered necessary or advisable by the Contractor or Authority at any time before acceptance of the entire Work to make an examination of work already completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor and material. If such work is found to be defective or nonconforming in any material respect, the Contractor shall defray all the expenses of such examination and of satisfactory reconstruction and pay all delay damages. If, however, such work is found to meet the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings, an equitable adjustment shall be made in the Contract price to compensate the Contractor for the additional services involved in such examination and reconstruction and, if completion of the Work has been delayed thereby, the Contractor shall in addition be granted a suitable extension of time.
- E. All Work, which term includes but is not restricted to materials, workmanship, and manufacture and fabrication of components, shall be subject to inspection and test by the Authority, if it so deems, at all reasonable times prior to acceptance. Any such inspection and test is for the sole benefit of the Authority and shall not relieve the Contractor of the responsibility of providing quality control measures to assure that the Work strictly complies with the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings. No inspection or test by the Authority shall be construed as constituting or implying acceptance. Inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Authority after acceptance of the completed Work.

- F. The Contractor shall furnish promptly, without additional charge, all services, work, labor, materials, tools, equipment and facilities reasonably needed for performing such safe and convenient inspections and tests as may be required. All inspections and tests shall be performed in such manner as not to unnecessarily delay the Work. The Authority shall receive adequate advance notice submitted to witness all tests and inspections as part of its overall quality oversight of the Project. Tests performed that the Authority does not witness, due to the Contractor's failure to provide timely notice to the Authority of such tests, shall have no effect. Special, full size and performance tests shall be performed as described in the Mandatory Requirements of the Contract Documents and the Final Design Specifications and Final Design Drawings.
- G. If the Contractor is required to correct or re-perform, it shall be without additional cost or fee to the Authority, and any services corrected or re-performed by the Contractor shall be subject to this Section to the same extent as work initially performed. If the Contractor fails or refuses to correct or revise any errors or deficiencies in its performance within 30 days of the Authority's request, the Authority may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost incurred by the Authority thereby, or make an equitable adjustment to the Contract price.
- H. Failure to agree to responsibility for costs, either those incurred by the Contractor or by the Authority, for corrective actions required by this Section, shall constitute a dispute and shall be subject to the provisions of Section 00732, DISPUTE RESOLUTION.
- I. The rights and remedies of the Authority provided in this Section are in addition to any other Rights or remedies provided by law or under this Contract.
- J. The Contractor shall give the Authority Representative at least 14 calendar days advance notice of the date the Work, or separate portion thereof, will be fully completed and ready for final inspection, test and acceptance.

00736 Authority Furnished Property

- A. The Authority will make available to the Contractor, for use only in connection with this Contract, the property, if any, described in the Section 00836, hereinafter referred to as Authority-furnished property, at the times and locations stated therein. If the Authority-furnished property, suitable for its intended use, is not made available to the Contractor, the Contracting Officer shall, upon timely written request from the Contractor, if the facts warrant such action, equitably adjust any affected provision of this Contract pursuant to any procedures of Section 00753, CHANGES.
- B. Title to Authority-furnished property shall remain in the Authority. The Contractor shall maintain adequate property control records of Authority-furnished property in accordance with sound industrial practice.
- C. Unless otherwise provided in this Design-Build Contract, the Contractor, upon acceptance of Authority-furnished property, assumes the risk of and shall be responsible for loss thereof or damage thereto except for reasonable wear and tear and except to the extent that such property is consumed in the performance of this Design-Build Contract.
- D. The Contractor shall, upon completion of this Design-Build Contract, prepare for shipment, deliver FOB origin or dispose of all Authority-furnished property not consumed in the performance of this Design-Build Contract or not theretofore delivered to the Authority as directed. The net proceeds of such disposal shall be credited to the Contractor price or paid in such other manner as may be directed.

00737 Material, Workmanship and Equipment

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

00738 Hazardous Materials

- A. The Authority shall be responsible for the presence of and any associated consequences of asbestos, PCB's, petroleum, or other hazardous waste or like materials and radioactive materials (Hazardous Materials) on the Project if such presence is unknown, unexpected, or not identified in information provided by the Authority, or not otherwise known to the Contractor prior to the preparation of his proposal. The Contractor shall, upon encountering or recognizing such Hazardous Materials, immediately stop work in the affected area and report the condition to the Authority Representative in writing. The Contractor shall submit a hazardous material report. The Authority shall have no responsibility or liability for any Hazardous Material that is brought to the Project or handled by the Contractor or any subcontractor.

Explosives - The use of explosives for the performance of Contract work will not be permitted.

Flammable Materials - The jurisdictional Fire Marshals prohibit the use of oxygen-acetylene welding/cutting equipment or flammable materials anywhere in the Metrorail system during hours of system operation. After each work shift, all flammable materials must be removed from Authority property.

Chemicals and Hazardous Materials - Material Safety Data Sheets for all chemicals and hazardous materials to be used by the Contractor and Subcontractors, must be submitted for approval prior to the beginning of any work.

00739 Protection of Existing Vegetation, Structures, Utilities and Improvements

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

00740 Operations and Storage Areas

- A. All operations of the Contractor, including storage of materials, shall be confined to areas authorized or approved by the Authority Representative. The Contractor shall hold and save the Authority, its officers and agents, free and harmless from liability of any nature occasioned by his operations.
- B. Temporary buildings such as storage sheds, shops and offices, may be erected by the Contractor only with the approval of the Authority Representative, and shall be built with labor and materials furnished by the Contractor without expense to the Authority. Such temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon the completion of the work. With the written consent of the Authority Representative, such buildings and utilities may be abandoned and need not be removed.
- C. The Contractor shall, under regulations prescribed by the Authority Representative, use only established roadways or construct and use such temporary roadways as may be authorized by the Authority Representative. Where materials are transported in the prosecution of the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State or Local law or regulation. When it is necessary to cross curbs or sidewalks, protection against damage shall be provided by the Contractor and any damaged roads, curbs, or sidewalks shall be repaired by or at the expense of the Contractor.

00741 Cleaning Up

- A. The Contractor shall at all times keep the construction area in a clean, neat and workmanlike condition satisfactory to the Authority Representative.
- B. Upon completion of construction, the Contractor shall leave the work and premises in a clean, neat and workmanlike condition satisfactory to the Contracting Officer or other delegated Authority's Representative.

00742 Accident Prevention

- A. In order to provide safety controls for protection to the life and health of employees and other persons, for prevention of damage to property, materials, supplies and equipment, and for avoidance of work interruptions in the performance of this Contract, the Contractor shall comply with all pertinent provisions of Authority safety requirements and shall also take or cause to be taken such additional measures as the Authority Representative may determine to be reasonably necessary for that purpose.
- B. All construction work under this Contract shall be performed in a skillful and workmanlike manner. The Authority Representative may, in writing, require the Contractor to remove from the Project any employee the Authority Representative deems to be incompetent, careless or objectionable on other reasonable grounds related to the advancement of the project.
- C. The Contractor shall maintain an accurate record of, and shall report to the Authority Representative in the manner and on the forms prescribed by the Authority Representative, exposure data and all accidents resulting in death, traumatic injury, occupational disease and damage to property, materials, supplies and equipment incidental to work performed under this Contract immediately after of such incident.
- D. The Authority Representative will notify the Contractor of any noncompliance with the foregoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or its representative at the site of the work, shall be deemed sufficient for the purpose. If the Contractor fails or refuses to comply promptly, the Authority Representative or the Project Representative may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.
- E. Compliance with the provisions of this Section by subcontractors shall be the responsibility of the Contractor.
- F. Prior to commencement of the work, the Contractor shall:
 - 1. Submit in writing its proposals for effectuating this provision for accident prevention;
 - 2. Meet in conference with the Authority to discuss and develop mutual understanding relative to administration of the overall safety program.

00743 Fire Protection Equipment and Life Safety Agreement

The Contractor shall submit a plan for a temporary fire protection system with provisions for fire protection systems and equipment for use during the term of the Contract.

00744 Protection of Persons and Property

- A. The Contractor shall be responsible for ensuring compliance with the most stringent provisions of the applicable occupational safety and health statutes and regulations of the District of Columbia, State of Maryland, Commonwealth of Virginia or political subdivision in which the work is being performed and the Department of Labor OSHA standards. The Contractor shall comply with the Interim Organizational Health and Safety Program submitted with the Technical Proposal and the approved Organizational Health and Safety Program that is to be submitted by the Contractor prior to commencement of construction work. In addition, the Contractor must comply with the following documents: The appropriate WMATA Safety Manual, and associated insurance document if applicable, as specified in Section 00371; the WMATA System Safety Program Plan; the Metrorail Safety Rules and Procedures Handbook (for contracts in which work is performed on, or interfaces with the Metrorail System); the Department Bus Service Employee Handbook (for contracts in which work is performed on, or interfaces with the Metrobus System or facilities); Consolidated Plan prepared by WMATA for each Bus Division and Rail Yard in order to minimize the potential for pollutant discharge to the environment; the National Institute for Occupational Safety and Health (NIOSH) guidelines provisions pertaining to the safe performance of the Work; the American Conference of Governmental Industrial Hygienists (ACGIH) guidelines; the American National Standards Institute (ANSI) guidelines; and the U.S. Army Corps of Engineers Safety and Health Requirements Manual. The Contractor shall also be responsible for compliance with applicable National Fire Protection Association (NFPA) Standards 13, 14, 24, 25 and 130. Further, the Contractor shall ensure that all methods of performing the work do not involve danger to the personnel employed thereon, the public, or private property, whether or not these methods are cited or indicated in the Contract Documents. Should charges of violation of any of the above be issued to the Contractor in the course of the work, a copy of each charge shall be immediately forwarded to the Authority Representative. The Contractor shall promptly notify the Authority of all damage to property of the Authority or others and of injuries sustained by any persons, of which the Contractor becomes aware, including but not limited to, employees of the Contractor, in any manner relating directly or indirectly to the Work or otherwise to this Contract.
- B. See Section 00844 of the Supplementary Conditions for safety superintendence requirements.

00745 Consideration and Basis of Payment

In consideration of its undertaking under this Contract, the Contractor shall 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 the DESIGN-BUILD CONTRACT FORM, Section 00521, and which shall constitute complete compensation for performance of all work required by the Contract.

00746 Contract Prices and Price Schedule

Payment for the various proposal items listed in the Price Schedule shall constitute full compensation for furnishing all plant, labor, equipment, appliances and material and for performing all operations required to complete the Work in conformity with the Authority's Mandatory requirements and the Final Design Specifications and Final Design Drawings developed by the Contractor. All costs for work not specifically mentioned in the Price Schedule shall be included in the Contract prices for the items listed.

00747 Not Used

00748 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 25 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 Authority Representative shall, upon receipt of a written request submitted for an extension of time within ten (10) calendar days from the beginning of such delay, or within such further period of time which may be granted by the Authority Representative prior to the date of final settlement of the Contract, ascertain the facts and make such adjustment for extending the completion date as in the Authority Representative's judgment the findings justify.

00749 Method of Payment

- A. The Authority will make progress payments monthly as the Work proceeds on estimates approved by the Authority Representative for design related work and by estimates reviewed and approved by the Authority Representative for construction related work. At least ten (10) calendar days before submission of any Application for Payment, a Preliminary Progress and Quality Status Report Review meeting, attended by Contractor, Authority Representative and others as appropriate will be held to review for acceptability of the schedules and the Quality System submitted. The Contractor shall have an additional ten (10) calendar days to make corrections and adjustments and to complete and resubmit the schedules, a Formal Progress and Quality Status Report Review meeting attended by Contractor, Authority Representative and others as appropriate will be held to approve the schedules and the QA/QC Manager's Statement of Compliance Quality Certification for Payment Verification. No progress payment shall be made to Contractor until the schedules are provided and accepted by the Authority Representative, whose acceptance shall 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 Contract Performance Time, but acceptance of the progress schedule will neither impose on Authority responsibility for the sequencing, scheduling or work progress nor interfere with or relieve the Contractor from Contractor's full responsibility for the Work. The format and structure of the progress schedule will be as set forth in the Contract Documents as agreed by Contractor and WMATA. The Authority's acceptance shall not be deemed to confirm that the schedule is a reasonable plan for performing the Work
- B. The Contractor's progress payment requests shall 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 Contractor shall not be entitled to progress payments and the Authority shall have no obligation to review or approve progress payment requests if the Contractor has failed to submit or update the schedules, or if the applicable schedule or update submitted by the Contractor fails to accurately reflect the actual progress of the Work, or if the Authority Representative declines to approve the submitted schedules for any of the reasons stated in this Contract. A decision not to approve a request for progress payments based upon the Contractor's failure to comply with the schedule and update submission requirements is committed under this Contract shall be at the sole and absolute discretion of the Authority Representative.
- C. The Contractor shall 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 and submit. In the preparation of estimates, the Authority Representative may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration if the Contractor furnishes satisfactory evidence that the Contractor has acquired title to such material and that it will be utilized on the Work covered by this Contract.
- D. If the Contract price is more than \$50,000, material delivered that will be incorporated into the Project will be taken into consideration in computing progress payments, provided the materials is delivered on the site, or is delivered to the Contractor and properly stored in a warehouse, storage yard, or similar suitable place within 25 miles of the site or such reasonable distance in excess of 25 miles as may be approved by the Authority

- Representative, provided, however, that the Contractor has the proper storage facilities, security, and insurance for the stored material as approved by the Authority Representative. Before each such payment is made for delivered material on the site, the Contractor shall furnish to the Authority 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, the Contractor shall furnish the Authority 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, five percent of the estimated amount of work completed shall be retained until final completion and acceptance of the Contract Work. Also, whenever the Work is substantially complete, and the Contractor is in compliance with all provisions of the Contract, if the Authority Representative considers the amount retained to be in excess of the amount adequate for the protection of the Authority, the Authority Representative may use discretion in releasing to the Contractor all or a portion of such excess amount.
 - G. Where the time originally specified for completion of this Contract exceeds one year, the Authority Representative, at any time after 50 percent of the Work has been completed, if the Authority 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 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. Upon completion and acceptance of all work, the amount due the Contractor under this Contract shall be paid upon the presentation of a properly executed voucher and after the Contractor shall have furnished the Authority with a release of all claims against the Authority arising by virtue of this Contract, other than claims in stated amounts as may be specifically excepted by the Contractor from the operation of the release. If the Contractor's claim to amounts payable under the Contract has been assigned, a release may also be required of the assignee.
 - J. The Authority may, at its sole discretion, withhold payment from the Contractor at the appropriate percentage for work, or portions thereof, that it deems to be defective or in nonconformance with the requirements of the Mandatory Documents.
 - K. Satisfactory records for design, inspection, testing or other quality elements required under the approved Design-Build Quality System and operation and maintenance manuals; contract record drawings and as-built specifications; electronic media; as-built CPM 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; and certifications, affidavits and warranties and guarantees in order to receive payment for the completed work.

00750 Progress Payments for Lump Sum Items

The Contractor shall furnish to the Authority Representative a breakdown of the total Contract price for every lump sum items on the Price 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 Authority Representative may require.

00751 Garnishment of Payments

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

00752 Subcontract Payments

- A. The Contractor shall, under this Contract, establish procedures to ensure timely payment of amounts due pursuant to the terms of their subcontracts. The Contractor shall pay each subcontractor for satisfactory performance of its contract, no later than ten (10) days from the date of the Contractor's receipt of payment from the Authority for work by that subcontractor. The Contractor shall also release, within ten (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 or Authority Representative or other delegated Authority Representative with each payment request, of any situation in which scheduled subcontractor payments have not been made.
- C. If a subcontractor alleges that the Contractor has failed to comply with this Section, the Contractor agrees to support any Authority investigation, and, if deemed appropriate by the Authority, to consent to remedial measures to ensure subcontractor payment that is due.
- D. The Contractor agrees that the Authority may provide appropriate information to interested subcontractors who want to determine the status of Authority payments to the Contractor.
- E. Nothing in this Section is intended to create a contractual obligation between the Authority and any subcontractor or to alter or affect traditional concepts of privity of contract between all parties.

00753 Changes

- A. The Authority 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 change order, make any change in the Work within the general scope of the Contract including, but not limited to, changes:
1. In the Scope of the Work or other Mandatory Requirements;
 2. In the Project Manual, the Project Drawing Attachments to the Project Manual, the Final Design Specifications and the Final Design Drawings;
 3. In the method or manner of performance of the work;
 4. In the Authority-furnished facilities, equipment, materials, services, or site; or
 5. 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 Authority Representative or Contracting Officer, which causes any such change, shall be treated as a change order under this Section, provided that the Contractor gives the Authority Representative written notice stating the date, circumstances and source of the order and that the Contractor regards the order as a change order.
- C. Except as herein provided, no order, statement or conduct of the Authority Representative or Contracting Officer shall be treated as a change under this Section or entitle the Contractor to an equitable adjustment hereunder.
- D. If any change under this Section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this Contract, whether or not changed by any order, an equitable adjustment shall be made and the Contract modified in writing accordingly: Provided, however, that no claim for any change under Paragraph B. above shall be allowed for any costs incurred more than 20 days before the Contractor gives written notice as therein required. This 20-day limitation shall be strictly applied regardless of whether the Authority is prejudiced by any lack of notice.
- E. If the Contractor intends to request an equitable adjustment under this Section, it must, within 30 days after receipt of a written change order under Paragraph A. above or furnishing of a written notice under Paragraph B. above, submit to the Authority Representative a written proposal in accordance with this CHANGES Section, unless this period is extended by the Authority Representative. The proposal hereunder may be included in the notice under Paragraph B. above.
- F. No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Contract.

00754 Equitable Adjustments

- A. When costs are a factor in any determination of a Contract price adjustment pursuant to Section 00753, 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. At the written request of the Contracting Officer, the Contractor shall submit a proposal, in accordance with the requirements set forth herein, for an equitable adjustment to the contract for changes or other conditions that may entitle a Contractor to an equitable adjustment. If the Contractor deems an oral or written order to be a change to the contract, it shall promptly submit to the Contracting Officer a proposal for equitable adjustment attributable to such deemed change. The proposal shall also conform to the requirements set forth herein.
- D. The proposal shall be submitted within the time specified in the "Changes" clause, or such other time as may reasonably be required by the Contracting Officer. In the case of a proposal submitted based on the "Differing Site Conditions" clause, the notice requirement of that clause shall be met.
- E. Proposals for equitable adjustments, including no cost requests for adjustment of the contract's required completion date, shall include a detailed breakdown of the following elements, as applicable:
- (1) Direct Costs
 - (2) Markups
 - (3) Change to the time for completion specified in the contract
- F. *Direct Costs.* The Contractor shall separately identify each item of deleted and added work associated with the change or other condition giving rise to entitlement to an equitable adjustment, including increases or decreases to unchanged work impacted by the change. For each item of so identified, the Contractor shall propose for itself and, if applicable, its first two tiers of subcontractors, the following direct costs:
- (1) Material cost broken down by trade, supplier, material, material description, quantity of material units, and unit cost (including all manufacturing burden associated with material fabrication and cost of deliver to site, unless separately itemized);

- (2) Labor cost broken down by trade, employer, occupation, quantity of labor hours, and burdened hourly labor rate, together with itemization of applied labor burdens (exclusive of employer's overhead, profit, and any labor cost burdens carried in employer's overhead rate);
 - (3) Cost of equipment required to perform the work, identified with material to be placed or operation to be performed;
 - (4) Cost of preparation and/or revision to shop drawings and other submittals with detail set forth in paragraphs F (1) and F (2) of this clause;
 - (5) Deliver costs, if not included in material unit costs;
 - (6) Time-related costs not separately identified as direct costs, and not included in the Contractor's or subcontractor's overhead rates, as paragraph H of this clause; and
 - (7) Other direct costs.
- G. Marked-up costs of subcontractors below the second tier may be treated as other direct costs of a second tier subcontractor, unless the Contracting Officer requires a detailed breakdown under paragraph J of this clause.
- H. Extensions of Time and Time-related Costs. The Contractor shall propose a daily rate for each firm's time-related costs during the affected period, and, for each firm, the increase or decrease in the number of work days of performance attributable to the change or other condition giving rise to entitlement to an equitable adjustment, with supporting analysis. Entitlement to time and time-related costs shall be determined as follows:
- (1) Increases or decreases to a firm's time-related costs shall be allowed only if such increase or decrease necessarily and exclusively results from the change or other condition giving rise to entitlement to an equitable adjustment.
 - (2) The Contractor shall not be entitled to an extension of time or recovery of its own time-related costs except to the extent that such change or other condition necessarily and exclusively causes its duration of performance to extend beyond the completion date specified in the contract.
 - (3) Cost may be characterized as time-related costs only if they are incurred solely to support performance of this contract and the increase or decrease in such costs is solely dependent upon the duration of a firm's performance of work.
 - (4) Cost may not be characterized as time-related costs if they are included in the calculation of a firm's overhead rate.
 - (5) Equitable adjustment of time and time-related costs shall not be allowed unless the analysis supporting the proposal complies with provisions specified elsewhere in the contract regarding the Contractor's project schedule.
- I. *Markups.* For each firm whose direct costs are separately identified in the proposal, the Contractor shall propose an overhead rate, profit rate, and where applicable, a bond rate and insurance rate. Markups shall be determined and applied as follows:
- (1) Overhead rates shall be negotiated, and may be subject to audit and adjustment.
 - (2) Profit rates shall be negotiated, but shall not exceed ten percent, unless entitlement to a higher rate of profit may be demonstrated.
 - (3) The Contractor and its subcontractor[s] shall not be allowed overhead or profit on the overhead or profit received by a subcontractor, except to the extent that the subcontractor's costs are properly included in other direct costs as specified in paragraph G of this clause.

- (4) Overhead rates shall be applied to the direct costs of work performed by a firm, and shall not be allowed on the direct costs of work performed by a subcontractor to that firm at any tier except as set forth below in paragraphs I (6) and I (7) of this clause.
 - (5) Profit rates shall be applied to the sum of a firm's direct costs and the overhead allowed on the direct costs of work performed by that firm.
 - (6) Overhead and profit shall be allowed on the direct costs of work performed by a subcontractor within two tiers of a firm at rates equal to only fifty percent of the overhead and profit rates negotiated pursuant to paragraphs I (1) and I (2) of this clause for that firm, but not in excess of ten percent when combined.
 - (7) Overhead and profit shall not be allowed on the direct costs of a subcontractor more than two tiers below the firm claiming overhead and profit for subcontractor direct costs.
 - (8) If changes to a Contractor's or subcontractor's bond or insurance premiums are computed as a percentage of the gross change in the contract value, markups for bond and insurance shall be applied after all overhead and profit is applied. Bond and insurance rates shall not be applied if the associated costs are included in the calculation of a firm's overhead rate.
 - (9) No markup shall be applied to a firm's costs other than those specified herein.
- J. At the request of the Contracting Officer, the Contractor shall provide such other information as may be reasonably necessary to allow evaluation of the proposal. If the proposal includes significant costs incurred by a subcontractor below the second tier, the Contracting Officer may require the same detail for those costs as required for the first two tiers of subcontractors, and markups shall be applied to these subcontractors costs in accordance with paragraph I.
- K. *Proposal Preparation Costs.* If performed by the firm claiming them, proposal preparation costs shall be included in the labor hours proposed as direct costs. If performed by an outside consultant or law firm, proposal preparations costs shall be treated as other direct costs to the firm incurring them. Requests for proposal preparation costs shall include the following:
- (1) A copy of the contract or other documentation identifying the consultant or firm, the scope of the services performed, the manner in which the consultant or firm was to be compensated, and if compensation was paid on an hourly basis, the fully burdened and marked up hourly rates for the services provided.
 - (2) If compensation was paid on an hourly basis, documentation of the quantity of hours worked, including descriptions of the activities for which the hours were billed, and applicable rates.
 - (3) Written proof of payment of the costs requested. The sufficiency of the proof shall be determined by the Contracting Officer.
- L. Proposal preparation cost shall be allowed only if –
- (1) The nature and complexity of the change or other condition giving rise to entitlement to an equitable adjustment warrants estimating, scheduling, or other effort not reasonably foreseeable at the time of contract award;
 - (2) Proposed cost are not included in a firm's time-related cost or overhead rate; and
 - (3) Proposed cost were incurred prior to a Contracting Officer's unilateral determination of an equitable adjustment under the conditions set forth in paragraph P, or were incurred prior to the time the request for equitable adjustment otherwise became a matter in dispute.

- M. Proposed direct costs, markups, and proposal preparation costs shall be allowable in the determination of an equitable adjustment only if they are reasonable and otherwise consistent with the contract cost principles and procedures set forth in Part 31 of the Federal Acquisition Regulation (48 CFR part 31) in effect on the date of this contract. Characterization of costs as direct costs, time-related costs, or overhead costs must be consistent with the requesting firm's accounting practices or other work under this contract and other contracts.
- N. If the Contracting Officer determines that it is in the Authority's interest that the Contractor proceed with a change before negotiation of an equitable adjustment is completed, the Contracting Officer may order the Contractor to proceed on the basis of a unilateral modification to the contract increasing or decreasing the contract price by an amount to be determined later. Such increase or decrease shall not exceed the increase or decrease proposed by the Contractor.
- O. If the parties cannot agree to any equitable adjustment, the Contracting Officer may determine the equitable adjustment unilaterally.
- P. The Contractor shall not be entitled to any proposal preparation costs incurred subsequent to the date of a unilateral determination or denial of the request if the Contracting Officer issues a unilateral determination or denial under any of the following circumstances:
- (1) The Contractor fails to submit a proposal within the time required by this contract or such time as may reasonably be required by the Contracting Officer.
 - (2) The Contractor fails to submit additional information requested by the Contracting Officer within the time reasonably required.
 - (3) Agreement to an equitable adjustment cannot be reached within 60 days of submission of the Contractor's proposal or receipt of additional requested information, despite the Contracting Officer's diligent efforts to negotiate the equitable adjustment.

00755 Accounting and Record Keeping

- A. **Applicability:** This Section shall become effective for and shall apply to any adjustment in the price of this Contract initiated by the Contractor or the Authority. However, where the original amount of this Contract is less than \$1,000,000, Paragraph C. of this Section does not apply unless the adjustment is expected to exceed \$50,000.
- B. **Forward Priced Adjustments:** Unless expressly waived in writing in advance by the Authority Representative, the Contractor shall furnish to the Authority Representative a cost proposal in advance of performance of any work for which a price adjustment is requested under this Contract. The Contractor shall initiate such records as are necessary to substantiate all elements of the pricing proposal. Such records supporting the costs of each pricing adjustment request shall be specifically segregated and identified in the Contractor's accounting system as being applicable to the pricing adjustment request.
- C. **Post Pricing Adjustments:** In addition to the records required to be originated under Paragraph B. above, in the event pricing of an adjustment under this Contract is not agreed upon between the Contractor and the Authority Representative prior to the commencement of work for which the pricing adjustment is requested, the Contractor and any subcontractor engaged in work for which the pricing adjustment is requested, shall maintain accounts and original cost records specifically segregated and identified by job order or other appropriate accounting procedures approved by the Authority 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 Authority Representative for approval. The Contractor shall maintain accounts and records which segregate and account for the costs of all work associated with that part of the project for which the pricing adjustment is requested and shall allocate between:
1. work required under the base Contract or under any Option if applicable;
 2. work requested to be reimbursed under the pricing adjustment; and
 3. other claim, including but not limited to, changes, differing site conditions, and the like.

In addition to the accounting system established to segregate and account for contract price adjustments, which shall accumulate such costs by work activity under logical cost groups, such as material, labor, equipment, subcontracts, field overhead and the like, the Contractor shall maintain field records associated with these costs on a form approved by the Authority Representative. Subject to agreement between the Contractor and the Authority Representative, or upon direction of the Authority Representative the Contractor shall use Authority Forms (Daily Report - Labor, Materials and Equipment), to be supplied by the Authority at the request of the Contractor.

- D. **Availability:** The accounts, records and costs information required to be originated under Paragraphs B. and C. above together with all other accounts, records and costs information related to this Contract shall be maintained and made available by the Contractor or subcontractor(s):
1. At the office of the Contractor or subcontractor(s) at all reasonable times for inspection, audit, reproduction or such other purposes as may be required by the Authority Representative, or pursuant to any other Sections of this Contract;

2. Until the expiration of three years from the date of payment of the final \$100 (final payment) under this Contract or such lesser time as is specified in Contractor Records Retention, Subpart 4.7 of the Federal Acquisition Regulations (48 C.F.R. 4.7) and for such longer period, if any, as is required by applicable statute, or by any other Sections of this Contract, or by subparagraphs a. and b. below:
 - a. If the Contract is completely or partially terminated, for a period of three years from either the date of any resulting final settlement or the date of final payment, whichever is the greater period; and
 - b. If a pricing adjustment is involved in any appeal under Section 00732, DISPUTE RESOLUTION, or in any litigation related to this Contract, for a period of one (1) year following the final disposition of the appeal or litigation.
- E. When asserting a claim under the various Sections of this Contract, the Contractor shall grant the Authority access to review and ascertain the validity of the accounting records being maintained for segregation of costs, including base cost records, and to audit such costs as are deemed appropriate by the Authority Representative. No payment shall be made to the Contractor on its claim until such records are made available and access is permitted
- F. **Limitation on Pricing Adjustment:** In the event the Contractor or any subcontractor fails to originate or to maintain, or to make available any accounts or records as required under this or any other Section of the Contract, any pricing adjustment or portion thereof previously granted by the Authority Representative for which records are not available shall be rescinded and re-computed, or if a pricing adjustment has not yet been granted shall be computed, in an amount not to exceed the direct costs for which accounts or records are not available, plus a single markup for indirect expenses not to exceed 10 percent of the direct costs so determined by the Authority Representative. The adjustment will be established by the Authority Representative based upon, at his or her election, either:
 1. An audit of any existing books and records of the Contractor or subcontractor; or
 2. An Authority estimate adopted by the Authority Representative; or
 3. A combination of 1 and 2.

The Contractor and subcontractors shall not be allowed any profit for the work for which the Contractor or subcontractor fails to originate, or to maintain, or to make available any accounts or records as required under this Contract.

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

00756 Audit – Price Adjustments

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

00757 Certificate of Current Cost or Pricing Data

The Contractor shall provide a Certificate of Current Cost or Pricing Data to the Authority 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 Authority Representative at his/her 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.

00758 Price Reduction for Defective Cost or Pricing Data – Price Adjustments

- A. This Section shall become operative only with respect to any modification of this Contract which involves aggregate increases and/or decreases in cost plus applicable profits in excess of \$100,000 unless the modification is priced on the basis of adequate 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 right to price reduction under this Section is limited to defects in data relating to such modification.
- 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 Contractor furnished cost or pricing data which was not complete, accurate and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;
 2. A subcontractor, pursuant to the Section 00760, SUBCONTRACTOR COST OR PRICING DATA, or any subcontract provision therein required, furnished cost or pricing data 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 which was required to be complete, accurate and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not complete, accurate and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or
 4. The Contractor or a subcontractor or prospective subcontractor furnished any data, not within Paragraphs (1), (2) or (3) above, which was not accurate, as submitted; then the price shall be reduced accordingly and the Contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the Contract price due to defective subcontract data of a prospective subcontractor, when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount, plus applicable overhead and profit markup, by which the actual subcontract, or actual cost to the Contractor if there was not a subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor, provided the actual subcontract price was not affected by defective cost or pricing data. (Note: Since the Contract is subject to reduction under this Section by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include an article in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. However, the inclusion of such an article and the terms thereof are matters of negotiation and agreement between the Contractor and the subcontractor, provided that they are consistent with disputes provisions in subcontracts. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by its lower tier subcontractors.)

00759 Contract Modifications

Contract modification procedures in accordance with the Contract.

00760 Subcontractor Cost or Pricing Data

- A. The Contractor shall require subcontractors hereunder to submit cost or pricing data prior to award of any negotiated lump sum or cost-reimbursement type, incentive, or price re-determinable subcontract over \$100,000. The Contractor shall require subcontractors to certify that to the best of their knowledge and belief, the cost and pricing data submitted under this Paragraph is accurate, complete, and current as of the date of execution, which date shall be as close as possible to the date of agreement on the negotiated price of the subcontract. The Contractor shall insert the substance of this Section in each of its negotiated lump sum or cost reimbursement type, price re-determinable, or incentive subcontracts over \$100,000 hereunder. The Contractor also shall insert the substance of this Section in each subcontract with respect to any change or other modification made pursuant to one or more Sections of this Contract which involves a price adjustment greater than \$100,000. The Contractor shall conduct a cost analysis of all negotiated subcontracts.
- B. The requirements that follow shall become operative only with respect to any change or other modification made pursuant to one or more Sections of this Contract which involves a price adjustment in excess of \$100,000. The requirements of this Section shall be limited to such price adjustments:
1. The Contractor shall require subcontractors hereunder to submit cost or pricing data:
 - a. prior to the award of any subcontract the price of which is expected to exceed \$100,000; or,
 - b. prior to the pricing of any subcontract change or other modification for which the price adjustment is expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public or prices set by law or regulation.
 2. The Contractor shall require subcontractors to certify that to the best of their knowledge and belief the cost and pricing data submitted under this Paragraph B. is accurate, complete and current as of the date of execution, which date shall be as close as possible to the date of agreement on the negotiated price of the Contract modification.
- C. The Contractor shall insert the substance of this Section in each subcontract hereunder which exceeds \$100,000.

00761 Examination of Records

- A. The Contractor agrees that the Contracting Officer, and the Comptroller General of the United States and the United States Secretary of Transportation if applicable, or their duly authorized representatives, shall, until the expiration of three years after final payment under this Contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this Contract, for the purpose of making audit, examination, excerpts and transcription.
- B. 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 three years after final payment under this Contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the subcontractor involving transactions related to the subcontract, for the purpose of making audit, examination, excerpts and transcription. The term "subcontract," as used in this Section, excludes:
1. purchase orders not exceeding \$2,500 and,
 2. subcontracts or purchase orders for public utility services at rates established from standard costs applicable to the general public.

00762 Warranty/Guarantee of Construction

- A. Unless otherwise specifically provided for in the Contract, the Contractor, notwithstanding any final inspection, acceptance or payment, guarantees that all work performed and materials and equipment furnished under this Contract are in accordance with the Contract requirements. The Contractor also guarantees that when installed all materials and equipment were free from defects and will remain so for a period of at least 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 shall immediately notify the Contractor in writing of such defects. The Authority thereupon shall have the right, by a written notice to that effect, to require the Contractor to repair or replace all inferior or defective work, material, or equipment or permit it to remain in place and assess the Contractor the costs it (the Contractor) would have incurred had the Contractor been required to affect repair or replacement.
- C. Any correction 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 A. above and shall run from the date that such parts, materials, equipment, supplies or construction are replaced or corrected and accepted by the Authority.
- D. The Contractor guarantees to reimburse the Authority for, or to repair or replace, any 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 shall immediately notify the Contractor in writing when such damage occurs. The Authority shall have the right to require the Contractor to repair or replace such damaged areas or equipment, or elect to permit such damage to remain as is and assess the Contractor the costs it would have incurred had it been required to affect repair or replacement.
- E. Should the Contractor fail to proceed promptly, after notification by the Contracting Officer, to repair or replace any inferior or defective work, material, or equipment, or damage to the site, buildings, or contents, thereof, caused by inferior or defective work, or the use of inferior or defective materials, or equipment, the Authority may have such work, material, equipment, or damage repaired or replaced and charge all costs incident thereto to the Contractor.
- F. Any special guarantees that may be required under the Contract, shall be subject to the elections set forth above unless otherwise provided in such special guarantees.
- G. Should the Contractor fail to prosecute the work or fail to proceed promptly to provide guarantee period services after notification by the Contracting Officer, the Authority may, subject to Section 00728, TERMINATION FOR DEFAULT, DAMAGES FOR DELAY AND TIME EXTENSIONS contained in this Contract, and after allowing the Contractor 10 calendar 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 Contractor and its sureties shall be liable for any

- damages to the Authority resulting from the Contractor's refusal or failure to complete the work within this specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Authority in completing the work.
- H. The decision of the Contracting Officer as to liability of the Contractor under this Section is subject to the appeal procedure provided for in Section 00732, 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 and shall be enforced, by the Contractor for the benefit of the Authority without the necessity of separate transfer or assignment thereof, provided that, if directed by the Authority, the Contractor shall require such subcontractor's, manufacturers and suppliers to execute such warranties and guarantees in writing to the Authority. In connection therewith, the Contractor further agrees to perform the Work in such a manner or consistent with and so as to preserve all such warranties and guarantees.
- J. Certain Standard and Technical Specifications Sections 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.

00763 Correction of Deficiencies

- A. This Section shall apply only to those deficiencies discovered by either the Authority or the 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 final acceptance by the Authority. Systems or subsystems will be regarded as having a deficiency if they exhibit any condition or characteristics which are not in compliance with the Mandatory Requirements of the Contract Documents and the Contractor's Final Design Specifications and Final Design Drawings, and intent of this Contract anytime during a period extending for two years following their final acceptance by the Authority.
- B. Notice of deficiency to Contractor: If the Authority determines that a deficiency exists in any of the materials, equipment, systems or subsystems provided the Authority under this Contract, it shall promptly notify the Contractor of the deficiency, in writing, within 30 days.
- C. Recommendation for correction: Upon timely notification of the existence of such a deficiency, or if the Contractor independently discovers a deficiency in accepted materials, equipment, systems or subsystems, the Contractor shall promptly submit to the Authority its recommendation for corrective actions, together with supporting information in sufficient detail for the Authority to determine what corrective action, if any, shall be undertaken. The recommendation shall be submitted to the Authority within 15 working days of discovery or receipt of notice of the deficiency.
- D. Direction to Contractor concerning correction of deficiencies: Within 30 days after receipt of the Contractor's recommendations for corrective action and adequate supporting information, the Contracting Officer, at his sole discretion, shall give the Contractor written notice not to correct any deficiency, or to correct or partially correct any deficiency within a reasonable time and at a specified location.
- E. Schedule of deficiency corrections: The Contractor shall prepare Schedule of Deficiency Corrections and deliver it to the Authority for approval within 15 working days of discovery of deficiency by the Contractor or receipt of notice of discovery of a deficiency by the Authority.
- F. Correction of deficiencies by Contractor: The Contractor shall promptly comply with any timely written direction by the Contracting Officer to correct or partially correct a deficiency, at no increase in the Contract price. The Contractor shall also prepare and furnish to the Authority data and reports applicable to any correction required under this Section (including revision and updating of all other affected data called for under this Contract) at no increase in the Contract price.
- G. Modification of Contract with respect to uncorrected deficiencies: In the event of timely notice of a decision not to correct or only to partially correct a deficiency, the Contractor shall submit to the Authority within 15 working days, a technical and cost proposal to amend the Contract to permit acceptance of the affected materials, equipment, systems or subsystems in accordance with the revised requirements, and an equitable reduction in Contract price shall promptly be negotiated by the parties and stated in a modification to this Contract.

- H. Failure to correct: If the Contractor fails or refuses to present a detailed recommendation for corrective action and to prepare and furnish data and reports as required in Paragraph G., then the Contracting Officer shall give the Contractor written notice specifying the failure or refusal and setting a period after receipt of the notice within which it must be corrected. If the failure or refusal is not corrected within the specified period, the Contracting Officer may, by contract or otherwise, as required:
1. Obtain detailed recommendations for corrective action;
 2. a. Correct the materials, equipment, systems or subsystems, or
b. Replace the materials, equipment, systems or subsystems; and if the Contractor fails to furnish timely disposition instructions, the Contracting Officer may dispose of non-conforming materials, equipment, systems or subsystems for the Contractor's account in a reasonable manner, in which case the Authority is entitled to reimbursement from the Contractor or from the proceeds for the reasonable expense of care and disposition, as well as for excess costs incurred or to be incurred; and
c. Obtain applicable data and reports.
 3. Charge to the Contractor the cost occasioned to the Authority thereby.
- I. Correction of deficient replacements and re-performances: Any materials or equipment corrected or furnished in replacement and any 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 Authority Representative. The correction of systems or subsystems exhibiting one or more deficiencies means taking any and all actions necessary to eliminate any and all deficiencies in a manner satisfactory to the Authority.
1. Disassembly/reassembly expense: The Contractor shall be liable for reasonable cost of disassembly/reassembly of larger items necessary to remove the materials or equipment to be inspected and/or returned for correction or replacement.
 2. Transportation charges:
 - a. When the Authority returns supplies to the Contractor for correction or replacement pursuant to this Section, the Contractor shall be liable for transportation charges up to an amount equal to the cost of transportation by the usual commercial method of shipment from the designated destination point under this Contract to the Contractor's plant, in addition to any charges provided for in subparagraph 2.b. below. The Contractor shall also bear the responsibility for the supplies while in transit.
 - b. When compliance with the terms of this Section by the Contractor involves shipment of corrected or replacement supplies from the Contractor to the

Authority, the Contractor shall be liable for transportation charges up to an amount equal to the cost of transportation by the usual commercial method of shipment from the Contractor's plant to the designated destination point under this Contract, in addition to any charges provided for subparagraph

- c. 2.a. above. The Contractor shall also bear the responsibility for the supplies while in transit.
- K. No extension in time for performance; no increase in Contract price: In no event shall the Authority be responsible for extension or delays in the scheduled deliveries or periods of performance under this Contract as a result of the Contractor's obligations to correct deficiencies, nor shall there be any adjustment of the delivery schedule or period of performance as a result of such correction of deficiencies, except as may be agreed to by the Authority in a supplemental agreement with adequate consideration.
- L. The Contractor shall not be responsible under this Section for the correction of deficiencies in Authority-furnished property, except for deficiencies in installation, unless the Contractor performs or is obligated to perform any modifications or other work on such property. In that event, the Contractor shall be responsible for correction of deficiencies to the extent of such modifications or other work.
- M. The Contractor shall not be responsible under this Section for the correction of deficiencies caused by the Authority.

00764 Covenant against Contingent Fees

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies utilized by the Contractor for the purpose of securing business. For breach or violation of this warranty the Contracting Officer shall have the right to annul this Contract without liability or in his or her discretion to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

00765 Officials Not to Benefit

- A. No member of Congress or resident commissioner shall be admitted to any share or part of this Contract, or to any benefit that may arise there from; but this Paragraph shall not be construed to extend to this Contract if made with a corporation for its general benefit.
- B. No member, officer or employee of the Authority or of a local public body during tenure with the Authority or with another local public body and one year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

00766 Gratuities

- A. In connection with performance of work required under 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, or any agent, representative or other person deemed to be acting on behalf of such supplier or subcontractor, to any Director, Officer or employee of the Authority; or to any Director, Officer, employee or agent of any of the Authority's agents, consultants, representatives or other persons deemed to be acting for or on behalf of the Authority, with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract is expressly forbidden. The terms of this GRATUITIES Article shall be strictly construed and enforced in the event of violations hereto.
- B. Reported instances of the giving or offering to give gratuities within the context of this GRATUITIES Article will be investigated by the 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 Article has been committed. If such probable cause is found to exist, the Board of Directors, or its duly authorized representative, shall formally notify the suspected donor corporation or individual in writing of the particulars of the event; and provide such donor the opportunity to be heard on the matter. The aim of the investigations and hearing shall be to ensure due process and to preserve the best interests and rights of all parties by the full and fair disclosure of all relevant and material information. Accordingly, the Board of Directors, or its duly authorized representative, shall require production of all pertinent documents and records, and sworn testimony from witnesses. During the pendency of any investigation or hearing treating with a violation of this GRATUITIES Article, the Board of Directors, or its duly authorized representative, may exercise its power granted by the Washington Metropolitan Area Transit Authority Compact, Public Law 774, 80 Stat. 1324, Article V, General Powers, subparagraph (k), by issuing subpoenas to compel the attendance of necessary witnesses, and to compel production of papers, records, accounts, ledgers and documents. The subpoenas shall be enforceable by order of an appropriate United States District Court. If, after notice and hearing, or notice of the opportunity to be heard, the Board of Directors, or its duly authorized representative, finds that a violation of this GRATUITIES Article has been committed, the Authority shall have the right to:
1. Require that the individual(s) giving or offering the gratuity be removed from further participation on any Authority projects (be terminated);
 2. Deny the Contractor any General and Administrative (G&A) mark-ups for all changes and/or modifications found to be tainted by the giving of or offering to give gratuities.
 3. Preclude the Contractor from bidding or proposing on, receiving or participating as joint venture, subcontractor or otherwise in any Authority project for a period of five years;
 4. Have complete access to all of the Contractor's financial books, records and accounts for the purpose of performing a comprehensive audit of the entire project.

5. In the event of repeated violations of this GRATUITIES Article or of gross or extreme conduct indicative of a corrupt intent to gain special advantage, by written notice to the Contractor, terminate the right of the Contractor to proceed under the Contract.
- C. The existence of the facts upon which the Board of Directors, or its duly authorized representative, makes findings in connection with investigations and hearings in consonance herewith shall be an issue and may be reviewed in any competent court.
 - D. In the event this Contract is terminated as provided in Paragraph b.(5) hereof, the Authority shall be entitled:
 1. To pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor, and
 2. As a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in any amount, as determined by the Board or its duly authorized representative, which shall be not less than three nor more than 10 times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.
 - E. The rights and remedies of the Authority provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

00767 Conflict of Interest

- A. Neither the Contractor nor any person affiliated with it shall have, during the term of this Contract and any extension thereof, any contractual or other financial relationship with the Authority, with any Authority prime contractor, or with any subcontractor or supplier to any Authority prime contractor other than the contractual relationship established under this Contract, unless an exception is granted as described below. Such exceptions will not unreasonably be withheld.
- B. Upon request of the Contractor submitted in accordance with Section 01330, DESIGN AND CONSTRUCTION SUBMITTAL PROCEDURES and upon full disclosure and for good cause the Contracting Officer may, at his/her sole discretion, grant an exception to the requirement of this Section 00767, when in his/her judgment the exception will not create a conflict between the Contractor's duties and obligations under this Contract and the duties and obligations imposed on the Contractor under the contractual or other relationship for which an exception is requested.
- C. If, during the performance of this Contract and any extension thereof, the Contractor becomes aware of any relationship, financial interest, or other activity in which it or an affiliated person or company is involved which is not in compliance with the provisions of this Section 00767, it shall promptly notify the Contracting Officer in writing and fully disclose all circumstances thereof. Should the Contracting Officer not grant an exception to the requirements of this Section 00767, the Contractor shall, within ten days of written notice from the Contracting Officer to do so, take all action necessary to comply with the terms of this Section.
- D. If the Contractor fails to comply with the terms of this Section 00767, the Contracting Officer may withhold payments due under the Contract until such time as the Contractor is in compliance or, should the non-compliance remain uncorrected at the expiration of ten days from written notice from the Contracting Officer as provided in this Section, terminate the Contract for default pursuant to Section 00728, TERMINATION FOR DEFAULT, DAMAGES FOR DELAY, AND TIME EXTENSIONS of this Contract.
- E. The Contractor in performing this Contract shall avoid any conduct which might result in or give the appearance of creating for Directors, Officers or employees of the Authority in their relationship with the Contractor any conflicts of interest or favoritism and/or the appearance thereof and shall avoid any conduct which might result in a Director, Officer or employee failing to adhere to the Standards of Conduct adopted by the Authority's Board of Directors.
- F. The Contractor shall not, during the period of performance of the Contract, engage in any other contracts where its customary role would or might:
 - 1. Impair the actual or potential ability of the Contractor to render impartial assistance or advice to the Authority.
 - 2. Impair the Contractor's objectivity in performing this Contract or any other Authority contract.
 - 3. Give the Contractor an unfair competitive advantage with respect to the work under another proposed Authority contract.

- G. Any determination by the Contracting Officer under this Section shall be final and shall be subject to Section 00732, DISPUTE RESOLUTION.

00768 Employment Restriction Warranty

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

00769 Subcontract Agreements

After contract award, the Contractor will be required to submit copies of signed subcontract agreements with all subcontractors, they will use on the Contract. The subcontract agreements must denote the signature of the persons authorized to sign for the subcontractor; the date on which the subcontract agreement was signed; the names of any witnesses required, if any; the Scope of Work compensated for services rendered; and the beginning and ending date for the tasks assigned to the subcontractors. The Authority will not allow any subcontractor to perform any work under the Contract unless its subcontract agreement has been received at least ten (10) days prior to commencement of the subcontractor's work.

00770 Civil Rights

- A. Nondiscrimination: In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102, section 202 of the American with Disabilities Act of 1990, 42 U.S.C. §12132, and Federal transit law at 49 U.S.C. §5332, the contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing regulations that FTA may issue.
- B. Equal Employment Opportunity: The following equal employment opportunity requirements apply to this contract.
- C. Race, Color, Creed, National Origin, Sex: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e, and Federal transit laws at 49 U.S.C. §5332, the Contractor agrees to comply with all applicable equal opportunity requirements of the U. S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, “ 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Contract. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- D. Age: In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. §5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- E. Disabilities: In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Contractor agrees that it will comply with the requirements of U. S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- F. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties
- G. The 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 Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT

assisted Contracts. Failure by the 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.

00771 Not Used

00772 Disadvantaged Business Enterprise

- A. In connection with the performance of this Contract, the Contractor agrees to cooperate with the Authority in meeting its commitments and goals with regard to the maximum utilization of Disadvantaged Business Enterprises (DBE) and further agrees to exert good faith efforts to satisfy the requirements of Section 00453, DBE DATA by subcontracting portions of the work to disadvantaged firms, by entering into joint ventures with disadvantaged firms, or both. The DBE policy of the Authority underwent a complete revision October 1, 1999 to meet revised Federal requirements. The DBE provisions of this RFP are subject to revision by Amendment.
- B. The goal for this Contract is as specified in Section 00872 of the Supplementary Conditions.

00773 Utilization of Small Business Concerns

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

00774 Labor Provisions

The following Paragraphs B. TO M. apply only to the Construction portion of the Design-Build Contract.

A. Minimum Wage:

1. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing-Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act, 29 C.F.R. Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof as specified in APPENDIX D to Section 00800, regardless of any contractual relationship which may be alleged-to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 C.F.R. §5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs that cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided at 29 C.F.R. §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 C.F.R. §5.5(a)(1)(ii) And the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractor at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
 - a. The Authority shall 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 shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (1) 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

necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Authority may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee or funds until such violations have ceased.

C. Payrolls and Basic Records

1. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 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(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(b) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprenticeship or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
2. The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Authority. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 C.F.R. §5.5(a)(3)(i). This information may be submitted in any form desired. Optional form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock no. 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The Contractor is responsible for the submission of copies of payrolls by all subcontractors.
 - a. Each payroll submitted shall be accompanied by a "Statement of Compliance" signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and submit and shall certify the following:

- 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;
 - 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;
 - 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.
- b. The weekly submission 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).
- c. The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. §1001 and 31 U.S.C. §3729.
- d. Apprentices and Trainees
3. The Contractor or subcontractor shall make the records required under 29 C.F.R. §5.5(a)(3)(i) available for inspection, copying, or transcription by authorized representatives of the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or make them available, the Authority may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or make such records available may be grounds for debarment action pursuant to 29 C.F.R. §5.12.
- 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 Contractor as to

the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage on the wage, determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits shall be paid in accordance with that determination. In the event the Office of Apprenticeship, Training and Employer Labor Services, or a state apprenticeship agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

4. Trainees: Except as provided in 29 C.F.R. §5.16, trainees will 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 job 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 that is not registered and participating in a training plan approved by the employment and training administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the employment and training administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

5. 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.
 6. Helpers: Helpers will be permitted to work on a project if the helper classification is specified on an applicable wage determination or is approved pursuant to the conformance procedure set forth in 29 C.F.R. §5.5(a)(1)(ii). The allowable ratio of helpers to journeyman employed by the Contractor or subcontractor on the job site shall not be greater than two helpers for every three journeymen (in other words, not more than 40 percent of the total number of journeymen and helpers in each Contractor's or in each subcontractor's own work force employed on the job site.) Any worker listed on a payroll at a helper wage rate, who is not a helper as defined in 29 C.F.R. §5.2(n)(4), shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any helper performing work on the job site in excess of the ratio permitted shall be paid not less than the applicable journeyman's (or laborer's, where appropriate) wage rate on the wage determination for the work actually performed.
- D. Compliance with Copeland Act Requirements The Contractor shall comply with the requirements of 29 C.F.R. Part 3, which are incorporated herein by reference.
- E. Contract Termination: Debarment A breach of the contract clauses in 29 C.F.R. §5.5 may be grounds for termination of the Contract, and for debarment as a Contractor and/or a subcontractor as provided in 29 C.F.R. §5.12.
- F. Compliance with Davis-Bacon and Related Act Requirements All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 C.F.R. Parts 1, 3 and 5 are incorporated herein by reference.
- G. Disputes Concerning Labor Standards Disputes arising out of the Labor Standards provisions of this Contract shall not be subject to Section 00732, DISPUTE RESOLUTION of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 C.F.R. Parts 5, 6, and 7. Disputes within the meaning of this Section include disputes between the Contractor (or any of its subcontractors) and the Contracting Agency, the U.S. Department of Labor, or the employees or their representatives.
- H. Certification of Eligibility
1. By entering into this agreement or a third party contract financed under this agreement the Contractor certifies that neither it (nor he nor she) nor any person or firm that has an interest in the Contractor's firm is a person or firm ineligible to be awarded government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 C.F.R. §5.12(a)(1).
 2. No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 C.F.R. §5.12(a)(1).

3. The penalty for making false statement is prescribed in the U.S. Criminal code, 18 U.S.C.1001.
 - I. Overtime Requirements Neither the Contractor nor any subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanics in any work week in which he or she is employed on such work to work in excess of forty hours in such work week unless such laborer or mechanics receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.
 - J. Violation Liability for Unpaid Wages: Liquidated Damages: In the event of any violation of the requirements of 29 C.F.R. §5.5(b)(1), the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such district or to such territory) if the Contract is funded by the FTA, and if not, to the Authority for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of 29 C.F.R. §5.5(b)(1) In the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by 29 C.F.R. §5.5(b)(1).
 - K. Withholding for Unpaid Wages and Liquidated Damages The FTA or the recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract, or any other Authority contract with the same Contractor or any federally-assisted contract subject to the Contract Work Hours and Safety Standards Act if FTA funding is provided for the Contract, which is held by the same Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth at 29 C.F.R. §5.5(b)(2).
 - L. Subcontracts The Contractor or subcontractor shall insert in any subcontracts, the clauses set forth in Paragraphs A. through L. of this LABOR PROVISIONS Section, and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor with Paragraphs A. through M. of this LABOR PROVISIONS Section.

00775 Walsh-Healey Public Contracts Act

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 Chapter 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).

00776 Wage Rates

- A. The minimum wages, which in addition to basic hourly rate of pay include fringe benefit payments to be paid laborers and mechanics on this project pursuant to Section 00774, LABOR PROVISIONS of this Contract, as determined by, the Secretary of Labor to prevail for corresponding classes of laborers and mechanics employed on projects similar in character to the Contract work in the pertinent locality, are set forth as an attachment to this Contract.
- B. Any class of laborers and mechanics not listed but employed on this Contract shall be classified or reclassified conformably to the schedule set out therein by mutual agreement between the Contractor and class of labor concerned, subject to prior approval of the Authority Representative. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborer and mechanics to be used, the question, accompanied by the recommendation of the Authority Representative, shall be referred to the Secretary of Labor for final determination.
- C. For Current Wage Mods, Refer to Appendix D - WAGE DETERMINATION RATES, included as an Appendix to Section 00800, SUPPLEMENTARY CONDITIONS.

00776b Living Wages

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 \$100,000 in a 12-month period.

- (a) The Authority Living Wage Rate is \$13.14 per hour, and may be reduced by the contractor's per-employee cost for health insurance.
- (b) The Contractor shall:
 - (1) 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 (d) below;
 - (2) Include the Living Wage clause in all subcontractors that exceed \$15,000 in a 12-month period awarded under this contract;
 - (3) Maintain payroll records, in accordance with the retention and examination of records requirements in the General Provisions, and shall include a similar provision in affected subcontracts that requires the subcontractor to maintain its payroll records for the same length of time; and
 - (4) Certify with each monthly invoice that the Authority Living Wage Rate was paid to affected employees, or if applicable, certify prior to contract award or contract extension, if any, that one or more of the exemptions in paragraph (d) below applies.
- (c) The Contractor 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.
- (d) Exemptions to the Living Wage provisions include:
 - (1) Contracts and agreements with higher negotiated wage rates,
 - (2) Contracts that are subject to higher wage rates required by federal law or collective bargaining agreements (e.g., Davis Bacon);
 - (3) Contracts or agreements for regulated utilities;
 - (4) Emergency services to prevent or respond to a disaster or imminent threat to public health and safety;
 - (5) Contractor employees who work less than full-time; and
 - (6) Contractors who employ fewer than ten employees
- (e) 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 Contractor is

entitled to an equitable adjustment to the rate in the amount of the increase for employees who are affected by the escalated wage.

- (f) 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.

00777 Notice to the Authority of Labor Disputes

- A. Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor shall immediately give notice thereof , including all relevant information with respect thereto, to the Authority Representative.
- B. The Contractor agrees to insert the substance of this Section 00777 in any subcontract hereunder as to which a labor dispute may delay the timely performance of this Contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify its next higher tier subcontractor, or the Contractor, as the case may be, of all relevant information with respect to such dispute.

00778 Convict Labor

In connection with the performance of work under this Contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

00779 Federal, State and Local Taxes

- A. The Contract price includes all applicable Federal, State and local taxes and duties.
- B. Nevertheless, with respect to any Federal excise tax or duty on the transactions or property covered by this Contract, if a statute, court decision, written ruling, or regulation takes effect after the Contract date and results in the following:
 - 1. The Contractor being required to pay or bear the burden of any such Federal excise tax or duty or increase in the rate thereof which would not otherwise have been payable on such transactions or property, the Contract price shall be increased by the amount of such tax or duty or rate increase, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the Contract price as a contingency reserve or otherwise; or
 - 2. The Contractor not being required to pay or bear the burden of, or in its obtaining a refund or drawback of, any such Federal excise tax or duty which would otherwise have been payable on such transactions or property or which was the basis of an increase in the Contract price, the Contract price shall be decreased by the amount of the relief, refund, or drawback, or that amount of the relief, refund, or drawback, or that amount that shall be paid to the Authority, as directed by the Authority Representative. The Contract price shall be similarly decreased if the Contractor, through its fault or negligence or its failure to follow instructions of the Authority 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.
- B. Paragraph B. above shall not be applicable to Social Security taxes or to any other employment tax.
- C. No adjustment of less than \$100 shall be made in the Contract price pursuant to Paragraph B. above.
- D. As used in Paragraph B. above, the term Contract date means the dates set for proposal opening, except if this is a negotiated Contract, the date that the 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.
- E. Unless there does not exist any reasonable basis to sustain an exemption, the Authority Representative upon the request of the Contractor 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 Authority Representative.
- F. The Contractor shall promptly notify the Authority Representative 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 Authority Representative.

00780 Additional Bond Security

For information on Additional Bond Security, see Section 00614.

00781 Not Used

00782 Not Used

00783 Patent and Copyright Indemnity

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

00784 Notice and Assistance Regarding Patent and Copyright Infringement

- A. The Contractor shall report to the Authority Representative 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 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 Contractor shall furnish to the Authority when requested by the Authority Representative, all evidence and information in possession of the Contractor pertaining to such action, suit or claim. Such evidence and information shall be furnished at the expense of the Authority except where the Contractor has agreed to defend, indemnify, or hold harmless the Authority.
- C. This Section shall be included in all subcontracts.

00785 Technical Data – Withholding of Payment

- A. If technical data, as defined in this Contract, specified to be delivered under this Contract is not delivered within the time specified by this Contract or is deficient upon delivery (including having restrictive markings not specifically authorized by this Contract), the Authority may until such data is accepted by the Authority, withhold payment to the Contractor of ten percent of the total Contract price or amount unless a lesser withholding is specified in the Contract. Payments shall not be withheld nor any other action taken pursuant to this Paragraph when the Contractor's failure to make timely delivery or to deliver such data without deficiencies arises out of or is beyond the control and without the fault or negligence of the Contractor.
- B. After payments total 90 percent of the total Contract price or amount and if all technical data specified to be delivered under this Contract has not been accepted, the Authority may withhold from further payment, in addition to other withholdings specified elsewhere, such sum as he considers appropriate, not exceeding ten percent of the total Contract price or amount unless a lesser withholding limit is specified in the Contract.
- C. The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights accruing to the Authority under this Contract.

00786 Authority Rights in Technical Data

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

Rights in Technical Data

1. The Authority shall have the right to use, duplicate or disclose technical data, which includes, without limitation, computer software and other items listed below, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so:
 - a. Any manuals, instructional materials prepared for installation, operation, maintenance or training purposes;
 - b. Technical data pertaining to end items, components or processes which were prepared for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data; e.g., specification control drawings, catalog sheets, outline drawing; except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software);
 - c. Other technical data which has been, or is normally furnished without restriction by the Contractor or subcontractor;
 - d. Other specifically described technical data which the parties have agreed will be furnished without restriction.

The Authority shall have the right to use, duplicate, or disclose technical data other than that defined in Paragraph B.1.a. in whole or in part, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be:

2. Released or disclosed in whole or in part outside the Authority;
3. Used in whole or in part by the Authority for manufacture; or

4. Used by a party other than the Authority except for emergency repair or overhaul work only, by or for the Authority where the item or process concerned is not otherwise reasonably available to enable timely performance of the work; provided, that the release or disclosure thereof outside the Authority shall be made subject to a prohibition against further use, release or disclosure.
5. Technical data provided in accordance with the provisions of Paragraph B.1.b. shall be identified by a legend which suitably recites the aforesaid limitation. Nothing herein shall impair the right of the Authority to use similar or identical data acquired from other sources.
6. 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. 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 data bases, and documentation thereof.
7. Material covered by copyright:
 - a. The Contractor agrees to and does hereby grant to the Authority, and to its officers, agents and employees acting within the scope of their official duties, a royalty-free, nonexclusive and irrevocable license throughout the world for Authority purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all technical data now or hereafter covered by copyright.
 - b. No such copyrighted matter shall be included in technical data furnished hereunder without the written permission of the copyright owner for the Authority to use such copyrighted matter in the manner above described.
 - c. The Contractor shall report to the Authority promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data delivered hereunder.
 - d. 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.
 - e. Any dispute under this Section shall be subject to Section 00732, DISPUTE RESOLUTION.
 - f. Notwithstanding any other payment provision in this Contract, the Authority may retain from payment up to 10 percent of the Contract price until final delivery and acceptance of the Technical Data defined in this Section and as required to be furnished by the Project Manual.

00787 Indemnification and Insurance Requirements and Special Provisions of Insurance Furnished by Design-Builder

Indemnification

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

Insurance - General Provisions

Contractor shall procure, at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, including the Warranty Period if applicable, the insurance outlined in the section below. All insurance companies must have an A.M. Best rating of "A-/VII" or better and be approved by the Authority. All required insurance policies must

1. State or be endorsed to provide that the coverage afforded under Contractor's policies shall apply on a primary basis and not on an excess or contributing basis with any policies that may be available to the Authority, and
2. Have self-insurance retentions or policy deductibles no greater than \$100,000, unless approved in writing by the Authority, whose approval shall not be unreasonably withheld.

Contractor shall give at least thirty (30) days prior written notice to the Authority's Office of Insurance if any required insurance policy is canceled, materially changed, or nonrenewal; or if policy limits have been exhausted.

The insurance limits required herein may be met through Contractor's primary and umbrella/excess policies. Policies must be written on an occurrence basis; a claims made basis is not acceptable, except for Professional Liability.

Contractor shall furnish evidence of all required insurance prior to the start of any work on Authority property. Certificates of insurance (COI) and all applicable endorsements may be submitted to the Authority in lieu of copies of insurance policies; if Railroad Protective Liability insurance and/or Builder's Risk insurance is required, the entire insurance policy must be sent to the Authority. However, the Authority reserves the right to request copies of policies of any required insurance as denoted below. If requested by the Authority, the Contractor shall deliver to the Authority within thirty (30) days of the request, a copy of such policies, certified by the insurance carrier as being true and complete.

COIs shall 1) disclose any deductible, sublimit, self-insured retention, aggregate limit or any exclusions to the policy that materially change the coverage; 2) show the Authority as an additional insured for Commercial General Liability and Automobile Liability; 3) reference the contract number, and 4) expressly reference the inclusion of all required endorsements, including but not limited to the Additional Insured endorsement. All endorsements must include policy numbers.

Upon expiration of the policies, Contractor shall provide renewal COIs and all applicable endorsements to the Authority, with terms and limits no less favorable than the expiring insurance policies.

Evidence of insurance coverage – insurance certificates and endorsements (and the complete Railroad Protective Liability policy, if applicable) – stating the work to be performed shall be submitted to the Authority at least ten (10) business days prior to commencement of operations and from time to time at the Authority's request. Contractor shall not be allowed to proceed until the evidence of insurance has been received and approved in writing by the Authority. All evidence of insurance shall be sent to:

Washington Metropolitan Area Transit Authority
Office of Procurement, File Room 3C-02
600 5th Street, NW
Washington, DC 20001

With a copy to:

Washington Metropolitan Area Transit Authority
Office of Insurance, Room 8F
600 5th Street, NW
Washington, DC 20001

Required Insurance

1 Commercial General Liability Insurance with minimum limits of \$10,000,000 per occurrence/aggregate, written on an occurrence form. If the required minimum limits can only be met when applying an umbrella/excess liability policy, the umbrella/excess liability policy must follow form of the underlying policy and be extended to "drop down" to become primary in the event the primary limits are reduced or aggregate limits are exhausted. The coverage under such an insurance policy or policies shall be maintained throughout the contract period and for three (3) years following acceptance of the work, and shall include Terrorism coverage.

WMATA shall be named an Additional Insured with respect to this agreement on all certificates of insurance (COI), and the Additional Insured endorsement shall include completed operations and be submitted to the Authority.

2 Workers' Compensation Insurance meeting the statutory requirements of the jurisdiction where the work will be performed, including Employer's Liability coverage with minimum limits of \$1,000,000 each accident or disease.

3 Business Automobile Liability Insurance with minimum combined single limits of \$2,000,000 per occurrence covering contractor against claims for bodily injury and property damage arising out of the ownership, maintenance or use of any owned, hired, or non-owned motor vehicle. WMATA shall be added as an additional insured on the policy.

4 Railroad Protective Liability Insurance (RRP) issued to WMATA as the Named Insured with minimum limits of \$5,000,000 per occurrence/\$10,000,000 aggregate and covering the liability of the Authority arising from all Contracting Parties' work to be performed within fifty (50) feet (on, above, adjacent to or underneath) of the Authority's railroad tracks or within Authority rail stations for any personal injuries or deaths or any damage to the property, equipment and facilities caused by the activities of any Contractor or Subcontractor resulting from performance of this contract work. **THE ORIGINAL POLICY SHOULD BE FORWARDED TO WMATA.**

WMATA Blanket RRP Program Option – Form Below

The Authority may offer to waive the requirement for the Contractor to procure RRP if 1) the work can be covered under the Authority's blanket RRP program, and 2) the Contractor prepays the premium 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 premium, or procure a standalone RRP policy on the Authority's behalf.

5 Errors and Omissions Insurance with minimum limits of \$25,000,000 per claim covering actual or alleged negligent acts, errors or omissions committed by the Contractor in the performance of activities under this agreement, regardless of the type of damages. If the insurance is on a claims made basis, Contractor shall maintain continuous insurance coverage during the term of this agreement. The policy retroactive date must coincide with or precede the effective date of Contractor's services under the agreement and shall continue until the termination of the agreement. The policy must allow for reporting of circumstances or incidents that might give rise to future claims, and an extended reporting period of at least one year must be purchased in the event ongoing coverage is not maintained.

WMATA BLANKET RAILROAD PROTECTIVE LIABILITY INSURANCE PROGRAM

APPLICATION FORM

Contractor/Permittee shall complete this form, sign and return to RISK, attn Sharrone Scott, sscott@wmata.com (202) 962-1236. Applicant will be advised if project can be covered under this WMATA RRP program and the cost. If coverage is desired under the WMATA program, an invoice will be sent to the applicant.

Contractor Name and address	
Job Description	AF Track Circuit Replacement Route Segments C, E, F, G, and K
Unique Job Characteristics (e.g., tunneling, blasting)	
Est. # Days on Metro Property	
Contract Number	FQ12204
Job Location (i.e., address, station, name, mile markers)	
Total Contract Value	
Value within 50' of WMATA Railroad Right- of-Way	
WMATA Dept. Contract/Phone Number	
RRP Waiver Fee (to be completed by RISK)	

Signature of Authorized Contractor/Permittee Representative:

_____ Date: _____

Print Name/Title: _____

00788 Liquidated Damages

- A. The Contractor understands that if it fails to complete portions of and/or all of the Work as described in Section 00725, PERIOD OF PERFORMANCE AND PROJECT SCHEDULE of these General Conditions, the Authority will suffer damages which have been estimated and are specified in Section 00888, LIQUIDATED DAMAGES REQUIREMENTS of the Supplementary Conditions.
- B. The Contractor agrees that if it does not complete the Work within the specified Period of Performance, then the Contractor shall pay to the Authority as liquidated damages, pursuant to Section 00728, TERMINATION FOR DEFAULT, DAMAGES FOR DELAY, AND TIME EXTENSIONS of these General Conditions, the sums per calendar day as separate damages for each specified completion requirement. Milestones are as defined in Section 00725, PERIOD OF PERFORMANCE AND PROJECT SCHEDULE of these General Conditions.

00789 Compliance with Copeland Act Requirements

The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

00790 Contract Work Hours Standards Act

- A. Overtime requirements: Neither the Contractor nor any subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers, mechanics, apprentices, trainees, watchmen, and guards shall require or permit any laborer, mechanic apprentice, trainee, watchman or guard in any workweek in which he 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 one and one-half times his or her basic rate of pay for all such hours worked in excess of 40 hours in such work week.
- B. Violation, liability for unpaid wages, and liquidated damages. In the event of any violation of the provisions of Paragraph A. above, the Contractor and any subcontractor responsible therefore shall be liable to any affected employee for unpaid wages. In addition, such Contractor and subcontractor shall be liable to the Authority for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, apprentice, trainee, watchman, or guard employed in violation of the provisions of Paragraph A. in the sum of ten dollars for each calendar 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.
- C. Withholding for unpaid wages and liquidated damages: The Authority Representative may withhold from the Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may be administratively determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of Paragraph B.
- D. Subcontracts: The Contractor shall insert Paragraphs A. through E. of this Section in all subcontracts and shall require their inclusion in all subcontracts of any tier.
- E. Records: The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three years from completion of this Contract.

End of Section 00700

00800 Supplementary Conditions

This Section includes Modifications to the Section 00700 General Conditions for requirements unique to a specific project and are hereby incorporated into the General Conditions by reference to. This Section 00800, which specifies any modifications to the General Conditions, shall be read in conjunction with Section 00700 and which will be cited in the 00700 Section using the same last 2 digits of the Section number; i.e., a mod to Section 00724 is indicated as Section 00824.

00801 Required Insurance

- 1) **Commercial General Liability Insurance** with minimum limits of \$10,000,000 per occurrence/aggregate, written on an occurrence form. If the required minimum limits can only be met when applying an umbrella/excess liability policy, the umbrella/excess liability policy must follow form of the underlying policy and be extended to “drop down” to become primary in the event the primary limits are reduced or aggregate limits are exhausted. The coverage under such an insurance policy or policies shall be maintained throughout the contract period and for three (3) years following acceptance of the work, and shall include Terrorism coverage.

WMATA shall be named an Additional Insured with respect to this agreement on all certificates of insurance (COI), and the Additional Insured endorsement shall include completed operations and be submitted to WMATA.

- 2) **Workers’ Compensation Insurance** meeting the statutory requirements of the jurisdiction where the work will be performed, including Employer’s Liability coverage with minimum limits of \$1,000,000 each accident or disease.
- 3) **Long shore & Harbor Workers’ Compensation Act Endorsement** (work performed on or over navigable waterways) to cover contractor’s employees for wages, transportation, maintenance and cure, in accordance with applicable laws.
- 4) **Business Automobile Liability Insurance** with minimum combined single limits of \$2,000,000 per occurrence covering contractor against claims for bodily injury and property damage arising out of the ownership, maintenance or use of any owned, hired, or non-owned motor vehicle. WMATA shall be added as an additional insured on the policy.
- 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.
- 6) **Railroad Protective Liability Insurance (RRP)** issued to WMATA as the Named Insured with minimum limits of \$5,000,000 per occurrence/\$10,000,000 aggregate and covering the liability of the Authority arising from all Contracting Parties’ work to be performed within fifty (50) feet (on, above, adjacent to or underneath) of the Authority 's railroad tracks or within Authority rail stations for any personal injuries or deaths or any damage to the property, equipment and facilities caused by the activities of any Contractor or Subcontractor resulting from performance of this contract work. **THE ORIGINAL POLICY SHOULD BE FORWARDED TO WMATA.**
- 7) **Contractor’s Pollution Liability** with minimum limits of \$3,000,000 per claim, including Errors & Omissions if professional services are included under the contract, for work involving environmentally regulated substances or hazardous material exposures, including but not limited to handling, transporting or disposing of any hazardous substances and/or environmentally regulated materials and any sudden and/or non-sudden pollution or impairment of the environment, including cleanup costs and defense.

This insurance may be supplied by the subcontractor performing the work if the Contractor is not performing any of the relevant work and providing that WMATA and the Contractor are named as additional insured’s on the subcontractor’s policy.

- 8) **MCS-90 Endorsement** shall be attached to the Contractor's (or subcontractor's) auto liability policy in the event that the Contractor or its subcontractor transports hazardous substances or any other environmentally regulated substance that requires a governmentally regulated manifest.
- 9) **Non-Owned Disposal Site (NODS) Endorsement** providing coverage for the Contractor's legal liability arising out of pollution conditions at the designated nonowned disposal site.
- 10) **Installation Floater** on an all-risk completed value form with limits sufficient to cover the replacement cost of all structures, installations, equipment, machinery, and fixtures while in the course of construction, reconstruction, renovation, erection, installation, or assembly, including but not limited to:
- Permanent Works – being all materials, supplies, equipment, machinery and other property all when used or to be used in or incidental to the demolition of existing structures, site preparation, fabrication or assembly, installation or erection or the construction of, or alteration, renovation, rehabilitation of the Project(s) covered hereunder,
 - Temporary Works – being all scaffolding, form work, fences, shoring, hoarding, false-work, and temporary buildings and structures, all incidental to the Project(s) covered hereunder,
 - All of the above property while located offsite of the Project(s), anywhere within the territory of this policy, and while in transit,
 - Plans, blueprints, drawings, renderings, specifications, or other contract documents (whether in paper or electronic media format) and models that pertain to the Project(s) covered hereunder,
 - Existing property at a location of the Project(s) covered, but only to the extent such property is not insured elsewhere.

Said policy shall remain in force until the installation is completed and accepted. The policy shall name WMATA as an Additional Named Insured and Loss Payee as its interest may appear. The endorsement adding the Authority should state that the First Named Insured is solely responsible for premium payment.

- 11) **Errors and Omissions Insurance** with minimum limits of \$5,000,000 per claim covering actual or alleged negligent acts, errors or omissions committed by the Contractor in the performance of activities under this agreement, regardless of the type of damages. If the insurance is on a claims made basis, Contractor shall maintain continuous insurance coverage during the term of this agreement. The policy retroactive date must coincide with or precede the effective date of Contractor's services under the agreement and shall continue until the termination of the agreement. The policy must allow for reporting of circumstances or incidents that might give rise to future claims, and an extended reporting period of at least one year must be purchased in the event ongoing coverage is not maintained.

00811 Work by Design-Builder Percentage Requirements

- A. The Contractor shall plan to execute work on the site, with at least **70 percent of the Contract work** with his own organization. This percentage is determined by using the Proposer's cost of work in dollar value of the Contract work, i.e. work done by his own organization, in comparison to the overall total Contract Price. The cost of work performed by skilled and unskilled labor carried on the Contractor's own payroll, together with the cost of materials installed, may be included in the above percentages. The Contractor's mark-up for overhead and profit on work performed by subcontractor(s) shall not be included in determining this percentage.
- B. If, during the progress of the work hereunder, the Contractor requests a reduction in such percentage, as listed above, a written request must be submitted to both the Authority Representative and copy to the Contracting Officer. The Proposer's reason and rationale for the requesting a reduction in the percentage must be included in the written letter. If the Contracting Officer determines that it would be to the Authority's advantage to allow a reduction in the percentage of the work required to be performed by the Contractor, the Contracting Officer shall issue a letter approving this request.
- C. The Contractor will be required to use the Authority's internet based project management software system for submitting, reviewing and tracking document of this Contract. The system is provided and administered by the Authority and is currently identified as "Procore".

The Contractor shall use this internet, web-based software system to manage all documents issued to the Authority. This system was selected by the Authority and is designed to address the record keeping and communications requirements for Authority contracts, to include this Contract.

The Contractor is encouraged to include this requirement in contracts with its subcontractors to facilitate the flow of documentation. If a subcontract is executed without this requirement, it shall not relieve the Contractor's obligation to the Authority.

1. The Authority retains control and ownership of the systems database during the duration and upon completion of the Contract
2. The Contractor shall, at no additional cost to the Authority, provide the necessary equipment and services at the Contractor's facilities to actively participate in the above mentioned internet based project management software system
3. As a minimum, this requirement shall include:
 - a. All hardware to operate the system at the Contractor's facilities
 - b. The necessary telephone or other data lines to connect the hardware to the internet at the Contractor's facilities [Digital Subscriber Line (DSL) is the minimum recommended connection for optimum performance]
 - c. An internet service provider for access by the Contractor's personnel to the website of the internet based project management software system; and
 - d. The necessary project personnel to participate
4. The Authority will provide informal training to Contractor's key project personnel in using the software system. Training will be provided at the Authority's location that will be determined after contract award. The number of individuals that will be training shall be limited to only those Contractor employees who will actively participate in the system.
5. The Authority reserves the right during the period of this Contract to expand the data that is to be entered into the system for document control.

6. The internet based Project Management Control system for document control of this contract shall include but not be limited to the following items:
- a. Insurance - all insurance related documents. The documents must contain policy numbers, effected period, and expiration dates [hard copies of the insurance documents still required to be submitted];
 - b. Correspondence and Correspondence Logs – Contractor correspondence and logs tracking all Contractor generated correspondence to the AR and AR correspondence and logs tracking of all AR generated correspondence to the Contractor;
 - c. Transmittals, Submittal Documents, and Transmittal Logs - All Contractor transmittals, the submittals associated with each transmittal, in searchable “pdf” format or as specified elsewhere in these specifications, and logs tracking the transmittals including the associated Authority approval responses;
 - d. Request for Information - submissions by the Contractor and the associated responses from the AR [all electronically]; as well as the content of the submissions and responses; and
 - e. Emergency Contact - listing of Contractor personal and their associated telephone numbers for contact during emergency situations.
 - f. A Copy of the conformed Contract Documents including executed modifications to the contract.
 - g. Issue logs and the content of the associated documents.
 - h. A log tracking contractor proposals, Pending Change Orders issued by the Authority, executed modifications, and correspondence and transmittals between the Authority and the Contractor on each item.
 - i. A listing of each item and an electronic document showing the content of:
 - Daily quality reports, inspection reports, test reports, audits reports, management review reports.
 - copy of all Pending Change Orders issued by the Authority
 - Meeting minutes
 - SCI forms and punch lists maintained to reflect current status
 - Design submissions and Issued for construction drawings
 - Schedule and schedule update submissions
 - Certified payrolls, for the prime and its subcontractors in date order.
 - Construction progress photo’s
 - j. The Authority the right during the period of this contract to expand the data that is to be entered into the internet based project management control system for document control.

00825 Period of Performance and Project Schedule Requirements**A. Work Commencement:**

1. The work described in this contract is generally under WMATA OPERATIONS use and control. The Contractor shall commence work within 10 calendar days after the date of receipt of NTP and shall prosecute the said work diligently up to completion as is further defined below.
2. In the event the signed Contract with required insurance and bonds is not returned to the Authority within 10 calendar days after date of award and/or further, if approval has not been obtained within that 10-day period for the Safety Superintendent and the Affirmative Action Officer, the Contracting Officer may issue the Notice to Proceed (NTP) and Contract time will start upon its receipt. However, no work at the site shall be performed until the above requirements have been met.
3. Upon issuance of NTP, contract time will start. The Period of Performance is 1,440 days from the date of the NTP.
4. The contractor's baseline schedule shall be structured, in order to complete the work within the timeframes specified.

Note: In order to achieve the completion dates, the contractor will be expected to work diligently. The Authority Representative will review the contractor's schedule submittals. It is expected that the AR and Staff will work with the Proposer to obtain an approvable schedule in a timely manner. If this requires scheduling weekly or even daily meetings, in order to work out the differences, then both parties need to accept this format and follow these procedures to gain a workable schedule.

B. Early Completion

If the Contractor shall submit a schedule or express an intention to complete the work earlier than any required milestone, interim or final completion date, the Authority shall not be liable for any costs incurred because of delay or hindrance should the Contractor be unable to complete the work before such milestone, interim or final completion date.

The duties, obligations and warranties of the Authority to the Contractor shall be consistent with and applicable only to the completion of the work and completion dates set forth in this Contract.

C. For Liquidated Damages see Section 00888 LIQUIDATED DAMAGES

00844 Safety Superintendence Requirements

- A. The Contractor shall employ and assign to the work Safety Superintendent(s) and a separate certified First Aid Attendant, as stated below. At the site of the work, a first aid station shall be established and fully equipped to meet the needs of the anticipated work force. In no event shall work at the site be performed until the approved Safety Superintendent and First Aid Attendant are on duty at the site. WMATA's Representative in coordination with the Department of System Safety & Risk Protection (SARP) will determine the needed coverage for Safety Superintendent(s) and First Aid Attendant per the following:

Category I. –The contractor shall employ and assign full-time Safety Superintendents(s) and First Aid Attendant for on-site work at all times. The Safety Superintendent shall have no duty other than safety supervision of persons, equipment and property affected by the contract work.

00872 DBE Goal Requirements

Refer to all comments on the DBE Goals under Section 00453, DBE DATA

00888 Liquidated Damages Requirements

- A. In case of failure on the part of the contractor to complete the work within the time as specified under Section 00825, PERIOD OF PERFORMANCE AND PROJECT SCHEDULE REQUIREMENTS, the Proposer shall pay to the Authority as liquidated damages, pursuant to the TERMINATION FOR DEFAULT, DAMAGES FOR DELAY AND TIME EXTENSIONS article of the General Provisions, \$2,500 for each calendar day of delay to the Final Completion Date as stated above.

00890 Hours of Work

See Section 01141 Access to Site for hours of work.

00891 Partnering Requirements

PARTNERING

A. Authority Partnering Policy: The Authority intends to encourage development of a cohesive partnership with the Proposer, the Design Professional, principal subcontractors and suppliers for effective and efficient completion of this Contract. This partnership will 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 will be bilateral in make-up and participation of the parties is required. The partnering workshop(s) will be conducted by a professional facilitator at an off-site location convenient to the project within 45 days of Contract award. Follow-up workshops will be conducted on a “quarterly basis” or as determined by the AR during the course of the Contract as agreed to between the Proposer 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 nor 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 Proposer 50% of the incurred cost up to the allowance specified on the Notes to Proposers in Section 00434, PRICE SCHEDULE. If the agreed cost exceeds the allowance specified on the Notes to Proposers in Section 00434, PRICE SCHEDULE, the Authority will reimburse the Proposer 100% of the cost over that amount.
3. Partnership Goals:
 - a. For the Proposer and the Authority to work together 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 Proposer (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.

A. Measurement and Payment:

2. Allowance for Partnering Costs:
 - a. An allowance is identified in Section 00434, PRICE SCHEDULE FORM, under Notes to Proposers of the Request for Proposals, to provide funds for the Proposer's share of services for a Professional Facilitator and for the expenses of the partnering workshop(s).

- b. The Proposer will be reimbursed for the Proposer'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.

End of Section 00800

00900 Addenda and Modifications

This Section provides an area for conforming the Project Manual with instructions issued to clarify, revise, add or delete Contract requirements issued both during the proposing process and/or after execution of the Agreement.

00910 Addenda (See Section 00491 for Technical Proposal as Finally Accepted)

- A. Instructions: Insert here all Amendment Letters issued during the proposing process, and add the latest Specifications pages that were issued by Amendment to the appropriate Sections in order to conform the Project Manual and add the latest Drawing sheets in order to conform the Project Drawings.
- B. See Section 00491 for TECHNICAL PROPOSAL AS FINALLY ACCEPTED.

00920 Claims

Instructions: Insert here all Contractors' Claims.

00930 Clarifications and Proposals

Instructions: Insert here all instructions issued to clarify the work without Contract Modification, both Design-Builder requests for Contract modifications and Authority proposals for Contract Modifications. Include Change Order Proposals and Requests, Clarification Notices, Minor Changes in the Work, Proposal Requests, and Requests for Interpretation.

00940 Modifications

Instructions: Insert here all changes to the Contract issued after execution of the Agreement including PCO's and Change Orders.

End of Section 00900

APPENDIX D

WAGE RATES

CONTRACT NUMBER FQ12204

All on-site work to be performed at the **HEAVY** 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: DC130001 07/12/2013 DC1

Superseded General Decision Number: DC20120001

State: District of Columbia

Construction Types: Heavy (Heavy and Sewer and Water Line) and Highway

County: District of Columbia Statewide.

HEAVY CONSTRUCTION PROJECTS (Including Sewer and Water Lines);
HIGHWAY CONSTRUCTION PROJECTS

Modification Number	Publication Date
0	01/04/2013
1	01/18/2013
2	01/25/2013
3	02/22/2013
4	05/10/2013
5	06/07/2013
6	06/21/2013
7	06/28/2013
8	07/05/2013
9	07/12/2013

ASBE0024-001 10/01/2012

	Rates	Fringes
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Asbestos Worker/Heat and Frost Insulator

Includes the application of all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems.....	\$ 33.13	13.60
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ASBE0024-002 10/01/2012

	Rates	Fringes
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HAZARDOUS MATERIAL HANDLER

Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials, whether they contain asbestos or not, from mechanical systems.....	\$ 20.86	5.61
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	Rates	Fringes
Fire Stop Technician.....	\$ 26.06	6.05

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 of 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.

 BOIL0193-001 10/01/2009

	Rates	Fringes
Boilermakers:.....	\$ 37.66	16.36

 BRDC0001-001 04/30/2013

	Rates	Fringes
Bricklayer.....	\$ 28.17	8.03

 BRMD0001-004 04/29/2013

	Rates	Fringes
BRICKLAYER Refractory (Firebrick).....	\$ 35.52	8.24

 CARP0132-001 05/01/2013

	Rates	Fringes
Carpenter/Lather.....	\$ 26.81	8.13
Piledriver.....	\$ 26.62	8.15

 CARP1831-001 04/01/2012

	Rates	Fringes
MILLWRIGHT.....	\$ 27.96	12.20

 CARP2311-002 05/01/2013

	Rates	Fringes
DIVER TENDER.....	\$ 29.00	8.15
DIVER.....	\$ 37.74	8.15

 ELEC0026-001 06/03/2013

	Rates	Fringes
Electricians.....	\$ 40.65	14.42

ELEC0026-008 07/01/2003

	Rates	Fringes
Motor Repairmen Removal and reinstallation of electrical motors.....	\$ 23.69	7.73+3%+a

a. PAID HOLIDAYS:

New Year's Day, Martin Luther King Jr.'s Birthday,
Inauguration Day, Memorial Day, Fourth of July, Labor Day,
Veterans Day, Thanksgiving Day, the day after Thanksgiving
and Christmas Day or days designated as legal holidays by
the Federal Government.

ELEC0070-001 05/06/2013

	Rates	Fringes
Line Construction:		
Cable Splicers.....	\$ 33.00	19%+5.00
Equipment Operators.....	\$ 33.00	19%+5.00
Groundman.....	\$ 15.35	19%+5.00
Linemen.....	\$ 33.00	19%+5.00
Truck Driver.....	\$ 17.45	19%+5.00

ENGI0077-001 05/01/2012

	Rates	Fringes
Power equipment operators: (HEAVY AND HIGHWAY CONSTRUCTION)		
GROUP 1.....	\$ 32.94	8.23+a+b
GROUP 2.....	\$ 31.91	8.23+a+b
GROUP 3.....	\$ 31.43	8.23+a+b
GROUP 4.....	\$ 30.70	8.23+a+b
GROUP 5.....	\$ 28.61	8.23+a+b
GROUP 6.....	\$ 23.93	8.23+a+b
GROUP 7.....	\$ 33.32	8.23+a+b

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

- GROUP 1: Tower Cranes and Cranes 100 ton and over.
- GROUP 2: 35 ton cranes & above, tower & climbing cranes, derricks, concrete boom pump, drill rigs (equivalent to L & Double L), mole.
- GROUP 3: Backhoes, cableways, cranes, cherry pickers, elevating graders, hoists, paving mixers, power shovels, tunnel shovels. batch plants, shields, tunnel

mining machines, gradalls, front end loaders, 3 1/2 cu. yds. and above, power driven wheel scoops and scrapers (50 cu. yds. struck capacity or above), rail tamper, draglines, boomcat, mucking machines, graders in tunnels, pile driving engines.

GROUP 4: Front end loaders below 3 1/2 cu. yds, boom trucks, hydraulic backhoes 1/2 yds. capacity or below rubber or track mounted, tug boats, power driven wheel scoops & scrapers, blade graders, motor graders, bulldozers, trenching machines, concrete mixer, speed swing pettibone, ballast regulator, concrete pump, mechanic, welder, mechanic welder, shotcrete machines, Hoeram, locomotive (standard, narrow gauge), tuggers.

GROUP 5: High lifts above 10 feet, boilers (skelton), asphalt spreaders, bullfloat finishing machines, concrete finishing machines, concrete spreaders, fine graders, air compressors, welding machines, pumps, generators, well points, deep wells, hydraulic pumps, elevators, freeze uniits, tunnel motorman or dinky operator, roller, conveyors, well drilling machines, grout pump, fireman.

GROUP 6: Fork lifts, ditch witch, bobcat 1/3 cu. yd. and below, space heaters, sweepers, assistant engineers, oilers.

GROUP 7: Master mechanic.

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

b. PREMIUM PAY:

Tower crane and cranes 100-ton and over to receive \$1.00 per hour premium over Group One.

 ENGI0077-002 06/01/2013

	Rates	Fringes
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Power equipment operators:
 (PAVING AND INCIDENTAL
 GRADING)

GROUP 1.....	\$ 27.49	7.00
GROUP 2.....	\$ 24.50	7.00
GROUP 3.....	\$ 21.04	7.00
GROUP 4.....	\$ 18.95	7.00
GROUP 5.....	\$ 28.15	6.80

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Gradall operator, Crane.

GROUP 2: Boom Truck, Milling Machine, Excavator, Rubber Tire Backhoe, Asphalt Paver, Asphalt Plant Engineer, Motor Grader, Track Loader, Rubber Tire Loader, Track Dozer, Concrete Paver.

GROUP 3: Broom Truck, Asphalt Roller.
 GROUP 4: Air Compressor, Grade Rollers.
 GROUP 5: Mechanic.

 ENGI0077-003 07/01/2012

	Rates	Fringes
Power equipment operators: (SEWER, GAS AND WATER LINE CONSTRUCTION)		
GROUP 1.....	\$ 23.65	7.05+a
GROUP 2.....	\$ 23.25	7.05+a
GROUP 3.....	\$ 22.74	7.05+a
GROUP 4.....	\$ 22.42	7.05+a
GROUP 5.....	\$ 21.60	7.05+a

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Excavators, Cranes, Gradalls.

GROUP 2: Backhoes, Front-end Loaders, Fork alift/Lull,
 Bulldozers, Motor Graders. Qualified Mechanics, Hydraulic
 Tamper and Hoe Pack, Paving Mixers, Pile Driving Engines,
 Batch Plant, Concrete Pumps, Low-Boy Driver, Lube Truck.

GROUP 3: Trenching Machine, Well Drilling Machines, Concrete
 Mixers, Motor Graders, Truck Driver.

GROUP 4. Roller, Air Compressors, Pumps, Welding Machines,
 Well Points, Firemen.

GROUP 5: Oiler

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

 * IRON0005-001 06/01/2013

	Rates	Fringes
Ironworkers:		
Structural, Ornamental and Chain Link Fence.....	\$ 30.00	16.04

 IRON0201-001 05/01/2012

	Rates	Fringes
Ironworkers:		
Reinforcing.....	\$ 26.50	16.68

 LABO0657-003 06/01/2012

Rates Fringes

Laborers: (HEAVY AND HIGHWAY
AND SEWER & WATER LINES
CONSTRUCTION)

GROUP 1.....	\$ 22.23	6.83
GROUP 2.....	\$ 22.59	6.83
GROUP 3.....	\$ 22.79	6.83
GROUP 4.....	\$ 22.96	6.83
GROUP 5.....	\$ 23.45	6.83
GROUP 6.....	\$ 24.08	6.83
GROUP 7.....	\$ 24.68	6.83
GROUP 8.....	\$ 25.49	6.83

LABORERS CLASSIFICATIONS:

GROUP 1: Carloaders, choker setter, concrete crewman, crushed feeder, demolition laborers, including salvaging all material, loading, cleaning up, wrecking, dumpmen, flagmen, fence erector and installer (other than chain link), including installation and erection of fence, guard rails, medial rails, reference posts, guide posts and right-of-way markers, form strippers, general laborers, railroad track laborers, riprap man, scale man, stake jumper, structure mover, includes foundation, separation, preparation, cribbing, shoring, jacking and unloading of structures, water nozzleman, timber buckler and faller, truck loader, water boys, tool room men.

GROUP 2: Combined air and water nozzleman, cement handler, dope pot fireman (nonmechanical), form cleaning machine, mechanical railroad equipment (includes spiker, puller, tile cleaner, tamper, pipe wrapper, power driven wheelbarrows, operators of hand derricks, towmasters, scootcretes, buggymobiles and similar equipment), tamper or rammer operator, trestle scaffold builders over one tier high, power tool operator (gas, electric or pneumatic), sandblast or gunnite tailhose man, scaffold erector, (steel or wood), vibrator operator (up to 4 feet), asphalt cutter, mortar men, shorer and lagger, creosote material handler, corrosive enamel or equal, paver breaker and jackhammer operators.

GROUP 3: Multi-section pipe layer, non-metallic clay and concrete pipe layer (including caulker, collarman, jointer, rigger and jacker, thermal welder and corrugated metal culvert pipe layer.

GROUP 4: Asphalt block pneumatic cutter, asphalt roller, walker, chainsaw operator with attachment, concrete saw (walking), high scalers, jackhammer operator (using over 6 feet of steel), vibrator operator (4 feet and over), well point installer, air trac operator.

GROUP 5: Asphalt screeder, big drills, cut of the hole drills (1 1/2 " piston or larger), down the hole drills (3 1/2" piston or larger) gunnite or sandblaster nozzleman, asphalt raker, asphalt tamper, form setter, demolition torch operator, shotcrete nozzlemen and potman.

GROUP 6: Powderman, master form setters.

GROUP 7: Brick paver (asphalt block paver, asphalt block sawman, asphalt block grinder, hastings block or similar type)

GROUP 8: Licensed powdermen.

LABO0657-004 06/01/2012

	Rates	Fringes
Laborers: (HAZARDOUS WASTE REMOVAL, EXCEPT ON MECHANICAL SYSTEMS: Preparation for, removing and encapsulation of hazardous materials from non-mechanical systems)		
Skilled Asbestos Abatement Laborers.....	\$ 18.21	6.83
Skilled Toxic and Hazardous Waste Removal Laborers.....	\$ 21.53	6.83

LABO0657-005 06/01/2012

	Rates	Fringes
Laborers: (TUNNEL, RAISE & SHAFT (FREE AIR) FOR HEAVY AND SEWER & WATER LINES CONSTRUCTION)		
GROUP 1.....	\$ 23.04	6.83
GROUP 2.....	\$ 23.77	6.83
GROUP 3.....	\$ 25.61	6.83
GROUP 4.....	\$ 26.40	6.83

LABORERS CLASSIFICATIONS:

GROUP 1: Brakeman, Bull Gang, Dumper, Trackmen, Concrete Man.

GROUP 2: Chuck Tender, Powdermen in Prime House, Form Setters and Movers, Nippers, Cableman, Houseman, Groutman, Bell or Signalman, Top or Bottom Vibrator Operator.

GROUP 3: Miners, Re-Bar Underground, Concrete or Gunnite Nozzlemen, Powdermen, Timbermen and Re-Timbermen, Wood Steel Including Liner plate or Other Support, Material Motorman, Caulkers, Diamond Drill Operators, Riggers, Cement Finishers-Underground, Welders and Burners, Shield Driver, Air Trac Operator, Shotcrete Nozzlemen and Potman.

GROUP 4: Mucking Machine Operator (Air).

LABO0657-006 06/01/2012

Rates Fringes

Laborers: (TUNNEL, RAISE AND
SHAFT (COMPRESSED AIR) FOR
HEAVY CONSTRUCTION ONLY

Gauge Pressure Work Period

(Pounds)	(Hours)		
1-14	7.....	\$ 30.32	6.83
14-18	6.....	\$ 35.66	6.83

FOOTNOTE: On any requirement for air pressure in excess of 18
PSI, work periods and rates should be negotiated at a
pre-bid conference.

LABO0657-007 06/01/2010

	Rates	Fringes
Laborers: (PAVING AND INCIDENTAL GRADING)		
Asphalt Raker & Concrete		
Saw Operator.....	\$ 18.42	4.90
Asphalt Shoveler.....	\$ 17.84	4.90
Asphalt Tammer & Concrete		
Shoveler.....	\$ 18.09	4.90
Jack Hammer.....	\$ 18.51	4.90
Laborer.....	\$ 17.70	4.90
Sand Setter & Form Setter...	\$ 19.10	4.90

LABO0657-008 06/01/2012

	Rates	Fringes
LABORERS (BRICK MASONRY WORK)		
Mason Tenders.....	\$ 15.58	6.83
Scaffold Builders, Mortarmen.....	\$ 16.51	6.83

MARB0002-003 05/01/2012

	Rates	Fringes
Marble & Stone Mason		
Includes Pointing, Caulking and Cleaning of All Types of Masonry, Brick, Stone and Cement Structures.....	\$ 33.08	14.59

MARB0003-001 05/01/2011

	Rates	Fringes
Mosaic & Terrazzo Worker, Tile Layer		
Marble Mason and Tile Layer.	\$ 25.29	9.89

Terrazzo Worker.....\$ 26.04 9.89

MARB0003-004 05/01/2011

Rates Fringes

Marble, Tile & Terrazzo Finisher.....\$ 20.48 8.74

PAIN0051-001 06/01/2013

Rates Fringes

Painters:

All Industrial Work.....\$ 29.18 8.91
Bridges, Heavy Highway, Lead Abatement and Flame/Thermal Spray.....\$ 32.66 8.91
Commercial and Mold Remediation, Painters, Wallcovers and Drywall Finishers.....\$ 24.89 8.91
Metal Polishing and Refinishing.....\$ 25.89 8.91

PLAS0891-001 05/01/2010

Rates Fringes

Cement Masons:

HEAVY CONSTRUCTION ONLY.....\$ 27.15 9.58

PLAS0891-002 06/01/2011

Rates Fringes

Cement Masons: (PAVING & INCIDENTAL GRADING)

Cement Masons.....\$ 19.56 5.68
Concrete Saw Operators.....\$ 19.56 5.68
Form Setters.....\$ 19.56 5.68

PLUM0005-001 08/01/2012

Rates Fringes

Plumbers.....\$ 38.17 15.75+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.

PLUM0602-005 08/01/2012

Rates Fringes

Steamfitter, Refrigeration &
Air Conditioning Mechanic.....\$ 37.62 18.07+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.

SHEE0100-001 07/01/2013

	Rates	Fringes
Sheet Metal Worker.....	\$ 39.93	15.38

TEAM0639-001 06/01/2012

	Rates	Fringes
Truck drivers: (HEAVY & HIGHWAY CONSTRUCTION)		
Tractor trailer, Low Boy....	\$ 21.50	2.00+a
Truck Drivers.....	\$ 19.50	2.00+a

a. VACATION: Employees will receive one (1) week's paid
vacation after one (1) year of service.

TEAM0639-005 06/01/2012

	Rates	Fringes
Truck drivers: (PAVING & INCIDENTAL GRADING)		
All paving projects where the grading is incidental to the paving.....	\$ 19.50	2.00

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

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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 union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters, PLUM, indicate the international union and the four-digit number, 0198, that follows 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. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

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

- * an existing published wage determination
- * a survey underlying a wage determination

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

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

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

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

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

Wage and Hour Administrator
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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.

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

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

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

=====
END OF GENERAL DECISION

General Decision Number: MD130012 01/04/2013 MD12

Superseded General Decision Number: MD20120012

State: Maryland

Construction Type: Heavy Dredging

Counties: Maryland Statewide.

MARYLAND

ALL DREDGING, EXCEPT SELF-PROPELLED HOPPER DREDGES, ON THE ATLANTIC COAST AND TRIBUTARY WATERS EMPTYING INTO THE ATLANTIC OCEAN, THE CHESAPEAKE AND DELAWARE CANAL, BALTIMORE CITY AND BALTIMORE COUNTY, MARYLAND.

Modification Number	Publication Date
0	01/04/2013

* ENGI0025-001 10/01/2009

STATEWIDE

Rates	Fringes
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Dredging:

CLASS A.....	\$ 32.89	8.05+a+b
CLASS B1.....	\$ 28.49	8.05+a+b
CLASS B2.....	\$ 26.84	8.05+a+b
CLASS C1(a).....	\$ 25.55	8.05+a+b
CLASS C1.....	\$ 26.14	8.05+a+b
CLASS C2.....	\$ 25.29	8.05+a+b
CLASS D(a).....	\$ 20.43	8.05+a+b
CLASS D.....	\$ 21.09	8.05+a+b

CLASSIFICATIONS:

CLASS A: Lead Dredgeman, Operator, Leverman, Licensed Tug Operator over 1000 HP

CLASS B1: Derrick Operator, Spider/Spill Barge Operator, Engineer, Electrician. Chief Welder, Cheif Mate, Fill Placer, Operator II, Maintenance Engineer, Licensed Boat Operator

CLASS B2: Licensed Boat Operator, Certified Welder.

CLASS C1: Mate, Drag Barge Operator, Steward, Assistant Fill Placer.

CLASS C1(a): Welder.

CLASS C2: Boat Operator

CLASS D: Shoreman, Deckhand, Rodman, Scowman, Cook, Messman, Porter/Janitor.

CLASS D(a) Oiler.

PREMIUMS: Additional 20% for hazardous material work

FOOTNOTES APPLICABLE TO ABOVE CRAFTS:

- a. PAID HOLIDAYS: New Year's Day, Martin Luther King, Jr.'s Birthday, Memorial Day, Good Friday, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and Christmas Day
- b. VACATION: Eight percent (8%) of the straight time rate, multiplied by the total hours worked.

INCENTIVE PAY: (Add to Hourly Rate)

Operator (NCCCO License/Certification) \$0.50 Licensed Tug Operator over 1000 HP (Assigned as Master) (USCG licensed Master of Towing Vessels (MOTV) \$1.00; Licensed Boat Operator (Assigned as lead boat captain) USCG licensed boat operator \$0.50; Engineer (QMED and Tankerman endorsement or licensed engineer (USCG) \$0.50 Oiler (QMED and Tankerman endorsement (USCG) \$0.50; All classifications (Tankerman endorsement only) USCG \$0.25; Deckhand or Mate (AB with Lifeboatman endorsement (USCG) \$0.50; All classifications (lifeboatman endorsement only (USCG) \$0.25; Welder (ABS certification) \$0.50

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

=====
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 union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that

classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows 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. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

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Survey wage rates will remain in effect and will not change until a new survey is conducted.

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

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

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200 Constitution Avenue, N.W.
Washington, DC 20210

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=====

END OF GENERAL DECISION

General Decision Number: MD130034 06/28/2013 MD34

Superseded General Decision Number: MD20120058

State: Maryland

Construction Type: Heavy

County: Montgomery County in Maryland.

HEAVY CONSTRUCTION PROJECTS (including sewer/water construction).

Modification Number	Publication Date
0	01/04/2013
1	05/10/2013
2	06/07/2013
3	06/28/2013

CARP0132-016 05/01/2013

	Rates	Fringes
CARPENTER (Including Form Work).....	\$ 26.81	8.13

ELEC0026-019 06/03/2013

	Rates	Fringes
ELECTRICIAN.....	\$ 40.65	14.42+a

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.

ENGI0077-014 05/01/2012

	Rates	Fringes
OPERATOR: Bulldozer.....	\$ 30.70	8.23+a
OPERATOR: Crane		
35 ton Cranes and Above.....	\$ 31.91	8.23+a
Cranes Below 35 tons.....	\$ 31.43	8.23+a
Tower and Climbing Cranes...	\$ 31.91	8.23+a
Tower Cranes and Cranes		
100 tons and Over.....	\$ 32.94	8.23+a
OPERATOR: Drill.....	\$ 31.91	8.23+a
OPERATOR: Excavator.....	\$ 31.43	8.23+a
OPERATOR: Mechanic.....	\$ 33.32	8.23+a
OPERATOR: Piledriver.....	\$ 31.43	8.23+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.

b. PREMIUM PAY:

Tower crane and cranes 100-ton and over to receive \$1.00 per hour premium.

IRON0201-006 05/01/2012

	Rates	Fringes
IRONWORKER, REINFORCING.....	\$ 26.50	16.68

LABO0710-004 04/01/2010

	Rates	Fringes
LABORER: Mason Tender - Cement/Concrete.....	\$ 16.61	5.41

* PAIN0051-020 06/01/2013

	Rates	Fringes
PAINTER: Steel.....	\$ 32.66	8.91

PLAS0891-006 05/01/2010

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 27.15	9.58

SUMD2010-073 07/08/2010

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 24.00	10.16
LABORER: Common or General.....	\$ 14.01	0.00
LABORER: Flagger.....	\$ 15.71	8.58
LABORER: Grade Checker.....	\$ 14.62	3.08
LABORER: Landscape.....	\$ 17.72	8.58
LABORER: Mason Tender - Brick...	\$ 15.93	7.83
LABORER: Pipelayer.....	\$ 15.50	0.00
OPERATOR: Backhoe.....	\$ 22.00	0.00
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 16.41	5.15
OPERATOR: Gradall.....	\$ 20.50	8.89

OPERATOR: Grader/Blade.....	\$ 19.00	5.00
OPERATOR: Loader.....	\$ 17.50	0.00
OPERATOR: Mechanic.....	\$ 22.12	6.22
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 17.53	9.07
OPERATOR: Piledriver.....	\$ 19.95	4.50
OPERATOR: Roller.....	\$ 16.50	5.34
OPERATOR: Trackhoe.....	\$ 18.98	7.32
PAINTER: Brush, Roller and Spray.....	\$ 24.32	6.91
PIPEFITTER.....	\$ 22.51	6.47

TEAM0639-008 06/01/2009

	Rates	Fringes
TRUCK DRIVER, Includes Dump Truck.....	\$ 18.00	2.10+a
TRUCK DRIVER: Lowboy Truck.....	\$ 20.00	2.10+a

a.VACATION: Employees will receive one (1) week's paid
vacation after one (1) year of service.

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

=====

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
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WAGE DETERMINATION APPEALS PROCESS

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

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Washington, DC 20210

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=====
END OF GENERAL DECISION

General Decision Number: MD130011 01/04/2013 MD11

Superseded General Decision Number: MD20120011

State: Maryland

Construction Types: Heavy Dredging

Counties: Anne Arundel, Baltimore, Calvert, Cecil, Charles, Dorchester, Harford, Kent, Prince George's, Queen Anne's, Somerset, St Mary's, Talbot, Wicomico and Worcester Counties in Maryland.

HOPPER DREDGING CONSTRUCTION PROJECTS

Modification Number	Publication Date
0	01/04/2013

SUMD1993-007 05/20/1993

	Rates	Fringes
Self-Propelled Hopper Dredge		
Drag Tenders.....	\$ 8.21	

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

=====

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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 union or non-union.

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=====

END OF GENERAL DECISION

General Decision Number: MD130012 01/04/2013 MD12

Superseded General Decision Number: MD20120012

State: Maryland

Construction Type: Heavy Dredging

Counties: Maryland Statewide.

MARYLAND

ALL DREDGING, EXCEPT SELF-PROPELLED HOPPER DREDGES, ON THE ATLANTIC COAST AND TRIBUTARY WATERS EMPTYING INTO THE ATLANTIC OCEAN, THE CHESAPEAKE AND DELAWARE CANAL, BALTIMORE CITY AND BALTIMORE COUNTY, MARYLAND.

Modification Number	Publication Date
0	01/04/2013

* ENGI0025-001 10/01/2009

STATEWIDE

Rates	Fringes
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Dredging:

CLASS A.....	\$ 32.89	8.05+a+b
CLASS B1.....	\$ 28.49	8.05+a+b
CLASS B2.....	\$ 26.84	8.05+a+b
CLASS C1(a).....	\$ 25.55	8.05+a+b
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CLASS D(a).....	\$ 20.43	8.05+a+b
CLASS D.....	\$ 21.09	8.05+a+b

CLASSIFICATIONS:

CLASS A: Lead Dredgeman, Operator, Leverman, Licensed Tug Operator over 1000 HP

CLASS B1: Derrick Operator, Spider/Spill Barge Operator, Engineer, Electrician. Chief Welder, Cheif Mate, Fill Placer, Operator II, Maintenance Engineer, Licensed Boat Operator

CLASS B2: Licensed Boat Operator, Certified Welder.

CLASS C1: Mate, Drag Barge Operator, Steward, Assistant Fill Placer.

CLASS C1(a): Welder.

CLASS C2: Boat Operator

CLASS D: Shoreman, Deckhand, Rodman, Scowman, Cook, Messman, Porter/Janitor.

CLASS D(a) Oiler.

PREMIUMS: Additional 20% for hazardous material work

FOOTNOTES APPLICABLE TO ABOVE CRAFTS:

- a. PAID HOLIDAYS: New Year's Day, Martin Luther King, Jr.'s Birthday, Memorial Day, Good Friday, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and Christmas Day
- b. VACATION: Eight percent (8%) of the straight time rate, multiplied by the total hours worked.

INCENTIVE PAY: (Add to Hourly Rate)

Operator (NCCCO License/Certification) \$0.50 Licensed Tug
Operator over 1000 HP (Assigned as Master) (USCG licensed
Master of Towing Vessels (MOTV) \$1.00;
Licensed Boat Operator (Assigned as lead boat captain) USCG
licensed boat operator \$0.50;
Engineer (QMED and Tankerman endorsement or licensed
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Oiler (QMED and Tankerman endorsement (USCG) \$0.50; All
classifications (Tankerman endorsement only) USCG \$0.25;
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Washington, DC 20210

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=====
END OF GENERAL DECISION

General Decision Number: MD130035 06/28/2013 MD35

Superseded General Decision Number: MD20120059

State: Maryland

Construction Type: Heavy

County: Prince George's County in Maryland.

HEAVY CONSTRUCTION PROJECTS (including sewer/water construction).

Modification Number	Publication Date
0	01/04/2013
1	05/10/2013
2	06/07/2013
3	06/28/2013

CARP0132-016 05/01/2013

	Rates	Fringes
CARPENTER (Including Form Work).....	\$ 26.81	8.13

ELEC0026-019 06/03/2013

	Rates	Fringes
ELECTRICIAN.....	\$ 40.65	14.42+a

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.

ENGI0077-015 05/01/2012

	Rates	Fringes
OPERATOR: Bulldozer.....	\$ 30.70	8.23+a
OPERATOR: Crane		
35 ton Cranes and Above.....	\$ 31.91	8.23+a
Cranes Below 35 tons.....	\$ 31.43	8.23+a
Tower and Climbing Cranes...\$	31.91	8.23+a
Tower Cranes and Cranes		
100 tons and Over.....	\$ 32.94	8.23+a
OPERATOR: Drill.....	\$ 31.91	8.23+a
OPERATOR: Excavator.....	\$ 31.43	8.23+a
OPERATOR: Loader		
Front End Loaders 3 1/2		
cubic yards and above.....	\$ 31.43	8.23+a
Front End Loaders Below 3		
1/2 cubic yards.....	\$ 30.70	8.23+a

OPERATOR: Mechanic.....\$ 33.32 8.23+a
 OPERATOR: Piledriver.....\$ 31.43 8.23+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.

b. PREMIUM PAY:

Tower crane and cranes 100-ton and over to receive \$1.00 per hour premium.

 IRON0201-006 05/01/2012

	Rates	Fringes
IRONWORKER, REINFORCING.....	\$ 26.50	16.68

 LABO0710-003 04/01/2010

	Rates	Fringes
LABORER: Common or General.....	\$ 15.45	5.41
LABORER: Mason Tender - Cement/Concrete.....	\$ 16.61	5.41

 * PAIN0051-020 06/01/2013

	Rates	Fringes
PAINTER: Steel.....	\$ 32.66	8.91

 PLAS0891-006 05/01/2010

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER....	\$ 27.15	9.58

 SUMD2010-074 07/08/2010

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 24.00	10.16
LABORER: Flagger.....	\$ 15.71	8.58
LABORER: Grade Checker.....	\$ 14.62	3.08
LABORER: Landscape.....	\$ 17.72	8.58
LABORER: Mason Tender - Brick....	\$ 15.93	7.83
LABORER: Pipelayer.....	\$ 15.50	0.00
OPERATOR: Backhoe.....	\$ 19.15	4.05

OPERATOR: Bobcat/Skid

Steer/Skid Loader.....	\$ 16.41	5.15
OPERATOR: Gradall.....	\$ 20.50	8.89
OPERATOR: Grader/Blade.....	\$ 19.00	5.00
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 17.53	9.07
OPERATOR: Roller.....	\$ 16.95	5.61
OPERATOR: Trackhoe.....	\$ 18.98	7.32
PAINTER: Brush, Roller and Spray.....	\$ 24.32	6.91
PIPEFITTER.....	\$ 21.25	5.31
TRUCK DRIVER: Lowboy Truck.....	\$ 17.17	9.98

TEAM0639-008 06/01/2009

	Rates	Fringes
TRUCK DRIVER, Includes Dump Truck.....	\$ 18.00	2.10+a
TRUCK DRIVER: Lowboy Truck.....	\$ 20.00	2.10+a

a.VACATION: Employees will receive one (1) week's paid
vacation after one (1) year of service.

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

=====

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)).

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Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

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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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U.S. Department of Labor
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=====
END OF GENERAL DECISION

Day, Plus Vacation contribution of 7% of straight time rate multiplied by the total hours worked.

INCENTIVE PAY (Add to Hourly Rate):

Operator (NCCCO license/certification) - \$0.50
 Licensed Tug Operator over 1000 HP (assigned as master) USCG licensed Master of Towing Vessels (MOTV) - \$1.00;
 Licensed Boat Operator (assigned as lead boat captain) (USCG licensed boat operator) - \$0.50;
 Engineer (QMED and Tankerman endoresement or licensed engineer (USCG) - \$0.50
 Oiler (QMED and Tankerman endorsement) USCG) - \$0.50; All classifications (Tankerman endorsement onl) (USCG)- \$0.25;
 Deckhand or Mater (AB with Lifeboatman endorsement (USCG) - \$0.50;
 All classifications (Lifeboatman endorsement onl) (USCG) - \$0.25; Welder (ABS certification)- \$0.50

SUVA1994-008 11/01/1994

	Rates	Fringes
Dipper Dredges		
Deckhand.....	\$ 9.50	2.96+a
Engineer.....	\$ 14.04	2.96+a
Handyman.....	\$ 9.50	2.96+a
Launchman.....	\$ 10.12	2.96+a
Mate.....	\$ 12.39	2.96+a
Oiler.....	\$ 10.12	2.96+a
Operator.....	\$ 14.59	2.96+a
Rodman.....	\$ 9.50	2.96+a
Scowman.....	\$ 9.63	2.96+a
Welder.....	\$ 12.78	2.96+a
Drill Boats		
Blaster.....	\$ 13.69	2.96+a
Driller.....	\$ 13.69	2.96+a
Engineer.....	\$ 14.18	2.96+a
Hydraulic Dredges Under 20"		
Carpenter.....	\$ 13.14	2.96+a
Deckhand.....	\$ 9.50	2.96+a
Derrick Operator.....	\$ 13.20	2.96+a
Electrician.....	\$ 13.45	2.96+a
Engineer.....	\$ 14.18	2.96+a
Handyman.....	\$ 9.50	2.96+a
Janitor/Porter.....	\$ 9.50	2.96+a
Leverman.....	\$ 14.53	2.96+a
Mate.....	\$ 12.39	2.96+a
Messman.....	\$ 9.32	2.96+a
Night Cook.....	\$ 9.50	2.96+a
Oiler.....	\$ 10.12	2.96+a
Rodman.....	\$ 9.50	2.96+a
Second Cook.....	\$ 9.50	2.96+a
Shoreman.....	\$ 9.32	2.96+a
Spider Barge Operator.....	\$ 12.97	2.96+a

Spill Barge Operator.....	\$ 12.97	2.96+a
Steward.....	\$ 10.42	2.96+a
Tug Deckhand.....	\$ 9.50	2.96+a
Tug Master.....	\$ 12.29	2.96+a
Tug Mate.....	\$ 11.76	2.96+a
Welder.....	\$ 12.78	2.96+a

Steward Department (On Dipper
Dredges)

Cook.....	\$ 9.27	2.96+a
Mess Cook.....	\$ 8.74	2.96+a
Messman and Janitor.....	\$ 8.61	2.96+a

Tug Boats (Tending Dipper
Dredges)

Assistant Engineer.....	\$ 11.75	2.96+a
Cook.....	\$ 9.63	2.96+a
Deckhand.....	\$ 9.37	2.96+a
Engineer.....	\$ 12.96	2.96+a
Tug Master.....	\$ 13.16	2.96+a
Tug Mate.....	\$ 11.87	2.96+a

FOOTNOTES APPLICABLE TO ALL ABOVE CRAFTS:

a. PAID HOLIDAYS AND VACATION:

New Year's Day, Memorial Day, Independence Day, Good Friday,
Labor Day, Thanksgiving Day, and Christmas Day; plus
vacation contribution of 7% of straight time pay for all
hours worked.

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

=====
Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after
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END OF GENERAL DECISION

General Decision Number: VA130046 06/28/2013 VA46

Superseded General Decision Number: VA20120046

State: Virginia

Construction Types: Heavy (Heavy and Sewer and Water Line)

Counties: Alexandria*, Arlington, Clarke, Culpeper, Frederick, Fredericksburg*, Spotsylvania and Winchester* Counties in Virginia.

*INDEPENDENT CITIES

HEAVY CONSTRUCTION PROJECTS (Including Sewer and Water Lines)

Modification Number	Publication Date
0	01/04/2013
1	05/10/2013
2	06/07/2013
3	06/28/2013

BRVA0001-003 05/01/2011

	Rates	Fringes
MASON - STONE.....	\$ 32.88	13.99

CARP0132-018 05/01/2013

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 26.81	8.13

ELEC0026-023 06/03/2013

ARLINGTON COUNTY, Cities of Alexandria and Fredericksburg

	Rates	Fringes
ELECTRICIAN.....	\$ 40.65	14.42+a

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 and Christmas Day.

ELEC0026-024 06/01/2011

CLARKE, CULPEPER, FREDERICK COUNTIES, SPOTSYLVANIA COUNTY (Excluding the City of Fredericksburg), City of Winchester

	Rates	Fringes
ELECTRICIAN.....	\$ 27.80	13.37+a

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 and Christmas Day.

 ENGI0077-019 05/01/2012

	Rates	Fringes
POWER EQUIPMENT OPERATOR:		
35 ton Cranes and Above.....	\$ 31.91	8.23+a
Cranes Below 35 tons.....	\$ 31.43	8.23+a
Mechanic.....	\$ 33.32	8.23+a
Tower and Climbing Cranes...\$	31.91	8.23+a
Tower Cranes and Cranes		
100 tons and Over.....	\$ 32.94	8.23+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.

b. PREMIUM PAY:

Tower crane and cranes 100-ton and over to receive \$1.00 per hour premium.

 LABO0710-010 04/01/2010

	Rates	Fringes
LABORER: Pipelayer.....	\$ 16.61	5.41

 * PAIN0051-014 06/01/2013

	Rates	Fringes
GLAZIER		
Glazing Contracts \$2 million and under.....	\$ 24.30	9.61
Glazing Contracts over \$2 million.....	\$ 27.64	9.61

 PLAS0891-006 05/01/2010

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...\$	27.15	9.58

 SUVA2010-036 09/01/2010

	Rates	Fringes
DIVER TENDER.....	\$ 22.53	3.98

DIVER.....	\$ 23.73	4.21
IRONWORKER, REINFORCING.....	\$ 22.45	11.85
IRONWORKER, STRUCTURAL.....	\$ 20.55	8.25
LABORERS		
Common or General.....	\$ 11.24	1.32
Flagger.....	\$ 7.39	0.20
Landscape.....	\$ 10.00	
POWER EQUIPMENT OPERATOR:		
Backhoe.....	\$ 18.47	0.75
Bobcat/Skid Loader.....	\$ 11.40	
Bulldozer.....	\$ 17.54	
Excavator.....	\$ 17.79	
Loader.....	\$ 18.99	0.75
Trackhoe.....	\$ 12.75	1.24
Tugboat.....	\$ 19.00	
TRUCK DRIVER, Includes All		
Dump Trucks.....	\$ 12.14	0.75

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

=====

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)).

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Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

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END OF GENERAL DECISION

General Decision Number: VA130054 06/28/2013 VA54

Superseded General Decision Number: VA20120054

State: Virginia

Construction Types: Heavy (Heavy and Sewer and Water Line)

Counties: Fairfax, Fairfax* and Falls Church* Counties in Virginia.

*INDEPENDENT CITIES

HEAVY CONSTRUCTION PROJECTS (Including Sewer and Water Lines)

Modification Number	Publication Date
0	01/04/2013
1	05/10/2013
2	06/07/2013
3	06/28/2013

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	Rates	Fringes
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CARP0132-018 05/01/2013

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 26.81	8.13

ELEC0026-019 06/03/2013

	Rates	Fringes
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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.

ENGI0077-019 05/01/2012

	Rates	Fringes
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Tugboat.....\$ 19.00

TRUCK DRIVER, Includes All

Dump Trucks.....\$ 12.14 0.75

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