INSTRUCTIONS TO BIDDERS

1. **Read All Contract Documents!!!**

   Bidders shall carefully examine the Contract Documents in their entirety as no extra payments or allowance will be made for ignorance or for failure to comprehend, any of the conditions set out anywhere in this entire package.

2. **Firm Bids**

   Each bid submitted shall remain firm for at least ninety (90) days from the date of the Bid Opening and may not be withdrawn in whole or in part during that time. Bidder shall forfeit its bid security to the extent of the damage to SEPTA occasioned by such withdrawal.

3. **Complete Price**

   The price quoted in any bid submitted shall include all items of labor, materials, tools, equipment, insurance and other costs necessary to fully complete the work pursuant to the Contract Documents. It is the intention of the Contract Documents to provide and require a completed work project ready for operation. Any work items omitted from such Contract Documents which are clearly necessary for the completion of such work and its appurtenances shall be considered a part of such work although not directly specified or called for in the Contract Documents. The total price quoted for any item(s) shall be deemed by SEPTA to include the costs and NO EXTRAS will be allowed on that account. Bids which purport to exclude these costs will be rejected as non-responsive.

4. **Basis of Award**

   An award, if any will be to the lowest responsive, responsible bidder excluding any cash discount offered for all item(s) listed in the Schedule A per Specifications, if applicable, as deemed in the best interest of SEPTA. Any contract(s) to be awarded will be awarded to the RESPONSIBLE BIDDER(S) submitting the LOWEST RESPONSIVE BID or COMBINATION of BIDS. In considering alternates the following will prevail:

   a. Where alternates (additive or deductive) are not permitted or requested or where SEPTA elects to award a contract excluding alternates, the award, if one is made, shall be made to the responsible bidder submitting the lowest BASE BID.

   b. Where alternates (additive or deductive) are required to be bid and such alternates may be selected by SEPTA as part of the performance under the contract, the award(s), if one is made, shall be made to the responsible bidder submitting the lowest BASE BID (price without consideration of alternates). However, award of work for alternates may only be made to the bidder submitting the lowest BASE BID if the total of the BASE BID and the bid for such alternate or alternates, is the lowest bid submitted. If the bidder submitting the lowest BASE BID is not the lowest bidder for the total BASE BID plus alternate, or alternates, no alternates shall be awarded.

   c. Responsiveness. A responsive bid is one, both as to form and substance, which conforms to all the essential terms and conditions of the Invitation and in which the work/material offered meets the specifications in all essential respects. SEPTA
reserves the right to waive minor informalities or irregularities whenever it is to the advantage of SEPTA to do so.

d. Responsibility. SEPTA will only award a contract to a firm which it has determined to be responsible. The Bidder shall furnish adequate documentation, as determined by SEPTA, within five (5) days of receipt of SEPTA’s written request to permit SEPTA to determine the responsibility of bidder. A responsible bidder is one which meets the following standards:

(1) **Integrity and Ethics** - Has a satisfactory record of integrity and business ethics, in compliance with 49 U.S.C. section 5325(j) (2) (A);

(2) **Debarment and Suspension** – Is neither debarred nor suspended from Federal programs under DOT regulations, “Non-procurement Suspension and Debarment,” 2CFR Parts 180 and 1200, or under FAR at 48CFR Chapter 1 Part 9.4 or any Commonwealth of Pennsylvania funded programs;

(3) **Affirmative Action and DBE** – Is in compliance with the Common Grant Rules’ affirmative action and DOTs’ Disadvantaged Business Enterprise requirements, 49 CFR part 26;

(4) **Public Policy** – Is in compliance with the public policies of the Federal Government, as required by 49 U.S.C. Section 5325 (j) (2) (B) and Commonwealth of Pennsylvania public policies;

(5) **Administrative and Technical Capacity** – has the necessary organization, experience, accounting, and operational controls and technical skills, or the ability to obtain them in compliance with 79 U.S.C Section 5325 (j) (2) (D);

(6) **Licensing and Taxes** – Is in compliance with applicable licensing and tax laws and regulations;

(7) **Financial Resources** – has, or can obtain, sufficient financial resources to perform the contract, as required by 49 U.S.C. Section 5325 (j) (2) (D);

(8) **Production Capability** – Has, or can obtain, the necessary production, construction and technical equipment and facilities;

(9) **Timeliness** – Is able to comply with the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;

(10) **Performance Record** – Is able to provide a satisfactory current and past performance record.

**SEPTA RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS OR ANY PART OF ANY OR ALL BIDS, WHENEVER IT IS IN THE BEST INTEREST OF SEPTA TO DO SO.**
5. **Taxes**

Bidder, as a result of any contract entered into pursuant to this Invitation, may be subject to certain business taxes imposed by, but not limited to, municipal, school district, Commonwealth of Pennsylvania and/or the Federal government.

As to the sales tax imposed by the Commonwealth and some municipalities, bidder is directed to the provisions in Pennsylvania law found at 72 P.S. 72 §7201 et seq. SEPTA makes no representation that these statutes are the only relevant statutes that apply to this Invitation.

Bidder acknowledges that nothing in this Invitation constitutes legal advice by SEPTA thereon. Bidder, to whatever extent that Bidder deems necessary, must obtain its own legal advice on any question concerning relevant taxes. Bidder is responsible for making its own investigation to determine whether or not it is subject to municipal, Commonwealth or Federal taxes and for paying for such tax if applicable. Bidders are hereby informed that SEPTA is obligated by law to furnish to governmental entities, upon their request, the name and address of any person or firm with whom SEPTA has a contract for goods and/or services.

6. **Time of Completion, Completion Date**

The work must be completed within 675 calendar days from the date of receipt by contractor of SEPTA’s NOTICE TO PROCEED.

7. **Bid Security**

Each complete bid must be accompanied by: (1) BID BOND; (2) CASHIER’S CHECK; (3) CERTIFIED CHECK; (4) TREASURER’S CHECK; and/or (5) OFFICIAL BANK CHECK, in an amount of not less than FIVE PERCENT (5%) of the Amount Bid, including alternates, if any, and drawn in favor of the SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY (hereinafter called "Bid Security"). The Bid Security of the three lowest bidders shall be retained by SEPTA for a period of ninety (90) days, or until a contract is awarded and entered into or all bids are rejected, whichever comes first. SEPTA shall be entitled, but shall not have the obligation to cash bidder’s Bid Security check and to invest the proceeds and to retain any income generated thereby and bidder, by submission of its bid, consents to SEPTA’s retention of any income generated by such Bid Security. As used in this provision "Amount Bid” shall mean that amount which is the sum of the BASE BID plus all alternates which are bid unless such alternates are mutually exclusive or would result in deducts in which case "Amount Bid” as used herein shall be the highest possible contract price taking into consideration all possible combinations of alternates which might be included in an actual award.

The Bid Bond must be issued by a fully qualified surety company acceptable to SEPTA and listed as a company currently authorized under 31 CFR Part 223 as possessing a Certificate of Authority as described thereunder.

8. **Discrepancies - Duty of Bidder to Clarify Ambiguities**

Should a bidder find any discrepancy or ambiguity, or omission from the drawings and/or specifications, or should it be in doubt as to their meaning, the Bidder must at once notify SEPTA who will, if it determines it to be necessary, send a written addendum for clarification purposes to all bidders. Only written modifications issued as addenda will effect changes in the Bidding and/or Contract Documents. Failure of bidder to clarify ambiguities prior to bid...
opening constitutes a waiver of their right to raise any such ambiguity after bid opening.

9. **Addenda**

The contents of all addenda to bidders are to be incorporated in the bid and will become part of the Bidding and/or Contract Documents. The Bid Opening will be held no earlier than the fifth (5th) calendar day from the date of any addenda.

10. **Site Inspections**

Bidder(s) shall visit the site(s) of the work to obtain first-hand knowledge of existing conditions. Visits to the work site(s) shall be made by pre-arranged appointments with SEPTA's Racquel Burden, telephone no. 215-580-8316.

Failure to inspect the work site(s) may be grounds for disqualification of a bidder at the discretion of SEPTA. In any event, no allowances or extra payments shall be made on account of site conditions which reasonable inspection would have disclosed.

11. **Proposed Subcontractor's Listing**

SEPTA reserves the right, prior to award, to approve or disapprove all subcontractors, who will be hired to perform portions of the work. Following the bid opening, bidders shall submit to SEPTA the list of their proposed subcontractors within ten (10) days of receipt of SEPTA's written request. Bidders, as part of their bids, may submit a subcontractors list where indicated on the Bid Form.

12. **Or Equals**

Where items of equipment and/or material is defined by using a trade name or the name and catalog number of a particular manufacturer or vendor, or a limited description, the term "OR EQUAL" if not written thereafter shall be implied. Any reference to a particular manufacturer's product either by trade name or limited description is only for purposes of setting a standard of performance, quality, composition, construction or size.

The term "OR EQUAL" means any other manufactured product or article which is equivalent in material, workmanship and service and is as efficient and economical in operation in the opinion of SEPTA.

13. **Bid Package**

The Bid Package that will be submitted to SEPTA must include the following to be considered responsive:

a. Signed Bid Acknowledgement Form.
b. Bid Security

14. **Contract**

The bidders should execute and submit one (1) copy of the Agreement (pages 1 through 132) and all of its Exhibits and, if applicable, Special Conditions.
If bidder's Bid Form contains base bid and ALTERNATES (additive or deductive) bidder shall leave Paragraph II. (Contract Sum) of the Agreement blank. The final dollar amount shall be inserted by SEPTA in accordance with bidders' bid based on base bid plus or minus those alternates chosen by SEPTA.

The Agreements of all bidders will be retained by SEPTA until (a) a contract is awarded and entered into; (b) a period of ninety (90) days has passed or; (c) all bids are rejected, whichever comes first.

15. **Non-Collusion Requirement**

In the event bidder is deemed the lowest responsive bidder and as part of the bid signed herewith, bidder hereby agrees to sign an Affidavit of Non-Collusion, if requested by SEPTA, in form acceptable to SEPTA prior to the award, if any, of the contract. A sample Affidavit of Non-Collusion is included in the Bid Forms.

16. **Construction Subcontracting Requirements**

Bidders are reminded that SEPTA's construction contract sets forth requirements which must be met by and included in any subcontract awarded by a construction contractor under contract to SEPTA. The general requirements which must be met by a subcontract are set forth in Paragraph IX. Subcontracts, of the contract. All State provisions and clauses (Exhibits I & III) must be included in all subcontracts.

17. **Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

**Suspension and Debarment**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor’s principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid, the bidder certifies as follows:

The certification in this clause is a material representation of fact relied upon by SEPTA. If it is later determined that the bidder knowingly rendered an erroneous certification, in addition to remedies available to SEPTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder further agrees to include a provision requiring such compliance in its lower tier covered transactions.

18. **Disadvantaged Business Enterprise (DBE) Goal**

**Established Goal(s)** --Bidder is required to submit, a properly executed DBE Participation Schedule for each participating DBE subcontractor/sub-consultant/supplier. Failure by the Bidder to submit the DBE Participation Schedule may result in the rejection of the bid. Within forty-eight (48) hours from notification by SEPTA, Bidder is required to submit a commitment confirmation document for each DBE firm scheduled to participate. SEPTA
reserves the right to accept the bid in the event it has been determined that the DBE Participation Schedule submitted has clerical error/omissions and they have been corrected to SEPTA’s satisfaction. Firms must be certified prior to submission of the Participation Schedule. Please refer to the DBE section, Exhibit III.

Failure to comply with the above requirements to SEPTA’s satisfaction will be considered a withdrawal of subject bid and Bidder’s security will be forfeited to the extent of the damage to SEPTA occasioned by such withdrawal.

At SEPTA’s sole discretion, Bidders failing to meet the above requirements may be suspended from future contracting opportunities.

19. **SEPTA Solicitation Statistics Survey for DBE and Non-DBE Contractor/Subcontractor Form**

All Bidders are required to complete a SEPTA Solicitation Statistics Survey for themselves and each of their DBE and non-DBE bidders in accordance with 49 CFR part 26.11. The form is to be signed by an officer legally authorized to bind the Bidder to a Contract and shall be submitted to SEPTA upon written request.

20. **Steel Products Act**

All steel products used or supplied in the performance of the Contract shall be products produced from steel made in the United States in conformity with the Steel Products Procurement Act of 1978 (Act No. 3 of 1978, March 3, P.L. 6 (73 P.S. §1881 et seq.)), as amended and, if the federal Buy America requirements are applicable to the Contract, in full conformity with the Buy America provisions of 49 U.S.C. §5323(j) [formerly the Federal Surface Transportation Assistance Act of 1982, as amended] and the applicable regulations in 49 CFR Part 661.

The Commonwealth of Pennsylvania considers the requirements of the Steel Products Procurement Act to be met for federally funded projects with the federal Buy America Requirements.

21. **Certification Regarding Lobbying NOT USED**

22. **Buy America Provision NOT USED**

23. **Certification Regarding Compliance with Immigration Reform and Control Act of 1986**

By signing and submitting a bid, the bidder agrees to furnish the Certification Regarding Compliance with Immigration Reform and Control Act of 1986 in compliance with the requirements stated in 8 U.S.C. §1324 (a). The signed Certification may be submitted concurrent with the submission of the Bid Forms. If the Certification is not submitted along with the Bid Forms, it shall be submitted within five (5) days of bid opening, unless SEPTA grants, in writing, an extension.

24. **Furnishing of Bonds:**

If awarded this Contract, the Bidder must furnish within ten (10) days after receipt from SEPTA of a notice to award, a properly executed Performance Bond in the amount of one hundred percent (100%).
The Performance and Labor and Material Payment Bonds each must be issued by a fully qualified surety company acceptable to SEPTA and listed as a company currently authorized under 31 CFR part 223 as possessing a Certificate of Authority as described thereunder.

25. **Rights Reserved**

In submitting their bid the Contractor understands that the right is reserved by SEPTA to reject any and all bids, or part of any bid, and it is agreed that the bid may not be withdrawn for a period of ninety (90) days subsequent to the opening of bids, without the consent of SEPTA.

It is also understood and agreed that if the bidder should withdraw any part or all of its bid within ninety (90) days after the bid opening without the consent of SEPTA, or shall refuse or be unable to enter into the Contract as provided with these documents, it shall **forfeit its bid security** to the extent of SEPTA’s damages occasioned by such withdrawal, or refusal, or inability to enter to a contract.

It is further understood and agreed, that to the extent the defaulting bidder’s Bid Bond, Certified Check and/or Cashier’s Check (excluding any income generated thereby which has been retained by SEPTA as provided in Item 7 “Bid Security” in these instructions) shall prove inadequate to fully recompense SEPTA for the damages occasioned by default, then the bidder agrees to indemnify SEPTA and pay over to SEPTA the difference between the bid security and SEPTA’s total damage, so as to make SEPTA whole.

26. **Single Bid Response**

In submitting this bid, it is understood and agreed by the undersigned bidder that in the event that only one responsive bid is received by SEPTA, bidder, within ten (10) days of receipt of SEPTA’s written request, will furnish a price analysis of the amount(s) bid in this bid.

In the event that the amount bid exceeds $100,000 for an item for which only one responsive bid is received by SEPTA, bidder, within ten (10) days of receipt of SEPTA’s written request, will also furnish a detail cost breakdown (including but not limited to such items as labor costs, overhead, material costs and profit) of the amount bid in this bid for such item. The costs included in the bid shall be calculated in accordance with Federal Acquisition Regulation Part 31, Contract Cost Principles and Procedures.

The purpose of the above information is to permit SEPTA to make a determination that the price is fair and reasonable in accordance with SEPTA’s Procurement Manual. Bidder further agrees to cooperate with SEPTA in SEPTA’s evaluation and to permit verification by SEPTA of data provided by bidder through audit or other means.

27. **Employment/Jobs Reporting**

If awarded the Contract, the Bidder must adhere to the Employment Activity reporting requirements. Failure to comply with these requirements will result in the delay of progress payments.
A Bid/Proposal Protest Procedure:

Bid/proposal protests relative to this procurement will be reviewed and adjudicated by SEPTA in accordance with the following Bid/Proposal Protest Procedure.

**SEPTA BID/PROPOSAL PROTEST PROCEDURE**

1.0 PURPOSE

1.1 This section describes the policies and procedures governing the receipt and resolution of protests in connection with an Invitation for Bid (IFB) or Request for Proposal (RFP). This procedure is applicable to all procurements in excess of $100,000. Bid/proposal protests for procurements of less than $100,000 shall be informally handled by the Senior Director of Procurement or his/her designee.

2.0 DEFINITIONS

2.1 "Interested Party" means any bidders/proposers.

2.2 "days" means business days.

2.3 “Filed” means the date of receipt by The Office of SEPTA’s Senior Director of Procurement or his/her designee (hereinafter Senior Director of Procurement).

2.4 “Federal/State Law or Regulation” means any valid requirement imposed by Federal, State, or other Statute or regulation.

2.5 “Presumptive Contractor” means the bidder/proposer that is in line for award of the contract in the event that the protest is denied.

2.6 “Protestant” is an Interested Party who is aggrieved in connection with the solicitation or award of a contract and who files a protest.

3.0 TYPES OF PROTESTS/ TIME LIMITS

3.1 **Pre-Bid/Proposal** Protest is based upon alleged restrictive specifications or alleged improprieties in SEPTA’s procurement process. A Protestant must file a pre-bid/proposal protest no later than five (5) days prior to bid opening date by 4:30 p.m. Philadelphia prevailing time.

3.2 **Pre-Award** Protest is based upon alleged improprieties of a Bid/Proposal. A Protestant must file a pre-award protest no later than five (5) days after the Protestant knows or should have known of the facts giving rise thereto by 4:30 p.m. Philadelphia prevailing time.
3.3 **Post-Award Protest** is based upon the award of a contract. A Protestant must file a post-award protest no later than five (5) days after the notification to the unsuccessful firms of SEPTA’s intent to award, or no later than five (5) days after an unsuccessful firm becomes aware of SEPTA’s intent to award a contract, whichever comes first, by 4:30 p.m. Philadelphia prevailing time.

4.0 **CONTENTS OF PROTEST**

4.1 Protests must be in writing, and filed directly with the Office of SEPTA’s Senior Director of Procurement, at the address indicated in the solicitation, and must contain the following information:

   a. The name, address and telephone number of the Protestant; and
   
   b. Identity of the IFB or RFP (by number and description); and
   
   c. A detailed factual statement of the grounds for protest; and
   
   d. The desired relief, action or ruling.

5.0 **ACTION BY SEPTA**

5.1 Procurement Process Status

Upon timely receipt of a protest, SEPTA will delay the opening of bids until after resolution of the protest for protests filed prior to the bid opening, or withhold award until after resolution of the protest for protests filed after bid opening. However, SEPTA may open bids or award a contract whenever SEPTA, at its sole discretion, determines that:

   a. The items or work to be procured are urgently required; or
   
   b. Delivery or performance will be unduly delayed by failure to make the award promptly; or
   
   c. Failure to make prompt award will otherwise cause undue harm to SEPTA or a funding source.

If the protest is filed before the award of the contract, SEPTA will advise the Presumptive Contractor of the pending protest.

5.2 If deemed appropriate, SEPTA may conduct an informal conference on the merits of the protest with all Interested Parties invited to attend.

5.3 Response to the Protest

SEPTA’s Senior Director of Procurement will respond in detail to each substantive issue raised in the protest within a reasonable time after the
protest is filed. SEPTA’s response shall address only the issues raised originally by the Protestant.

When, on its face a protest does not state a valid basis for protest or is untimely, the Senior Director of Procurement may summarily dismiss the protest without requiring a detailed response.

5.4 Rebuttal to SEPTA Response

The Protestant may submit a written rebuttal to SEPTA’s response, addressed to the Senior Director of Procurement, but must do so within five (5) days after receipt of the original SEPTA response. SEPTA will not address new issues raised in the rebuttal. After receipt of the Protestant’s rebuttal, the Senior Director of Procurement will review the protest and notify the Protestant of his/her final decision.

5.5 Request for Additional Information

Failure of the Protestant to comply with a request for information as specified by SEPTA’s Senior Director of Procurement, may result in determination of the protest without consideration of the additional information if subsequently produced. If any Interested Party requests information from another Interested Party, the request shall be made to SEPTA’s Senior Director of Procurement, and, if SEPTA so directs, shall be complied with by the other party within five (5) days.

5.6 Request for Reconsideration

If data becomes available that was not previously known, or there has been an error of law, a Protestant may submit a request for reconsideration of the protest. SEPTA’s Senior Director of Procurement will again review the protest considering all currently available information. The Senior Director of Procurement’s determination will be made within a reasonable period of time, and his/her decision will be considered final.

5.7 Decision

Upon review and consideration of all relevant information the determination as issued by SEPTA will be final.

6.0 CONFIDENTIALITY OF PROTEST

Material submitted by a Protestant will not be withheld from any Interested Party, except to the extent that the withholding of information is permitted or required by law or regulation. If the Protestant considers that the protest contains proprietary material which should be withheld, a statement advising of this fact must be affixed to the front page of the protest submission and the allegedly protected information must be so identified whenever it appears.
7.0 FEDERAL TRANSIT ADMINISTRATION (FTA) INVOLVEMENT

Where procurements are funded by the FTA within five (5) business days from receipt of SEPTA’s final decision, the Protestant may file a protest with the FTA only where the protest alleges that SEPTA failed to have or failed to adhere to its protest procedures or there was a violation of Federal Law or Regulation. Any protest to the FTA must be filed in accordance with FTA Circular 4220.1F.

[END OF SECTION]
NON-COLLUSION AFFIDAVIT

State of __________________________)

County of __________________________)

________________________________________________________, being first duly sworn,

deposes and says that he/she is __________________________________________

(insert "sole owner", "a partner", or other proper title)

of __________________________ the offeror submitting this bid; that such offer was not made in the interest of or on behalf of any undisclosed person, partnership, company organization or corporation that such offer is genuine and not collusive or a sham; and that said offeror has not been a party to any agreement to bid a fixed amount or to refrain from offering and has not, directly or indirectly, by agreement, communication or conference with anyone attempted to induce action prejudicial to the interests of the Southeastern Pennsylvania Transportation Authority, of any offeror or anyone else interested in the proposed contract;

Signed: __________________________________________

Subscribed and Sworn to before me this _____ day of _____________, 20__.

________________________

NOTARY PUBLIC

(Seal of Notary)
BID ACKNOWLEDGMENT FORM – STATE CONSTRUCTION CONTRACT

Bid No. 15-00228-ARIB

Date:

Gentlemen:

The Bidder hereby acknowledges the DBE contract goal(s) established for this solicitation and will comply with the requirements of 49 CFR Part 26 found in Exhibit III of the Contract. Having examined the Invitation to Bid, the Instructions to Bidders, this Bid Form, the Performance Bond, the Labor and Materials Payment Bond, the Contract, the Specifications, the Contract Drawings and all addenda entitled, 69th St. Complex Roofs – NHSL and MSHL (hereinafter referred to as the "Project"), and having inspected the site of, and the conditions affecting and governing the performance of said Project, the undersigned hereby bids to furnish all services, material and perform all labor specified and described in the said contract documents and as shown in the said Drawings for the said Project and meet all conditions of the contract, in consideration of the contract sum, which shall be a total price of the entire Project in accordance with the following schedule of items:

If Bidder is a CORPORATION execute here:

EXECUTED FOR ____________________________________________

*If signed by some other officer, a power of attorney or certified Board Resolution authorizing such signature must be attached

BY ____________________________________________

*President or *Vice President

ATTEST: ____________________________________________

*(Asst.) Secretary or *(Asst.) Treasurer

********************************************************************************************************

If Bidder is PARTNERSHIP execute here:

________________________________________

Name of Partnership

WITNESS ____________________________________________ Signing Partner

Principal Partners (10% or more) ____________________________________________

________________________________________

________________________________________

*******************************************************************************************

If Bidder is an INDIVIDUAL execute here:

Trade or Business Name: ____________________________________________

and State of Registration: _____________________________.

WITNESS ____________________________________________ Signature of Owner
Part A: Lump Sum
All work completed in accordance with the Contract Documents inclusive of the specifications and drawings. The bid price should include all costs for labor, material, equipment, permits, bonds, and insurance. This is for the general construction of the Norristown High Speed Line and the Media Sharon Hill Line Roof Replacement.

Part B: Unit Prices:

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit</th>
<th>Unit Price</th>
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<tr>
<td>1</td>
<td>Asbestos Abatement:</td>
<td>5500</td>
<td>Square Feet</td>
<td>$</td>
<td>$</td>
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<td></td>
<td>Work under this section shall consist of removal, transportation, and disposal of asbestos-containing materials (ACM) that are present at project limits, in accordance with specification section 02071.</td>
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<td>2</td>
<td>Concrete Decking Repair/Patching:</td>
<td>1550</td>
<td>Square Feet</td>
<td>$</td>
<td>$</td>
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<td>Work under this section shall consist of proving all labor, materials, equipment, tools and other incidentals necessary to remove, repair and restore existing concrete roof surfaces within project limits. Including but not limited for repairing or patching spalled and delaminated concrete surfaces at locations where deck is deteriorated or areas where deck is damaged due to removal of existing conduits, roof drains or any other roof penetrations, as shown on contract drawings and in accordance with specification section 03930.</td>
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Total Part B (Sum of Items #1 thru 2)  

Total Contract Sum (Sum of Parts A & B)  

Basis of Award: Please refer to instructions to Bidders Item #4.
From:

Name of Bidder

Address of Bidder

City, State, Zip

Telephone Number

FAX Number (if available)

E-Mail Address (if available)

(GC)
All work completed in accordance with the Contract Documents inclusive of the specifications and drawings. The bid price should include all costs for labor, material, equipment, permits, bonds, and insurance. This is for the mechanical construction of the Norristown High Speed Line and the Media Sharon Hill Line Roof Replacement.

Lump Sum $____________________

Basis of Award: Please refer to instructions to Bidders Item #4.

From:

Name of Bidder

Address of Bidder

City, State, Zip

Telephone Number  FAX Number (if available)

E-Mail Address (if available)
All work completed in accordance with the Contract Documents inclusive of the specifications and drawings. The bid price should include all costs for labor, material, equipment, permits, bonds, and insurance. This is for the electrical construction of the Norristown High Speed Line and the Media Sharon Hill Line Roof Replacement.

Lump Sum $ ________________

Basis of Award: Please refer to instructions to Bidders Item #4.

From:

Name of Bidder

Address of Bidder

City, State, Zip

Telephone Number FAX Number (if available)

E-Mail Address (if available)
ADDENDA:

All addenda, the receipt of which are hereby acknowledged by inserting the dates next to the appropriate numbers, have been included in this Bid and are listed below. Failure to properly acknowledge the addenda as set forth below may result in rejection of the bid. However, SEPTA reserves the right to accept the bid if SEPTA determines that the failure to properly acknowledge the addendum was due to a clerical mistake and if the bid intent can be determined from the bid submitted.

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**PROPOSED CONSTRUCTION SUBCONTRACTORS' LISTING:**

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CERTIFICATION REGARDING COMPLIANCE WITH IMMIGRATION
REFORM AND CONTROL ACT OF 1986

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. Consultant has and will continue to comply with, for the duration of this Agreement, the requirements of 8 U.S.C. § 1324a with respect to the hiring, recruiting or referral for employment of an alien in the United States of America.

2. Consultant will 1) Complete the Employee Eligibility Form (I-9) for each person that it hires, 2) Utilize the electronic employment verification system (“E-Verify”) designated in Executive Order 12989, and shall keep each I-9 Form on file for at least three (3) years, or one (1) year after employment ends, whichever is longer.

3. Consultant shall require that the provisions of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the parties entered into this Agreement. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Act 43 of 2006, the Illegal Alien Labor on Assisted Act also known and cited as the Prohibition of Illegal Alien Labor on Assisted Projects Act.

Signature: __________________________________________

Company Name: _________________________________________

Title: ____________________________

Date: ____________________________
CONTRACT

FOR

69th St. Complex Roofs – NHSL and MSHL

15-00228-ARIB
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CONTRACT
FOR 69th St. Complex Roofs – NHSL and MSHL

THIS AGREEMENT made this __________ day of _______________________, 20__, between the SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY ("SEPTA"), a body corporate and politic exercising the powers of the Commonwealth of Pennsylvania as an agency and instrumentality thereof, with offices located at 1234 Market Street, Philadelphia, Pennsylvania 19107-3780, AND _____ a ______________________________, established under the laws of (hereinafter called the "CONTRACTOR"), having a principal place of business at ______________________________.

WITNESSETH THAT:

WHEREAS, SEPTA requires certain work, hereinafter more fully described to be performed in connection with an undertaking of SEPTA (hereinafter called "Project"); and

WHEREAS, the Contractor, pursuant to SEPTA's Invitation to Bid has submitted a bid to perform all the work required by this contract and such bid (base bid and indicated alternates as follows: 69th St. Complex Roofs – NHSL and MSHL) has been accepted by SEPTA.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, THE PARTIES hereto, intending to be legally bound, hereby AGREE as follows:

I. The Contractor shall perform the Work required by the Contract Documents, more particularly set forth in the Specifications for this Contract including the Drawings.

II. SEPTA shall pay the Contractor for the full and faithful performance of the Work an amount not to exceed $_______________ (hereinafter called "Contract Sum") in current funds constituting legal tender of the United States of America, which Contract Sum shall be in full compensation for the furnishing of all labor, materials and services required for the completion of the Work, and all other costs and expenses incidental thereto.

III. DEFINITIONS

Whenever they appear in the Contract Documents these words shall have the following meaning:

A. Contract

The Contract Documents form the Contract. The Contract represents the entire and integrated agreement between the parties hereto and (except for substantial representations made by the Contractor upon which SEPTA was entitled to rely in making the decision to award the Contract to Contractor) supersedes prior negotiations, representations or agreements, either written or oral. Any change or amendment to the Contract shall not be binding unless set forth in writing, properly signed and subject to government concurrence where applicable, pursuant to Paragraph XIV. of this Agreement.
B. **Contract Documents**

which form the Contract consist of the following:

1. This Agreement, including any referenced documents or exhibits;

2. The following Special Condition(s): Release and Agreement to conform with Environmental Laws for the Removal of Asbestos and Hazardous Waste.

3. Performance Bonds; Labor and Material Bonds;

4. Specifications and Drawings;

5. Addenda issued prior to execution of this Agreement; and

6. Any written change or amendment to any of the above documents as listed in "1." through "5."

C. **Architect or Engineer**

shall mean the organization designated below or its authorized on-site representative for this Project or Contract:

Erica Antoine, PE

1835 Market St., Suite 300

Philadelphia, PA 19103

D. **Government**

shall include any political subdivision, agency or department, whether Federal, State or Local.

E. **Project Manager**

shall mean Glenn Morris of SEPTA, or his/her representative(s) designated in writing.

F. **Contract Administrator**

shall mean Racquel Burden of SEPTA, or his/her representative(s) designated in writing.

G. **The Work**

shall include all labor and services necessary to complete the construction required by the Contract Documents, all material and equipment incorporated into such construction, and bonds, insurance, and any other performance required of the Contractor in order to complete the Project in accordance with all terms and conditions of the Contract, including all costs and expenses incidental thereto.

H. **Changed Work**

shall include those portions of the Work as modified by Change Orders as defined in Paragraph XIV.B.
IV. CONFLICTS - ALL DUTIES TO CONTRACTOR TO BE CUMULATIVE DUTIES

Except as provided in Paragraph XIII.D., in the event of any conflict among the terms, conditions or provisions of the Contract Documents, it shall be Contractor's obligation to promptly request a written clarification from SEPTA before proceeding with any portion of the Work affected by such clarification. SEPTA will review and respond to such requests within a reasonable time. Contractor shall not proceed prior to receipt of SEPTA's written response.

All terms, covenants and conditions of the Contract Documents shall be read together and shall be interpreted as a cumulative obligation to perform all the Work described herein completely and in the best and most workmanlike manner within the provisions of all of the Contract Documents.

With respect to technical matters, all questions pertaining to the quality or quantity of any item of the Work, or to the extent of the Drawings and Specifications, or to conflicts or inconsistencies between the Specifications and Drawings shall be promptly submitted by the Contractor to SEPTA, whose determination shall be final and binding upon the Contractor. SEPTA's interpretation shall be based on the following descending order of priority:

A. Agreement, and Change Orders
B. Special Conditions
C. Specifications
D. Drawings

If the Contractor adjusts such matters on its own initiative without a determination by SEPTA, it shall be at its sole risk and peril. With respect to any conflicts between requirements or standards of Federal and State or Local Law applicable to the Contract, the strictest standard shall govern.

V. EXECUTION, INTERPRETATION AND INTENT

A. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials or equipment such words shall be interpreted in accordance with that meaning.

B. The organization of the Specifications into divisions, sections and articles, and the arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

C. Written interpretations necessary for the proper execution or progress of the Work, in the form of drawings, or otherwise will be issued with reasonable promptness by the Project Manager and in accordance with any schedule agreed upon in accordance with Paragraph VIII.M. Written requests for such interpretation may be submitted to the Project Manager. Such interpretations shall be consistent with and reasonably inferable from the Contract Documents, and may be effected by Field Order as defined in Paragraph XIV.J.

VI. ARCHITECT AND ENGINEER

A. The Architect, if applicable, is the person or organization licensed to practice Architecture who is performing architectural services for SEPTA. The term Architect means the Architect or its authorized representative.
B. The Engineer, if applicable, is the person or organization licensed to practice Engineering who is performing Engineering services for SEPTA. The term Engineer means the Engineer or its authorized representative.

C. Nothing contained in the Contract Documents shall create any contractual relationship between the Architect and the Contractor or the Engineer and the Contractor.

VII. CONTRACTOR TO COOPERATE WITH SEPTA’s DESIGNATED PROJECT REPRESENTATIVES

Contractor shall cooperate with SEPTA's Project Representatives, namely SEPTA's Project Manager, who shall be responsible for technical direction provided by SEPTA, and SEPTA's Contract Administrator, who shall be responsible for the administration of the Contract on SEPTA's behalf.

VIII. CONTRACTOR

A. The Contractor is the person or organization identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number and neutral in gender. The term "Contractor" means the Contractor or its authorized representative.

B. The Contractor shall perform on the site with its own organization at least twenty percent of the total amount of work to be performed under this Contract.

C. Contractor Assumes Duty to Review Contract Documents

The Contractor shall carefully study and compare the Contract Documents and shall at once report to the Project Manager any error, inconsistency or omission that it may discover. Contractor expressly agrees that failure to promptly and immediately notify SEPTA of any question or ambiguity shall be deemed by SEPTA to be a waiver by Contractor of its rights with respect to any such question or ambiguity.

D. Supervision and Construction Procedures

The Contractor accepts the relationship of trust and confidence established between it and SEPTA by the Contract. It covenants with SEPTA to furnish its best skill and judgement and to cooperate with SEPTA's Engineer or Architect, as applicable, in furthering SEPTA's interest. It agrees to furnish efficient business administration and superintendence and to use its best efforts to furnish at all times an adequate supply of workmen and materials, and to perform the Work in the best and soundest way and in the most expeditious and economical manner consistent with the interests of SEPTA and in accordance with the Contract Documents.

The Contractor shall supervise and direct the Work, using its best skill and attention. It shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the Contract.

E. Labor, Materials and Facilities

1. Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work.

2. The Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ on the Project site any unfit person or anyone
not fully skilled and capable of performing the task assigned to him/her. Any employee not conforming to these requirements shall be removed from SEPTA property.

3. The Work furnished must be of the first quality and the workmanship must be the best obtainable in the various trades. The Work must be safe, substantial and durable construction in all respects.

4. Contractor shall provide, maintain and pay all cost of temporary water lines from service location. All temporary water lines shall be kept free from all leaks and defects and shall be removed after completion of Work and the service location shall be restored to its original condition.

5. Sanitary toilet facilities shall be provided by the Contractor. Such facilities shall conform to all local and State regulations and are subject to the approval of SEPTA. Toilets shall be maintained at all times in sanitary condition and shall be removed at the completion of Work.

F. Contract Security

The Contractor shall furnish and maintain properly executed Performance Bonds and Labor and Material Payment Bonds, each written by good and sufficient sureties and in form acceptable to SEPTA, each in the amount of one hundred percent (100%) of the Contract Sum. If any of the sureties on these bonds should become insolvent or bankrupt in a technical or equitable sense, or otherwise become unqualified to underwrite these bonds for one hundred per cent (100%) of the Contract Sum, or the Contract Sum is adjusted so as to exceed the penalties of such bonds, SEPTA may require, on ten (10) days written notice, the Contractor to furnish new or additional bonds from the same or different sureties so as to be fully secured at all times for one hundred percent (100%) of the Contract Sum. The desired form of Labor and Material Payment Bond consists of AIA Document A311, while the Performance Bond must be in form acceptable to SEPTA.

The Performance Bond and Labor and Material Payment Bond must be issued by a fully qualified surety company acceptable to SEPTA and listed as a company currently authorized under 31 CFR Part 223 as possessing a Certificate of Authority as described thereunder.

G. Indemnification

In addition to all other obligations of Indemnification specified herein, Contractor agrees to release and be liable for and to defend, indemnify and save harmless SEPTA, its Board Members, officers, agents, servants, workmen, employees, subsidizers and indemnities, the Pennsylvania Department of Transportation, the City of Philadelphia and any and all government funding agencies providing funds or services in connection with this Project (hereinafter collectively referred to as "SEPTA"), from and against any and all loss, cost, damage, liability and expense, including consequential damages, counsel fees, whether or not arising out of any claim, suit or action at law, in equity, or otherwise, of any kind or nature whatsoever, including negligence, arising out of the performance of the work by reason of any accident, loss or damage of property, including the work site, property of SEPTA and Contractor, or injury, including death, to any person or persons, including employees of SEPTA, Contractor, subcontractors at any tier or any person working on Contractor’s behalf, caused by Contractor, which may be sustained either during the term of the Contract, or upon or after completion of the Project, whether brought directly by these persons or by anyone claiming under or through them including heirs, dependents and estates.

Contractor also agrees for itself and on behalf of its agents, servants, subcontractors, material
men and employees to defend, indemnify and hold harmless SEPTA from and against any and all claims of any kind or nature whatsoever regarding subcontractors and material men and agrees to assume the defense of SEPTA to any such suit at its cost and expense. The Contractor further assumes the risk of loss and damage to materials, machinery and equipment to be incorporated in the Work at all times prior to delivery to the Project site or while in the possession or under the control of the Contractor.

Contractor, for itself and its employees, Board members, officers, agents, servants, workmen, contractors, subcontractors, licensees and invitees, or any other person working on Contractor's behalf, hereby releases and agrees to be liable for and to defend, indemnify and save harmless SEPTA, except to the extent that SEPTA is negligent in whole or in part, for any claims made by an employee, Board member, officer, agent, workman or servant of Contractor's or any other person working on Contractor's behalf, including claims for compensation or benefits payable to any extent by or for Contractor under any workers' or similar compensation acts or other employee benefit acts, and Contractor expressly waives its statutory protection under §303, as amended, of The Pennsylvania Workers’ Compensation Act, 77 P.S. §481 (b).

In addition, Contractor shall indemnify SEPTA for any fines and legal fees incurred because employees, agents, or workers supplied by Contractor are not authorized to work in the United States.

H. Taxes

The Contractor shall pay all sales, consumer, use and other taxes which it is by law required to pay.

I. Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to SEPTA and the Architect or Engineer that all materials and equipment furnished under the Contract will be of highest quality and new unless otherwise specified by SEPTA, free from faults and defects and in conformance with the Contract Documents. All Work not so conforming to these standards shall be considered defective. If required by the Project Manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after final acceptance, as determined by SEPTA and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to SEPTA. As additional security for these guarantees, the Contractor shall, prior to final acceptance by SEPTA, furnish separate Maintenance (or Guarantee) Bonds in form acceptable to SEPTA written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for the Contract, unless otherwise permitted by SEPTA in writing. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after final acceptance, as determined by SEPTA, and shall be written in an amount equal to one hundred percent (100%) of the Contract Sum, as adjusted (if at all). Samples of the desired bond forms are attached to the Contract for informational purposes.

In the event that the Work is to be completed in phases, and such phases are completed to the full satisfaction of SEPTA, SEPTA shall issue a Certificate of Substantial Completion for the phase(s) or portion(s) of the work. The date of such Substantial Completion by SEPTA shall be the date upon which all warranty periods for the
accepted phase or phases of the work will commence.

Neither completion of a phase nor portion of the Work nor final acceptance will be considered by SEPTA until all applicable elements of the work is completed. This includes, but is not limited to, training of SEPTA personnel, delivery of parts, delivery of maintenance and/or operations manuals, and the successful completion of any testing and/or “burn-in” periods. Furthermore, in the event that a latent defect is found in the work during the warranty period, the warranty shall be extended by the length of time that it took the Contractor to fully correct the latent defect.

In addition to the warranty requirements stated above, in the event that warranties extending beyond one (1) year are normally provided for any material, equipment, and/or labor provided for all or part of this Project, and the cost of these warranties are included in the bid price, then such warranties are to be extended to SEPTA at no additional cost. All documentation regarding extended warranties is to be transferred to SEPTA upon the date of partial or final acceptance, whichever should occur first, as determined by SEPTA.

In the event that the warranty work is to be completed after the expiration of the Contract, the Contractor hereby agrees to maintain in force and/or extend all of the insurance as originally required by the Contract when it was in force, with SEPTA and any other entity required by SEPTA named as additional insured. The Contractor is to procure a Right of Entry Permit from Procurement and Contracts and may be required to submit proof of insurance before SEPTA will issue the permit.

J. Permits, Fees and Notices

1. The Contractor shall obtain and pay for all permits, governmental fees and licenses necessary for the proper execution and completion of the Work.

2. The Contractor shall give all notices and comply fully with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work. If the Contractor observes that any of the Contract Documents are at variance therewith in any respect, it shall promptly notify the Project Manager in writing, and any necessary modification shall be effected as determined by the Project Manager. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Project Manager, it shall assume full responsibility therefore and shall bear all costs, penalties, or fees attributable thereto.

K. Superintendent

The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the Work. The superintendent shall be satisfactory to the Project Manager, and shall not be changed except with the consent or at the direction of the Project Manager, unless the superintendent proves to be unsatisfactory to the Contractor and ceases to be in its employ. If the Project Manager orders that the superintendent be changed, then the Contractor shall promptly replace him or her with a new superintendent who is satisfactory to the Project Manager.

The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications will be confirmed in writing. Other communications will be so confirmed on written request in each case.
L. Responsibility for Those Performing The Work

The Contractor shall be responsible to SEPTA for the acts and omissions of all its employees and all of its Subcontractors, their agents and employees, and all other persons performing any of the Work under a contract with the Contractor.

The Contractor agrees that all personnel used in performance of the Contract shall be considered employees of the Contractor or its Subcontractors and in no event shall any of the personnel employed in the performance of the Contract be considered employees of SEPTA.

M. Construction Schedule

Contractor shall abide by all requirements attached hereto and made a part hereof in EXHIBIT II.

N. Drawings and Specifications at the Site

1. The Contractor shall maintain at the site one (1) clean record copy of all Drawings, Specifications, Addenda, approved Shop Drawings, Change Orders and Amendments, in good order, used to memorialize the As-Built condition of the work. These shall be available to the Project Manager, Architect or Engineer at all times. The Drawings and Specifications, marked to record all changes made during construction, shall be delivered to SEPTA upon completion of the Work.

2. The Contractor shall keep an accurate and current record of all deviations from the approved design drawings and Specifications that have occurred in the Work. The deviations are to be recorded on the As-Built Job Set documents.

The Contractor shall maintain this record of deviations on a continuous and regular basis. The As-Built Documents must be made available for the review of the Architect or Engineer and/or the Project Manager as required. The Failure of the Contractor to maintain and record these deviations on a continuous basis may result in SEPTA withholding a portion or all of the progress payments impacted by the failure to maintain the As-Built Job Set in a timely manner.

Upon completion of the Work, the Contractor shall complete As-Built changes on the Final As-Built Drawings. The Contractor shall furnish additional reproducible drawings where the "As-Built" changes cannot be readily or completely shown on the Contract Drawings.

Final acceptance of the Work and full payment are contingent upon SEPTA's acceptance of the "As-Built" drawings. SEPTA reserves the right to reject unacceptable Drawings and Specifications. The Contractor shall remedy the same at no additional cost to SEPTA.

O. Shop Drawings and Samples

1. "Shop Drawings" mean any drawings, diagrams, illustrations, schedules, performance charts, brochures and other data which are prepared by the Contractor or any Subcontractor, manufacturer, supplier or distributor, and which illustrate some portion of the Work.

2. "Samples" mean physical examples furnished by the Contractor to illustrate materials, equipment or workmanship, and to establish standards by which the Work will be judged.
3. The Contractor shall review, stamp with its approval and submit to the Project Manager, with reasonable promptness and in orderly sequence so as to cause no delay in the Work or in the Work of any other contractor, or Subcontractor, all Shop Drawings and Samples required by the Contract Documents. Shop Drawings and Samples shall be properly identified as specified, or as the Project Manager may require. Shop Drawings and Samples submitted to the Project Manager without evidence of the Contractor's review and approval may be returned for resubmission.

At the time of submission the Contractor shall inform the Project Manager in writing of any deviation in the Shop Drawings or Samples from the requirements of the Contract Documents. Failure to inform the Project Manager shall result in an automatic rejection of such submittal.

4. By approving and submitting Shop Drawings and Samples, the Contractor shall represent that it has determined and verified all field measurements, field construction criteria, materials, catalog numbers and similar data, or will do so, and that it has checked and coordinated each Shop Drawing and Sample with the requirements of the Work and of the Contract Documents.

5. The Architect or Engineer will review Shop Drawings and Samples, but only for conformance with the design concept of the Project and with the information given in the Contract Documents. Review of component or sub-assembly items shall not indicate review of an assembly in which the component or sub-assembly functions. Any work done by the Contractor prior to such review by the Architect or Engineer shall be at the Contractor's risk.

6. The Contractor shall make any corrections required by the Architect or Engineer and shall resubmit the required number of corrected copies of Shop Drawings or new Samples until accepted. The Contractor shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections requested by the Architect or Engineer on previous submissions.

7. The Architect's or Engineer's review of Shop Drawings or Samples shall not relieve the Contractor of responsibility for any deviation from the requirements of the Contract Documents unless the Contractor has informed the Architect or Engineer in writing of such deviation at the time of submission and the Architect or Engineer has given written acceptance to the specific deviation, nor shall the Architect's or Engineer's review relieve the Contractor from responsibility for errors or omissions in the Shop Drawings or Samples.

8. The Architect or Engineer will review and return Shop Drawings received from the Contractor in a reasonable time after receipt thereof.

P. Use of Site

1. The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with any materials or equipment.

2. SEPTA shall have the right to occupy the Project site and to continue its operations throughout the construction period without interference from Contractor's or any Subcontractor's activities, insofar as is practicable. Should any temporary disruption of SEPTA's operations and/or use of the electric, water or telephone utilities at such site be necessary, it will be undertaken only pursuant to reasonable notices (not less than 72
hours) given to SEPTA and shall not continue beyond the previously agreed-upon period, without further concurrence from SEPTA.

3. Contractor shall at all times allow access to the Project site by authorized representatives of SEPTA or the Government to inspect any of the materials and the Work furnished under the Contract.

Q. Cleaning Up

1. The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by its operations. At the completion of the Work it shall remove all its waste materials and rubbish from and about the Project as well as all its tools, construction equipment, machinery and surplus materials, and shall clean all glass surfaces and leave the Work site broom clean or its equivalent, except as otherwise specified. Any waste created by Contractor remains the property of the Contractor and shall be properly labeled and removed in accordance with Federal and State regulations promptly upon completion of task for which it is used.

2. If the Contractor fails to clean up within five (5) days after notification by SEPTA, then SEPTA may do so and the cost thereof shall be charged to the Contractor.

R. Communications

The Contractor shall forward all communications to SEPTA through the Project Manager. Important communications will be confirmed in writing. Other communications will be confirmed on written request in each case.

S. State and Local Contract Requirements

Contractor shall abide by all stipulations attached hereto and made a part hereof in Exhibit I for all the Work performed by the Contractor.

T. Contract Made Subject to Federal, State and Local Law

Contractor expressly agrees to comply with all applicable laws, ordinances, and regulations of the Federal, State and Local governments which are in effect or become effective during the term of the Contract.

U. Insurance

1. Owner Controlled Insurance Program (OCIP)

The Contractor must participate in an Owner Controlled Insurance Program (OCIP) that is to be utilized for this Contract. The information regarding OCIP is found in Exhibit V which is attached hereto and made a part hereof.

2. Evidence of Compliance

a. Certificates of Insurance

Within ten (10) days after receipt from SEPTA of notice of award of the Contract, the Contractor shall furnish SEPTA with CERTIFICATES OF INSURANCE (SEPTA’s sealed bid number 15-00228-ARIB must be noted on certificates) and any other documents which SEPTA may require, such as copies of policies or endorsements, as evidence of compliance with these
Insurance Requirements.

b. **Written Approval Required**

Such Certificates or other documents must be approved in writing by SEPTA, before a Notice to Proceed will be given.

3. **Policies to Remain in Force**

a. **Until Completion and Acceptance**

All insurance coverage which the Contractor is required to provide for the Contract shall be maintained in full force and effect until the final completion and acceptance by SEPTA of the Work.

b. **All policies shall provide for ten (10) days written notice to SEPTA before cancellation by the company issuing the insurance. If such notice is not provided for within the basic terms of the policy, it shall be provided by endorsement or notation on the Certificate.**

c. **Replacement Coverage Required**

In the event that any or all of the insurance coverages required by the Contract are cancelled, are reduced below the required minimum limits or lapse, then the Contractor will be suspended from further prosecution of the Work until such time as replacement coverage satisfactory to SEPTA has been obtained and is in force.

4. **Additional Insureds Required**

The Contractor shall have all policies designated "Additional Insureds Required" written or endorsed to include the following as Additional Insureds: SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY.

5. **Waiver of Liability For Premiums**

All policies wherein the parties designated in Paragraph VIII.U.4. are included as additional Insureds shall contain a Waiver of Liability for the payment of premiums covering those additional Insureds.

6. **Insurance Requirements**

Insurance requirements for on and off-site Project work are listed in Attached V OCIP under item 9 (D).

7. **Payment of SEPTA Claims**

Contractor shall require its insurance carrier(s) to make checks in payment of SEPTA claims payable directly to SEPTA.

V. **Books and Records**

The Contractor shall prepare, maintain and make available for inspection and audit by SEPTA all Project Work and cost records relative to this Project at all times and for a period of five (5) years after Final Payment. Records shall be made available, upon request, at the Contractor's
place of business during normal working hours. The Contractor's cost and financial records shall be maintained in accordance with generally accepted accounting principles and reflect actual costs of all items of labor, material, supplies, services and all other expenditures for which compensation is payable. The Contractor shall include this requirement in all subcontracts awarded by it under the Contract.

W. Employment/Jobs Reporting

All contractors and subcontractors performing work on SEPTA’s Rebuilding For the Future projects are required to report information pertaining to all jobs supported by Pennsylvania’s Act 89 – Transportation Funding Bill. This reporting consists of the weekly submittal of workforce employment data for all contractors, both prime and sub, actively engaged at the jobsite. The prime contractor will be responsible for ensuring all subcontractors adhere to this requirement.

IX. SUBCONTRACTS

A. Definition

1. A “Subcontractor” is an individual or organization who enters into a Contract to furnish labor or materials or apparatus in connection with the Work directly or indirectly for or in behalf of the Contractor and whether or not in privity of Contract with the Contractor. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and neutral in gender and means a Subcontractor or its authorized representative.

2. Nothing contained in the Contract Documents shall create any contractual relationship between SEPTA, the Architect, or the Engineer and any Subcontractor.

B. Award of Subcontracts and Other Contracts for Portion of the Work

1. If, after the award, SEPTA refuses to accept any Subcontractor approved by it prior to award, the Contractor shall promptly submit an acceptable substitute and the Contract Sum shall be increased or decreased by the difference in cost occasioned solely by such substitution, and an appropriate Change Order shall be issued. However, no increase in the Contract Sum shall be allowed for any such substitution unless the Contractor has acted in good faith promptly and responsively in submitting a name with respect thereto after notice is given that a proposed Subcontractor is unacceptable.

2. Any new or additional or substituted Subcontractor proposed to be used by Contractor after the award shall be subject to SEPTA’s prior written approval.

3. The Contractor shall not make any substitution for any Subcontractor or for any person or for any organization which has been previously accepted by SEPTA as part of subject Contract unless and until requested to do so by SEPTA and/or unless such substitution is expressly approved by SEPTA in writing.

4. Within ten (10) days of receipt of written request from SEPTA’s Project Manager the Contractor shall furnish to SEPTA copies of all contracts, bonds, insurance certificates and other similar documents between Contractor and any Subcontractor for the Work.

C. Subcontractor Relations

The Contractor shall deal with each Subcontractor according to the terms and conditions of a written agreement between the Contractor and such Subcontractor. Said written agreement
shall not be inconsistent with any term or condition of the Contract, shall include all terms and conditions required by the Contract and shall in every respect protect SEPTA's interests in the Work and the conduct thereof.

The Contractor shall ensure that all OCIP requirements found in Attachment V are included in all subcontractors’ written agreements related to the performance of this Contract.

In the absence of good and sufficient reasons, within twenty (20) days of the receipt of payment from SEPTA by the Contractor, the Contractor shall pay each Subcontractor with whom it has contracted their earned share of the payment the Contractor received.

In addition, Contractor shall pay its Subcontractor(s) any retainage Contractor has withheld from its Subcontractor(s) within twenty (20) days after a Subcontractor's work is satisfactory completed.

With regard to any claim or dispute with respect to payment of a Subcontractor or supplier at any tier, Contractor expressly agrees to defend, indemnify and hold SEPTA harmless in the event any suit is brought on account of a dispute between any of the parties including but not limited to subcontractors, suppliers and materialmen and in particular, Contractor shall assume the defense affirmatively at its sole cost whenever such suit is brought in any jurisdiction.

X. SEPARATE CONTRACTS

A. General

1. SEPTA reserves the right to award other contracts in connection with other portions of the Project under these or any other conditions of the Contract.

2. When separate contracts are awarded for different portions of the Project, "the Separate Contractor" in the Contract Documents in each case shall be the Contractor who signs each separate contract.

3. The Contractors shall be knowledgeable and familiar with the complete work of the Project, including the responsibilities of the Separate Contractors for their portion of the Project. The organization of the Specifications in Divisions, Sections and Articles and Drawing arrangement does not in itself define all of the work of the Separate Contracts.

B. Mutual Responsibility Between Contractors

1. The Contractor shall permit other contractors reasonable opportunity for the introduction and storage of their materials and equipment at this site and facilitate the execution of their Work by properly coordinating its Work with theirs.

2. If any part of the Contractor's Work depends on the proper execution, progress or completion of the Work or assistance of any other contractor, utility, person, or municipal or governmental agency, the Contractor agrees to examine and promptly report to the Project Manager any discrepancies or defects in such Work or assistance that render it unsuitable for proper and timely execution of the Contractor's Work. Failure of the Contractor to so examine and report to SEPTA constitutes an acceptance by the Contractor of the other contractor's work or assistance as fit and proper to receive Contractor's Work except for deficiencies discovered after the initiation of the Contractor's Work which could not have been discovered by Contractor prior thereto.

3. Should the Contractor cause damage to the Work or property of any separate
contractor on the Project, the Contractor shall at its own expense, upon due notice, diligently attempt to settle with such other contractor by agreement or arbitration.

If such separate contractor sues SEPTA or initiates an arbitration proceeding on account of any damage alleged to have been so sustained, SEPTA shall notify the Contractor who shall defend such proceedings at its own expense, and, if any judgment or award against SEPTA arises therefrom, the Contractor shall pay or satisfy it and shall reimburse SEPTA for any costs which SEPTA has incurred.

C. Cutting and Patching Under Separate Contracts

1. The Contractor shall be responsible for any cutting, fitting, and patching that may be required to complete its Work except as otherwise specifically provided in the Contract Documents. The Contractor shall not cut or alter the work of any other contractor except with the written consent of the Project Manager.

2. Any costs caused by defective, untimely or improperly scheduled work by the Contractor shall be borne by the party responsible therefor.

D. SEPTA’s Right to Clean Up

If a dispute arises between the separate contractors as to their responsibility for cleaning up as required by Paragraph VIII.Q. SEPTA may clean up and charge the cost thereof to the several contractors as determined by the Contract Administrator.

XI. TIME

A. Definitions


2. The date of commencement of the Work is the date established in a Notice to Proceed.

3. The date of completion of the Work or any designated portion thereof is the date certified by the Project Manager when the Work delivered by the Contractor is complete and has been accepted by SEPTA. The Work will not be considered complete under the Contract until it has been accepted by SEPTA.

4. The term "day" as used in the Contract Documents shall mean calendar day.

B. Progress and Completion

1. All time limits stated in the Contract Documents are of the essence of the Contract.

2. The Work to be performed under the Contract shall be commenced immediately upon receipt of SEPTA’s Notice to Proceed. Contractor shall execute the Work continuously and shall complete the Work within 675 calendar days after the date of receipt of SEPTA’s Notice to Proceed. The date of the 675th day after the date of receipt of SEPTA’s Notice to Proceed is designated as the “Completion Date” wherever referred to in the Contract Documents. “Completion” as used herein shall mean Final Completion as defined by SEPTA’s Project Manager.
C. Delays and Extensions of Time

1. The Contractor hereby expressly warrants and represents that it shall make no claim for increased costs, charges, expenses or damages against SEPTA for any delays or hindrances experienced in the performance of the Work, whether caused by any act or omission of SEPTA or from any cause whatsoever. In the event completion of any portion of the Work is delayed through no fault or neglect of the Contractor the Completion Date may be extended at no additional cost to SEPTA, in SEPTA's sole discretion, as further provided herein.

2. The Contractor shall promptly report to the Project Manager and Contract Administrator any delays or anticipated delays as soon as it, or any of its supervisory employees, become aware of the same.

3. The Contractor may request a no cost time extension for unusually severe weather. In order for SEPTA to consider such a no cost time extension, the following conditions must be met:

   a. The weather experienced at the project site during the contract period must be found to be unusually severe, that is, more severe than the adverse weather that could reasonably been anticipated for the project location during same period in preceding years.

   b. The unusually severe weather must actually cause a delay to the completion of the project, and not have been either concurrent with delays caused by the fault or negligence of the Contractor, or have absorbed any or all of the available positive critical path float, as defined in Exhibit III.

   The Contractor, in his request for a weather-related time extension, must provide a schedule of anticipated monthly adverse weather days based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the project location. This schedule will constitute the baseline for monthly weather time evaluations. The Contractor’s progress schedule must reflect the adverse weather delays in all-weather dependent activities. For the purpose of this Contract, unusually severe weather is defined as daily precipitation equal to or exceeding 0.5 inches the average (or mean) precipitation for the month and/or maximum daily temperature not exceeding 32 degrees F. The Contractor shall also meet the provisions of paragraph XI.C.4 below to demonstrate that the severe weather actually delayed the Contractor’s Work. Actual adverse weather days must prevent work on critical activities for 50 percent or more of the Contractor’s scheduled workday. If the number of actual adverse weather delay days exceeds the number of days anticipated in the NOAA schedule, SEPTA will consider extending the time of completion by the difference between the schedule and actual adverse weather days for the period requested. A no-cost time extension will be issued by SEPTA if the Contractor’s Time Impact Analysis, as described below, supports the Contractor’s delay claim.

4. In the event that the Contractor decides to claim any extension of time as a result of proposed change orders, or delays, the Contractor shall submit to the Project Manager or the Project Manager's representative, a written Time Impact Analysis illustrating the influence of each proposed change order or delay on the current contract schedule completion date. Each Time Impact Analysis shall include a network analysis demonstrating how the Contractor proposes to incorporate the change order or delay
into the detailed progress schedule. Additionally, the analysis shall demonstrate the time impact based on the date the proposed change order is given to the contractor or the date the delay occurs, the status of construction at that point in time, and the event time computation of all affected activities. The event times used in the analysis shall be those included in the latest update copy of the detailed progress schedule or as adjusted by mutual agreement. The Time Impact Analysis shall also include a concise narrative stating the cause(s) of the delay and action taken or proposed to minimize or eliminate the delay. Each Time Impact Analysis shall be submitted by Contractor within fifteen (15) calendar days after notice of a delay is given by the Contractor or a proposed change order is given to the Contractor unless a longer period is requested, with sufficient justification, by the Contractor and approved, in writing, by SEPTA. In cases where the Contractor does not submit a Time Impact Analysis for a specific proposed change order within the specified period of time, then it is mutually agreed that the particular change has no time impact on the contract completion date and no time extension is required.

5. SEPTA shall be the sole judge of whether any such extension shall be granted. In the event that an extension of the Completion Date is granted, SEPTA's right to liquidated damages, as determined in Paragraph XI.E. (if used), shall be accrued as of the extended Completion Date.

In no event shall Contractor be entitled to extra payment on account of any delay in the Work, regardless of whether SEPTA elects to grant an extension of time to the Contractor.

D. Suspensions of Work

The Contractor shall suspend the progress of the Work, or any part thereof, for the operational necessity or convenience of SEPTA whenever it shall be required by written order of the Project Manager. Such suspensions shall be for such reasonable periods of time as the Contract Administrator may order; provided that, in the event of such Suspension(s) of the progress of Work or any part thereof, the Completion Date of the Work so suspended or delayed by such Suspension(s) shall be extended by SEPTA for a period equivalent to the time lost by reason of such Suspension(s). Such order of the Contract Administrator shall not otherwise modify, or invalidate in any way, any of the other provisions of the Contract, and the Contractor shall not be entitled to any damages or compensation from SEPTA, except as otherwise provided in the Contract Documents, on account of such delay(s) or Suspension(s).

E. Liquidated Damages for Delays in Completion – Not Used

XII. PAYMENT AND COMPLETION

A. Contract Sum

The total Contract Sum is stated in this agreement and is, unless otherwise amended in properly executed writing, the total amount payable by SEPTA to the Contractor for the performance of the Work under the Contract Documents.

B. Schedule of Payments

Immediately after award of the Contract and before the first application for payment, the Contractor shall submit to the Project Manager a schedule of values of the various portions of the Work, including quantities, cash flow estimates and other information required by the
Project Manager, aggregating the total Contract Sum, divided so as to facilitate payments to Subcontractors in accordance with Paragraph IX., and supported by such data to substantiate its correctness as the Project Manager may require. Each item in the schedule of values shall include its proper share of overhead and profit. The schedule and cash flow projections, when approved by the Project Manager, shall be used as a basis for the Contractor's application for payment.

C. Interim Progress Payments

Until fifty percent (50%) of the Work is completed (as determined exclusively by SEPTA), progress payments will be made monthly on the basis of ninety percent (90%) of the value of labor, overhead, equipment, materials and other direct costs incorporated into the Work in that calendar month, as verified by SEPTA's Project Manager. Upon completion of fifty percent (50%) of the Work, one-half of the amount retained by SEPTA shall be returned to the Contractor, provided, however, that the Project Manager approves the application for payment and that the Contractor is making satisfactory progress and there is no specific cause for greater withholding. Upon completion of fifty percent (50%) of the Work, progress payments will be made monthly on the basis of ninety-five percent (95%) of the value of labor, overhead, equipment, materials, and other costs incorporated into the Work in that calendar month, as verified by SEPTA's Project Manager. All such monies retained by SEPTA may be withheld from the Contractor until substantial completion of the Work. Such payments shall be made within thirty (30) days after approval of a request for a progress payment ("Invoice") by the Project Manager. Such Invoice shall be submitted in such form and detail as required by the Project Manager, within ten (10) days after the end of each calendar month. Such invoice shall include a DBE Invoice Payment Report (a sample copy of the DBE Invoice Payment Report that is to be utilized by the Contractor is attached to the Contract).

Payments will be made for materials or equipment which are not incorporated in the Work but delivered and suitably stored at the site and for materials or equipment properly stored off the site and all of which can be determined by the Project Manager to be specifically for the Work; such payments shall be conditioned upon submission by the Contractor of bills of sale or such other procedures and documents are satisfactory to the Project Manager to establish SEPTA's title to such materials or equipment or otherwise protect SEPTA's interest.

The Contractor warrants and guarantees that title to all Work, materials, and equipment covered by an Invoice and incorporated in the Project, will pass to SEPTA upon the receipt of such payment by the Contractor, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Paragraph as "liens"; and that no Work, materials, or equipment covered by an Invoice will have been acquired by the Contractor, or by any other person performing the Work at the site or furnishing materials and equipment for the project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person. If payment is to be made for materials or equipment delivered to the Work site but not incorporated into the Work, the Contractor shall not be paid until satisfactory evidence of title to the equipment or materials, free and clear of any liens or encumbrances, shall be delivered to SEPTA. Further, the Contractor shall provide adequate safeguard of the materials or equipment against loss or destruction and shall be financially responsible to SEPTA for any failure to do so which results in such loss or destruction.

The parties expressly agree that any provision hereof to the contrary notwithstanding SEPTA shall not be obligated to make payment to the Contractor hereunder if any one or more of the following conditions exists and the parties expressly agree that the aforesaid and below-stated provisions are express conditions subsequent to the payment obligation and that payments under Paragraph XII.C. of the Contract are made expressly subject to the following
limitations:

1. Contractor is in default of any of its obligations hereunder or otherwise is in default under any of the Contract Documents;

2. Any part of such payment is attributable to Work which is defective or not performed in accordance with the Plans and Specifications; provided, however, such payment shall be made as to the part hereof attributable to Work which is performed in accordance with the Plans and Specifications and is not defective;

3. Contractor has failed to make payments promptly to Contractor's Subcontractors or for material or labor used in the Work for which SEPTA has made payment to Contractor or Contractor has failed to promptly pay Contractor's Subcontractor(s) retainage after satisfactory completion of work by Subcontractor(s);

4. If SEPTA, in its good faith judgement, determines that the portion of the Contract Sum then remaining unpaid will not be sufficient to complete the Work in accordance with the Plans and Specifications, whereupon no additional payments will be due Contractor hereunder unless and until Contractor, at its sole cost, performs a sufficient portion of the Work so that such portion of the Contract Sum then remaining unpaid is determined by SEPTA to be sufficient to so complete the Work; and/or

5. SEPTA assesses Liquidated Damages pursuant to Paragraph XI.E. (if used) and/or SPECIAL CONDITION - PHASED LIQUIDATED DAMAGES (if used) as otherwise described herein.

The parties expressly agree that SEPTA, in its sole reasonable discretion may withhold payments on account of any of the above conditions, and that this withholding is in the contemplation of both parties in their understanding of all the other terms and covenants and conditions of the subject Contract.

D. Certificates for Payment

1. The Project Manager shall be the individual responsible for the approval or disapproval of payments. If the Project Manager approves, SEPTA shall make payment in the manner provided in the Agreement.

2. No Certificate for a Payment, nor any payment, nor any partial or entire use or occupancy of the Project by SEPTA, shall constitute an acceptance of any Work not in accordance with the Contract Documents and/or including the contract schedule.

3. The Contractor recognizes that SEPTA receives a large quantity of funds from Local, State and Federal Governments and that the time required for payment of invoices may, on rare occasions, be affected thereby.

E. Payment Withheld

1. The Contractor expressly agrees that the Project Manager may, from time to time or whenever the Project Manager deems it necessary in the Project Manager's reasonable discretion, decline to approve an application for payment and may withhold a certificate in whole or in part, to the extent reasonably necessary to protect SEPTA.
F. Substantial Completion and Final Payment

1. When the Contractor considers that the entire project work is both substantially complete and acceptable to SEPTA, the Contractor shall submit a Request for Substantial Completion to the Project Manager. The Contractor shall also prepare a list of still incomplete items that remain to be completed or corrected prior to final acceptance. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

Within a reasonable time after receipt of the Contractor's request, SEPTA, the Contractor and Architect or Engineer shall make an inspection of the Work to determine the status of completion. If SEPTA, the Architect or Engineer do not consider the Work substantially complete, SEPTA will notify the Contractor in writing giving the reasons for the rejection. If SEPTA, and the Architect or Engineer consider the Work substantially complete, the Architect or Engineer will prepare and deliver to SEPTA a Certificate of Substantial Completion, which shall fix the date of Substantial Completion.

The Certificate of Substantial Completion shall list in detail each and every uncompleted item and a reasonable estimate of the cost of completion. The Certificate of Substantial Completion shall also state the responsibilities of SEPTA and the Contractor regarding maintenance, heat, utilities, and insurance and shall fix the time within which the Contractor shall complete the uncompleted items listed. SEPTA will transmit the Certificate of Substantial Completion to the Contractor for the Contractor’s signature and return to SEPTA. SEPTA, upon receipt of the executed certificate will release the remaining retained funds, less one and one half the amount of the uncompleted Work, in accordance with paragraph XII.C. above.

2. Use by SEPTA of any portion/phase of the Work, which has specifically been identified in the Contract Documents, or which SEPTA, the Architect or Engineer and the Contractor agree constitutes a separately functioning and useable part of the Work that can be occupied by SEPTA without significant interference with the Contractor's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following:

SEPTA may, at any time, request (in writing) that the Contractor permit SEPTA to use any portion/phase of the Work for its beneficial use that SEPTA believes to be ready for its intended use and considers substantially complete. If the Contractor agrees, the Contractor will certify to SEPTA that said portion of the Work is substantially complete and request SEPTA to issue a Certificate of Substantial Completion for that portion of the Work. If SEPTA and the Architect or Engineer considers that portion of the Work to be substantially complete, the provisions of paragraphs XII.F.1. will apply with respect to Certification of Substantial Completion for that portion of the Work.

3. Within thirty (30) days of receipt of written notice that the Work is ready for final inspection and acceptance the Project Manager shall have the Architect or Engineer make such inspection and, when the Work is found acceptable in full accordance with the Contract Documents, issue a Certificate of Final Acceptance.

The final payment shall not become due until the Contractor submits to the Project Manager (1) Affidavits that all payrolls, bills for material and equipment, and other indebtedness connected with the Work for which SEPTA or its property might in
any way be responsible, have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment, (3) SEPTA’s General Release form, (4) all closeout documentation and materials, and, if required by SEPTA, (5) other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by SEPTA. SEPTA will make final payment in full within forty-five (45) days of issuance of the Certificate of Final Acceptance.

If any Subcontractor at any tier, refuses to furnish a release or waiver required by SEPTA, the Contractor shall, if SEPTA requires, furnish a bond in addition to those bonds required in Paragraph VIII.F. satisfactory to SEPTA to indemnify SEPTA against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to SEPTA all monies that the latter may be compelled to pay in discharging such lien, including all costs and attorney’s fees.

G. Failure to Complete the Work

In the event the Work delivered by the Contractor does not fulfill the requirements or intention of the Specifications and Drawings, or otherwise comply with the requirements of the Contract Documents, said Work shall not be considered as being completed and accepted, and the assessment of Liquidated Damages set forth in Paragraph XI.E. (if used) shall apply and be enforced. Furthermore, if any portion or phase of the Work is incomplete, or contains any defective or damaged materials, said materials shall be removed and new materials shall be furnished promptly by the Contractor, who shall also pay for freight or transportation charges for same, plus the cost of labor for the removal and installation of said materials, all of which shall be furnished at no cost to SEPTA. In such an event, SEPTA will withhold one and one half times the value of the uncompleted Work, in accordance with Paragraph XII.C. above.

H. No Release Upon Acceptance

Acceptance of any portion of the Work shall not release the Contractor from liability for faulty workmanship or materials appearing even after Final Payment has been made.

I. Final Payment

Final payment of the Contract Sum, as adjusted in accordance with the other terms of the Contract LESS the aggregate of all prior interim payments, shall be made, subject to the provision of Paragraph XI.E. (if used) and/or the SPECIAL CONDITION - PHASED LIQUIDATED DAMAGES (if used) upon Completion and Acceptance of the Work and the Contractor’s furnishing the required Maintenance Bonds as provided in Paragraph VIII.I. above. Final payment shall be expressly conditioned upon Contractor's successfully performing all terms, covenants and conditions of the Contract.

XIII. PROTECTION OF PERSONS AND PROPERTY

A. Safety Precautions and Programs

The Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

B. Safety of Persons and Property

1. The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority having
jurisdiction over the safety of persons or property for their protection from damage, injury or loss which are in effect or become effective during the term of the Contract. The Contractor shall be solely responsible for the cost of all changes in such regulations during the term of the Contract whether anticipated or not, regardless of the amount of such costs and these costs shall not be passed on or through SEPTA under any circumstances.

2. The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damages, injury or loss to:
   a. employees on the Work and all other persons who may be affected thereby;
   b. all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of its Subcontractors; and
   c. other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

3. Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safe guards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

4. When the use or storage of hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel. The use of explosives on SEPTA property is strictly prohibited, unless expressly permitted by the specifications. In no event shall any explosives be stored on SEPTA property.

5. All damage or loss to any property referred to in Paragraphs XIII.B.2.b. and XIII.B.2.c. caused in whole or in part by the Contractor, any Subcontractor, or anyone directly or indirectly employed or controlled by any of them, shall be remedied by the Contractor.

6. The Contractor shall designate a responsible member of its organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent (see Paragraph VIII.K.) unless otherwise specified by SEPTA, designated in writing by the Contractor and approved by the Project Manager.

7. The Contractor shall neither load nor permit any part of the Work to be loaded so as to endanger its safety.

8. Contractors shall maintain an alcohol and drug free environment and shall not permit any person under its control or the control of any of its Subcontractors at any tier, who exhibits unsafe behavior or behavior which involves a reasonable suspicion of being impaired from alcohol or drugs to remain on or about the jobsite. This provision shall be strictly and promptly enforced by the Contractor.

9. The Contractor shall comply with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and the U.S. Department of Labor regulations set forth in 29 CFR Parts 1910 and 1926 which are in effect or become effective during the term of the Contract. The Contractor shall be solely responsible for the
cost of all changes in such regulations during the term of the Contract whether anticipated or not, regardless of the amount of such costs and these costs shall not be passed on or through SEPTA under any circumstances.

C. **Personnel Security Measures**

SEPTA reserves the right to impose personnel security measures upon the Contractor and its employees as SEPTA deems necessary and appropriate to ensure the safety of its patrons, employees and property. These measures may include, but are not limited to, registration of all employees of the Contractor and its subcontractors who shall be working on SEPTA property, photo identification of all registered employees, and background investigations of all registered employees. In addition, SEPTA reserves the right to institute personnel security measures, which may be imposed at anytime during the course of the Work. SEPTA shall assume the costs of such security measures. The Contractor and its employees shall cooperate fully with SEPTA in implementing and enforcing security measures on SEPTA property. The Contractor shall be notified by SEPTA, in writing, regarding what is required by SEPTA to carry out any personnel security measures that are being imposed on the Contractor.

D. **Emergencies**

In any emergency affecting the safety of persons or property, the Contractor shall act at its discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Paragraph XIV. Changes in the Work.

E. **Additional Safety Provisions in Conjunction with OCIP**

1. **Owner**

   a. *Should it be necessary for the SEPTA and its Representatives to take remedial steps in safety to assure* a safe project environment for the General Public as well as workers at the SEPTA Project site, all remedial work shall be performed in a manner that does not interfere with normal operations. All costs related to interruption of normal operations or construction activities shall be "back charged" to the responsible contractor. All "back charges" shall include the actual cost for labor and materials plus 20% for administrative costs. These costs shall include but not be limited to:

   (1) The cost of the labor involved in the work, shop steward, foremen, support crafts, contractor supervision, Project Management and SEPTA Management.

   b. SEPTA and its Representatives shall have full authority to stop work in progress whenever necessary to enforce project safety requirements. No part of the time lost due to any such stop-work order shall be made the subject of a claim for extension of time or increased costs by the Contractor or subcontractors.

   c. In the event the project site or any portion of the project site is stopped or shut down by any outside agency because of an unsafe condition, the responsible Contractor or subcontractor shall bear the total expense for the project or that part of the project that is shut down. Said costs shall be for the entire period the project is stopped or shut down.

   d. The Contractor or subcontractor shall not receive additional payment or reimbursement for safety items and procedures which have been identified as required by the Project Safety Requirements.
e. SEPTA and its Representatives shall have full authority to withhold full or partial progress payments for failure to comply with the Project Safety Requirements.

f. SEPTA and its Representatives shall have authority to report any (Contractor or subcontractor) employee to the Project Safety Officer for disciplinary action including termination, for failure to comply with the Project Safety Requirements.

g. SEPTA reserves the right to terminate this contract in accordance with the termination provisions for failure to comply with the Project Safety Requirements.

h. In the event of conflict and/or ambiguity between various safety statutes or requirements, the interpretation by SEPTA and its Representatives as to which provision applies or what is implied in a given provision shall be final.

2. Contractor

a. The Contractor shall assume responsibility for overall site safety coordination and shall provide a full-time, qualified Project Safety Officer. The Project Safety Officer is required to be on site, full time, from the first day of the Contractor’s mobilization activities (including mobilization activities of the Contractor’s subcontractors).

   (1) A Contractor whose work force, including all subcontractors and vendors, exceeds fifty (50) workers at any time on the jobsite, is required to designate a Project Safety Officer who is working on the site full time and whose sole duty is safety.

   (2) A Contractor whose work force, including all subcontractors and vendors, exceeds twenty five (25) workers at any time on the jobsite, are required to designate a safety person who is working on the site full time and whose collateral duty is safety.

   (3) If it is determined, by SEPTA and its Representatives that a Contractor or its subcontractor’s work is considered a high hazard or extremely unusual, the Contractor or subcontractor will designate a safety person who is working on the site full time and whose sole duty is safety.

   (4) A high hazard activity is one that is determined to have the potential to result in a serious injury or death and may include (but not limited to) the following activities: crane lifts, unusual lifts, extensive scaffolding, demolition, excavation, fire or smoke generating activities, concrete formwork, pre-cast concrete, steel erection, shaft work, confined space, etc.

   (5) The prerequisites for a Project Safety Officer are:

      i. Minimum of five (5) years experience in safety management for heavy/commercial construction.

      ii. Successfully completed an OSHA 30 hour construction safety course within the last three (3) years.

      iii. Have the authorization to take prompt corrective measures.

      iv. If required, be recognized as Competent Person in accordance to OSHA definitions.

      v. Have the ability to recognize hazards associated with the scope of work.

      vi. Have a current First Aid & CPR certification.

b. The Contractor is required, by contract, to comply with all the provisions of their SEPTA Project and OCIP requirements, OSHA requirements, and other relevant industry standards as specified.
c. The Contractor is required to submit OSHA required data before the start of work which is to include:

(1) Site-Specific Written Safety & Health Program
   i. The Contractor’s Site-Specific Written Safety & Health Program must be submitted to SEPTA for approval approximately 3 weeks prior to the start of work activities.
   ii. Subcontractors’ Site-Specific Written Safety & Health Programs must be submitted to the Contractor for approval approximately 3 weeks prior to the start of work activities.

(2) Written Hazard Communication Program including SDS/MSDS Sheets
(3) Lockout/Tagout Program
(4) Name of designated Competent Person(s)
(5) Name and qualifications of the designated Project Safety Officer

d. Appoint a Competent Person who is qualified by training and experience to recognize and anticipate predictable hazards and take prompt corrective action to abate them.

e. Implement safe work practices and procedures to perform their work in a safe and hazard free environment that will prevent injury and illness, loss of life or property. Enforce the same compliance requirements from their subcontractors and suppliers.

f. Provide and enforce, at all times, the use of personal protective equipment.

g. Conduct daily and written weekly jobsite inspections.

h. Comply with the record keeping and procedural requirements of OSHA, SEPTA and its Representatives, and the OCIP insurance carrier relating to accident reporting and investigation. Document loss control data involving personnel, equipment, and property.

i. Attend all onsite safety meetings held by SEPTA and its Representatives, as required.

j. Conduct weekly tool box meetings for all employees with sign-off and submit to SEPTA and its Representatives.

k. Accident Reporting
   (1) Report *immediately* any accident/incident involving employees and provide accident, insurance and hospital reports in a timely fashion to the SEPTA Project Manager. This includes Report-Only accidents.
   (2) Initial written, Accident Investigation reports must be submitted to the SEPTA Project Manager within 24 hours of the occurrence.
   (3) The Contractor will be subject to a $1,000 fine if the initial written, Accident Investigation report is not submitted to the SEPTA Project Manager within five (5) business days of the occurrence.
   (4) The Contractor and subcontractors shall cooperate with and support all SEPTA accident investigations, with any and all information needed to complete the investigation.
1. When the Contractor, or its subcontractors, observes an unsafe act or condition (potential, predictable or obvious hazard), OSHA’s multi-employer work site interpretations require the following responses:

   (1) If the hazard is created by the subcontractor who has the ability to correct the hazard, it is that subcontractor’s responsibility to immediately abate the condition.

   (2) If the hazard is created by another subcontractor, the exposing subcontractor shall remove his employees from the exposure and report it immediately to the Contractor for abatement by the creating or correcting subcontractor.

m. The following Safety Policy will be enforced:

   (1) When an employee is observed committing a minor unsafe act or creating a minor unsafe condition, he/she will be confronted and counseled to explain what he/she did and how to correct it. His/her foreman will be contacted or included in the discussion.

   (2) Upon the observation of continued minor unsafe acts, the employee and their foreman will be required to be re-trained and attend the daily project safety orientation (at the expense of the subcontractor) and/or meet with the Contractor’s Project Safety Officer to ensure that they each have a clear understanding of safe work practices. A written notice will be issued and copies given to the employee, their foreman and the Project Manager or Executive in the office of that employer.

   (3) Upon the continued behavior of performing unsafe acts or creating unsafe conditions after written notification or upon observance of a serious safety violation constituting a threat to the safety or well being of other workers or the property of others, continuing unsafe activity by the employee shall result in removal of that employee from the site by their employer. The responsibility to enforce the rules and remove employees from the project permanently shall be the employee’s respective supervisory personnel.

n. Assure his/her workers receive prompt first aid and/or medical treatment when injured.

o. Provide safety training for all aspects of their job duties as required by OSHA (and re-training when necessary).

p. Supply and enforce the use of proper protective equipment and safe tools for the job.

q. Cooperate with SEPTA and its Representatives safety efforts.

r. Make prompt investigations and reports in order to determine the facts regarding accidents to workers, equipment, or the property of others and to then take immediate corrective action.

s. The frontline foremen are the key to a successful subcontractor safety effort. Foremen need to address safety issues as they arise, and not permit their workers to be exposed to hazards created by others.

t. Subcontractor Safety Representation

   (1) A Subcontractor whose work force, including all subcontractors and vendors, exceeds fifty (50) workers at any time on the jobsite, are required to designate a
safety person who is working on the site full time and whose sole duty is safety.

(2) A Subcontractor whose work force, including all subcontractors and vendors, exceeds twenty five (25) workers at any time on the jobsite, are required to designate a safety person who is working on the site full time and whose collateral duty is safety.

(3) If it is determined, by SEPTA and its Representatives that a Subcontractor or its subcontractor’s work is considered a high hazard, extremely unusual, or based on past safety performance, the subcontractor will designate a safety person who is working on the site full time and whose sole duty is safety.

(4) A high hazard activity is one that is determined to have the potential to result in a serious injury or death and may include (but not limited to) the following activities: crane lifts, unusual lifts, extensive scaffolding, demolition, excavation, fire or smoke generating activities, concrete formwork, pre-cast concrete, steel erection, shaft work, confined space, etc.

(5) The prerequisites for a designated safety person are:

i. Successfully completed an OSHA 30 hour construction safety course within the last three (3) years.

ii. Have the authorization to take prompt corrective measures.

iii. Be recognized by the subcontractor as Competent Person in accordance to OSHA definitions.

iv. Have the ability to recognize hazards associated with the scope of work.

v. Have a current First Aid & CPR certification.

u. The SEPTA Project and OCIP Requirements mandate that 100% fall protection will be required. This requirement is mandatory for all work activities where a fall exposure is greater than six (6) feet above a lower working level or surface. This includes steel erection, and scaffold use including erection and dismantling.

(1) If compliance with the six foot rule is technologically and/or physically infeasible, a preplanning meeting must be scheduled with SEPTA’s Representative as required, to determine alternatives.

(2) A site specific fall protection plan should be developed by the Contractor for each high-risk phase of work. Plans should include a list of anticipated exposures and anticipated protective systems for each phase of construction.

(3) The Contractor and each subcontractor are ultimately responsible for fall protection for their employees. Fall Protection should be included in each subcontractor’s safety program. A site specific fall protection plan should be developed by each subcontractor for the exposures they will encounter on each jobsite.

(4) Pre-planning is required for all high risk activities.

(5) This section does not include work from ladders. (Refer to OSHA 1926, Subpart X)

(6) Contractors whose work will require them to be exposed to fall hazards beyond conventional guardrail systems are to submit a Site Specific Fall Protection Plan before the start of their work, which will specify the location of anchorage points and anticipated exposures.

(7) Warning Line Systems:

i. In addition to Subpart M-Fall Protection, the warning lines typically used for roofing work and controlled access zones, and other areas covered by OSHA Letters of Interpretation (as defined under 1926.500) shall be permitted under the following criteria:

(a) All lines shall be placed a minimum of fifteen (15) feet from all
exposed edges.

(b) Lines shall meet or exceed the requirements in §1926.502(f)(2).

(c) Fall protection signage shall be placed along the warning line at intervals appropriate for the conditions.

(d) For controlled access zones the warning line shall be connected on each side to a guardrail system. The guardrail system shall project fifteen (15) feet beyond the warning line connection point.

(e) Points of access are not permitted from unguarded edges into the area(s) defined by a warning line unless the access points are protected by conventional fall protection.

(f) Conventional fall protection shall be used by all personnel working between the warning line and the exposed edge(s).

(g) The employer effectively implements a work rule prohibiting the employees from going past the warning line unless protected by conventional fall protection.

(h) Conventional fall protection is defined as guardrail systems, safety net and personal fall arrest systems.

(8) The Contractor and all subcontractors shall maintain and upon request, submit to the SEPTA representative, all Fall Protection Training Documentation as specified by OSHA.

i. Fall protection training certification for each employee is to be maintained by affected employers which include the name of the employee, the signature of the trainer and the date of the training.

ii. If the employer relies on training conducted by another employer, the certification record shall indicate the date the employer determined the prior training was adequate rather than the date of the actual training.

(9) For dedicated/designated Loading Zones which require the removal of any type of fall protection (wooden or cable guard rail systems, windows, and wall panels, etc.):

i. The immediate area near the loading zone must have a hard barricade in place that meets the requirements of a standard guardrail system to prevent other trades working in the area and/or on that floor from being exposed to a fall hazard.

ii. Removal of any type of fall protection, such as guardrail system, must be replaced with approved personal fall protection.

iii. Workers in loading zones shall be required to use a full body harness that they continue to wear and remain hooked until they are on the inside of the guardrail system which provides protection from a fall.

iv. Temporary loading zones may use temporary barriers which restrict the access of workers not engaged in that loading activity. At a minimum, Red Danger Tape may be used set back at least 15 feet from the opening temporarily.

v. A 4”x 6” toeboard may be required when the possibility exists for motorized equipment to be driven off the edge.

vi. Loading zones are to have the ability to be locked and controlled by the Contractor.

(10) A Guardrail Disruption Policy and supporting permits shall be developed, implemented and enforced per site requirements.

(11) Controlled Access Zone work requires pre-approval. Request for approval must be submitted with a site-specific fall protection plan, infeasibility
statement for each location, and training of each employee. A review of the submitted documentation will be done by the SEPTA’s Representative.

(12) The use of field designed and field fabricated horizontal life lines systems must be designed and installed under the supervision of a qualified person. Proof of such design and proper installation must be furnished upon request. The system shall be certified as a whole system, not just the capacities of its component parts.

(13) The use of Pre-Engineered/Pre-Manufactured horizontal life lines systems must be installed and used in accordance with manufactures instructions. Design data and written verification of proper installation must be furnished upon request.

3. Disciplinary Procedures

a. Each and every employee and worker on a SEPTA project is expected to apply all safety rules and regulations for each particular work operation and follow them explicitly. When any employee or worker fails to do so, SEPTA reserves the right to enforce all safety rules and regulation through disciplinary action.

b. Contractors are required to take action to control or eliminate a hazard when a violation is observed.

c. Contractors will document disciplinary action when writing up a subcontractor.

d. Contractors will document disciplinary action when writing up an employee.

e. SEPTA reserves the right in its unlimited discretion to modify the policy. This may involve suspension from work, with or without pay, until the facts can be obtained.

f. Three-Strike Policy

(1) A first notice serves as a warning and can be verbal or written warning.
(2) A second notice is a written warning - a specific warning to the employees concerning a given violation and/or incident.
(3) A third notice is also a written warning and may not relate to the same violation as the previous warning. If the facts warrant, termination will follow.

g. Zero Tolerance Policy

(1) General Issues - sexual harassment, smoking in unauthorized areas, jobsite violence, possessing a firearm or weapon, and the presence or use of alcohol, illegal drugs or evidence of impairment.
(2) Fall Protection Issues - workers observed in unprotected or unguarded areas without proper fall protection in place, disrupting a guardrail system without permission, removing a hole cover or working in the area of an unprotected or insufficiently protected hole without appropriate fall arrest system, and the use of an inadequate anchorage point.
(3) Electrical Work Practices Issues - any worker engaged in unauthorized energized work of any type (regardless of worker qualification) whether observed or discovered after the task, as specified in NFPA 70E.
(4) Violation of the “zero tolerance” requirements shall result in the immediate removal of the employee from the site.
(5) Upon removal from the Site, the employee is not to be paid for the remainder of the day of the infraction nor the following day.
i. Retraining may occur on the third day after which the employee may return to work on the Site.

ii. The Contractor or employer shall provide written verification of the retraining before the employee will be permitted to return to work on the Project.

iii. Retraining shall be allowed only once, and if the employee commits another “zero tolerance” violation, the employee shall be permanently removed from the Project.

(6) SEPTA reserves the right to not allow the employee to return under any circumstances.

4. Transitional-Duty Return to Work Requirements

   a. The Contractor and all subcontractors shall promptly return injured workers to full or transitional-duty work (as their physical condition permits) as soon as being advised or referred by a medical professional, and in accordance with Project procedures, of the employee’s ability to return to full or transitional-duty work. Upon such notification, the Contractor or subcontractor shall make a concerted effort to return such injured worker to full or transitional-duty work on the SEPTA Project or other projects that the Contractor or subcontractors are engaged in.

   b. Failure to assign a referred “return to duty” employee to a suitable or customary position may result in a penalty assessment to the Contractor or subcontractor equal to $1,500 per 5-day business week until such time as the injured worker is returned to work. This penalty will be issued through a Non-Negotiable Deduct Change Order or other means approved by SEPTA.

   c. Specific procedures for the implementation of these requirements will be included in the OCIP Insurance Manual

XIV. CHANGES IN THE WORK

A. Change Orders

   1. SEPTA, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, with the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be executed under the applicable conditions of the Contract Documents.

   2. It is understood and agreed that refinement or detailing will be accomplished from time to time with respect to the Plans and Specifications. No adjustments in the Contract Sum or the Completion Date shall be made unless such refinement or detailing results in changes in the scope, quality, function and/or intent of the Plans and Specifications not reasonably inferable or foreseeable by a Contractor of Contractor's experience and expertise.

B. Definitions

   1. A "Change Order" means a written order to the Contractor, signed by the Contract Administrator, issued in accordance with SEPTA's standard procedures and, authorized either by its General Manager or by its Board, as appropriate, after the execution of the Contract, which makes a Change in the Work or an adjustment in the Contract Sum or the Contract Time. A Change Order shall also be signed by the
Contractor if it agrees to the adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A sample copy of the Change Order form that will be utilized by SEPTA is attached to the Contract.

2. "Material", as used in this Paragraph XIV., means an item or items that is provided by:
   a. a factory or established facility that produces on its premises the item(s) obtained by the Contractor; or
   b. a firm that owns, operates, or maintains a store, warehouse, or other established facility in which the item(s) required for the performance of the Contract are brought, kept in stock, and regularly sold to the public in the usual course of business.

3. "Subcontractor", as used in this Paragraph XIV., means a firm providing labor or services necessary to complete a distinct element of the Work. The labor or services provided must be provided on the basis of direct labor hours at specified fixed hourly rates.

4. "Equipment", as used in this Paragraph XIV., means apparatus used by the Contractor or a Subcontractor to complete a distinct element of the Work.

C. Changes and Amendments to the Contract

No Change Order or amendment to the Contract shall be binding unless executed in writing by SEPTA, in a form approved by SEPTA and concurred in by the appropriate governmental funding agencies, if required. SEPTA will obtain all required concurrences from governmental funding agencies.

All Change Orders or amendments to the Contract by SEPTA shall be transmitted to the Contractor through the Contract Administrator.

The provisions of the Contract relating generally to the Work and its performance shall apply without exception to any Work, authorized by Change Order and to the performance thereof, except as may be otherwise provided by written agreement between the Contractor and SEPTA.

D. Determination of Cost/Credit

The cost or credit to SEPTA resulting from a Change in the Work shall be subject to funding agency concurrence, if required, and determined in one or more of the following ways:

1. Unit Prices
   a. If changes in the Work are ordered by SEPTA and such change order calls for the deletion or addition of items of Work or material of the same type as those for which unit prices have been stated in the Contract Documents or subsequently agreed upon, the compensation to be paid therefore shall be computed on the basis of such unit prices.
   b. If unit prices are stated in the Contract Documents or are subsequently agreed upon, and if the quantities of changed Work proposed will create a hardship on SEPTA or the Contractor, the applicable unit prices shall be equitably adjusted to prevent such hardship.
c. Where in the sole opinion of SEPTA the application of unit prices would not be appropriate, the cost or credit to SEPTA shall be determined under the terms and conditions set forth in either Paragraph XIV.D.2. or XIV.D.3. as determined appropriate by SEPTA.

2. Fixed Price Lump Sum Amount

Where SEPTA determines that the scope and extent of the change can be defined before the changed Work is performed, and compensation is not computed on the basis of unit prices as set forth in Paragraph XIV.D.1. above, SEPTA will negotiate a fixed price lump sum amount with the Contractor as compensation for such work. For each change, the Contractor shall furnish a detailed, written proposal itemized according to these guidelines. In order to expedite the review and approval process, all proposals shall be prepared in the categories and in the order listed below:

a. Labor

(1) Actual Wages - base hourly rate by craft for all levels below the General Foreman but excluding premium pay paid to all employees directly engaged in the Work.

(2) Labor Burden - to be established as a percent of actual wages paid pursuant to contractual obligation and paid for each craft and shall include: Vacation Allowance, Health and Welfare, Pension, Apprenticeship Programs and other programs as required for each craft, Social Security, Unemployment Insurance and Workers' Compensation Insurance.

Burden must not include Employee Profit Sharing Plans regardless of how defined or described. The contractor will pay these charges from the profit and will not be reimbursed. Additionally, voluntary employee contributions to charities, savings plans, etc. will not be reimbursed as burden.

(3) Subsistence and/or Mileage - if required in union agreements or by written corporate policy.

(4) Premium Time - Actual premium costs paid, plus paid social security taxes, unemployment insurance, workers' compensation insurance, and union fringe benefits if required by union agreements and/or by written corporate policy.

(5) Overhead – Includes: all supervision and administration above and including the General Foreman Level, such as Superintendents, Assistant Superintendents, Engineers*, Purchasing Agents, Accountants, Clerks, Timekeepers, Office Managers, and all others on staff; office supplies; drinking water; temporary heat, light and power; field toilets; costs of services; small tools and/or equipment not incorporated in the Work or directly associated with the Work; telephone system and charges; facsimile machines and charges; telegrams; photographs; photocopying; postage; tool breakage, repairs, replacement, blades, bits and parts; bonds; and all home office costs to include home office estimating and expediting, legal services, parking expenses, etc. Maximum allowable per net amount of labor change is
ten (10) percent.

* An exception is allowed for shop drawing or engineering labor, which is not subject to the prevailing wage rates, for steel fabricators, sheet metal fabricators, curtain wall fabricators, communications and signal designer/fabricators, and sprinkler system fabricators. Recovery will be allowed under Items 2a, (1) and (2) of these pricing guidelines.

(6) **Profit** - Maximum ten (10%) percent of the sum of subparagraphs (1), (2), (4) and (5) above.

b. **Material**

(1) All materials incorporated into the final product of the Work at the Contractor's net cost. Expendable materials, e.g., small tools and welding supplies, and reusable materials previously purchased for the Work are not eligible for direct reimbursement, but are included in 2.a. (5) above.

(2) one third (thirty-three percent) of the cost of reusable materials such as concrete formwork lumber, shoring or temporary enclosures is allowed for each change.

(3) Actual freight and transportation costs of materials used.

(4) Overhead and Profit: A maximum of fifteen (15%) percent overhead and profit on subparagraphs (1) and (2) above.

c. **Equipment Rental**

(1) Total compensation for equipment leased specifically for the additional work at the contractor's net invoiced cost. Contractor's Overhead and Profit on leased equipment shall be a maximum of five (5%) percent of the net invoiced cost.

(2) Contractor owned equipment shall be reimbursed on an hourly basis. Hourly rates shall be based upon the hourly rental rates as defined in the latest edition of Construction Equipment and Operating Expense Schedule - Region I, U. S. Army Corps of Engineers.

(3) Transportation costs for equipment utilized to accomplish the additional work shall be reimbursed as defined in subparagraph (1) or (2) above if it is allocable solely to a specific change.

(4) Small Tools: Non-power operated and/or hand held tools weighing less than 40 lbs. shall be defined as small tools and are therefore included in subparagraph 2.a.(5) of this paragraph.

(5) Overhead and Profit: A maximum of five (5%) percent overhead and profit is permitted on company owned equipment.

d. **Subcontractor Cost**

(1) **Subcontractor Cost** - Shall be quoted in the manner prescribed above
for the Contractor.

(2) Contractor's Overhead and Profit on Subcontractor Work - maximum five (5%) percent of the net amount of Subcontractor's cost of change.

e. Miscellaneous

(1) The net increase in premiums for public liability and property damage insurance charged by insurance company(ies) which net increase is occasioned solely by authorized change order work.

(2) Fees for permits, licenses, tests, state and local inspections, etc.

(3) No additional overhead or profit will be authorized, permitted or paid on additional insurance costs allowed under paragraph 2.e.(1).

3. Time and Material

Compensation for Changed Work on a Time and Material basis will be used only where SEPTA in its sole judgement determines that the scope and extent including cost of the work required cannot be readily determined or negotiated before the Changed Work is performed. Compensation due the Contractor for such Changed Work shall be determined by post audit of the Contractor's claim, priced in accordance with Paragraph XIV.D.2., above.

In the event SEPTA determines to compensate the Contractor for an item of Changed Work on a Time and Material basis, the Contractor shall, at the end of each day or at such other intervals as SEPTA shall direct in writing, furnish to SEPTA for such work, (a) daily time slips showing the name of each employee on such Work, the number of hours which he or she was employed thereon, the character of his or her duties, and the wages paid to the employee, (b) a memorandum showing the rates and amounts of Workers' Compensation Insurance premiums and state and federal taxes based on such wages, (c) a memorandum showing vacation allowances, union dues and assessments and health, welfare, employment and retirement benefits which the employer actually pays pursuant to contractual obligation upon the basis of such wages, (d) a memorandum showing the amount and character of the materials furnished in the performance of Changed Work, apparatus rented in connection therewith, from whom they were purchased or rented, and the amount paid therefore, and (e) a memorandum detailing payments made to approved Subcontractors (with copies of Subcontractor invoices attached supported by backup detailed in items (a) through (d) of this paragraph). The failure of the Contractor to furnish time slips and memoranda with respect to any particular labor, equipment, materials, apparatus or subcontract in the timely manner as specified shall constitute a conclusive and binding determination of its part that such labor, equipment, materials, apparatus or subcontract work is not Changed Work, and shall constitute a waiver by the Contractor of its claim for payment based thereon.

E. Access

Representatives of SEPTA shall have access during normal business hours to all records and documents of the Contractor relating to any labor, materials, apparatus, plant and equipment used in the performance of Changed Work, and the Contractor shall obtain for them similar access to the records and documents of its suppliers and Subcontractors. Such access shall be given or obtained both before and after completion of the Changed Work.
F. Allowability and Allocability of Costs

Wherever a determination of cost is to be made, and such determination is not otherwise limited by the foregoing guidelines, the provisions of 48 CFR Subpart 31.2 shall be used to determine the allowability and allocability of such costs, except that (those regulations notwithstanding) state and local taxes on net income shall not be allowed.

G. Other Requirements

In all cases, the costs and percentages detailed in this Paragraph XIV. will cover any and all costs and profit not specifically mentioned therein. The sum of these costs with the applicable percentages will be the only costs used to determine the Contract price increase or decrease.

H. Prior Notice Required as Express Condition for any Claims for Additional Cost

If the Contractor wishes to make any claim for any increase in the Contract Sum, it must give the Project Manager written notice thereof within ten (10) days after the occurrence of the event giving rise to such claim or it shall not be entitled to any compensation therefor. This notice must be given by the Contractor before proceeding to execute any of the Work, except in an emergency endangering life or property, in which case the Contractor shall proceed in accordance with Paragraph XIII.D. No claim for any increase in the Contract Sum shall be valid unless so made. To be considered for any additional money such claim must set forth the factual basis of the claim in sufficient detail for the party receiving it to know and understand, the nature, amount and extent of the claim and the event or events and fact or facts upon which the claim is based. The parties hereto agree that in the event of such claim or claims that they shall not proceed to litigation without first giving such notice and making reasonable efforts thereafter to resolve the claim or claims without the necessity of seeking recourse in the courts. The Contractor expressly agrees that it shall not make any claim, nor be entitled to any additional cost, against SEPTA resulting from the actions of any Subcontractor or other and separate contractors on the Project it being clearly understood that the Contractor's sole avenue of recovery is against such Subcontractor or other and separate contractors on the Project.

Contractor agrees that failure to comply with the above, may result in waiver of its right, if any, to additional compensation.

I. Minor Changes in the Work

The Project Manager shall have the authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be binding on SEPTA and the Contractor.

J. Field Orders

The Project Manager may issue written field orders which interpret the Contract Documents or which order minor changes, as defined in Paragraph XIV.I. in the Work without change in Contract Sum or Contract Time. The Contractor shall carry out such field orders promptly.

K. Value Engineering Incentive -- Construction

1. Applicability. This Paragraph applies to any Contractor developed, prepared, and submitted Value Engineering Change Proposal (VECP). Any such proposal must be
identified as VECP at the time of its submission to SEPTA.

2. Definitions.

a. "Contractor's development and implementation costs" means those costs incurred on a VECP before SEPTA acceptance and those costs the Contractor incurs specifically to make the changes required by SEPTA acceptance of a VECP.

b. "SEPTA costs" means those SEPTA costs that result directly from developing and implementing the VECP and any net increases in the cost of testing, operations, maintenance, and logistic support. They do not include the normal administrative costs of processing the VECP.

c. "Contract savings" means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs (including Subcontractors' development and implementation costs). (See subparagraph 7.)

d. "The Value Engineering Change Notice (VECN)" shall be submitted by the Contractor to SEPTA for initial notification of a change to be considered under the Value Engineering provision of the Contract. The VECN precedes the Value Engineering Change Proposal (VECP) and shall contain the following:

(1) brief description of the proposed change; and

(2) estimated cost saving of the proposed change.

e. "Value Engineering Change Proposal (VECP)" means a proposal that:

(1) requires a change to the Contract to implement; and

(2) results in reducing the Contract Sum or estimated costs without impairing essential functions or characteristics, provided that it does not involve a change in deliverable end-item quantities.

3. VECP Preparation. As a minimum, the Contractor shall include the information described in a. through e., below, in each VECP. If the proposed change affects contractually required configuration management procedures, the instructions in the procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

a. A description of the difference between the existing Contract requirement and that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

b. A list of the Contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

c. A separate, detailed cost estimate for both the affected portions of the existing Contract requirement and the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable
development and implementation costs, including any amount attributable to subcontracts under subparagraph 7. The Contractor shall also include a description and estimate of costs SEPTA may incur in implementing the VECP, such as test and evaluation and operating and support costs.

d. A projection of any effects the proposed change would have on collateral costs to SEPTA.

e. A statement of the time by which a Contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any affect on the Contract Time or delivery schedule.

4. Submissions.

a. The VECN shall be in letter form and shall be submitted by the Contractor to notify SEPTA of an identified Value Engineering Change. The VECN shall contain the following:

(1) brief description of proposed change;

(2) estimated cost savings of the proposed change.

SEPTA shall respond to the Contractor within five (5) days with approval to proceed with the preparation of the VECP if the proposed change has merit.

b. The Contractor shall submit VECP's to the Project Manager. The Project Manager shall notify the Contractor of the status of the VECP within 45 calendar days after the Project Manager receives it. If additional time is required because of extenuating circumstances, the Contractor shall be notified within the 45-day period and provided the reason for the delay and the expected date of the Project Manager's decision. VECPs shall be processed expeditiously; however, SEPTA shall not be liable for any delay in acting upon a VECP.

c. If the VECP is not accepted, the Project Manager shall provide the Contractor written notification.

If a VECP is similar to a change in the Drawings or Specifications for the Project under consideration by SEPTA at the time said proposal is submitted, SEPTA reserves the right to make such changes without compensation to the Contractor under the provisions of this Section.

d. SEPTA shall be the sole judge of the acceptability of a VECP and of the estimated net savings from the adoption of all or any part of such proposal. In determining the estimated net savings, the right is reserved to disregard the Contract bid prices, if, in the judgment of SEPTA, such prices do not represent a fair measure of the value of work to be performed or to be deleted.

5. Acceptance.

Any VECP may be accepted in whole or in part by the award of a Change Order to the Contract, in accordance with Paragraph XIV.B. of the Agreement, citing this clause. SEPTA may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a Notice to Proceed with the change.
Until a Notice to Proceed is issued or a Change Order applies a VECP to the Contract, the Contractor shall perform in accordance with the existing Contract. SEPTA's decision to accept all or part of any VECP shall be final.

Acceptance of the VECP and performance of the work thereunder shall not extend the Contract Time unless specifically provided for in the Change Order authorizing the VECP proposal.


   a. Rates. The Contractor's share of savings is determined by subtracting SEPTA costs from instant contract savings and multiplying the result by 50 percent.

   b. Payment. Payment of the share due the Contractor for use of a VECP on the Contract shall be in accordance with Paragraph XII., Payment and Completion, of the Agreement and shall be authorized by a Change Order to the Contract to:

      (1) accept the VECP;

      (2) reduce the Contract Sum or estimated cost by the amount of instant contract savings; and

      (3) provide the Contractor's share of savings by adding the amount calculated in subparagraph 6. a. to the Contract Sum.

7. Subcontracts.

   The Contractor shall include appropriate VE clauses in any subcontract of $50,000 or more and may include them in subcontracts of lesser value. To compute any adjustment in the Contract Sum under paragraph 6., the Contractor's VECP development and implementation costs shall include any Subcontractor's development and implementation costs that clearly result from the VECP, but shall exclude any VE incentive payments to Subcontractors. The Contractor may choose any arrangement for Subcontractor VE incentive payments, provided that these payments are not made from SEPTA's share of the savings resulting from the VECP.

8. Data.

   If a VECP is accepted, the Contractor hereby grants SEPTA unlimited rights in the VECP and supporting data.

XV. UNCOVERING AND CORRECTION OF WORK

A. Uncovering of Work

   1. If any Work should be covered contrary to the request of the Project Manager, it must, if required by the Project Manager, be uncovered for the Project Manager's observation and replaced at the Contractor's expense.

   2. If any other Work has been covered which the Project Manager has not specifically requested to observe prior to being covered, the Project Manager may request to see such Work and it shall be uncovered by the Contractor. If such Work is not defective, Contractor shall be compensated for the cost of uncovering and recovering;
however, if such Work is defective, then Contractor shall promptly correct such Work and compensate SEPTA for all costs of additional project management incurred in such uncovering, correction of Work and recovering. Any adjustment in the Contract Sum shall be made in accordance with the provisions of Paragraph XIV.

B. Correction of Work

1. The Contractor shall promptly correct all Work rejected by SEPTA as defective or as failing to conform to the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all cost of correcting such rejected Work, including the cost of the Architect's or Engineer's additional services thereby made necessary.

2. If, within one year after Final Payment or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from SEPTA to do so unless SEPTA has previously given the Contractor a written acceptance of such specific conditions.

3. All such defective or non-conforming Work under Paragraphs XV.B.1. and 2. shall be removed from the site if necessary and the Work shall be corrected by Contractor to comply with the Contract Documents without cost to SEPTA.

4. The Contractor shall bear the cost of making good all Work performed by separate contractors which has been destroyed or damaged by such removal or correction of defective Work performed by Contractor.

5. If the Contractor does not remove such defective or non-conforming Work within a reasonable time fixed by written notice from the Project Manager, SEPTA may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten (10) days thereafter, SEPTA may, upon ten (10) additional days written notice, sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for additional architectural and/or engineering services and handling fees, as well as any costs associated with making good Work performed by SEPTA as set forth in Paragraph B.4. above. If such proceeds of sale do not cover all costs which the Contractor should have borne and handling fees, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to SEPTA. Any adjustment in the Contract Sum shall be made in accordance with the provisions of Paragraph XIV.

6. If the Contractor fails to correct such defective or non-conforming Work, SEPTA may correct it in accordance with Paragraph XVIII.G.

C. Acceptance of Defective or Non-Conforming Work

If SEPTA prefers to accept defective or non-conforming Work, it may do so instead of requiring its removal and correction. In such case, a Change Order will be issued to reflect an appropriate reduction in the Contract Sum, or, if the amount is determined after Final Payment, it shall be paid by the Contractor.
XVI. TERMINATION FOR CONVENIENCE

SEPTA shall have the right to terminate the Contract, in whole or in part, at any time by written notice to the Contractor. The Contractor shall be paid all reasonable costs as determined by SEPTA in accordance with 48 CFR Subpart 31.2, that specifies the special treatment of certain costs under Subpart 31.2, Section 31.205-42, “Termination Costs.”

Such costs will include contract work performed up to the date of termination; any actual costs associated with termination for convenience, as agreed to by SEPTA; and profit on Work performed up to the time of termination. However, the agreed amount may not exceed the Contract Sum as reduced by (1) the amount of payments previously made and (2) the Contract price of Work not terminated. Furthermore, SEPTA will not pay any anticipatory profits and/or consequential damages claimed by the Contractor as a result of termination of the Contract. The amount of profit paid shall be determined by the parties based on the amount of actual work completed. The Contractor shall submit promptly its termination claim to SEPTA and SEPTA shall determine the settlement amount to be paid the Contractor. If the Contractor has any property in its possession belonging to SEPTA, the Contractor shall account for same and dispose of it in the manner SEPTA directs.

XVII. TERMINATION FOR CAUSE

A. If Contractor fails to remedy to SEPTA’s satisfaction the breach or default of any of the terms, covenants, or conditions of the Contract within ten (10) days after receipt by Contractor of written notice from SEPTA setting forth the nature of said breach or default and/or if the Contractor is suspended or debarred by any federal agency or by the Commonwealth of Pennsylvania, SEPTA shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for cause shall not in any way operate to preclude SEPTA from also pursuing all available remedies against Contractor and its sureties for said breach or default.

B. In the event that SEPTA elects to waive its remedies for any breach by Contractor of any covenant, term or condition of the Contract, such waiver by SEPTA shall not limit SEPTA's remedies for any succeeding breach of that or of any other term, covenant, or condition of the Contract.

C. In the event that it is ultimately determined by SEPTA that the Contractor was not in default or that the failure to perform arose out of causes beyond the control and without fault of the Contractor, the termination shall be treated as one of convenience and the Contractor’s sole rights and exclusive remedies shall be those set forth in Section XVI. above.

XVIII. MISCELLANEOUS PROVISIONS

A. Governing Law; Forum Selection; and Consent to Jurisdiction

All matters or claims arising out of, related to, or in connection with the Contract, the Project, work or the relationship between the parties shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without giving effect to the principles of conflicts of laws of such state. All matters, disputes, claims, litigation, or proceedings of any nature whatsoever based upon, arising out of, under or in connection with the Contract, the Project, work or relationship between the parties shall be solely and exclusively brought, maintained, resolved, and enforced in the state or federal courts located in the City of Philadelphia, Pennsylvania, irrespective of any procedural rules or laws related to venue and forum non conveniens, including but not limited to any choices Contractor may have under any such rules or law. Contractor hereby expressly consents to the jurisdiction of the state and federal courts located in the City of Philadelphia and hereby expressly and irrevocably waives any objection which Contractor may have or hereafter may have to
jurisdiction or venue in the state and federal courts located in the City of Philadelphia and any claim that such court is inconvenient or lacks personal jurisdiction over Contractor. Contractor represents and acknowledges that the choice of jurisdiction and venue described above is reasonable and has been freely and voluntarily made by Contractor. Further, the choice of jurisdiction and venue described above shall be mandatory and not permissive in nature, thereby precluding the possibility by Contractor of litigation or trial in any other jurisdiction, court or venue other than specified above, except that any final judgment may be enforced in other jurisdictions in any manner provided by law.

B. Contract to Bind SEPTA and Contractor

The Contract shall be binding upon the parties and their respective successors and assigns.

C. Assignment Prohibited

Contractor shall not assign, transfer, convey, sublet or otherwise dispose of the Contract or any right, title or interest in or to the same, or any part thereof, without the prior written consent of SEPTA. Contractor shall not assign, by power of attorney or otherwise any of the monies due or to become due and payable under the Contract unless by and with the like consent. If Contractor shall, without such previous written consent, assign, transfer, convey, sublet or otherwise dispose of the Contract or of any right title or interest therein or any of the monies due or to become due, the Contract, or any portion of it, may at the option of SEPTA be terminated and cancelled and SEPTA shall thereupon be relieved and discharged from any and all liability and obligations growing out of the same to Contractor and to its assignee or transferee. No right under the Contract or to any money due or to become due hereunder shall be asserted against SEPTA in law or in equity by reason of any so called assignment of the Contract or of any part thereof or of any monies due or becoming due hereunder unless authorized as aforesaid by the prior written consent of SEPTA; provided, that the termination of the Contract shall not release Contractor or its sureties from any liability for any damages sustained by SEPTA by reason of such termination.

D. Government Financial Assistance

Payment and Performance of the Work is subject to all applicable rules, regulations and requirements governing construction involving federal, state or local governmental financial assistance.

E. Reimbursable Work and Expenses

Contractor shall submit to SEPTA a purchase order requesting SEPTA to provide in kind, materials, labor or additional facilities, in each instance where Contractor's performance or that of any Subcontractor has caused or will cause SEPTA to perform necessary emergency or other Work or to vary in any way its schedule of transportation service unless such performance is in accordance with the Contract Documents. Such purchase order may at SEPTA's option be offset against any sum due from SEPTA to Contractor or, be invoiced to Contractor by SEPTA for Payment by Contractor to SEPTA in U. S. currency in an amount determined by SEPTA using its regular cost structure included in the specifications hereto and accounting practices in effect at the time of actual performance by SEPTA.

F. SEPTA's Right To Stop the Work

If the Contractor fails to correct defective Work or persistently fails to supply materials or equipment in accordance with the Contract Documents, SEPTA may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.
G. **SEPTA’s Right to Carry out the Work**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents or fails to perform any provision of the Contract, SEPTA may, after seven (7) days written notice to the Contractor and without prejudice to any other remedy, make good such deficiencies. In such case, an appropriate Change Order shall be issued, deducting from the payments then or thereafter due to the Contractor the cost of correcting such deficiencies, including the cost of the Architect's or Engineer's additional services made necessary by such default, neglect or failure. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to SEPTA.

H. **Rights and Remedies**

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

I. **Royalties and Patents**

The Contractor shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save SEPTA harmless from loss on account thereof, except that SEPTA shall be responsible for all such loss when a particular manufacturer or manufacturers is specified by SEPTA, but if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, it shall be responsible for such loss unless it promptly gives such information to SEPTA.

J. **Tests and Inspections:**

1. Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to SEPTA and shall bear all related costs of tests, inspections and approvals. The Contractor shall give SEPTA and the Architect or Engineer timely notice of when and where tests and inspections are to be made so SEPTA and/or the Architect or Engineer may observe such procedures.

2. If after the commencement of the Work SEPTA determines that any Work requires special inspection, testing, or approval which Paragraph XVIII.I.1. does not include, SEPTA will instruct the Contractor to order such special inspection, testing or approval and the Contractor shall give notice as in a failure of the Work to comply (1) with the requirements of the Contract Documents, or (2) with respect to the performance of the work with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, the Contractor shall bear all costs thereof, including the Architect's or Engineer's additional services made necessary by such failure; otherwise SEPTA shall bear such costs, and an appropriate Change Order shall be issued.

3. During the performance of the Work SEPTA reserves the right and shall be at liberty to inspect all materials and workmanship at any time and shall have the right to reject all material and workmanship which does not conform with the Specifications.
Required certificates of inspection, testing or approval shall be secured by the Contractor and promptly delivered by it to the Project Manager.

4. If the Project Manager wishes to observe the inspections, tests, or approvals required by this Paragraph XVIII.J. the Project Manager will do so promptly and, where practicable, at the source of supply.

5. Neither the observations of the Project Manager or any representative of SEPTA in the administration of the Construction Contract, nor inspection tests or approvals by persons other than the Contractor shall relieve the Contractor from its obligations to perform the Work in accordance with the Contract Documents.

K. Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

L. Written Notice

Written notice shall be deemed to have been duly served if delivered to or sent by mail to:

FOR SEPTA:

Senior Director, Procurement & Supply Chain Management
Southeastern Pennsylvania Transportation Authority (SEPTA)
1234 Market Street, 11th Floor
Philadelphia, Pennsylvania 19107-3780

or such other address as SEPTA may from time to time designate.

FOR CONTRACTOR:

M. Unforeseen Underground Conditions

Should concealed conditions encountered in the performance of the Contract below the surface of the ground be at variance with the conditions indicated in the Contract Documents or should unknown physical conditions below the surface of the ground of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract, be encountered, the Contract Sum and/or the Completion Date shall be equitably adjusted by Change Order in accordance with Paragraph XIV. as deemed and judged by SEPTA after due deliberation of all the facts in its reasonable discretion.

N. Overhead Obstacles

It shall be the responsibility of the Contractor to become familiar with and to make appropriate provisions for any and all overhead obstacles, regardless whether noted in the
Contract Documents that may prevent or inhibit the performance of the Work in accordance with the Contract Documents, Contractor’s chosen means and methods, or access to the work site. No adjustments to the Contract price or completion date will be granted based on the Contractor’s failure to provide for any overhead obstacle in the prosecution of the Work. Providing for an overhead obstacle could include the removal and reinstallation or the temporary relocation of the obstacle by the Contractor, its subcontractor or a third party.

O. Third Party Contract Rights

It is agreed that SEPTA, neither by this clause nor by any other provisions in this Agreement or other statements prior to or contemporaneous with this Agreement creates any right or expectation in any third party or third parties (including, without limitation, subcontractors) enforceable at law or in equity or any other proceeding against SEPTA, its officers, board, subsidizers, employees, agents or assigns.

P. Disadvantage Business Enterprise (DBE) Requirements

The Contractor shall fully comply with the DBE requirements as found in Exhibit III which is attached hereto and made a part hereof.

Q. Samples

Sample documents are found in Exhibit VI.

R. Drawings & Specifications

The Contractor shall fully comply with the drawings and specifications as found in Exhibit VII which is attached hereto and made a part hereof.

XIX. DISPUTES

A. Disputes arising in the performance of the Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of SEPTA's Senior Director of Procurement and Supply Chain Management. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor or SEPTA Project Manager mails or otherwise furnishes a written appeal to the Senior Director of Procurement and Supply Chain Management. In connection with any such appeal, the Contractor or the SEPTA Project Manager shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Senior Director of Procurement and Supply Chain Management shall be binding upon the Contractor and SEPTA.

B. Performance During Disputes. Unless otherwise directed by SEPTA, Contractor shall continue performance under the Contract while matters in dispute are being resolved.

XX. PROHIBITED INTEREST

No member, officer, or employee of SEPTA or of a local public body during his or her tenure or one year thereafter shall have any financial interest, direct or indirect, in the Contract or the proceeds thereof.
XXI. **SEVERABILITY.**

If any paragraph, clause, section or part of the Contract is held invalid or declared to be void or non-enforceable for any reason, all other paragraphs, clauses, sections or parts shall nevertheless continue in full force and effect.

XXII. **INTEGRATION.**

Subject to SEPTA's right to rely upon substantial representations made by the Contractor in making the decision to award the Contract to Contractor, this represents the entire and integrated agreement between SEPTA and Contractor and supersedes all prior or contemporaneous negotiation, representation, or agreement, either written or oral.
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the undersigned duly authorized officers, under seal, as of the day and the year first above written.

ATTEST:                    SOUTHEASTERN PENNSYLVANIA
                           TRANSPORTATION AUTHORITY:

________________________________________

(SEAL)

ATTEST:                    CONTRACTOR:

________________________________________

(Secretary or Treasurer)

President or Vice-President

________________________________________

(Please type name)

(Please type name)

(SEAL)

APPROVED AS TO FORM:

By: Robert J. Henry-Esq.
Office of General Counsel
Southeastern Pennsylvania
Transportation Authority
INSERT SCHEDULE A
STATE CONTRACT REQUIREMENTS

I. Nondiscrimination Clause.

A. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

B. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the Contract on account of gender, race, creed, or color.

C. Contractor and subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

D. Contractor shall not discriminate by reason of gender, race, creed, or color, against any subcontractor or supplier who is qualified to perform the work to which the Contract relates.

E. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to their books, records, and accounts by the contracting agency and the Bureau of Contract Administration and Business Development, for purposes of investigation, to ascertain compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, the Contractor or subcontractor shall furnish such information on reporting forms supplied by SEPTA or the Bureau of Contract Administration and Business Development.

F. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provision will be binding upon each subcontractor.

G. The Commonwealth or SEPTA may cancel or terminate the Contract, and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the Commonwealth and/or SEPTA may proceed with debarment or suspension and place a record of the action regarding the Contractor in the Commonwealth Contractor Responsibility Files.

II. Contractor Responsibility.

For the purpose of these provisions, the term “Contractor” is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee, or sub-grantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or sub-grant with the Commonwealth, or with a person under institutions. The term “Contractor” may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

1. The Contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.
2. The Contractor must also certify, in writing, that as of the date of its execution of any Commonwealth contract, it has no tax liabilities or other Commonwealth obligations.

3. The Contractor’s obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the contracting agency if, at any time during the term of the contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state governmental entity. Such notification shall be made within 15 days of suspension or debarment.

4. The failure of the Contractor to notify the contracting agency of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

5. The Contractor agrees to reimburse the Commonwealth for reasonable costs of investigation incurred by the Office of the Inspector General for investigations of the Contractor’s compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations which do not result in the Contractor’s suspension or debarment.

6. The Contractor may obtain the current list of suspended and debarred Commonwealth Contractors by either searching the Internet at [http://www.dgs.state.pa.us/debarment.htm](http://www.dgs.state.pa.us/debarment.htm) or contacting the:

   Department of General Services
   Office of Chief Counsel
   603 North Office Building
   Harrisburg, PA 17125

III. **Steel Products**

All steel products used or supplied in the performance of the Contract shall be products produced from steel made in the United States in conformity with the Steel Products Procurement Act of 1978 (Act No. 3 of 1978, march 3, P.L. 6 (73 P.S. §1881 et seq.)), as amended and, if the federal Buy America requirements are applicable to the Contract, in full conformity with the Buy America provisions of 49 U.S.C. §5323 (j) [formerly the Federal Surface Transportation Assistance Act of 1982, as amended] and the applicable regulations in 49 CFR part 661.

Contractor shall insert this requirement as a special condition for any subcontract awarded in the performance of the Project.

IV. **Air Pollution and Environmental Protection**

The Contract is subject to the provisions of the Air Pollution Control Act of 1960, as amended (35 P.S. 4001, et seq.) and any rules, regulations or orders issued by the Pennsylvania Department of Environmental Resources under the provisions of that Act.

V. **Additional Work Due to Changes in Environmental Protection Requirements**

a. For purposes of this Paragraph 3., "Environmental Laws" shall mean the provisions of the Air Pollution Control Act of 1960, as amended (35 P.S. 4001, et seq.), and any rules, regulations or orders issued by the Pennsylvania Department of Environmental Resources under the provisions of
that Act.

b. If the Contractor must undertake additional work due to the enactment of new or the amendment of existing Environmental Laws occurring after the submission of the successful bid, SEPTA shall issue a change order setting forth the additional work that must be undertaken which shall not invalidate the Contract. The cost of such a change order to SEPTA shall be determined in accordance with the provisions of Paragraph XIV. of the Agreement; provided, however, that such additional costs to undertake work not specified in the invitation for bid shall not be approved unless written authorization is given the Contractor prior to its undertaking such additional activity.

In the event of a dispute between SEPTA and the Contractor, arbitration procedures may be commenced under the applicable terms of the construction contract, or, if the contract contains no such provision for arbitration, the then obtaining rules of the American Arbitration Association.

IV. Duties of Contractor Under Pennsylvania Prevailing Wage Act

a. The general prevailing minimum wage rates including contributions for employee benefits as have been determined by the Secretary of Labor and Industry and are contained in this Exhibit, must be paid to the workmen employed in the performance of the contract.

The Contractor shall pay no less than the wage rates as determined in the decision of the Secretary and shall comply with the conditions of the Pennsylvania Prevailing Wage Act approved August 15, 1961 (Act No. 442), as amended August 9, 1963 (Act No. 342), and the Regulations issued pursuant thereto, to assure the full and proper payment of said rates.

b. Workmen shall be paid no less than such general prevailing minimum wages rates and such other provisions to assure payment thereof as heretofore set forth in this Exhibit.

c. These contract provisions shall apply to all Work performed under the Contract by the Contractor and to all Work performed on the Contract by all Subcontractors.

d. The Contractor shall insert in each of its Subcontracts all of the stipulations contained in these required provisions and such other stipulations as may be required.

e. No workmen may be employed on the public work except in accordance with the classifications set forth in the decisions of the Secretary. In the event that additional or different classifications are necessary the procedure set forth in Section 7 of the Regulations issued by the Department of Labor and Industry, Prevailing Wage Division shall be followed.

f. All workmen employed or working on the public work shall be paid unconditionally, regardless of whether any contractual relationship exists or the nature of any Contractor, Subcontractor and workmen, not less than once a week without deduction or rebate, on any account, either directly or indirectly, except authorized deductions, the full amounts due at the time of payment, computed at the rates applicable to the time worked in the appropriate classifications. Nothing in the Contract, the Act or the Regulations shall prohibit the payment of more than the general prevailing minimum wage rates as determined by the Secretary to any workman on public work.

g. The Contractor and each Subcontractor shall post for the entire period of construction the wage determination decisions of the Secretary, including the effective date of any changes thereof, in a prominent and easily accessible place or places at the site of the work and at such place or places used by them to pay workmen their wages. The posted notice of wage rates must contain the following information:

(1) Name of project.

(2) Name of public body for which it is being constructed.
(3) The crafts and classifications of workmen listed in the Secretary's general prevailing minimum wage rate determinations for the particular project.

(4) The general prevailing minimum wage rates determined for each craft and classification and the effective date of any changes.

(5) A statement advising workmen that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the Contractor and/or Subcontractor are not complying with the Act or the Regulations in any manner whatsoever they may file a protest with the Secretary of Labor and Industry. Any workmen paid less than the rate specified in the Contract shall have a civil right of action for the difference between the wage paid and the wages stipulated in the Contract, which right of action must be exercised within six (6) months from the occurrence of the event creating such right.

h. The Contractor and all Subcontractors shall keep an accurate record showing the name, craft and/or classification, number of hours worked per day, and the actual hourly rate of wage paid (including employee benefits) to each workman employed by it in connection with the public work and such record must include any deductions from each workman. The record shall be preserved for two years from the date of payment and shall be open at all reasonable hours to the inspection by SEPTA and to the Secretary of Labor or his/her duly authorized representatives.

i. An apprentice shall be limited to such numbers as shall be in accordance with a bona fide apprenticeship program registered with and approved by the Pennsylvania Apprenticeship and Training Council and only apprentices whose training and employment are in full compliance with the provision of the Apprenticeship and training Act approved July 14, 1961 (Act No. 304) and the Rules and Regulations issued pursuant thereto shall be employed on the public work project. Any workman using the tools of a craft who does not qualify as an apprentice within the provisions of this subsection shall be paid the rate predetermined for journeymen in that particular craft and/or classification.

j. Wages shall be paid without any deductions except authorized deductions. Employers not parties to a contract requiring contributions for employee benefits which the Secretary has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent directly to the workmen.

k. Payment of compensation to workmen for work performed on public work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of a certain result shall be deemed a violation of the Act and the Regulations, regardless of the average hourly earnings resulting therefrom.

l. Each Contractor and each of its Subcontractors shall file a statement each week and a final statement at the conclusion of the Work on the Contract with SEPTA, under oath, and in form satisfactory to the Secretary, certifying that all workmen have been paid wages in strict conformity with the provisions if the Contract as prescribed by this Exhibit or if any wages remain unpaid to set forth the amount of wages and owing to each workman respectively.

m. Contractor and all of its Subcontractors shall file weekly wage certifications with SEPTA. A sample copy of the Weekly Payroll Certification Form will be distributed at the Pre-Construction Meeting.

n. Before Final Payment is made, SEPTA will require final wage certifications from all Contractors and Subcontractors.

o. When notified by Secretary of Labor and Industry of the filing of wage claims by workmen, SEPTA shall withhold from the monies due to the Contractor or Subcontractor sufficient funds to
pay all claims determined to be valid and when so directed by the Secretary of Labor and Industry, should pay wages directly to the workmen.

[END OF PAGE]
Section B - State Prevailing Wage
EXHIBIT II
PLANNING, SCHEDULING AND PROGRESS MONITORING SPECIFICATIONS
1. DEFINITION OF TERMS

a. **Contract Skeleton Form**: A form generated from SEPTA’s Capital Program Management System used to record progress and initiate the payment process for each Prime Contractor.

b. **CPM Schedule (Critical Path Method Schedule)**: The project management tool used for planning, scheduling and monitoring project progress herein known as the “Schedule.”

c. **Value Line Breakdown**: A list of cost items (value lines) and associated CPM Schedule activities. Each value line will represent the Prime Contractor’s estimate of the value of the Work described by its associated CPM Schedule activity and will include direct costs, overhead and profit. The Value Line Breakdown must total each Prime Contractor’s contract price.

2. COORDINATING CONTRACTOR

The General Contractor is designated the Coordinating Contractor for this project. The other Prime Contractors will furnish to the Coordinating Contractor the required data necessary for the Coordinating Contractor to prepare the Schedule.

If this project interfaces with one or more other SEPTA projects, and, in the event that two or more designated Coordinating Contractors interface on specific project tasks, the Project Manager shall have the authority to direct that these Contractors conform to a schedule approved by the Project Manager for the interfacing items. The Project Manager can direct one of the involved designated Coordinating Contractors to develop the Coordinated Schedule for these interface items for the Project Manager’s review and approval.

3. BASELINE SCHEDULE SUBMISSION REQUIREMENTS

The Baseline Schedule shall be a CPM schedule showing the Work of all Prime Contractors for the entire contract period. It is a detailed schedule and shall be delivered to SEPTA no later than twenty-one (21) calendar days after receipt by the Coordinating Contractor of its Notice-To-Proceed. The other Prime Contractors shall supply information to the Coordinating Contractor for preparation of this schedule within seven (7) calendar days after receipt of Notice-to-Proceed.

The Baseline Schedule shall include all of the Work, as specified in the Contract Documents. Failure to include any element of Work required for the performance of the Contract shall not excuse any Prime Contractor from completing all of the Work required within the Contract Time. The Coordinating Contractor shall submit to SEPTA for its review and approval the Baseline Schedule using Primavera Project Planner (P3) or Oracle’s Primavera P6 Project Management software (P6) using the following criteria:

a. Activity numbers shall not exceed eight (8) alphanumeric characters.

b. Activity durations shall be each Prime Contractor’s estimate, in days, of the time required to perform each activity.

c. Activity descriptions shall indicate definable items of work. The use of the words "start," "continue," "complete," "general conditions," "maintain" and similar are not acceptable. The description will include one action for each activity, e.g., “furnish,” “install,” etc.

d. The Schedule shall include all major design, engineering, mobilization, procurement and construction
activities for the entire Contract period. Procurement activities shall include shop drawing submittal and SEPTA approval durations in accordance with the technical specifications, lead times for the fabrication and delivery of materials and equipment, and installation of materials and equipment.

e. Each activity in the Schedule shall be assigned a Prime Contractor responsibility code as follows: “GC” for General Contractor, “MC” for Mechanical Contractor and “EC” for Electrical Contractor.

f. Each activity in the Schedule shall be assigned an area code identifying the location of the Work being performed, where applicable.

g. Each activity in the Schedule shall be assigned a phase code identifying the phase, as described in the Contract Documents, of the Work being performed, if applicable.

h. Each activity in the Schedule shall be assigned a subcontractor code identifying each Prime Contractor’s subcontractor performing the Work described by that activity, if applicable.

i. Contract interim milestone dates and the Contract Completion Date shall be input as finish constraint dates and shall agree with such dates specified in the Contract. Other constraint dates are unacceptable unless approved by SEPTA.

The Baseline Schedule submission will consist of the following:

a. Two (2) copies of a P3 or P6 time-scaled diagram showing all activities in the Schedule and two (2) copies of the longest path diagram.

b. Two (2) copies of a written narrative explaining the Schedule and the Prime Contractors’ general approach for meeting interim milestone dates and the Contract Completion Date. The narrative shall discuss the following:

- The critical path
- Construction phasing
- Major procurement items
- Calendars used in the Schedule, e.g., seven day, five day with holidays, weekend, etc.
- Activity codes, constraint dates and lags. Non-contract constraint dates and lags must be discussed in the narrative and are subject to SEPTA approval.

c. A compact disk (CD) in P3 or P6 format. Electronic media other than CD shall require SEPTA approval.

4. REVIEW AND ACCEPTANCE OF THE BASELINE SCHEDULE

SEPTA shall complete its review of the Baseline Schedule within seven (7) calendar days. After review by SEPTA, the Baseline Schedule shall be revised and resubmitted if necessary within seven (7) calendar days. SEPTA will direct all changes and the Coordinating Contractor shall comply accordingly. Revision and re-submittal will continue until SEPTA acceptance is achieved.

If the Coordinating Contractor submits a Baseline Schedule whose Projected Completion Date is earlier than the Contract Completion Date, SEPTA may require, at its sole discretion, that the Contract Completion Date be adjusted, by means of a Change Order to reflect the Prime Contractor’s proposed Projected Completion Date.

5. VALUE LINE BREAKDOWN SUBMISSION REQUIREMENTS

After approval of the Baseline Schedule, each Prime Contractor shall submit its Value Line Breakdown, as defined in Section 1 of these Specifications, to the Coordinating Contractor who will incorporate this Value Line data into the approved Baseline Schedule. The Coordinating Contractor will then submit the
CD or other SEPTA-approved electronic media for SEPTA’s review and approval within seven (7) calendar days. SEPTA shall complete its review of the Value Line Breakdown within three (3) calendar days. If necessary, the Coordinating Contractor will re-submit the Value Line Breakdown for SEPTA approval within three (3) calendar days. Upon SEPTA’s approval, the Coordinating Contractor shall submit the approved Baseline Schedule data and approved value line data on a CD or other SEPTA-approved electronic media. The approved data will be used as the basis for input to SEPTA’s Capital Program Management System and progress payments. If the Coordinating Contractor has all Prime Contractors’ Baseline Schedule and Value Line data before the Baseline Schedule is approved, the Coordinating Contractor may submit the Baseline Schedule with value lines for SEPTA’s review and approval.

As defined in Article XII.B, Schedule of Payments, each Value Line shall include its proper share of overhead and profit. Therefore, Value Lines for general conditions and other overhead costs are not acceptable. Value Lines for shop drawing submissions and approval are not acceptable.

The Coordinating Contractor’s failure to submit the Baseline Schedule, Value Line Breakdown and CD as required shall result in the withholding of progress payments to the extent permitted by Section XII.C of the Agreement until such submission requirements are met. No payment will be made until the Baseline Schedule and Value Line Breakdown have been approved by SEPTA.

6. SCHEDULE UPDATING AND PAYMENT REQUISITION

6.1. Schedule Updating

A schedule review and update meeting shall be held each month on a day designated by the Project Manager. At this meeting, all progress during the reporting period shall be addressed and reviewed. The updated Schedule shall reflect actual start and actual finish dates for all completed activities and actual start and projected completion dates or remaining durations for all in-progress activities. Each Prime Contractor shall be represented at each monthly progress meeting by its project manager and/or superintendent who shall be prepared to provide progress information.

The Coordinating Contractor shall submit the Schedule update to SEPTA within five (5) calendar days of the progress meeting. The Schedule update shall include the following:

a. Two (2) copies of the P3 or P6 time-scaled diagram showing all activities except completed activities.

b. Two (2) copies of the written narrative report which addresses, as a minimum:
   • Description of project status
   • The critical path
   • Activities that may become critical within the next 30 day period
   • Schedule slippages, if any, including a comparison to the previous Schedule update’s status, the reason(s) for the schedule slippages and the measures required to get the project back on schedule
   • Schedule revisions as approved by SEPTA at the progress meeting or by other means.

c. CD of the updated Schedule in P3 or P6 format. The CD shall be identified by project name, update number and data date.

Failure of any Prime Contractor to provide the required information on time and failure by the Coordinating Contractor to furnish an acceptable P3 or P6 time-scaled diagram, written narrative report and CD on time may result in the progress payment of the Prime Contractor responsible being delayed until the required action is taken to the extent permitted by Section XII.C of the Agreement.
The Schedule shall be updated monthly and will continue to be updated every month until Substantial Completion.

6.2 Schedule Revisions

Any revision to the approved Schedule must be approved by SEPTA. After approval, Schedule revisions shall be addressed in the written narrative report by means of both a description of the revisions and a listing of those activities affected by such change. This listing will include the following, when applicable:

a. Addition and deletion of activities
b. Addition and deletion of relationships including relationship types and lags
c. Changes to activity descriptions
d. Changes to activity original durations
e. Changes to relationship types and lag codes
f. Changes to contract milestone dates and approved constraint dates
g. All other revisions

The Coordinating Contractor shall maintain the Schedule’s CPM logic such that it reflects the planned work sequence of all Prime Contractors as of the date of the update. Out of sequence logic shall be revised, as necessary, and is subject to SEPTA’s approval.

Failure to comply with the Schedule revision approval provisions described herein may result in the rejection of the Schedule submission and subsequent delay to the related progress payment until compliance is achieved.

6.3. Payment Requisition

Prior to updating the Schedule, each Prime Contractor shall update the SEPTA-supplied Contract Skeleton Form. The Contract Skeleton Form shall be available to each Prime Contractor on, or before, the monthly progress meeting during which the Schedule will be updated and progress payments, as agreed upon prior to the meeting, will be discussed. The Contract Skeleton Form period ending date and Schedule data date will be the same.

After SEPTA approves the completed Contract Skeleton Form, SEPTA will generate the Contract Payment Request. Once the necessary signatures have been secured and the “Release of Liens and Affidavit for Partial Payment” form has been submitted, and after SEPTA receives an acceptable updated Schedule, each Prime Contractor’s payment for the requisition period can be processed subject to the Prime Contractor’s meeting the conditions set forth in Section XII.C of the Agreement.

7. CHANGE ORDERS

When a change order is proposed by SEPTA or one of the Prime Contractors, the appropriate Prime Contractor must identify all CPM logic changes and additions required as a result of said proposed change order. Upon acceptance of the revision(s), the appropriate Prime Contractor shall provide the Coordinating Contractor with the pertinent information so that the Schedule can be modified to reflect the change order work. The cost of all CPM logic changes required to reflect change order work shall be borne by the Coordinating Contractor.

8. RESPONSIBILITY FOR COMPLETION

When, in SEPTA’s sole opinion, an interim milestone date or the Contract Completion Date will not be met, the Prime Contractor, if any, determined by SEPTA to be the cause of the delay to these dates, shall take some or all of the following actions, as directed by SEPTA:
a. Increase manpower in such quantities and crafts to eliminate the backlog of work.
b. Increase the number of working hours per shift, shifts per working day, working days per week, the amount of equipment, or any combination of the foregoing to eliminate the backlog of work.
c. Propose a Recovery Schedule or Delay Mitigation Plan for the Work under its Contract within 14 calendar days of SEPTA’s request.

Prior to proceeding with any of the above actions, such Prime Contractor shall notify and obtain acceptance from SEPTA for the proposed Schedule changes. If actions are approved, the revisions shall be incorporated by the Coordinating Contractor into the Schedule during the next update period. Any additional costs incurred by any Prime Contractor as a result of its or another Prime Contractor’s failure to meet the latest approved Schedule shall be borne by the appropriate Prime Contractor(s).

9. ADJUSTMENT OF CONTRACT COMPLETION

If a Prime Contractor requests an extension of time for the completion of an interim milestone date or Contract Completion Date, this Prime Contractor shall, in addition to the time impact analysis submission requirements specified in the Contract, furnish such justification, CPM data and supporting evidence as SEPTA may deem necessary for the determination as to whether or not said Prime Contractor is entitled to an extension of time under the provisions of the Contract. The time impact analysis shall include a narrative describing the delays and time impacts to the current Contract Completion Date. The cost of all time extension requests, including time impact analyses, shall be borne solely by the Prime Contractor requesting the time extension.

The Schedule must clearly display that the requesting Prime Contractor has used, in full, all the float time available for the work involved in its request. Float time in the Schedule is not for the exclusive use or benefit of either SEPTA or Prime Contractor but is a jointly owned expiring resource available to both parties as needed to meet interim milestones or the Contract Completion Date. Delays to activities which, according to the most current updated Schedule, do not affect the current Contract Completion Date as shown by the Schedule’s critical path will not be the basis for a change to the Contract Completion Date.

After receipt of such justification and supporting evidence, SEPTA will review the facts and advise the Prime Contractor in writing of SEPTA’s decision. If SEPTA determines that the requesting Prime Contractor is entitled to an extension of time to an interim milestone date, the Contract Completion Date shall remain the same, unless SEPTA states otherwise.

If SEPTA has not yet made a final determination as to the amount of time extension to be granted and SEPTA and the Prime Contractor requesting an extension of time are unable to agree on the amount of the extension to be reflected in the Schedule, the Coordinating Contractor shall reflect that amount of time extension in the Schedule as SEPTA may determine to be appropriate for such interim purpose. It is understood and agreed that such interim determination by SEPTA for the purposes of this paragraph will not be binding upon SEPTA or the Prime Contractor requesting the extension of time for any other purpose and that, after SEPTA has made a final determination as to any time extension, the Coordinating Contractor shall revise the Schedule in accordance with the final decision.

SUMMARY OF SUBMISSION REQUIREMENTS

Following is a summary of the CPM Schedule and Value Line Breakdown and computer disk submission requirements:

**Baseline CPM Schedule**

<table>
<thead>
<tr>
<th>Prime Contractor’s Receipt of Notice-To-Proceed (NTP)</th>
<th>Day 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baseline CPM Schedule Due to SEPTA</td>
<td>21 calendar days after receipt of NTP</td>
</tr>
<tr>
<td>Description</td>
<td>Duration</td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>SEPTA Review of Baseline CPM Schedule</td>
<td>7 calendar days after receipt</td>
</tr>
<tr>
<td>Re-submission(s) of Baseline CPM Schedule, if necessary</td>
<td>7 calendar days after review by SEPTA</td>
</tr>
<tr>
<td>SEPTA Approval of Baseline CPM Schedule</td>
<td>7 calendar days after receipt</td>
</tr>
</tbody>
</table>

**Value Line Breakdown**

<table>
<thead>
<tr>
<th>Description</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value Line Breakdown on Computer Disk Due to SEPTA</td>
<td>7 calendar days after approval of the Baseline CPM Schedule</td>
</tr>
<tr>
<td>SEPTA Review of Value Line Breakdown</td>
<td>3 calendar days after receipt</td>
</tr>
<tr>
<td>Re-submission(s) of Value Line Breakdown, if necessary</td>
<td>3 calendar days after review by SEPTA</td>
</tr>
<tr>
<td>SEPTA Approval of Value Line Breakdown</td>
<td>3 calendar days after receipt</td>
</tr>
</tbody>
</table>

**Monthly CPM Schedule Updates**

<table>
<thead>
<tr>
<th>Description</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coordinating Contractor’s Monthly CPM Schedule Update</td>
<td>Within 5 calendar days of the monthly progress meeting</td>
</tr>
<tr>
<td>Due to SEPTA</td>
<td></td>
</tr>
</tbody>
</table>
RELEASE OF LIENS
AND
AFFIDAVIT FOR PARTIAL PAYMENT

The undersigned, __________________________ of __________________________, Contractor to Southeastern Pennsylvania Transportation Authority (SEPTA) for the __________________________
(SEPTA Contract Name & Number)

In order to obtain payment from SEPTA of the undersigned’s Requisition For Payment No. __________ dated the ________ day of __________ hereby represents and warrants unto SEPTA and all parties related hereto, that the undersigned has heretofore paid or secured payment of all Withholding, Social Security, and Unemployment taxes on all its laborers, mechanics, agents and employees, and has further paid all of its laborers, mechanics, agents, and employees in accordance with their respective wage scales, for all services performed by them pursuant to the Contract herein referenced, including contributions to any applicable union fund. Further, since commencing performance hereunder, materials, labor, or supplies for use in or about performance of the Contract herein referenced have been obtained from the person, firms, or corporations listed on Schedule A, attached hereto, and no others, and that said Contractor further herein represents and warrants the status of the Account of all persons, firms, or corporations furnishing labor, material, or supplies, is as set forth in Schedule A, attached hereto.

In consideration of payment of the Requisition herewith submitted, the Contractor herein releases any and all right to any mechanic’s or materialman’s lien which now exists or might exist in by virtue of any labor supplied or material furnished to date, and further agrees that on, or prior to, the submittal of the next Requisition for Payment under the Contract herein referenced, whether for final or interim payment, SEPTA may withhold payment for the account of any party for which Contractor does not produce a receipt or paid Invoice, whether such unpaid party is listed in Schedule A or is discovered by information obtained by SEPTA, and that SEPTA may at any time make any payment due under the Contract to the joint order of the Contractor and any of its suppliers, materialmen, or subcontractors, in discharge of SEPTA’s obligation for payment to the Contractor, and to the extent of any payment so made, to release and discharge of any Surety upon any payment bond obtained as provided by SEPTA. Further, contractor will save and hold SEPTA harmless against any and all claims, damages, or other sanctions, including reasonable attorney’s fees in connection therewith, as may be sought by any of Contractor’s suppliers, materialmen, or subcontractors, or any other party, arising from the Contractor’s failure or anticipated failure to discharge its obligations to the party seeking relief.

The Contractor herein agrees that payment of the accompanying Requisition is conditioned upon the representations and warranties herein made.

CONTRACTOR

________________________________________

State of:

__________________________

County/City of:

By: __________________________

Subscribed and sworn to before me this __________________________

Title: __________________________

Corporate Officer

__________________________

day of __________________.

__________________________

Notary Public
# AFFIDAVIT FOR PARTIAL PAYMENT - SCHEDULE A

## Request for Payment

Contractor: ____________________________  Date: ________________

Project: ________________________________  Period Ending: __________

<table>
<thead>
<tr>
<th>Name and Address of Supplier, Subcontractor or Materialman</th>
<th>Total Value of Material and/or Work Performed as of the end of period given in this Affidavit</th>
<th>Net Payments by Affiant as of date of this Affidavit</th>
<th>Balance Due from Affiant as of date of this Affidavit</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

SEPTA Form 7/00 Schedule A Affidavit
RELEASE OF LIENS
AND
AFFIDAVIT FOR PARTIAL PAYMENT

The undersigned, ___________________________ of ___________________________, Contractor to Southeastern Pennsylvania Transportation Authority (SEPTA) for the ___________________________
(SEPTA Contract Name & Number)

In order to obtain payment from SEPTA of the undersigned’s Requisition For Payment No. ________ dated the ________ day of ________, hereby represents and warrants unto SEPTA and all parties related hereto, that the undersigned has heretofore paid or secured payment of all Withholding, Social Security, and Unemployment taxes on all its laborers, mechanics, agents and employees, and has further paid all of its laborers, mechanics, agents, and employees in accordance with their respective wage scales, for all services performed by them pursuant to the Contract herein referenced, including contributions to any applicable union fund. Further, since commencing performance hereunder, materials, labor, or supplies for use in or about performance of the Contract herein referenced have been obtained from the person, firms, or corporations listed on Schedule A, attached hereto, and no others, and that said Contractor further herein represents and warrants the status of the Account of all persons, firms, or corporations furnishing labor, material, or supplies, is as set forth in Schedule A, attached hereto.

In consideration of payment of the Requisition herewith submitted, the Contractor herein releases any and all right to any mechanic’s or materialman’s lien which now exists or might exist in by virtue of any labor supplied or material furnished to date, and further agrees that on, or prior to, the submittal of the next Requisition for Payment under the Contract herein referenced, whether for final or interim payment, SEPTA may withhold payment for the account of any party for which Contractor does not produce a receipt or paid Invoice, whether such unpaid party is listed in Schedule A or is discovered by information obtained by SEPTA, and that SEPTA may at any time make any payment due under the Contract to the joint order of the Contractor and any of its suppliers, materialmen, or subcontractors, in discharge of SEPTA’s obligation for payment to the Contractor, and to the extent of any payment so made, to release and discharge of any Surety upon any payment bond obtained as provided by SEPTA. Further, contractor will save and hold SEPTA harmless against any and all claims, damages, or other sanctions, including reasonable attorney’s fees in connection therewith, as may be sought by any of Contractor’s suppliers, materialmen, or subcontractors, or any other party, arising from the Contractor’s failure or anticipated failure to discharge its obligations to the party seeking relief.

The Contractor herein agrees that payment of the accompanying Requisition is conditioned upon the representations and warranties herein made.

CONTRACTOR

State of: ___________________________

County/City of: ___________________________

By: ___________________________

Subscribed and sworn to before me this________ day of __________: _______.

Title: ___________________________

Corporate Officer

______________________________

Notary Public
## AFFIDAVIT FOR PARTIAL PAYMENT - SCHEDULE A

**Request for Payment**

Contractor: ____________________________  Date: ________________

Project: ________________________________  Period Ending: __________

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SEPTA Form 7/00 Schedule A Affidavit
GC EXHIBIT III
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
COMPETITIVELY BID
CONTRACT WITH DBE GOALS

Disadvantaged Business Enterprise (DBE) Participation solicitation and contract provisions pursuant to U. S. Department of Transportation regulations (Title 49 CFR part 26), FTA Circular 4716.1A, and SEPTA Policy are provided in this Section.

A. DBE CONTRACT GOALS

In connection with this solicitation and any resulting contract, SEPTA has established the following goal for Disadvantaged Business Enterprise (DBE) participation. The DBE goal shall apply to all change orders and amendments.

GC DBE Goal: 14% of the total dollar value of the Contract Sum.
EC DBE Goal: 10% of the total dollar value of the Contract Sum.
MC DBE Goal: 7% of the total dollar value of the Contract Sum.

B. DEFINITIONS

1. "Affiliation" has the same meaning the term has in the Small Business Administration regulations, 13 CFR part 121:

(a) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:

(1) one concern controls or has the power to control the other; or
(2) a third party or parties controls or has the power to control both; or
(3) an identity of interest between or among parties exists such that affiliation may be found.

(b) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

2. “Contract Sum” means total contract price, including any change orders and amendments.

3. "Disadvantaged Business Enterprise" or "DBE" means a for-profit small business concern (a) that is at least fifty-one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty-one percent (51%) of the stock is owned by one or more such individual(s); and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it and is certified as such by SEPTA’s DBE Program Office or by Pennsylvania’s Unified Certification Program (PAUCP).

4. "Joint Venture" means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which purpose they combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct clearly defined portion of the work to be performed by the joint venture and whose share in the capital contribution, control, management, risks and profits of the joint venture are commensurate with its ownership interest (see paragraph D.5. below).

5. "Small Business Concern" means a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121), that also does not exceed the following size determinations:
(a) to be an eligible DBE, a firm (including its affiliates) must be an existing for-profit small business, as defined by Small Business Administration (SBA) standards found in 13 CFR part 121 appropriate to the type(s) of work the firm seeks to perform in DOT-assisted contracts.

(b) In addition to the requirements of (a) above, a firm must also meet the annual gross receipts requirements defined in SBA regulations 13 CFR §121.402

6. "Socially and Economically Disadvantaged Individuals" means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

(a) Any individual which SEPTA finds to be a socially and economically disadvantaged individual on a case-by-case basis.

(b) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) "Black Americans" which includes persons having origins in any of the Black racial groups of Africa;
(ii) "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;
(iii) "Native Americans" which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
(iv) "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 Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
(v) "Subcontinent Asian Americans" which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
(vi) Women;
(vii) any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

C. SUBMISSION REQUIREMENTS

1. The vendor must fill out, sign and submit the Bid Acknowledgement Form at the time of its bid.

2. The Bidder, using the attached DBE Participation Schedule, is required to submit the requisite information on a properly executed Participation Schedule for each proposed DBE subcontractor/supplier:

(a) The name and address of the DBE firm that will participate in the Contract;
(b) A description of the work that the DBE will perform;
(c) The dollar amount of participation for the DBE firm participating.

The Bidder is required to submit a properly executed DBE Participation Schedule for each DBE subcontractor/supplier identified to participate in the Contract.

Within forty-eight (48) hours from notification by SEPTA< Bidder is required to submit a Commitment/Confirmation document for each DBE firm scheduled to participate. The Commitment/Confirmation document represents:

(a) The Bidder’s commitment to use a DBE subcontractor/supplier whose participation it submitted to meet a contract goal; and
(b) The DBE subcontractor/supplier’s confirmation that it is participating in the Contract as provided in the Bidder’s commitment.
If the contract goal is not met, Bidder must provide evidence of its Good Faith Efforts in accordance with Paragraph E. Determination of DBE Responsibility.

In accordance with 49 CFR §26.39 (Fostering Small Business Participation), the Bidder is also required to identify all other subcontractors/suppliers scheduled to participate in the Contract by submitting the attached Non-DBE Participation Schedule.

Any questions regarding DBE and or SBE Participation should be directed to SEPTA’s DBE Program Office at (215) 580-7278.

3. The requirements of this section also apply to DBE Bidders for prime contracts. In determining whether a DBE Bidder for a prime contract has met a Contract goal, the work the DBE has committed to perform with its own forces as well as the work it has committed to be performed by DBE subcontractors and DBE suppliers will be counted.

4. SEPTA’s DBE Program Office will provide upon request SEPTA’s DBE Directory. The DBE Directory is revised on a continual basis; i.e., at least weekly, and identifies all firms eligible to participate as DBEs in SEPTA's program. Additionally, interested persons can obtain access to a state-wide combined directory through SEPTA’s membership in the Pennsylvania Unified Certification Program (PAUCP) at http://www.paucp.com. These DBE directories list the firm’s name, address, phone number, fax number, email address and the types of work the firm has been certified to perform as a DBE.

D. DETERMINATION OF PERCENTAGE OF DBE PARTICIPATION

DBE participation shall be credited toward achieving the DBE Goal as follows:

1. When a DBE participates in a contract, only the value of the work actually performed by the DBE will be counted toward DBE goals.

2. SEPTA will count the entire amount of that portion of a construction contract (or other contract covered by paragraph D.3. below) that is performed by the DBE’s own forces, including the cost of supplies and materials obtained by the DBE for the work of the contract, and supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliates).

3. SEPTA will count 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, toward DBE goals, provided SEPTA determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

4. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE’s subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

5. When a DBE performs as a participant in a joint venture, SEPTA will count a portion of the total value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

6. SEPTA will count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract, as determined by SEPTA's DBE Program Office.

(a) A DBE is considered to perform a commercially useful function when it is responsible for execution of a
specific scope of work in a 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 when ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, SEPTA will evaluate 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.

(b) 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. In determining whether a DBE is such an extra participant, SEPTA will examine similar transactions, particularly those in which DBEs do not participate.

(c) 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 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 involved, SEPTA will presume that the DBE is not performing a commercially useful function.

(d) When a DBE is presumed not to be performing a commercially useful function, SEPTA will accept evidence from the DBE or prime contractor to rebut this presumption. Evidence from independent sources, such as trade journals or independent studies by consultants, is particular desirable in such circumstances.

7. SEPTA will use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

(a) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

(b) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Contract.

(c) 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.

(d) 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.

(e) 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 for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. 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.

(f) For purposes of this paragraph D.7., a 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 term 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.

8. SEPTA will count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

State Construction Contract (Rebuilding w/OCIP)
(a) If the materials or supplies are obtained from a DBE manufacturer, count 100% of the cost of the materials and supplies toward DBE goals. For purposes of this section, 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 Specifications.

(b) If the materials or supplies are purchased from a DBE Regular Dealer count 60% of the cost of the materials and supplies toward DBE goals. For purposes of this section, 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 by the Specifications and required under the Contract are brought, kept in stock, and regularly sold 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 previously provided if the person both owns and operates distribution equipment. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease 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.

(c) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, SEPTA will only count 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 or supplies required on a job site, toward DBE goals, provided SEPTA determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. No portion of the cost of the materials and supplies themselves will be counted toward DBE goals.

9. SEPTA will not count the participation of a DBE subcontractor toward the prime contractor's DBE achievements until the amount being counted toward the goal has been paid to the DBE.

E. DETERMINATION OF DBE RESPONSIBILITY

1. SEPTA will only award a contract with a DBE goal to a Bidder who meets the participation goal or makes good faith efforts to meet it. A Bidder must do either of the following things:

(a) Documents that it has obtained sufficient DBE participation to meet the goal; or

(b) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining sufficient DBE participation to do so.

2. In determining whether a Bidder has made good faith efforts to meet the DBE Goal, SEPTA will look at the documentation supporting the different kinds of efforts that the Bidder has made, as well as the quantity and intensity of those efforts. As requested by SEPTA's DBE Program Office, a Bidder shall be required to submit in writing the efforts undertaken to demonstrate the Bidder's good faith efforts to obtain DBE participation for this Contract. At a minimum, the Bidder's written statement shall include the following information, as well as address the steps specified in 49 CFR, part 26, Appendix A, IV - Guidance Concerning Good Faith Efforts:

(a) Whether the Bidder attended any pre-bid meetings that were scheduled by SEPTA to inform DBEs of contracting and subcontracting opportunities;

(b) Whether the Bidder advertised in general circulation, trade association, and minority focus-media concerning the subcontracting opportunities;
(c) Whether the Bidder provided written notice to a reasonable number of specific DBEs that their interest in the contract was being solicited, in sufficient time to allow the DBEs to participate effectively;

(d) Whether the Bidder followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested;

(e) Whether the Bidder selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE Goal (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);

(f) Whether the Bidder provided interested DBEs with adequate information about the plans, specifications and requirements of the contract;

(g) Whether the Bidder negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;

(h) Whether the Bidder made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by SEPTA or the bidder; and

(i) Whether the Bidder effectively used the services of available DBE community organizations, DBE contractors' groups, local, State and Federal DBE business assistance offices, and other organizations that provide assistance in recruitment and placement of DBEs.

3. If SEPTA determines that the apparent successful Bidder has failed to meet the requirements specified in paragraph E.1. above, SEPTA will provide upon receipt of written request from the Bidder an opportunity for administrative reconsideration:

(a) As part of this reconsideration, the Bidder will have the opportunity to provide additional written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so.

(b) SEPTA's decision on reconsideration will be made by an official who did not take part in the original determination that the Bidder failed to meet the goal or make adequate good faith efforts to do so.

(c) The Bidder will have the opportunity to meet in person with SEPTA's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

(d) SEPTA will send the Bidder a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

(e) The result of the reconsideration process is not administratively appealable to the Department of Transportation.

F. DBE MODIFICATION(S) OR SUBSTITUTION(S)

1. In the event that a Bidder required a modification to its DBE Participation Schedule after contract award, then the Bidder must notify, in writing, SEPTA's DBE Program Office, and request approval for the modification. This will include any modifications or substitutions to items or work, material, services and/or DBE firms identified on the initial DBE Participation Schedule. The Bidder must provide SEPTA with any and all documents and information as may be requested with respect to the requested modification. If the modification involves a substitution and if SEPTA agrees that a substitution may be made, then the Bidder shall make good faith efforts as set forth in paragraph E.2. above to substitute that DBE firm with another DBE firm. Such efforts must be documented to the satisfaction of SEPTA's DBE
Program Office in the event that the Bidder is unable to contract with another DBE firm. The level of DBE Participation achieved will be reviewed in accordance with the requirements of paragraph E.2. above. The substitute DBE firm must be certified by SEPTA’s DBE Program Office in order for the Bidder to receive credit towards achieving the DBE Goal for this SEPTA contract.

2. If after award of the Contract, a DBE subcontractor is terminated, or fails to complete its work on the Contract for any reason, SEPTA will require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same dollar value of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established by SEPTA.

G. REPORTING AND RECORDKEEPING REQUIREMENTS

To ensure that all obligations under the contracts awarded to DBEs are met, SEPTA’s DBE Program Office shall monitor the Contractor’s performance during the life of the Contract.

1. Upon execution of its SEPTA contract, the Contractor shall enter into written subcontract agreement(s) with the DBE(s) listed in its DBE Participation Schedule. Copies of the Contractor’s executed subcontract agreement(s) with DBEs shall be provided to SEPTA’s DBE Program Office by the Contractor immediately upon execution.

2. The Contractor shall submit a work schedule outlining when the DBE subcontractor(s) will commence and complete work on the project, at such times as prescribed by SEPTA’s DBE Program Office.

3. The Contractor shall submit monthly reports of actual contract expenditures to DBE’s by the Contractor. This information must be submitted electronically via SEPTA’s website (http://bizweb.septa.org/bizwebsepta).

4. The Contractor and subcontractor(s) shall permit access to their books, records and accounts by SEPTA (or its designated representative) or the Federal Transit Administration (FTA) for the purpose of investigation to ascertain compliance with these specified requirements. Such records shall be maintained by the Contractor in a fashion which is readily assessable to SEPTA and/or the FTA for a minimum of five (5) years following completion of this Contract.

5. With regard to any claim or dispute with respect to payment of a subcontractor at any tier, Contractor expressly agrees to defend, indemnify and hold SEPTA harmless in the event any suit is brought on account of a dispute between any of the parties including but not limited to subcontractor(s), supplier(s) and material men and in particular, Contractor shall assume the defense affirmatively at its sole cost whenever such suit is brought in any jurisdiction.
SANCTIONS FOR VIOLATIONS

If at anytime SEPTA has reason to believe that the Contractor is in violation of its obligations under this section, SEPTA may, in addition to pursuing any other available legal remedy, commence proceedings to impose sanctions on the Contractor. Such sanctions may include, but are not limited to, one (1) or more of the following:

1. The suspension of any payment, or part thereof, due to the Contractor until such time as the issues concerning the Contractor’s compliance are resolved;

2. The termination or cancellation of the Contract, in whole or in part, unless the Contractor is able to demonstrate to SEPTA’s satisfaction, within a reasonable time period as designated by SEPTA, its compliance with the terms of this Section; and

3. The denial of the Contractor of the right to participate in any further contracts awarded by SEPTA for a period not longer than three (3) years.

No such sanctions shall be imposed by SEPTA upon Contractor except in accordance with SEPTA’s Procurement Manual and the terms of the Contract.

I. FTA DBE AUDIT REQUIREMENT – DBE INVOICE PAYMENT REPORT

The Contractor shall keep a regular accounting of actual expenditures of funds made under all contract and subcontract agreements with DBEs, specifically, an accounting of the actual amount of DBE expenditures for each contract. The Contractor shall complete and submit to SEPTA’s Project Manager with each of its invoices or any request for payment from SEPTA a DBE Invoice Payment Report. A copy of the reporting form is attached.

J. MISCELLANEOUS

The Contractor is encouraged to utilize the services of financial institutions owned and controlled by socially and economically disadvantaged individuals as defined at 49 CFR part 26.5.

[END OF PAGE]
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION SCHEDULE

As specified in the DBE Participation Section included in the Bidding Documents, the Bidder shall furnish to SEPTA’s satisfaction the details of disadvantaged business enterprise participation.

NOTE: Firms must be Pennsylvania Unified Certification Program (PA UCP)-certified prior to being listed on a DBE Participation Schedule.

<table>
<thead>
<tr>
<th>1</th>
<th>NAME OF DBE FIRM CONTACT PERSON, BUSINESS ADDRESS, TELEPHONE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>DESCRIPTION OF WORK TO BE PERFORMED¹</td>
</tr>
<tr>
<td>3</td>
<td>TOTAL DBE AGREED PRICE TO BE CREDITED TO DBE GOAL²</td>
</tr>
</tbody>
</table>

Firm Name: ____________________________
Contact: ____________________________
Address: ____________________________
Tele. No.: ____________________________

(Type or Print all information)

TABLE II. MATERIAL/SUPPLIES TO BE PURCHASED FROM “REGULAR DEALERS”

<table>
<thead>
<tr>
<th>1</th>
<th>NAME OF DBE FIRM CONTACT PERSON, BUSINESS ADDRESS, TELEPHONE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>DESCRIPTION OF MATERIAL TO BE SUPPLIED¹</td>
</tr>
<tr>
<td>3</td>
<td>TOTAL DBE AGREED PRICE TO BE CREDITED TO DBE GOAL² (Total Price x .6)</td>
</tr>
</tbody>
</table>

Firm Name: ____________________________
Contact: ____________________________
Address: ____________________________
Tele. No.: ____________________________

(Type or Print all information)

Name of Bidder: ____________________________
Tele. No.: ( )
Email: ____________________________
Title: ____________________________
Signature: ____________________________ Date: ____________________________

❖ A FULLY COMPLETED DBE PARTICIPATION SCHEDULE, FOR EACH DBE FIRM

State Construction Contract (Rebuilding w/OCIP) 75 1015
DESIGNATED TO PARTICIPATE, IS REQUIRED TO BE SUBMITTED.

- FAILURE OF THE BIDDER TO SUBMIT FULLY COMPLETED DBE PARTICIPATION SCHEDULE(S) TO SEPTA’S SATISFACTION MAY RESULT IN THE REJECTION OF THE BID.
- BIDDER MUST SIGN AND DATE ABOVE.
- BIDDER WILL BE REQUIRED TO PROVIDE A COMMITMENT/CONFIRMATION DOCUMENT FOR EACH DESIGNATED DBE FIRM UPON REQUEST FROM SEPTA.

Bidders are hereby notified that the information contained herein will be verified with the designated DBE firm. Additionally, if and when the award of a contract is made, the DBE firm listed herein will be simultaneously notified of the award.

SEPTA reserves the right to waive informalities herein in its sole reasonable discretion.

1See Section D. “Determination of Percentage of DBE Participation” for discussion of types of participation and credit given toward achieving the DBE Goal.

2This may be expressed in dollars or as a percentage of the Bidder’s total maximum price to SEPTA.
In accordance with Federal Regulation 49 CFR part 26.11, SEPTA must maintain statistics on all contractors and subcontractors bidding/proposing on SEPTA projects. Please include copies of this form with your bid/proposal package to any potential subcontractors/sub-consultants. All Bidders/Proposers are required to submit a completed survey for themselves and all potential subcontractors/sub-consultants.

Thank you for your assistance with this request. If you should have any questions, comments or suggestions, please contact SEPTA’s DBE Program Office at 215-580-7278, or via email at DBEProgram@septa.org.

The information gathered on this form will be used for statistical purposes only.

Firm Name: ____________________________________________________________

Firm Address: _________________________________________________________

Description of Services: ________________________________________________

NAICS* Codes: _________________________________________________________

*North American Industry Classification System (www.census.gov/epcd/www/naics.html)

Status: DBE _____ SBE _____ OBE _____

(Disadvantaged Business Enterprise) (Small Business) (Other Business Enterprise)

Month/Year firm established: ____________________________

Company Owner(s) Ethnic Group Membership: (optional)

☐ Black ☐ Hispanic ☐ Native American

☐ Asian Pacific ☐ Subcontinent Asian ☐ Other (specify) ______

Annual Gross Receipts of the Firm: (check one)

Less than $500,000 _____ $500,000 - $1 Million _____

$1 Million - $5 Million _____ $5 Million - $10 Million _____

$10 Million - $20 Million _____ Above $20 Million _____

Project Name: ___________________________________________ Bid Number: __________

Name: ____________________________________________________________ Date: __________

(Please Type or Print) ___________________________________________ Title: __________

Signature: ___________________________________________ Telephone No.: ( ) ______

Facsimile No.: ( ) ______

Email Address: ___________________________________________
As specified in the DBE Participation Section included in the Solicitation Documents, the Proposer must furnish to SEPTA the details of non-DBE subcontractor participation.

### PROJECT NAME:

### SEALED BID NO.:

1. **WORK/SERVICES TO BE PERFORMED BY SUBCONTRACTORS**
2. **MATERIAL/SUPPLIES TO BE PURCHASED FROM SUPPLIERS**

<table>
<thead>
<tr>
<th>NAME OF FIRM</th>
<th>DESCRIPTION OF WORK/SERVICES TO BE PERFORMED / MATERIAL TO BE SUPPLIED</th>
<th>TOTAL SUBCONTRACT/PURCHASE ORDER AMOUNT</th>
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<td>Firm Name:</td>
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<td>Tele. No.:</td>
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</tbody>
</table>

(Type or Print all information)

| Name of Bidder: |  |
| Tele. No.: | ( ) |
| Email: |  |

(type or print)

| Contact: |  |
| Title: |  |

(type or print)

| Signature: |  |
| Date: |  |

(type or print)
RE: DBE PARTICIPATION - COMMITMENT/CONFIRMATION
SEPTA Sealed Bid
No. ________________________________
Project Name: ________________________________

<Bidder> is committed to contracting with <DBE Firm> for participation on the SEPTA solicitation referenced above. <DBE Firm> is scheduled to provide the following services and/or materials/supplies:

<Provide a Detailed Description of the Services and/or Materials/Supplies* to be furnished by the named DBE Firm>.
For approximately $<$$, $$$>, or xx% of the total contract.

(*60% of the total agreed price for DBE suppliers will be credited towards the DBE goal)

Bidder’s Representative
Name/Title (please type or print) ________________________________
Signature ________________________________ Date ____________

DBE Firm’s Representative
Name/Title (please type or print) ________________________________
Signature ________________________________ Date ____________
SPECIAL CONDITION

RELEASE AND AGREEMENT
TO CONFORM WITH ENVIRONMENTAL LAWS
FOR ASBESTOS REMOVAL

KNOW ALL MEN BY THESE PRESENTS THAT: For and in consideration of an award of contract and payment of Contract Sum under a contract with the Southeastern Pennsylvania Transportation Authority ("SEPTA") dated , 20__, hereinafter known as the "Agreement," which is incorporated by reference herein and other good and lawful consideration , including its successors in interest or assigns, who shall be held as and hereinafter known as "Releasor" for all purposes of this Release and Agreement to Conform with Environmental Laws for Asbestos Removal, does hereby remise, release, and forever discharge SEPTA and its members, officers, employees, successors and subsidiaries, subject to and conditioned upon SEPTA's full performance of its obligations under the Agreement, of and from all manner of actions and causes of action, suits, debts, covenants, contracts, judgments, penalties, claims, and demands whatsoever in law or in equity whether judicial or administrative in nature, and, without limiting the above, of and from any actions or causes of action, suits, debts, covenants, contracts, judgments, penalties, claims, and demands of any sort based upon any and all environmental laws of any jurisdictions including those which regulate hazardous wastes and hazardous substances including Asbestos or materials that by operation of the Specifications in this Agreement are defined to be Asbestos.

Moreover, it is also agreed, without limiting the above general release:

A. The Agreement for the disposal of certain materials that will be generated by the activities to be performed and that are defined to be Asbestos, is expressly incorporated by reference herein as though set forth fully herein. Releasor acknowledges that the subject matter of the Agreement, including the handling, storage, packaging, transportation and disposal of the aforesaid Asbestos by Releasers, is strictly regulated in the currently applicable federal regulations, found in Title 40 of the Code of Federal Regulations, Part 61, Subpart M (and as they may be amended) ("EPA Regulations") and the City of Philadelphia Asbestos Control Regulations, when applicable.

B. Releasor expressly covenants that it is familiar with and agrees that it will comply with these Regulations. The Releasor further covenants and agrees to comply with all other federal, state, and local laws, ordinances, regulations and decrees, whether administrative or judicial, which are presently applicable or which may become applicable to the subject matter of the Agreement.

C. Releasor covenants and agrees that it will not use, presently, or at any future time, any of the above-referenced Asbestos to be removed pursuant to this contract, and that it will only handle said materials according to all applicable laws and regulations, and handle, store, package, transport and eventually dispose of the Asbestos according to all applicable laws. Releasor further covenants and agrees that, in the event it contracts with any other party or parties for the handling, storage, packaging, transportation and/or disposal of Asbestos, which is the subject of the present Agreement, that Releasor is obligated to ascertain that such other party or parties will comply as fully with the law as Releasor is obligated to do hereunder and as SEPTA is obligated to do, and that Releasor will obtain a written certification accompanied by an affidavit of an officer of each such third party stating that the third party or parties will fully comply with the EPA Regulations and all other applicable laws with respect to the Asbestos. The failure of Releasor to obtain such certification from any third party or parties shall not be deemed to be a breach of this Release or the Agreement as long as Releasor has used its best efforts to obtain the same. A copy of such certification must be sent by Releasor to SEPTA within thirty (30) days of the making of any such contract with any such third party or parties. Releasor agrees to obtain the prior written approval of SEPTA before Releasor engages any third party or parties to perform any services under this paragraph; provided, however, that no such prior approval shall be required of SEPTA in
conjunction with the contracting by Releasor for the ultimate disposal of the Asbestos, on the condition that Releasor obtain a written certification and affidavit prior to or at the time when the third party takes possession of such Asbestos and shall state that the third party will fully comply with the EPA Regulations and all other applicable laws. Releasor covenants and agrees to transmit to SEPTA such certification and affidavit within ten (10) days of the date such certification and affidavit are executed by the third party and officer thereof.

D. Releasor avers that it has been engaged in the business of handling, processing and storing Asbestos for the past three years and to the extent required by law, has arranged for lawful disposal of Asbestos for the past three years.

E. It is understood by the parties to the Agreement that the Asbestos which is the subject of the Agreement pass to Releasor at the time said Asbestos is generated by Releasor's activities, unless barred by the operation of law.

F. Any act or omission on the part of Releasor which involves or includes a violation of the EPA Regulations or of any federal or state environmental statute or regulation, or local ordinance dealing with the environment, and which involves the handling, disposal, storage, packaging, transportation and/or disposal of the Asbestos which is the subject of the Agreement will be regarded by SEPTA as a substantial breach of the Agreement. Such act(s) or omission(s) will be regarded as a breach or breaches of the Agreement by Releasor whether resulting from the inadvertence, negligence or gross negligence of Releasor.

G. (1) Releasor covenants and agrees to send to SEPTA one copy of every record which Releasor is obligated by the EPA Regulations to maintain and one copy of every communication between Releasor and every federal, state and local governmental body, including also the Environmental Protection Agency, which deals with the Asbestos which is the subject of the Agreement, and to send such copies to SEPTA within thirty (30) days of the making of such records and the sending or receiving of such communication.

(2) In the event that Asbestos is stored by Releasor prior to ultimate disposal, Releasor covenants and agrees to send to SEPTA the certification that such disposal was carried out properly under the EPA Regulations and all other applicable laws, and such certification shall be sent within thirty (30) days of each such disposal.

(3) On the occasion or occasions of the ultimate disposal of any or all of the Asbestos, Releasor covenants and agrees to send to SEPTA its certification that such disposal was carried out properly under the EPA Regulations and all other applicable laws, and such certification shall be sent within thirty (30) days of each disposal.

(4) The certifications concerning proper storage and disposal, which are the subjects of the two immediately preceding subparagraphs (2 and 3), are to be sent by Releasor to SEPTA even if Releasor, pursuant to paragraph C. above, has engaged a third party or parties to perform such storage and/or disposal, and regardless of whether Releasor passes Asbestos to any other party or parties. This requirement concerning the sending of certifications described in this paragraph is the continuing responsibility of Releasor, and may not be assigned to any agent or independent contractor of Releasor, without the prior written consent of SEPTA.

(5) The transmission by Releasor of all records, documents, and certifications mentioned in this paragraph G. or elsewhere in this Release within the prescribed periods and at the prescribed intervals is regarded by both parties to be of the essence of this Release and the incorporated Agreement.

H. Releasor hereby promises and agrees that in the event that SEPTA is named as a defendant in any
action at law or equity or in any criminal or civil action or any administrative proceeding before any court or administrative agency in any jurisdiction, for any act or omission for which Releasor is responsible pursuant to the Agreement or this Release, Releasor hereby covenants and agrees to defend, indemnify, and hold harmless SEPTA, its agents, employees and officers, successors and subsidizers, from and against any civil or criminal judgment, penalty, cost, claim, suit or action at law or in equity or any administrative proceeding which may be brought against SEPTA on account of any violation or damage of any kind whatsoever including property loss or personal injury of any kind or nature whatsoever (including deaths) arising out of or in any way connected with Releasor's performance of the Agreement incorporated by reference herein.

I. This Release and Agreement to conform with Environmental Laws shall be interpreted according to the laws of the Commonwealth of Pennsylvania.

For and in consideration of the Agreement incorporated herein by reference as though set forth fully herein, and for other good and lawful consideration, this Release and Agreement to Conform with Environmental Laws for Asbestos Removal is executed and delivered this __________ day of __, 20__, by the hereunder signed parties and/or authorized representatives thereof.

Attest: ________________    By: ________________

SEAL

By: ______________________
President or Vice President

_______________________
Secretary

(Environmenal Laws – Asbestos)
SPECIAL CONDITION
RELEASE AND AGREEMENT
TO CONFORM WITH ENVIRONMENTAL LAWS
FOR REMOVAL OF MATERIAL DESIGNATED AS HAZARDOUS WASTE
BY TITLE 40 CODE OF FEDERAL REGULATIONS PART 261 ET SEQ

KNOW ALL MEN BY THESE PRESENTS THAT: For and in consideration of an award of contract and payment of Contract Sum under a contract with the Southeastern Pennsylvania Transportation Authority ("SEPTA") dated _____, 20__, hereinafter known as the "Agreement," which is incorporated by reference herein and other good and lawful consideration, including its successors in interest or assigns, who shall be held as and hereinafter known as "Releasor" for all purposes of this Release and Agreement to Conform with Environmental Laws for Hazardous Waste Removal, does hereby remise, release, and forever discharge SEPTA and its members, officers, employees, successors and subsidizers, subject to and conditioned upon SEPTA's full performance of its obligations under the Agreement, of and from all manner of actions and causes of action, suits, debts, covenants, contracts, judgments, penalties, claims, and demands whatsoever in law or in equity whether judicial or administrative in nature, and, without limiting the above, of and from any actions or causes of action, suits, debts, covenants, contracts, judgments, penalties, claims, and demands of any sort based upon any and all environmental laws of any jurisdictions including those which regulate hazardous wastes and hazardous substances including material designated as hazardous waste by Title 40 Code of Federal Regulations Part 261 et seq ("Hazardous Waste") or materials that by operation of the Specifications in this Agreement is defined to be Hazardous Waste.

Moreover, it is also agreed, without limiting the above general release:

A. The Agreement for the disposal of certain materials that will be generated by the activities to be performed and that are defined to be Hazardous Waste, is expressly incorporated by reference herein as though set forth fully herein. Releasor acknowledges that the subject matter of the Agreement, including the handling, storage, packaging, transportation and disposal of the aforesaid Hazardous Waste by Releasers, is strictly regulated in the currently applicable federal regulations, found in Title 40 of the Code of Federal Regulations, Part 261 et seq (and as they may be amended) ("EPA Regulations").

B. Releasor expressly covenants that it is familiar with and agrees that it will comply with these Regulations. The Releasor further covenants and agrees to comply with all other federal, state, and local laws, ordinances, regulations and decrees, whether administrative or judicial, which are presently applicable or which may become applicable to the subject matter of the Agreement.

C. Releasor covenants and agrees that it will not use, presently, or at any future time, any of the above-referenced Hazardous Waste to be removed pursuant to this contract, and that it will only handle said materials according to all applicable laws and regulations, and handle, store, package, transport and eventually dispose of the Hazardous Waste according to all applicable laws. Releasor further covenants and agrees that, in the event it contracts with any other party or parties for the handling, storage, packaging, transportation and/or disposal of Hazardous Waste, which is the subject of the present Agreement, that Releasor is obligated to ascertain that such other party or parties will comply as fully with the law as Releasor is obligated to do hereunder and as SEPTA is obligated to do, and that Releasor will obtain a written certification accompanied by an affidavit of an officer of each such third party stating that the third party or parties will fully comply with the EPA Regulations and all other applicable laws with respect to the Hazardous Waste. The failure of Releasor to obtain such certification from any third party or parties shall not be deemed to be a breach of this Release or the Agreement as long as Releasor has used its best efforts to obtain the same. A copy of such certification must be sent by Releasor to SEPTA within thirty (30) days of the making of any such contract with any such third party or parties. Releasor agrees to obtain the prior written approval of SEPTA before Releasor engages any third party or parties to perform any services under this paragraph; provided, however, that no such prior approval shall be required of SEPTA in conjunction with the contracting by
Releasor for the ultimate disposal of the Hazardous Waste, on the condition that Releasor obtain a written certification and affidavit prior to or at the time when the third party takes possession of such Hazardous Waste and shall state that the third party will fully comply with the EPA Regulations and all other applicable laws. Releasor covenants and agrees to transmit to SEPTA such certification and affidavit within ten (10) days of the date such certification and affidavit are executed by the third party and officer thereof.

D. Releasor avers that it has been engaged in the business of handling, processing and storing Hazardous Waste for the past three years and to the extent required by law, has arranged for lawful disposal of Hazardous Waste for the past three years.

E. It is understood by the parties to the Agreement that the Hazardous Waste which is the subject of the Agreement pass to Releasor at the time said Hazardous Waste is generated by Releasor's activities, unless barred by the operation of law.

F. Any act or omission on the part of Releasor which involves or includes a violation of the EPA Regulations or of any federal or state environmental statute or regulation, or local ordinance dealing with the environment, and which involves the handling, disposal, storage, packaging, transportation and/or disposal of the Hazardous Waste which is the subject of the Agreement will be regarded by SEPTA as a substantial breach of the Agreement. Such act(s) or omission(s) will be regarded as a breach or breaches of the Agreement by Releasor whether resulting from the inadvertence, negligence or gross negligence of Releasor.

G. (1) Releasor covenants and agrees to send to SEPTA one copy of every record which Releasor is obligated by the EPA Regulations to maintain and one copy of every communication between Releasor and every federal, state and local governmental body, including also the Environmental Protection Agency, which deals with the Hazardous Waste which is the subject of the Agreement, and to send such copies to SEPTA within thirty (30) days of the making of such records and the sending or receiving of such communication.

(2) In the event that Hazardous Waste is stored by Releasor prior to ultimate disposal, Releasor covenants and agrees to send to SEPTA the certification that such disposal was carried out properly under the EPA Regulations and all other applicable laws, and such certification shall be sent within thirty (30) days of each such disposal.

(3) On the occasion or occasions of the ultimate disposal of any or all of the Hazardous Waste, Releasor covenants and agrees to send to SEPTA its certification that such disposal was carried out properly under the EPA Regulations and all other applicable laws, and such certification shall be sent within thirty (30) days of each disposal.

(4) The certifications concerning proper storage and disposal, which are the subjects of the two immediately preceding subparagraphs (2 and 3), are to be sent by Releasor to SEPTA even if Releasor, pursuant to paragraph C. above, has engaged a third party or parties to perform such storage and/or disposal, and regardless of whether Releasor passes Hazardous Waste to any other party or parties. This requirement concerning the sending of certifications described in this paragraph is the continuing responsibility of Releasor, and may not be assigned to any agent or independent contractor of Releasor, without the prior written consent of SEPTA.

(5) The transmission by Releasor of all records, documents, and certifications mentioned in this paragraph G. or elsewhere in this Release within the prescribed periods and at the prescribed intervals is regarded by both parties to be of the essence of this Release and the incorporated Agreement.
H. Releasor hereby promises and agrees that in the event that SEPTA is named as a defendant in any action at law or equity or in any criminal or civil action or any administrative proceeding before any court or administrative agency in any jurisdiction, for any act or omission for which Releasor is responsible pursuant to the Agreement or this Release, Releasor hereby covenants and agrees to defend, indemnify, and hold harmless SEPTA, its agents, employees and officers, successors and subsidizers, from and against any civil or criminal judgment, penalty, cost, claim, suit or action at law or in equity or any administrative proceeding which may be brought against SEPTA on account of any violation or damage of any kind whatsoever including property loss or personal injury of any kind or nature whatsoever (including deaths) arising out of or in any way connected with Releasor's performance of the Agreement incorporated by reference herein.

I. This Release and Agreement to conform with Environmental Laws shall be interpreted according to the laws of the Commonwealth of Pennsylvania.

For and in consideration of the Agreement incorporated herein by reference as though set forth fully herein, and for other good and lawful consideration, this Release and Agreement to Conform with Environmental Laws for Hazardous Waste Removal is executed and delivered this ________________ day of ______, 20__, by the hereunder signed parties and/or authorized representatives thereof.

Attest: ____________ By: ____________

SEAL

By: ______________
President or Vice President

_____________________
Secretary

(Environmental Laws – Haz. Waste)
EXHIBIT V
OWNER CONTROLLED INSURANCE PROGRAM (OCIP)
Insurance Coverages to be Provided by Owner and Contractor

1. **Owner Controlled Insurance Program.** SEPTA (“Owner” or “Sponsor”) has arranged with Aon Risk Services Northeast, Inc. (the “OCIP Administrator”) for the Project to be insured under its Owner Controlled Insurance Program (“OCIP”). The OCIP is more fully described in the Owner Controlled Insurance Program Insurance Manual (the “OCIP Insurance Manual”) for the Project. Parties performing labor or services at the Project site are eligible to enroll in the OCIP, unless they are an Excluded Party (as defined below). The OCIP will provide certain insurance coverages to Enrolled Parties, including Worker’s Compensation, Employer’s Liability, Commercial General Liability insurance and Excess Liability insurance in connection with the performance of the Work (the “OCIP Policies”). Participation in the OCIP is mandatory for eligible contractors and subcontractors directed by the Owner to enroll in the OCIP. Eligible contractors and subcontractors must follow the enrollment procedures set forth in this Exhibit and in the OCIP Insurance Manual.

The amounts and terms of coverage provided through the OCIP are determined by the OCIP Policies. In the event any provision of this Exhibit, the OCIP Insurance Manual, or any other Contract Document conflicts with the OCIP Policies, the provisions of the OCIP Policies shall govern.

2. **Enrolled Parties and Their Insurance Obligations.** The following are Enrolled Parties: Owner, Contractor as applicable and all eligible Subcontractors of all tiers that enroll in the OCIP and receive confirmation of enrollment from the OCIP Administrator, and such other persons or entities as Owner may designate, in its sole discretion. A party performing labor or providing services at the Project site is eligible to enroll in the OCIP, unless such party is an Excluded Party.

In addition to the OCIP Policies, Enrolled Parties shall obtain and maintain, and shall require each of their Subcontractors of all tiers to obtain and maintain, the insurance coverage specified in Section 9, below.

3. **Excluded Parties and Their Insurance Obligations.** The following are Excluded Parties:

   A. Hazardous materials remediation, removal and/or transport companies and their consultants, including but not limited to asbestos abatement and lead abatement contractors;

   B. Architects, surveyors, engineers, and soil testing engineers, and their consultants that do not perform any actual labor at the Project;

   C. Vendors, suppliers, fabricators, material dealers, truckers, haulers, drivers and others that merely transport, pick up, deliver, or carry materials, personnel, parts or equipment, or any other items or persons to or from the Project that do not perform any actual labor at the Project;

   D. Subcontractors of all tiers that do not perform any actual labor on the Project;

   E. Subcontractors performing site security, any labor staffing firms or subcontractors performing demolition that utilizes explosives; and

   F. Any parties or entities not specifically identified in this Exhibit, or such parties or entities excluded by Owner, in its sole discretion, even if they are otherwise eligible.

Excluded Parties and parties no longer enrolled in or covered by the OCIP shall obtain and maintain, and shall require each of their Subcontractors of all tiers to obtain and maintain, the insurance coverage specified in Section 9, below.

4. **OCIP Policies.**
4.1 **OCIP Policies Establish Coverage.**

The OCIP Policies summarized in this Exhibit, the OCIP Insurance Manual, and other Contract Documents are set forth in full in their respective insurance policy forms. The summary descriptions of the OCIP Policies in this Exhibit, the OCIP Insurance Manual, and/or other Contract Document(s) are not intended to be exhaustive, or to alter or amend any provision of the actual OCIP Policies. Any reference in this Exhibit, the OCIP Insurance Manual, or elsewhere in any Contract Document as to the potential applicability of the OCIP to any potential claim or loss is for reference only, and Contractor hereby represents and warrants that it has not relied upon any such reference or any other oral or written statement by or on behalf of Owner, the OCIP Administrator, or their agents, employees or representatives as to the potential applicability of the OCIP. A copy of the OCIP Policies are available, upon written request, for review at the office of the Sponsor.

In the event that any provision of this Exhibit, the OCIP Insurance Manual, and/or other Contract Document(s) conflict with the actual terms of the OCIP Policies, the provisions of the actual OCIP insurance policies shall govern. To the extent there are any other conflicts between or among the provisions of the OCIP Policies, this Exhibit, the OCIP Insurance Manual, and the Contract Documents, then, in descending order, the OCIP Policies shall govern, followed by this Exhibit, the OCIP Insurance Manual, and then the other Contract Documents.

4.2 **Applicability of the OCIP Policies.**

The OCIP Policies shall apply only to those operations of each Enrolled Party performed at the Project Site, as defined in the OCIP Policies, in connection with the Work, and only to Enrolled Parties. The OCIP Policies provides the precise definition of the Project Site. An Enrolled Party’s operations away from the Project Site, as defined in the OCIP Policies, including product manufacturing, assembly, or otherwise, are not generally covered by the OCIP Policies unless the policies have been specifically amended or written to provide coverage for such “off-Site” operations. The OCIP shall not apply to the operations of Contractor or Subcontractors at their offices, factories, warehouses, or other such locations away from the Project Site.

4.3 **Summary of OCIP Policies.**

(a) **Workers’ Compensation** (including but not limited to coverage or endorsements for Occupational Disease Benefits, Voluntary Compensation and Disability benefits, Jones Act and U.S. Longshoremens and Harbor Worker’s Act, if applicable) – Statutory Limits for the state(s) in which the Work will take place.

(b) **Employer’s Liability** - for designated premises only. This insurance shall have limits of at least $1,000,000 for each bodily injury by accident, each bodily injury by disease, and annual aggregate.

(c) **Commercial General Liability**

<table>
<thead>
<tr>
<th>Description</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bodily Injury/Property Damage Each Occurrence Limit</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Personal Advertising Injury Each Occurrence</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>General Aggregate Limit</td>
<td>$4,000,000</td>
</tr>
<tr>
<td>Products/Completed Operations Aggregate</td>
<td>$4,000,000</td>
</tr>
</tbody>
</table>
(d) This insurance is primary for all occurrences at the Project site. The policy limits are shared by all Enrolled Parties and are dedicated to the Project. The Policy includes a products-completed operations extension for twelve (12) years following substantial completion of the Project or until the Statute of Repose, whichever is longer.

(e) Umbrella or Excess Liability Insurance

<table>
<thead>
<tr>
<th>Coverage Type</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Combined Single Limit</td>
<td>$100,000,000</td>
</tr>
<tr>
<td>General Annual Aggregate</td>
<td>$100,000,000</td>
</tr>
<tr>
<td>Products/Completed Operations Aggregate</td>
<td>$100,000,000</td>
</tr>
</tbody>
</table>

(f) The policy limits are shared by all Enrolled Parties and are dedicated to the Project. The Policy includes a products-completed operations extension for twelve (12) years following substantial completion of the Project or until the Statute of Repose, whichever is longer.

5. **Owner’s Insurance Obligations.** Owner shall pay the costs of premiums for the OCIP Policies. Owner will receive or pay, as the case may be, all adjustments to such costs, whether by way of dividends, retroactive adjustments, return premiums, other moneys due, audits or otherwise. **Owner promises Enrolled Parties no insurance other than what is actually provided per the terms of the OCIP Policies.** Enrolled Parties shall review the OCIP Policies themselves and not rely on any representation by Owner or OCIP Administrator as to such insurance. Owner’s furnishing of OCIP Policies shall in no way relieve or limit, or be construed to relieve or limit, Contractor or any of its Subcontractors of any tier of any responsibility, liability, or obligation imposed by the Contract Documents, the OCIP Policies, or by law, including, without limitation, any indemnification obligations which Contractor or any of its Subcontractors has to Owner thereunder. Owner reserves the right at its option, without obligation to do so, to furnish other insurance coverage of various types and limits.

6. **Prime Contractor and OCIP Obligations.** Prime Contractor shall:

A. Fully comply with all of the enrollment, administrative, safety, insurance and all other requirements outlined in this Exhibit, the OCIP Insurance Manual, and the OCIP Policies, and/or elsewhere in the Contract Documents.

B. Ensure that each non-Excluded subcontractor of all tiers enrolls and maintains enrollment in the OCIP and complies with all of the administrative, safety, insurance and all other requirements outlined in this Exhibit, the OCIP Insurance Manual, and the OCIP Policies, and/or elsewhere in the Contract Documents.

C. Incorporate the terms of this Exhibit into all subcontract agreements and ensure that all their Subcontractors, in turn, incorporate the terms of this Exhibit in any of their lower tier subcontracts.

D. Provide to each of its Subcontractors of all tiers a copy of the OCIP Insurance Manual and ensure each such Subcontractors’ compliance with the provisions of the OCIP Policies, the OCIP Insurance Manual, this Exhibit and the Contract Documents. The failure of Contractor to provide each of its eligible Subcontractors with a copy of the same shall not relieve Contractor or any such Subcontractors, of any of the obligations contained therein.

E. Acknowledge, and require all of its Subcontractors to acknowledge, in writing, that Owner and the OCIP Administrator are not agents, partners, or guarantors of the insurance companies providing the OCIP Policies (each such insurer is an “OCIP
Insurer”), that neither the Owner nor the OCIP Administrator is responsible for any claims or disputes between or among Contractor, its Subcontractors, and any OCIP Insurer(s), and that neither Owner nor the OCIP Administrator guarantees the solvency, or the availability of limits, of any OCIP Insurer(s). Any type of insurance coverage or limits of liability in addition to the OCIP Coverages that Contractor or its Subcontractors of any tier require for its or their own protection, or that is required by applicable laws or regulations, shall be Contractor or its Subcontractors’ sole responsibility and expense, and shall not be billed to Owner.

F. Comply, and require all of its Subcontractors to comply, with OCIP Administrator’s instructions for enrollment in, and administration of, the OCIP, and timely provide Owner or OCIP Administrator all documents or information requested in connection with enrollment or administration of the OCIP, and as required by the OCIP Insurance Manual and/or the OCIP Policies.

G. Comply, and require all of its Subcontractors to comply, with Owner’s mandatory return to work program.

H. Have a Pennsylvania Workers’ Compensation Experience Modification Factor (EMR) not exceeding 1.25, unless the Contractor can prove by submission of specific, verifiable documentation (e.g., delineation of the number and nature of work place injuries for the past three (3) years, a description and schedule of safety programs, etc.) that they have stringent safety and loss control procedures in place to insure that work for the Owner is conducted at the lowest possible accident rate. Contractor or Subcontractor requesting an exception must complete the EMR Exception Request (Attached Exhibit A) and EMR Exception Questionnaire (Attached Exhibit B) which will also be found in the OCIP Insurance Manual. Any exceptions shall be approved by the Owner, the OCIP Administrator, and/or the OCIP insurance carrier. If the Contractor’s or Subcontractor’s domicile state is not Pennsylvania, their applicable Experience Modification Factor will be used, (i.e., Interstate (NCCI) for Maryland, New Jersey’s state-specific modification, etc.)

I. It shall be mandatory for Contractor and all Subcontractors to participate in the Drug and Alcohol Testing Program (“Program”) in order to perform work on this project and each shall be responsible for the payment of drug and alcohol testing services for their respective employees. The mandatory Program is to include (i) pre-employment testing prior to being permitted on the project site; (ii) “reasonable suspicion” based testing when an employee is suspected of being impaired on duty; and (iii) post-accident/incident testing which involves any employee who is injured during the course and scope of their employment onsite or involved in an accident/incident in the course of job duties which involves use of heavy equipment, power tools or other dangerous instruments, or under working conditions which result in an injury or substantial property damage or disruption to the project. The Drug and Alcohol Testing Program is incorporated into this document as OCIP Appendix A.

7. **Bids Net of OCIP Insurance Costs.** Contractor and each Subcontractor shall bid the Project ‘net’ of insurance costs due to eligibility for the OCIP. Contractor shall exclude the Cost of OCIP Policies from its bid, and ensure that each Subcontractor of every tier excludes the Cost of OCIP Policies from their respective bids. The “Costs of OCIP Coverages” is defined as the amount of Contractor and it’s Subcontractors’ reduction in insurance costs due to eligibility for OCIP Coverages. The Costs of OCIP Coverages includes reduction in insurance premiums, related taxes and assessments, markup on the insurance premiums and losses retained through the use of the self-funded program, self-insured retention, or deductible program. The Cost of OCIP Coverages must include expected losses within any retained risk. Contractor must deduct the Cost of OCIP Coverages for all Subcontractors in addition to their own Cost of OCIP Coverages. Change orders must also be priced to exclude the Cost of OCIP Coverages.
8. **OCIP Policies Deductibles and Self-Insured Retentions.**

8.1 **Owner Responsible for Payment of Deductible and Self-Insured Retentions.**

Owner shall be responsible for payment of the deductibles and self-insured retentions set forth in the OCIP Policies, both during the period of construction and during the completed operations coverage period. Enrolled Subcontractors of every tier shall be responsible for a “CGL Deductible Contribution,” as defined and as set forth in Section 8.2 below.

8.2 **CGL Deductible Contribution.**

In the event of an “occurrence” of “bodily injury” or “property damage” or a “personal injury” or “advertising injury offense,” as those terms are defined in the OCIP CGL Policy, which arises out of or is in any way connected with the Work, whether during construction or after completion of the Work or both, the Owner may, in its sole discretion, seek contribution(s) towards the CGL Policy Deductible (the “CGL Deductible Contribution”) from any “involved Enrolled Party,” in a total amount not to exceed $5,000.00 per occurrence per involved Enrolled Party.

For purposes of this Section 8.2, the term “involved Enrolled Party” shall mean any Enrolled Party out of whose portion(s) of the Work the occurrence, offense, loss or claim arises. In the event more than one involved Enrolled Party is responsible for the occurrence or offense, Owner may, in its sole discretion, allocate the CGL Deductible Contribution amongst the involved Enrolled Parties. The CGL Deductible Contribution shall include, without limitation, attorneys’ fees, court costs, and other defense expenses. The CGL Deductible Contribution is not an indemnity obligation on the part of the Enrolled Parties; it is a contractual allocation of the Insured Parties’ mutual obligations under the OCIP. The CGL Deductible Contribution may be assessed against any involved Enrolled Party by Owner, in its sole discretion, and, to the extent assessed, shall be in amounts that bear a reasonable and proportionate relationship to the alleged liability arising from the claim.

If Owner assesses a CGL Deductible Contribution against an involved Enrolled Party, then that CGL Deductible Contribution shall be due and payable to Owner within ten (10) days after Owner’s written demand. Owner may back-charge the involved Enrolled Party, may withhold from monies otherwise owing to them or may collect by any other lawful means, the amount(s) owed by them as its allocated portion of the CGL Deductible. The CGL Deductible Contribution shall remain uninsured by Enrolled Parties and will not be covered by the OCIP Policies, nor shall it be included in the Contract Price or GMP. The obligations of Contractor and its Enrolled Subcontractors of every tier are not limited in any manner because of any coverage provided under the OCIP Policies or because of any CGL Deductible Contribution.

9. **Insurance Required From Enrolled Parties and Excluded Parties.**

9.1 **Minimum Coverages Required.**

The OCIP Policies include only certain types of coverage, for a specific period of time, and at a specifically defined location(s). Enrolled Parties (including but not limited to Contractor) shall provide the following insurance as more particularly set forth below:

(a) for all operations off the Project Site (as defined by the OCIP Insurance Policies),
   1. Worker’s Compensation and Employer’s Liability insurance,
2. Commercial General Liability and Excess/Umbrella Liability insurance,

(b) for all operations, both on and off the Project Site,

3. Automobile Liability insurance,

(c) for all operations both on and off the Project Site, when the respective OCIP Insurance Policies terminates for the Enrolled Party’s Work: Worker’s Compensation and Employer’s Liability, General Liability and Excess Umbrella Liability insurance;

(d) pursuant to the requirements below, professional liability insurance, aircraft/watercraft insurance, contractor’s pollution liability insurance, for all operations, both on and off the Project Site, if applicable.

   (1) **Commercial Automobile Liability Insurance.** This insurance shall be on a current ISO form (CA 00 01 10 01) or equivalent and apply on an “any auto” basis, including all vehicles used in connection with the Work, and provide a combined single limit of not less than $1,000,000 per occurrence – bodily injury and property damage, including uninsured and underinsured motorist coverage and medical payment protection. Coverage shall include, without limitation, loading and unloading.

   (2) **Workers’ Compensation** (including but not limited to coverage or endorsements for Occupational Disease Benefits, Voluntary Compensation and Disability benefits, Jones Act and U.S. Longshoremen’s and Harbor Worker’s Act, if applicable) – Statutory Limits for the state(s) in which the Work will take place. Self-insurance is not acceptable.

   (3) **Employer’s Liability.** This insurance shall have limits of at least $1,000,000.00 for each bodily injury by accident, each bodily injury by disease, and annual aggregate.

   (4) **Commercial General Liability insurance.** This insurance shall be provided by a current ISO occurrence form policy, including, without limitation, coverage for damages because of bodily injury, property damage, and personal and advertising injury. This insurance shall include, without limitation, coverage for the products completed operations hazard. This insurance shall have annual limits of at least the following:

   | Each Occurrence | $1,000,000 |
   | General Aggregate | $2,000,000 |
   | Products/Completed Operations Aggregate | $2,000,000 |
   | Personal/Advertising Injury Aggregate | $1,000,000 |

   This insurance shall be maintained from commencement of the Work until not less than twelve (12) years after substantial completion and acceptance of the Project, or to the applicable Statute of Repose in the jurisdiction where the Project is located, whichever is longer.

   (5) **Excess/Umbrella Liability insurance.** For the Contractor, this insurance shall include annual limits of liability of not less than $10,000,000 Per Occurrence; Products/Completed Operations Aggregate; General Aggregate and but must be specifically endorsed such that the coverage is primary and non-contributory to any of the Owner’s or other Additional Insured’s other insurance or self-insurance (as set forth in greater detail below). For all other Subcontractors, this insurance shall include annual limits of liability of not less than $2,000,000 Per Occurrence;
Products/Completed Operations Aggregate; General Aggregate and but must be specifically endorsed such that the coverage is primary and non-contributory to any of the Owner’s or other Additional Insured’s other insurance or self-insurance (as set forth in greater detail below). The insurance shall follow form to the Employer’s Liability, Commercial General Liability, and Automobile Liability policies and “drop down” for defense and indemnity in the event of exhaustion of the underlying insurance; to the extent such insurance is used to satisfy the above requirements.

(6) **Professional Liability Insurance.** For the Contractor, this insurance shall include annual limits of liability of not less than $5,000,000 per claim, and not less than $5,000,000 annual aggregate, with a deductible of not greater than $25,000 per claim. For all Subcontractors, this insurance shall include annual limits of liability of not less than $2,000,000 per claim, and not less than $2,000,000 annual aggregate, with a deductible of not greater than $25,000 per claim. This requirement shall apply to any Subcontractor only if any Work or services required of the Subcontractors by this Agreement (including any Work or services to be provided by its Subcontractors) would be excluded from coverage as professional services: (i) for Enrolled Parties, under the OCIP or such party’s CGL insurance required by this Section 9; or (ii) for Excluded Parties, under such party’s Commercial General Liability Insurance required by this Section 9. This insurance must be maintained for at least 12 years after substantial completion and acceptance of the Project, or to the applicable Statute of Repose in the jurisdiction where the Project is located, whichever is longer.

(7) **Pollution Liability Insurance.** Such insurance shall include a combined single limit per occurrence, and general annual aggregate, of $5,000,000.00 for the Contractor and if the Work or services to be provided by any of its Subcontractors, involves removal or treatment of hazardous materials, all Subcontractors shall obtain and maintain contractor’s pollution liability insurance. Such insurance shall include a combined single limit per occurrence, and general annual aggregate, of $2,000,000 for any Subcontractor. If Contractor, or any of its Subcontractors, will be transporting hazardous waste/materials to or from the Project site, an appropriate MCS-90 Endorsement must be attached and supplied to Owner on a primary basis with $5,000,000 limits of liability. If such coverage is secured on a “claims made” basis, extended reporting coverage shall be secured for a minimum of (5) years following the completion of Contractor or Subcontractor’s work. In addition to maintaining coverage for Non-Owned Disposal Site Liability, Contractor or Subcontractor shall secure evidence of coverage from the disposal sites used under this contract. Further, remediation Subcontractors shall maintain or secure any additional required insurance, permits, licenses, and other forms of documentation as required by the applicable regulatory authorities having jurisdiction over the scope of work.

(8) **Watercraft and Aircraft Liability.** If Contractor or any of its Subcontractors uses commercial watercraft and/or aircraft (including helicopters) in connection with the Project, it must maintain liability insurance covering such watercraft and/or aircraft with limits of not less than $10,000,000 for aircraft and $5,000,000 for watercraft. The Owner shall not be liable for any damage to any watercraft and/or aircraft owned, leased, rented, or borrowed by Contractor or any Subcontractor.

(9) The OCIP does not insure, and the Owner will not be liable for, damage to any mobile equipment, vehicles, or tools and equipment. Required insurance
coverage for equipment and vehicle physical damage must include a waiver of subrogation in favor of the additional insureds.

**Excluded Parties** shall provide all insurance set forth below for both on-site and off-site operations.

1. **Commercial Automobile Liability Insurance.** This insurance shall be on a current ISO form (CA 00 01 10 01) or equivalent and apply on an “any auto” basis, including all vehicles used in connection with the Work, and provide a combined single limit of not less than $1,000,000 per occurrence – bodily injury and property damage, including uninsured and underinsured motorist coverage and medical payment protection. Coverage shall include, without limitation, loading and unloading.

2. **Workers’ Compensation** (including but not limited to coverage or endorsements for Occupational Disease Benefits, Voluntary Compensation and Disability benefits, Jones Act and U.S. Longshoremen’s and Harbor Worker’s Act, if applicable) – Statutory Limits for the state(s) in which the Work will take place. Self-insurance is not acceptable.

3. **Employer’s Liability.** This insurance shall have limits of at least $1,000,000.00 for each bodily injury by accident, each bodily injury by disease, and annual aggregate.

4. **Commercial General Liability Insurance.** This insurance shall be provided by a current ISO occurrence form policy, including, without limitation, coverage for damages because of bodily injury, property damage, and personal and advertising injury. This insurance shall include, without limitation, coverage for the products completed operations hazard. This insurance shall have annual limits of at least the following:

   - Each Occurrence: $1,000,000
   - General Aggregate: $2,000,000
   - Products/Completed Operations Aggregate: $2,000,000
   - Personal/Advertising Injury Aggregate: $1,000,000

   This insurance shall be maintained from commencement of the Work until not less than twelve (12) years after substantial completion and acceptance of the Project, or to the applicable Statute of Repose in the jurisdiction where the Project is located, whichever is longer.

5. **Excess/Umbrella Liability Insurance.** For the Contractor, this insurance shall include annual limits of liability of not less than $10,000,000 Per Occurrence; Products/Completed Operations Aggregate; General Aggregate and but must be specifically endorsed such that the coverage is primary and non-contributory to any of the Owner’s or other Additional Insured’s other insurance or self-insurance (as set forth in greater detail below). For all other Subcontractors, this insurance shall include annual limits of liability of not less than $2,000,000 Per Occurrence; Products/Completed Operations Aggregate; General Aggregate and but must be specifically endorsed such that the coverage is primary and non-contributory to any of the Owner’s or other Additional Insured’s other insurance or self-insurance (as set forth in greater detail below). The insurance shall follow form to the Employer’s Liability, Commercial General Liability, and Automobile Liability policies and “drop down” for defense and indemnity in the event of exhaustion of
the underlying insurance; to the extent such insurance is used to satisfy the above requirements.

(6) **Professional Liability Insurance.** For the Contractor, this insurance shall include annual limits of liability of not less than $5,000,000 per claim, and not less than $5,000,000 annual aggregate, with a deductible of not greater than $25,000 per claim. For all Subcontractors, this insurance shall include annual limits of liability of not less than $2,000,000 per claim, and not less than $2,000,000 annual aggregate, with a deductible of not greater than $25,000 per claim. This requirement shall apply to any Subcontractor only if any Work or services required of the Subcontractors by this Agreement (including any Work or services to be provided by its Subcontractors) would be excluded from coverage as professional services: (i) for Enrolled Parties, under the OCIP or such party’s CGL insurance required by this Section 9; or (ii) for Excluded Parties, under such party’s Commercial General Liability Insurance required by this Section 9. This insurance must be maintained for at least 12 years after substantial completion and acceptance of the Project, or to the applicable Statute of Repose in the jurisdiction where the Project is located, whichever is longer.

(7) **Pollution Liability Insurance.** Such insurance shall include a combined single limit per occurrence, and general annual aggregate, of $5,000,000.00 for the Contractor and if the Work or services to be provided by any of its Subcontractors, involves removal or treatment of hazardous materials, all Subcontractors shall obtain and maintain contractor’s pollution liability insurance. Such insurance shall include a combined single limit per occurrence, and general annual aggregate, of $2,000,000 for any Subcontractor. If Contractor, or any of its Subcontractors, will be transporting hazardous waste/materials to or from the Project site, an appropriate MCS-90 Endorsement must be attached and supplied to Owner on a primary basis with $5,000,000 limits of liability. If such coverage is secured on a “claims made” basis, extended reporting coverage shall be secured for a minimum of (5) years following the completion of Contractor or Subcontractor’s work. In addition to maintaining coverage for Non-Owned Disposal Site Liability, Contractor or Subcontractor shall secure evidence of coverage from the disposal sites used under this contract. Further, remediation Subcontractors shall maintain or secure any additional required insurance, permits, licenses, and other forms of documentation as required by the applicable regulatory authorities having jurisdiction over the scope of work.

(8) **Watercraft and Aircraft Liability.** If Contractor or any of its Subcontractors uses commercial watercraft and/or aircraft (including helicopters) in connection with the Project, it must maintain liability insurance covering such watercraft and/or aircraft with limits of not less than $10,000,000 for aircraft and $5,000,000 for watercraft. The Owner shall not be liable for any damage to any watercraft and/or aircraft owned, leased, rented, or borrowed by Contractor or any Subcontractor.

(9) The OCIP does not insure, and the Owner will not be liable for, damage to any mobile equipment, vehicles, or tools and equipment. Required insurance coverage for equipment and vehicle physical damage must include a waiver of subrogation in favor of the additional insureds.

### 9.2 General Insurance Requirements.

(a) Owner and its officers, agents, and employees and such other parties as Owner may designate, shall be listed as additional insureds on each party’s Commercial General
Liability, Business Auto Liability and Umbrella/Excess policies. Each policy (including umbrella/excess) shall state that the insurance provided to the additional insureds is primary and non-contributory to any other insurance (including primary, excess, self-insurance, or on any other basis) available to the additional insureds. The insurance policies shall not eliminate or restrict coverage for claims or suits between named insureds and additional insureds. The coverage provided to the additional insureds must be at least as broad as that provided to the party who is the first named insured on each policy. In the event that any policy provided in compliance with this Exhibit states that the coverage provided to an additional insured shall be no broader than that required by contract, or words of similar meaning, the parties agree that nothing in this Agreement is intended to restrict or limit the breadth of such coverage. With respect to the Commercial General Liability policy, additional insured status must be provided using a current I.S.O. endorsement(s) or its equivalent(s). The Commercial General Liability insurance must also include additional insured coverage provided via the ISO CG 20 10 (11/85) or CG 20 10 (10/93) AND CG 20 37 (10/01) or CG 20 22 (10/01) AND CG 20 37 (10/01) additional insured endorsement(s), or its equivalent.

(b) The limits of insurance provided by each party shall be the greater of the limits maintained in the normal course of each party’s business or the minimum limits specified in this Exhibit. The limits of insurance stated above for each type of insurance are minimum limits only; in the event any party’s policy provides greater limits, then the additional insureds shall be entitled to, or to share in, the full limits of such policy, and this Agreement shall be deemed to require such full limits.

(c) Prior to the commencement of any Work and prior to any personnel coming on the Project site and within three (3) days of any renewal, change in coverage, or replacement of coverage, Contractor shall provide: (i) Certificates of Insurance (“COIs”), in duplicate; and (ii) full and complete copies of the insurance policies required under Section 9. Contractor shall collect COIs and policies in accordance with this subparagraph from each of its Subcontractors for all insurance required by this Exhibit. Contractor shall continue to provide to Owner (and to collect from its Subcontractors and provide to Owner) COIs and copies of policies annually, and in the event of any change in insurer, limits or coverage, during the entire time period for which such insurance is required under this Exhibit. Contractor and/or a Subcontractor’s failure to provide COIs and/or copies of policies shall not relieve it of its responsibility to carry and maintain the insurance required by this Exhibit. Owner’s failure to demand or inspect a COI and/or a policy, and/or Owner’s failure to identify or object to any discrepancy therein, is not a waiver of any requirement contained in this Exhibit or elsewhere in this Agreement.

(d) All policies shall contain a provision that coverages afforded under the policies shall not be canceled, materially changed or not renewed unless at least thirty (30) days prior written notice has been given to Owner.

(e) All insurance Contractor and its Subcontractors furnish in compliance with this Exhibit shall include a waiver of subrogation in favor of Owner and the other named and additional insureds and any other party requested by Owner.

(f) If the insurance provided by Contractor and/or its Subcontractors excludes or limits coverage for named insureds because an OCIP, wrap-up, or project-specific insurance policy/ies has/have been provided for this Project, such limitation or exclusion may only apply to the extent of valid and collectible insurance available from the OCIP. No such exclusion or limitation may apply to Owner or any other named or additional insureds.

(g) The policies Contractor and its Subcontractors furnish in compliance with this Exhibit shall not be subject to any self-insured retention in excess of $25,000 unless approved in
writing by Owner. Each party shall be responsible for any self-insured retention due under any insurance it provides. The coverage afforded to the additional insureds shall not be conditioned on the payment of any deductible or retention.

(h) If Contractor or its Subcontractors fail to furnish the required COIs or maintain the coverage required under this Exhibit or if any of the insurance is cancelled or changed such that it is no longer compliant with this Exhibit, Owner may: (1) immediately terminate this Agreement and such party will reimburse Owner for any and all losses resulting from such party’s failure, or (2) Owner may procure substitute insurance and such party shall reimburse Owner for all associated costs including insurance premiums or such costs will be offset against amounts otherwise payable to such party under this Agreement. In the event a party’s failure to comply with any aspect of this Exhibit results in payment for defense or indemnity by Owner’s or any other additional insured party’s insurance, such party shall indemnify Owner or the other additional insured for the full amount such party’s insurance paid, and such party shall not be entitled to an offset for any amounts such party receives, or is entitled to receive, from other insurance. This remedy is without prejudice to or limitation of any other remedy available to Owner under the terms of this Agreement or Applicable Law.

(i) IN THE EVENT THAT THE LAW OF THE STATE IN WHICH THE PROJECT IS LOCATED (OR APPLICABLE LAW) LIMITS THE APPLICABILITY OF ANY OF THE INSURANCE COVERAGE THAT OWNER MAY REQUIRE FROM CONTRACTOR OR ITS SUBCONTRACTOR, THEN CONTRACTOR AND ITS SUBCONTRACTORS SHALL BE REQUIRED TO OBTAIN COVERAGE TO THE FULLEST EXTENT OF COVERAGE AND LIMITS ALLOWED BY APPLICABLE LAW AND THIS CONTRACT SHALL BE READ TO CONFORM TO SUCH LAW.

10. **Limitation.** The OCIP and the insurance requirements described in this Exhibit exist for the sole and exclusive benefit and protection of Owner and the Enrolled Parties. The OCIP and required insurance described in this Exhibit are not intended to benefit any other parties including, without limitation, parties not enrolled in the OCIP, Excluded Parties or claimants (regardless of whether such claimant’s claim(s) are covered by the OCIP and regardless of against whom such claimant makes claim(s)). Owner is not responsible for enforcing any term of this Exhibit for the benefit of any party not enrolled in the OCIP.

11. **Contractor’s Representations and Warranties to Owner.** Contractor represents and warrants to Owner, and shall use its best efforts to ensure that each of its Subcontractors of every tier represent and warrant to Owner, that:

A. All information they submit to Owner, or to the OCIP Administrator, shall be accurate and complete.

B. They have had the opportunity to read and analyze copies of the OCIP Policies that are on file in Owner’s office, and that they understand the OCIP Policies. Any reference or summary in the Agreement, this document, the Insurance Manual, or elsewhere in any other Contract Document as to amount, nature, type or extent of OCIP Policies and/or potential applicability to any potential claim or loss is for reference only. Contractor and its Subcontractors of all tiers have not relied upon said reference, but solely upon their own independent review and analysis of the OCIP Policies in formulating any understanding and/or belief as to amount, nature, type or extent of any OCIP Policies and/or its potential applicability to any potential claim or loss.

C. The Costs of OCIP Coverages will not be included in Contractor’s GMP proposal for the Work or the Contract Price/Contract Sum, and will not be included in any change order or any request for payment for the Work or extra work.
D. Contractor acknowledges that Owner shall not pay or compensate Contractor or any Subcontractor of any tier, in any manner, for the Costs of OCIP Coverages.

12. **Audits.** Contractor agrees that Owner, the OCIP Administrator, and/or any OCIP Insurer may audit Contractor or any of its Subcontractors’ payroll records, books and records, insurance coverages, insurance cost information, bid estimates, pricing for any cost in the GMP, the Contract Price/Contract Sum or any subcontracted Work, or any information that Contractor provides to Owner, the OCIP Administrator, or the OCIP Insurers to confirm their accuracy to ensure that the Costs of OCIP Coverages are not included in any payment for the Work.

13. **Owner’s Election to Modify or Discontinue the OCIP.** Owner may, for any reason, modify the OCIP Coverages, discontinue the OCIP, or request that Contractor or any of its Subcontractors of any tier withdraw from the OCIP upon thirty (30) days written notice. Upon such notice Contractor and/or one or more of its Subcontractors, as specified by Owner in such notice, shall obtain and thereafter maintain during the performance of the Work, all (or a portion thereof as specified by Owner) of the OCIP Coverages. The form, content, limits of liability, cost, and the insurer issuing such replacement insurance shall be subject to Owner’s approval. The cost of the replacement coverage shall be at Owner’s expense, but only to the extent of the applicable Costs of OCIP Coverages.

14. **Withholding Payments.** Owner may withhold from any payment owed or owing to Contractor or its Subcontractors of any tier the Costs of OCIP Policies if they are included in a request for payment. In the event of an Owner audit of Contractor’s records and information as permitted in the Contract, this document, or in other Contract Documents reveals the inclusion of the Cost of OCIP Policies in any payment for the Work, Owner shall have the right to full deduction from the GMP or Contract Price/Contract Sum of all such Costs of OCIP Policies and all audit costs. Audit costs shall include, but shall not be limited to, the fees of the OCIP Administrator, and the fees of attorneys and accountants conducting the audit and review. If the Contractor or its Subcontractors fail to timely comply with the provisions of this document, Owner may withhold any payments due to Contractor and/or its Subcontractors of any tier until such time as they have performed the requirements of this document. Such withholding by Owner shall not be deemed to be a default under the Contract Documents.

15. **Waiver of Claims/Subrogation.** To the extent permitted by law, Contractor hereby waives all rights of recovery because of deductible clauses, inadequacy of limits of any insurance policy, limitations or exclusions of coverage, or any other reason against Owner, the OCIP Administrator, it’s or their officers, agents, or employees, and any other contractor or subcontractor performing Work or rendering services on behalf of Owner in connection with the planning, development and construction of the Project. Contractor shall also require that all Contractor-maintained insurance coverage related to the Work include clauses providing that each insurer shall waive all of its rights of recovery by subrogation against Owner, the OCIP Administrator, it’s or their officers, agents, or employees, or any other contractor or subcontractor performing Work or rendering services at the Project. To the extent permitted by law, Contractor shall require similar written express waivers and insurance clauses from each of its Subcontractors of every tier. A waiver of subrogation shall be effective as to any individual or entity, even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium, directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

16. **Other Owner Provided Insurances.** Owner shall obtain and maintain Builders Risk Insurance including Fire and Extended Coverage equal to 100% of the Completed Value of the Insurable Portion of the Contract Construction subject to a $5,000 deductible per occurrence on behalf of Contractor and each of their subcontractors and lower tier subcontractors. Contractor shall be responsible for the deductible amount under this owner provided insurance.
Appendix A: Drug and Alcohol Testing Program – Policy and Procedure

It shall be mandatory that all Contractors participate in the Drug and Alcohol Testing Program (“Program”) in order to perform work on this project. The mandatory Program is to include (i) pre-employment testing prior to being permitted on the project site; (ii) “reasonable suspicion” based testing when an employee is suspected of being impaired on duty; and (iii) post-accident/incident testing which involves any employee who is injured during the course and scope of their employment onsite or involved in an accident/incident in the course of job duties which involves use of heavy equipment, power tools or other dangerous instruments, or under working conditions which result in an injury or substantial property damage or disruption to the project.

WORKNET Drug & Alcohol Services (hereinafter “WORKNET”) will be the Third Party Administrator of the Program for the SEPTA OCIP Projects (hereinafter “OCIP Projects”).

The following are the procedures which must be adhered to by all contractors:

- As a Contractor is enrolled in the OCIP Project, AON shall be responsible to notify WORKNET via email the Contractor enrollment information form. AON is responsible to mail/fax/email the Employee Information Packet to the Contractor. The information in the packet will include Contractor contact information, phone numbers, cell telephone numbers, Designated Employer Representative (DER) name, alternate DER and mailing address. See Attachment A.

- WORKNET will email or fax the Drug Testing Agreement Form (See Attachment B) to the Contractor only if not received in the initial starter packet from AON. The Contractor is responsible for emailing or faxing a completed/signed Drug and Alcohol Testing Agreement Form back to WORKNET immediately after receiving the paperwork.

- WORKNET will send each Contractor via email or fax the Authorization Form for drug and alcohol testing.

- The Authorization Form must be filled in by an employer representative and signed by an employer representative. It is then given to the employee to take to the collection site for their drug test. The employer must check the appropriate boxes on the Authorization Form (i.e., the particular OCIP Project the testing is being administered for; the reason to test, etc.) If the employee does not have the Authorization Form when presenting to the collection site, the employee will not be tested, but instead turned away and sent back to the collection site for the completed Authorization Form.

- Procedures for receiving negative test results. Test results will be either (i) called and mailed; (ii) faxed to a confidential fax; or (iii) emailed to the Designated Employer Representative (DER). If you do not receive a result within 72 hours of the testing, then you must contact WORKNET at (610) 916-4781. The DER or Alternate DER may call for results however you must have the employees name and social security number to retrieve test results over the telephone.

- Instant Drug Testing will be conducted for all reasons to test.

- All urine specimen collections and Breath Alcohol Testing will be conducted at the following certified drug testing facilities:

<table>
<thead>
<tr>
<th>South Philadelphia</th>
<th>Roxborough Memorial Hospital</th>
</tr>
</thead>
<tbody>
<tr>
<td>One Reed Street</td>
<td>5800 Ridge Avenue, Suite 234</td>
</tr>
<tr>
<td>Philadelphia, PA 19147</td>
<td>Philadelphia, PA 19128</td>
</tr>
</tbody>
</table>
Mon.-Fri. 7:30 am to 5 pm

**Huntingdon Valley**
Mason Mill Business Park II
1800 Byberry Road, Suite 705
Huntingdon Valley, PA 19006
Ph: 215.947.5005
Mon.-Fri. 8 am to 4 pm

**King of Prussia**
170 N. Henderson Road, Suite 306
King of Prussia, PA 19406
Ph: 610.337.1558
Mon.-Fri. 7:30 am to 4:30 pm

**Langhorne**
360 N. Oxford Valley Road
Langhorne, PA 19047
Ph: 215.943.9000
Mon.-Fri. 7:30 pm to 5 pm

**Reading**
3225 N. 5th Street Highway
Reading, PA 19605
Ph: 610.939.2391
Mon.-Thurs. 8 am to 5 pm
Fri. 7 am to 4 pm

**Lester**
100 Diplomat Drive, Bay 1
Lester, PA 19113
Ph: 610.521.6880
Mon.-Thurs. 7:30 am to 8 pm
Fri. 7:30 am to 5 pm; Sat. 9 am to 2 pm

**Philadelphia**
Broad and Vine Streets
Mail Stop 101
Philadelphia, PA 19102
Ph: 215.762.8525
Mon.-Fri. 7:30 am to 5 pm

**Toms River**
368 Lakehurst Road, Suite 206
Toms River, NJ 08755
Ph: 732.557.9980
Mon.-Fri. 8 am to 5 pm

**Camden**
300 S. Benson and Broadway, Suite 101
Camden, NJ 08103
Ph: 856.338.0350
Mon.-Fri. 7:30 am to 5 pm

**Pennsauken**
9370 Route 130 N., Suite 200
Pennsauken, NJ 08110
Ph: 856.662.0660
Mon.-Fri. 7:30 am to 5 pm

**Stratford**
37 S. White Horse Pike
Stratford, NJ 08084
Ph: 856.435.2680
Mon.-Fri. 8 am to 4:40 pm

**Burlington**
2103 Burlington-Mt Holly Road
Burlington, NJ 08016
Ph: 609.747.1891
Mon.-Fri. 8 am to 5 pm

**Pureland**
510 Heron Drive, Suite 108
Swedesboro, NJ 08085
Ph: 856.467.8550
Mon.-Fri. 7:30 am to 5 pm

**Lancaster North**
4237 Oregon Pike
Ephrata, PA 17522
Ph: 717.859.5002
Mon.-Thurs. 8 am to 5 pm
Fri. 8 am to 4 pm

**Lancaster South**
241 Rohrerstown Road, Suite 200
Lancaster, PA 17601
Ph: 717.431.1770
Mon.-Thurs. 8 am to 5 pm
Fri. 8 am to 4 pm
A Contractor’s employee must present the completed signed Drug and Alcohol Testing Authorization Form to the representative at the designated drug testing facility. If the employee of the Contractor does not have the completed signed Authorization Form, they shall not be tested until the employee furnishes the proper completed signed Authorization Form. At the time of the test, the employee of the Contractor must also present a valid Photo ID to the testing facility representative.

WORKNET will provide all Drug Testing Custody and Control Forms for five (5) panel testing and split specimen collection kits to the collection facility. The 5-panel drug test will include the following controlled substances: Marijuana Metabolites, Cocaine Metabolites, Amphetamines, Opiates and Phencyclidine.

Once the urine specimen collection process has begun the employee may NOT leave the WORKNET site until the entire process is fully completed. If the employee leaves collection site without given permission to do so by the collection site, such action will be deemed a REFUSAL to test.

Once the urine specimen collection process is completed, the employee of the Contractor will be given the donor copy of the Custody and Control Form. The Donor will then be instructed to provide the Employer Custody and Control Form to his/her supervisor or the Safety Manager. The Employer copy of the Custody and Control Form will be placed in a sealed envelope by the collector at the collection site. Under no circumstances should the employee open the sealed envelope.

All specimens that require confirmation testing shall be sent to a SAMHSA Certified Testing Laboratory. It may take a minimum of 24 to 72 hours for test results to be returned to WORKNET from the laboratory. The Contractor is responsible for checking for the test results if not received within a reasonable time frame. WORKNET will contact the Contractor for any laboratory confirmed “Negative” test results. Once the Medical Review Officer (MRO) has discussed the “Non-negative” results (i.e., Positive or Inconclusive) with the employee, the Contractor will be notified.

**REASONS/LOCATIONS FOR TESTING:**

**PRE-EMPLOYMENT** drug testing is to be performed at the designated collection site.

**POST ACCIDENT/INCIDENT and INJURY** drug and breath alcohol testing is to be performed at the designated collection site. The employee must tell the collection site that they were injured while performing work on the OCIP Project, and present the completed signed Authorization Form to the clinic personnel. For purposes of the Program, any confirmatory breath alcohol test result having a level greater than .04 is considered a “Positive” result.

**REASONABLE SUSPICION** based drug and alcohol testing is to be performed at the designated collection site. The Authorization Form is required for this type of testing. For purposes of the Program, any confirmatory breath alcohol test result having a level greater than .04 is considered a “Positive” result.

The testing facility is to treat any determination of "REFUSAL to TEST” by any employee as a “Positive”
result, and will immediately notify WORKNET.

The testing facilities will invoice WORKNET monthly for all drug and alcohol contracted services.

**WORKNET will invoice the Prime Contractor directly for each drug and alcohol screen.** Payment is required within 45 days of receipt of the invoice. Cost associated with the drug testing program is as follows:

<table>
<thead>
<tr>
<th>Test Type</th>
<th>Charge*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Instant Drug Test – Negative Test Result</td>
<td>$55.00</td>
</tr>
<tr>
<td>Instant Drug Test - “Inconclusive” Test Result with Lab based Confirmation Testing</td>
<td>$59.00</td>
</tr>
<tr>
<td>Breath Alcohol Test – Screen</td>
<td>$30.00</td>
</tr>
<tr>
<td>Breath Alcohol Test – Confirmation Additional</td>
<td>$30.00</td>
</tr>
</tbody>
</table>

*Must utilize designated collection site for this OCIP Project. You may not use another collection site.

All specimen data will be made available to the appropriate member of the Contractor through WORKNET.
Employee Screening Program Information

Introduction

SEPTA for their OCIP Projects has agreed to utilize WORKNET Drug & Alcohol Services (hereinafter “WORKNET”) to provide drug testing. Drug and Alcohol testing is a requirement all Contractors must participate in to work on SEPTA’s OCIP Projects. The Contractor shall be termed as the Employer of the Employee being tested for the purposes of this document. The employer is ultimately responsible for payment of drug and alcohol testing services.

Drug Testing

WORKNET will utilize an “instant test” for the initial screen followed up by a laboratory based gas chromatography / mass spectrometry (“GC/MS”) confirmation test for all “Inconclusive” drug test result. WORKNET has contracted with WORKNET to perform the drug and alcohol testing for the SEPTA OCIP Projects. No other collection sites can be utilized for this project. Employees must have a “Negative” initial drug screen before they can complete the Project Safety Orientation for the project and begin work on site.

WORKNET will report results directly to the Designated Employer Representative (DER).

WORKNET will process “Inconclusive” tests in the following manner: After testing is completed, any employee with an “Inconclusive” result will be privately informed, by the employer, that the screen conducted was inconclusive and needs to be further tested at the laboratory. In addition, the employee will be informed by the employer that based on project requirements, he/she cannot be permitted on to the site until the test is reported as “Negative” from a federally certified laboratory.

At such time that further testing on an “Inconclusive” test result is returned from the laboratory as “Negative”, the employer will be notified and the employee will be cleared to receive the Project Safety Orientation and to begin work.

When the DER receives a result from the Medical Review Officer (MRO) that states “Positive Dilute”, the DER shall treat the result as a verified Positive result. The employee shall not be able to take another drug test based on the fact that the specimen was diluted.

When the DER receives a result from the MRO that states a “Negative Dilute” drug test, the company shall do the following:

- If the MRO directs the DER to conduct a recollection under direct observation (i.e., because the creatinine concentration of the specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL), the DER shall have the employee do so unannounced and immediately.

- If the MRO reports the result as a negative dilute and when the creatinine concentration of the dilute specimen is greater than 5 mg/dL, the DER shall direct the employee to take another unannounced test immediately.

Recollection of the specimen shall not be collected under direct observation unless there is another basis to support a directly observed collection.

When the DER receives the second result after the initial Negative Dilute result and the result is again Negative...
Dilute, the DER shall accept this result (unless the MRO asks for another collection under direct observation). If the MRO requires another recollection, the employee must do so immediately.

If the result is “Positive”, WORKNET will initiate the MRO review. The MRO is a medical Doctor that has specific training in the area of Drugs of Abuse. The MRO’s role is to make a final determination of the test result, taking into consideration the laboratory report and telephone interview with the donor, as well as any prescription documentation that may be provided. WORKNET will follow these guidelines for the MRO review when processing tests for this Project:

- The MRO staff will contact the donor a minimum of three (3) times within 24 hours of receipt of the “Positive” test result. If the donor has not called the MRO staff, then the MRO staff shall contact the DER for assistance in having the donor contact the MRO.
- After the MRO speaks to the donor via telephone, and the donor states they have a valid prescription, the donor has five (5) business days to provide that documentation or have the prescribing doctor contact the MRO. If a valid prescription that matches to the drug in question is provided, the MRO can overturn the result to a “Negative” result.
- After 10 days of receipt of the “Positive” drug test result from the laboratory, if the donor has not returned the MRO’s telephone call, the drug test results will then be given to the DER.

Once the result is finalized:

- The MRO staff will contact the DER with the result via the telephone. The result will then be mailed and/or faxed to the DER.
- Drug test results shall only be released to the contractor/subcontractor/general manager and/or pertinent DER for this Project. Written authorization from the donor of the urine specimen and/or breath alcohol test shall be required for any other identity requesting drug and/or alcohol results.
- Federal, state, and/or local authorities will be able to obtain the drug and/or alcohol test results only with a subpoena unless there is law requiring disclosure of the results per the Federal, state, and/or local authorities.
- The procedure to release drug and/or alcohol test results revert to 49 CFR Part 40 of the federal guidelines.
- A Drug Test Analysis Report will be sent to SEPTA, Conner Strong & Buckelew, AON and/or The Selzer Company upon request.
Alcohol Testing

The following protocols shall be implemented when the reason/basis to test for alcohol is either Post Accident/Incident/Injury or Reasonable Suspicion. The employee shall be transported by the employer to the designated WORKNET. All Alcohol Tests shall be conducted utilizing certified Evidential Breath Testing (EBT) devices. Any initial result of .04 bac or greater will result in an initial Positive finding and require a confirmatory test to be conducted after 15 minutes (but no longer than 30 minutes). Any confirmatory test greater than .04 bac is a Positive result and will be reported to the WORKNET immediately. Results are reported directly to the DER, contractor/subcontractor/general manager and/or pertinent designated representatives of this Project. Any employee testing greater than .04 bac will not be permitted to return to the project.

Authorization Form

The Authorization Form, which will be emailed to the contractor, must be presented to the collection site that is established for the SEPTA OCIP Projects in order to obtain a drug and alcohol test. The employer will receive the Authorization Form via email from WORKNET after the account has been established. Your employee will be sent back to you for the proper Authorization Form if not presented at the time of testing. The Authorization Form will have your company name already filled in for you. The employer must complete and sign the form along with checking the correct OCIP Project box. A supervisor from the employer MUST sign the authorization form.

Reasons to Test:

**Pre-employment – Drug Only**  
**Post-Accident/Incident/Injury – Drug and Breath Alcohol Testing**  
**Reasonable Suspicion/Cause – Drug and Breath Alcohol Testing**

Fee Schedule:

**Drug Test:**
WORKNET shall use a 5-panel Drug Test instant onsite test kit which includes Marijuana Metabolites, Cocaine Metabolites, Opiate including Heroin, Amphetamines/Methamphetamines, and Phencyclidine (PCP)

- Instant Drug Test – Negative Result $55.00
- Instant Drug Test – Inconclusive (non-Negative) $59.00
  Includes Confirmatory Lab Based Test for Instant Test

Possible additional test(s) of the urine that the MRO may deem necessary, only after speaking with the Donor and the Company is as follow:

- Split Specimen Test $175.00
- D&L Isomer – Amphetamines $150.00
**Collection Site:**

The following sites are the only sites that are permitted to be utilized:

<table>
<thead>
<tr>
<th>Location</th>
<th>Address/Details</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>South Philadelphia</strong></td>
<td>One Reed Street, Philadelphia, PA 19147</td>
<td>Mon.-Fri. 7:30 am to 5 pm</td>
</tr>
<tr>
<td><strong>Roxborough Memorial Hospital</strong></td>
<td>5800 Ridge Avenue, Suite 234, Philadelphia, PA 19128</td>
<td>Mon.-Fri. 8 am to 4:30 pm</td>
</tr>
<tr>
<td><strong>Huntingdon Valley</strong></td>
<td>Mason Mill Business Park II, 1800 Byberry Road, Suite 705, Huntingdon Valley, PA 19006</td>
<td>Mon.-Fri. 8 am to 4 pm</td>
</tr>
<tr>
<td><strong>King of Prussia</strong></td>
<td>170 N. Henderson Road, Suite 306, King of Prussia, PA 19406</td>
<td>Mon.-Fri. 7:30 am to 4:30 pm</td>
</tr>
<tr>
<td><strong>Langhorne</strong></td>
<td>360 N. Oxford Valley Road, Langhorne, PA 19047</td>
<td>Mon.-Fri. 7:30 pm to 5 pm</td>
</tr>
<tr>
<td><strong>Reading</strong></td>
<td>3225 N. 5th Street Highway, Reading, PA 19605</td>
<td>Mon.-Thurs. 8 am to 5 pm; Fri. 7 am to 4 pm</td>
</tr>
<tr>
<td><strong>Lester</strong></td>
<td>100 Diplomat Drive, Bay 1, Lester, PA 19113</td>
<td>Mon.-Fri. 7:30 am to 8 pm</td>
</tr>
<tr>
<td><strong>Philadelphia</strong></td>
<td>Broad and Vine Streets, Mail Stop 101, Philadelphia, PA 19102</td>
<td>Mon.-Fri. 7:30 am to 5 pm</td>
</tr>
<tr>
<td><strong>Camden</strong></td>
<td>300 S. Benson and Broadway Suite 101, Camden, NJ 08103</td>
<td>Mon.-Fri. 7:30 am to 5 pm</td>
</tr>
<tr>
<td><strong>Toms River</strong></td>
<td>368 Lakehurst Road, Suite 206, Toms River, NJ 08755</td>
<td>Mon.-Fri. 8 am to 5 pm; Sat. 9 am to 2 pm</td>
</tr>
<tr>
<td><strong>Stratford</strong></td>
<td>37 S. White Horse Pike, Stratford, NJ 08084</td>
<td>Mon.-Fri. 8 am to 4:40 pm</td>
</tr>
<tr>
<td><strong>Pennsauken</strong></td>
<td>9370 Route 130 N., Suite 200, Pennsauken, NJ 08110</td>
<td>Mon.-Fri. 7:30 am to 5 pm</td>
</tr>
<tr>
<td><strong>Pureland</strong></td>
<td>510 Heron Drive, Suite 108, Swedesboro, NJ 08085</td>
<td>Mon.-Fri. 7:30 am to 5 pm</td>
</tr>
<tr>
<td><strong>Burlington</strong></td>
<td>2103 Burlington-Mt Holly Road, Burlington, NJ 08016</td>
<td>Mon.-Fri. 8 am to 5 pm</td>
</tr>
</tbody>
</table>
**Lancaster North**  
4237 Oregon Pike  
Ephrata, PA 17522  
Ph: 717.859.5002  
Mon.-Thurs. 8 am to 5 pm  
Fri. 8 am to 4 pm

**Lancaster South**  
241 Rohrerstown Road, Suite 200  
Lancaster, PA 17601  
Ph: 717.431.1770  
Mon.-Thurs. 8 am to 5 pm  
Fri. 8 am to 4 pm

**Harrisburg**  
6301 Grayson Road, Suite 9  
Harrisburg, PA 17111  
Ph: 717.920.5910  
Mon.-Fri. 8 am to 5 pm

**Mechanicsburg**  
6108 Carlisle Pike  
Mechanicsburg, PA 17050  
Ph: 717.691.9560  
Mon. & Wed. 7 am to 5 pm;  
Tues. & Thursday 8 am to 5 pm  
Fri. 7 am to 4 pm

**Note:** All hours of operation may be subject to change without notice. If you have more than three employees that need testing call the clinic to obtain a time suitable to both.

**Note:** All hours of operation may be subject to change without notice.

The employer must fill out information on next page to set up the Drug and Alcohol Program. A delay in sending the completed form back to WORKNET will mean a delay in Pre-employment testing.

The employer must fill in the proper OCIP Form below. If the employer is working on multiple sites only one form is necessary to start the Program. It is extremely important that when the employee presents for testing that the employer make sure to check the proper OCIP project on the Authorization Form.
WORKNET Drug & Alcohol Services
Employee Screening Program Contact Information
SEPTA OCIP Project

Company Name: ________________________________________________________________

Mailing Address:  ________________________________________________________________

__________________________________________________________________________

Physical Address:  ________________________________________________________________

__________________________________________________________________________

Telephone #: ______________________

Fax #: ______________________ Confidential □ Yes □ No

DER: ________________________________________________________________

Cell phone #: ______________________

Email address required: _______________________________________________________

Alternate DER: ________________________________________________________________

Cell phone #: ______________________

Email address: ________________________________________________________________

□ Billing Same as Above

Billing Contact: ________________________________________________________________

Billing Address: ________________________________________________________________

By signing below, I authorize WORKNET to conduct the drug testing and/or alcohol testing for workers on the
SEPTA OCIP Project. I agree to abide with the Policy & Procedure and the Employee Screening Information
Program. I also agree to the price specified in the Employee Screening Program Information. I agree to pay the
invoice from WORKNET within 45 days of receipt.

Name: ________________________________________________________________

Signature: ________________________________________________________________

Title: ________________________________________________________________

Date: ________________________________________________________________

Fill this sheet out immediately and fax to WORKNET (717) 412-9761. Once WORKNET receives this
completed form the Account Manager will send you your Authorization Forms. Please contact WORKNET
Drug & Alcohol Services @ 610.916.4781, if you have any questions. Thank you. Cara Faessen, Program
Manager and Rita M. Lebo, Director.
EXPERIENCE MODIFICATION RATING EXCEPTION REQUEST

1. Experience Modification Rate (EMR) – The Design-Builder and all Subcontractors must have a Pennsylvania Workers’ Compensation Experience Modification not to exceed 1.25. If the Design-Builder has an EMR over 1.25 or would like to use a Subcontractor with an EMR above 1.25, the Design-Builder will be required to complete the below exception request form. This exception request will be reviewed by SEPTA, the OCIP Administrator, and/or the OCIP Insurance Carrier. If approved, suggestions may be made to revise the subcontractor’s safety plan, safety personnel staffing, safety training, or other safety related procedures. If the Design-Builder’s or any Subcontractor’s domicile state is not Pennsylvania, their applicable Experience Modification will be used.

<table>
<thead>
<tr>
<th>EMR Exception Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subcontractor Name</td>
</tr>
<tr>
<td>Awarding Contractor</td>
</tr>
<tr>
<td>Jobsite</td>
</tr>
<tr>
<td>Start Date On-Site</td>
</tr>
<tr>
<td>Scope of Work</td>
</tr>
<tr>
<td>Duration of Work</td>
</tr>
<tr>
<td>Contract Value of Work</td>
</tr>
<tr>
<td>Estimated Payroll</td>
</tr>
<tr>
<td>Estimated Man-hours</td>
</tr>
<tr>
<td>Experience Mod</td>
</tr>
<tr>
<td>Identify any other SEPTA project the Subcontractor has worked on</td>
</tr>
<tr>
<td>Is there a specific reason why the EMR is over 1.25?</td>
</tr>
<tr>
<td>Please list subcontractor safety staffing procedures</td>
</tr>
<tr>
<td>Please list subcontractor safety training procedures</td>
</tr>
</tbody>
</table>

Please Complete the attached questionnaire and submit it along with this Exception Request Form.
EXPERIENCE MODIFICATION RATING EXCEPTION QUESTIONNAIRE

Company Name: __________________________________________________________

Company Type (General Contractor, Mechanical, etc.): __________________________

Address: __________________________ Telephone No.: __________________________

RESOURCES
1. Name of company Safety and Health Contact: ____________________________
   Title: __________________________
   _____________________________________________
   _____________________________________________
2. What percent of this person’s time is spent on safety and health related matters?
   __________________________ %
3. What professional safety and health certifications does this person hold (e.g., CSP, PE, CIH)?
   _____________________________________________
4. How many other full-time safety and health representatives are employed by your company?
   _____________________________________________
5. Name of Site Specific Safety Representative:
   Title: __________________________
   What percent of this person’s time is spent on safety and health related matters?
   __________________________ %
   Submit copy of Safety Representative’s qualifications with completed questionnaire.

SAFETY AND HEALTH PROGRAM ELEMENTS
1. Does your company have a written safety, health, and accident prevention program (SP)? If yes, submit a copy
   with your completed questionnaire. __________________________
2. Does your company have a written procedure to ensure safety and health issues are preplanned into each project
   and work operation (e.g., job hazard analysis, checklists, etc.)? If yes, submit a copy with the completed
   questionnaire or reference page number in the SP. __________________________
3. Does your company have a written safety incentive program that will be implemented on this project? If yes, submit a copy
   with the completed questionnaire or reference page number in the SP. __________________________
4. Does your company have a written accident/incident investigation procedure? If yes, submit a copy with the
   completed questionnaire or reference page number in the SP. __________________________
5. Does your company have a written safety and health training program? If yes, submit a copy with the completed questionnaire or reference page number in the SP.

If yes, does the program include the following?
- New employee/project orientation.
- Weekly “toolbox” meetings.
- Daily job briefings.
- Supervisor safety training.
- Task specific training.
- OSHA required training.
- Other

6. Does your company have a written procedure to ensure that only employees who are qualified by training and experience are allowed to operate equipment, tools, machinery, and vehicles? If yes, submit a copy with the completed questionnaire or reference page number in the SP.

7. Does your company designate and train competent people as required by the applicable OSHA standards (e.g., excavations, scaffold, erection, etc.)?

8. Does your company have a written procedure to audit projects to ensure all projects are in compliance with applicable laws, requirements, etc.? If yes, submit a copy with the completed questionnaire or reference page number in the SP.

9. Does your company have a written procedure to screen subcontractors based on their past safety performance? If yes, submit a copy with the completed questionnaire or reference page number in the SP.

**OSHA CITATIONS**
1. Has your company received any Federal or State Plan OSHA citations within the last 3 years?

2. If the answer to question 1 is yes, how many of each of the following types of citations have you received?
   - Willful
   - Imminent danger
   - Serious
   - Other than serious
   - De minimus

   Give a brief description of the nature of the citation(s), or attach a copy of the citation(s).

**ACCIDENT AND ILLNESS STATISTICS**

<table>
<thead>
<tr>
<th>Year</th>
<th>20( )</th>
<th>20( )</th>
<th>20( )</th>
</tr>
</thead>
</table>

State Construction Contract (Rebuilding w/OCIP) 114
1. How many man-hours has your company worked in each of the last 3 years?

2. How many OSHA recordable injuries did your company experience in each of the last 3 years?

3. Based on the below listed formula (a), what are your incident rates for each of the last 3 years? If the rates are above the current national average, the bid may be disqualified.

4. How many lost time accidents has your company experienced in each of the last 3 years?

5. Based on the below listed formula (b), what is your lost workday case rate for each of the last 3 years? If the rates are above the current national average, the bid may be disqualified.

6. How many fatalities has your company experienced in each of the last 3 years?

7. Submit a copy of your OSHA 200 logs for the last 3 years with your completed questionnaire.

(a) Number of injuries and illnesses x 200,000
Man-hours worked

(b) Number of lost time injuries and illnesses x 200,000
Man-hours worked

WORKERS’ COMPENSATION EXPERIENCE MODIFICATION RATE

<table>
<thead>
<tr>
<th>Year</th>
<th>20( )</th>
<th>20( )</th>
<th>20( )</th>
</tr>
</thead>
</table>

Submit, on your insurance company letterhead, your Workers’ Compensation Experience Modification Rate for each of the last 3 years with your completed questionnaire.

Is there any additional information you feel we need to properly evaluate your company’s safety and health program? If yes, please explain below or attach additional sheets.

Name of Person Completing Questionnaire
(Please Print):

Signature of Person Completing Questionnaire:

Title: __________________________ Date: __________________________
EXHIBIT VI
SAMPLES
“SAMPLE”

PERFORMANCE BOND

Know all men and women (or persons) by these presents, that _________________ as principal (hereinafter called the Contractor) and _______________ as Surety (hereinafter called the Surety) are held and firmly bound unto SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY, 1234 MARKET STREET, PHILADELPHIA, PA 19107-3780, as Obligee (hereinafter called SEPTA) in the amount of _______ dollars ($______), for the payment whereof the said Contractor and Surety bind themselves, and their respective heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Contractor has by written agreement dated ______________ entered into a contract with SEPTA for ______________ which contract is hereby referred to and made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such, that if the Contractor shall fully indemnify SEPTA against any loss or damage directly suffered through the failure of the Contractor to faithfully perform said contract, at the time(s), and in the manner therein specified, then this obligation shall be void; otherwise it shall remain in full force and effect.

Provided however, whenever Contractor shall be, and declared by SEPTA to be in default under the Contract, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or

2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if SEPTA elects, upon determination by SEPTA and/or the Surety of the lowest responsible bidder, arrange for a contract between such bidder and SEPTA, and make available as work progresses and continue to make available (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by SEPTA to Contractor under the Contract and any amendments or other entitlements thereto, less the amount properly paid by SEPTA to Contractor.
AND PROVIDED FURTHER, that no action, suit or proceeding be instituted on this bond after the expiration of two (2) years from the date on which final payment under the Contract falls due.

Signed, Sealed and Dated this ___ day of ________ 20__.

__________________________________________
(Contractor)

BY:____________________________(SEAL)

__________________________________________
(Surety)

BY:____________________________(SEAL)
SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY

CONTRACT CHANGE ORDER

1234 Market Street
Philadelphia, Pennsylvania 19107-3780

Page _ of _

Date ______

Change Order No.: ______

SEPTA Fund No.______

Contractor: ______________________

CPMS No. __________

SEPTA Commitment No:________________

Federal Grant No.________

Contract Title: ______________________

Requested by: __________

THIS ORDER, WHEN PROPERLY EXECUTED, CONSTITUTES AUTHORIZATION TO PROCEED WITH THE CHANGES DESCRIBED BELOW, AND TO CHANGE THE AMOUNT OF THE CONTRACT AS NOTED.

<table>
<thead>
<tr>
<th>DESCRIPTION OF CHANGE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ADD</td>
</tr>
<tr>
<td></td>
<td>DEDUCT</td>
</tr>
</tbody>
</table>

All terms, covenants and conditions of the original Agreement dated _____________ with amendments to date, if any, remain in full force and effect except as herein stated.

Contractor does hereby acknowledge that the increase in the Contract Sum, as set forth in this Change Order, shall be in full and complete satisfaction of all indebtedness and obligation of any nature whatsoever for the additional services performed or to be performed under this Change Order, and that such increase includes any and all costs for inefficiency, disruption or delay associated with such additional services. Contractor, for itself, its successors and assigns hereby remises, releases and forever discharges SEPTA of and from all manner of debts, demands, claims, actions, causes of action, suits, accounts, covenants, contracts, agreements and any and all claims and liabilities whatsoever, in law and in equity, arising under or by virtue of this and any other Change Orders.
SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY

1234 Market Street
Philadelphia, Pennsylvania 19107-3780

CONTRACT CHANGE ORDER

State Construction Contract (Rebuilding w/OCIP)

Change Order No.:______

SEPTA Fund No._____ Contractor:______________________________

CPMS No. ______________ SEPTA Commitment No:_____________________

Federal Grant No._________ Contract Title:___________________________

Requested by:________________

A. Original Value of Contract $________
B. Previous Change Orders $________
C. This Change $________ (Not to exceed)
D. New Contract Sum (A+B+C) $________
E. % Change - This Change (C/A) %
F. Cumulative % Change ((B+C)/A) %

APPROVALS: This change order made subject to Resolution adopted by the SEPTA Board on______________ (date to be inserted is that of adoption of original authorizing resolution for contract), incorporated by reference herein.

* If cumulative change order amount is in excess of 20% or $100,000, whichever is less, has Board approval been obtained to reset change order delegation to zero dollars? Yes No. If yes, provide state of approval.

* If delegation to reset to zero dollars has been authorized more than once, please provide the date(s) of Board approval below.

* Is Funding Agency Approval Required YES NO, if YES Date of Approval APPROVED AS TO FORM:

SEPTA VENDOR/CONTRACTOR

CONTRACT ADMINISTRATOR PROJECT MANAGER

PROJECT MANAGER

SEAL:

GENERAL MANAGER PRESIDENT, VICE PRESIDENT

ATTEST:

SECRETARY, ASST. SECRETARY TREASURER, ASST. TREASURER

APPROVED AS TO FORM:

BY: ___________________ Esq.
GENERAL COUNSEL’S OFFICE

State Construction Contract (Rebuilding w/OCIP) 120

1015
STORRED MATERIAL PAYMENT/AFPIDAVIT OF RELEASE OF ALL LIENS

NAME OF PROJECT: ____________________________

PURCHASE ORDER NUMBER: ______________________

INVOICE NUMBER: ____________________________

Upon receipt from the Southeastern Pennsylvania Transportation Authority ("SEPTA") of $___________ as payment in full satisfaction, excluding the retainage to be paid per the Contract, for the materials described in the attached application for payment which have been:

1. Determined by SEPTA to its satisfaction to have been delivered and suitable stored at the project site; and/or

2. Have been properly stored off the site and determined by SEPTA to its satisfaction to be specifically for the project at an approved site located at ___________________________, hereby expressly warrants and guarantees as a condition of receiving such payment that:

A. Good and proper title to all material and equipment set forth in said application for payment, whether or not incorporated in the project, shall pass to SEPTA free and clear of all liens, claims, security interests, or encumbrances at or prior to the time of payment therefore by SEPTA; and

B. No materials or equipment delivered by the aforementioned application for payment have been acquired by any third party in any manner under which any interest therein or encumbrance thereon is retained by the seller or supplier of the material or equipment or otherwise imposed by _________________, its agents or employees.

A list of descriptions of material tagged, stored and requisitioned to this payment is attached and is made part of this affidavit of release of liens.

(SEAL)

________________________________________________________________________
Contractor

________________________________________________________________________
President/Corporate Officer

________________________________________________________________________
Attest: Secretary/Treasurer

__________________________________________
Date


"SAMPLE"

General Release by Contractor

by Agreement, dated ______________, as amended ("Contract") on ______________.

____________________________

KNOW ALL MEN BY THESE PRESENTS that for and in consideration of the sum of ______________ ($ __________) Dollars to be paid by the Southeastern Pennsylvania Transportation Authority ("SEPTA") to ______________ (hereinafter called "Contractor"), the Contractor hereby accepts said sum as full compensation to be paid for the work performed under or by virtue of the Contract, including any costs associated with delay, disruption or inefficiencies, and said Contractor warrants and represents that all bills, claims and obligations for material used, rentals of equipment, labor performed and any other items furnished under or in connection with said Contract have been or shall be paid and satisfied, with the exception of the following matters still in dispute:

The Contractor for itself, its successors and assigns hereby remise, releases and forever discharges SEPTA of and from all manner of debts, demands, claims, actions, causes of action, suits, accounts, covenants, contracts, agreements and any and all claims and virtue of the Contract, as amended on ____________________, for SEPTA, with the exception of those matters specially set forth above as still in dispute.

Executed as a sealed instrument this ______ day of ________, 20__.

ATTEST: ____________________________________________

CONTRACTOR

_____________________________________________ __________________________

BY
MAINTENANCE BOND

"SAMPLE"

KNOW ALL PERSONS BY THESE PRESENTS, that we, ____________________________,
(Contractor)
(hereinafter called "Principal"), and ____________________________,
(Surety Company)
authorized to transact business in the Commonwealth of Pennsylvania, (hereinafter called "Surety"), are held and firmly bound unto the Southeastern Pennsylvania Transportation Authority ("SEPTA") as Obligee, in the penal sum of ____________________________ good and lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has, by written Agreement, dated _____________, entered into a contract with SEPTA for the ____________________________; and

WHEREAS, the contract requires that the Principal shall furnish a bond in the penalty of 100 percent of the contract price which shall remain in force for a period of __________ year(s) after the date of Final Payment by SEPTA and which shall be conditioned to guarantee against all defects in workmanship and materials which shall become apparent during said period.

NOW, Therefore, The Condition of This Obligation Is Such, that if the Principal shall well and truly repair and replace any defects or deficiency in materials or workmanship which may develop in connection with said work during the period of __________ year(s) from Final Payment and which have been occasioned by faulty workmanship or defects in materials, then this obligation shall be null and void, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, said Principal and Surety have caused these presents to be signed and their seals to be affixed the day and year first written below.

Signed, Sealed and Dated this ___ day of __________, 20__.

Contractor:

________________________________________  (SEAL)
(Authorized Signature)       (Authorized Signature)

Surety Company:

________________________________________  (SEAL)
(Authorized Signature)       (Authorized Signature)
AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS

SEPTA Purchase Order # ______________________________ __________

Project __________________________________________

Contractor __________________________________________

Contract for __________________________________________

Contract NTP Date ________

STATE OF:

COUNTY OF:

The undersigned, pursuant to Paragraph XII F3 of this Contract for Construction, hereby certifies that except as listed below he has paid in full or has otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor, ad services performed, and for all known indebtedness and claims against the CONTRACTOR for damages arising in any manner in connection with the performance of the Contract referenced above for which Southeastern Pennsylvania Transportation Authority or its property might in any way be held responsible.

EXCEPTIONS: (If none, write “NONE”. The CONTRACTOR shall furnish bond satisfactory to the Southeastern Pennsylvania Transportation Authority for each exception.)

SIGNED,

CONTRACTOR

__________________________

Subscribed and sworn to before me this ______ day of ____________ 20 ____

Notary Public of ______________________________

My Commission expires ______, 20 ______

(SEAL)

By: ______________________________

Title: ______________________________
AFFIDAVIT OF RELEASE OF LIENS

SEPTA Purchase Order # ____________________________

Project ____________________________

Contractor ____________________________

Contract for ____________________________  Contract NTP Date _________

STATE OF:

COUNTY OF:

The undersigned, pursuant to Paragraph XII F3 of this Contract for Construction, hereby certifies that to the best of his knowledge, information and belief, except as listed below, there are no liens filed against any property of Southeastern Pennsylvania Transportation Authority by the CONTRACTOR, or any subcontractor suppliers of materials and equipment, or performers of work, labor or services arising from the performance of the Contract referenced above.

EXCEPTIONS: (If none, write “NONE”. The CONTRACTOR shall furnish bond satisfactory to the Southeastern Pennsylvania Transportation Authority for each exception.)

SIGNED, ____________________________

CONTRACTOR

Subscribed and sworn to before me this ______ day of __________ 20 _______

Notary Public of ____________________________

My Commission expires ______, 20 ______

(SEAL)

By: ____________________________

Title: ____________________________
CERTIFICATE OF FINAL ACCEPTANCE

SEPTA Purchase Order # ________________________________

____________________________________________________

Project _____________________________________________

Contractor ____________________________________________

Contract for __________________________________________ Contract NTP Date __________

This Certificate of Final Acceptance applies to all Work under the Contract Documents or to the following specified parts thereof:

To __________________________________________________ Architect/Engineer

And To __________________________________________________ Contractor

The Work to which this Certificate applies has been inspected by authorized representatives of SEPTA, CONTRACTOR and ARCHITECT/ENGINEER, and that Work is hereby declared to be complete in all respects and accordance with the Contract Documents on

__________________________ Date of Final Acceptance
The following documents are attached to and made a part of this Certificate:

Reviewed by ARCHITECT/ENGINEER on ____________________, 20 ______

____________________________________

Engineer

By ___________________________________

CONTRACTOR accepts this Certificate of Final Acceptance on ____________________________, 20 ______

____________________________________

Contractor

By ___________________________________

SEPTA executes and certifies Final Acceptance on ____________________________, 20 ______

____________________________________

Project Manager

____________________________________

Contract Administration
CERTIFICATE OF SUBSTANTIAL COMPLETION

SEPTA Purchase Order # __________________________

________________________________________________________________________

Project __________________________________________

Contractor __________________________________________

Contract for __________________________________________ Contract NTP Date _________

This Certificate of Substantial Completion applies to all Work under the Contract Documents or to the following specified parts thereof:

To __________________________________________

Architect/Engineer

And To __________________________________________

Contractor

The Work to which this Certificate applies has been inspected by authorized representatives of SEPTA, CONTRACTOR and ARCHITECT/ENGINEER, and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on __________________________

Date of Substantial Completion

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by CONTRACTOR within _____ days of the above date of Substantial Completion.
The responsibilities between SEPTA and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties shall be as follows:

**RESPONSIBILITIES:**

**SEPTA:**

**CONTRACTOR:**

A tentative list of items remaining to be completed for this Phase is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents.

The following documents are attached to and made a part of this Certificate:

This certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of CONTRACTOR’s obligation to complete the Work in accordance with the Contract Documents.

Recommended by ARCHITECT/ENGINEER on ________________, 20 _______

__________________________________________

Engineer

By ________________________________

CONTRACTOR accepts this Certificate of Substantial Completion on ________________, 20 _______

__________________________________________

Contractor

By ________________________________

SEPTA executes and certifies this Certificate of Substantial Completion on ________________, 20 _______

__________________________________________

Project Manager

__________________________________________

Contract Administration

State Construction Contract (CUP)
CONSENT OF SURETY TO FINAL PAYMENT

SEPTA Purchase Order # ____________________________

Project ________________________________

Contractor ________________________________

Contract for ________________________________  Contract NTP Date __________

In accordance with the Agreement for Construction, Paragraph XII F3 of the Contract between Southeastern Pennsylvania Transportation Authority and the contractor as indicated above the

SURETY COMPANY

on bond of

CONTRACTOR

hereby approves to the final payment to the CONTRACTOR, and agrees that final payment to the CONTRACTOR shall not relieve the SURETY COMPANY of any of its obligations to

Southeastern Pennsylvania Transportation Authority
1234 Market Street
Philadelphia, Pennsylvania 19107

OWNER

as set forth in said Surety Company’s bond.

IN WITNESS WHEREOF, THE SURETY COMPANY has hereunto set its hand this ______ day of __________, 20______

Surety Company

Attest: ____________________________

Signature of Authorized Representative

(Seal): ____________________________

Title

Southeastern Pennsylvania Transportation Authority
PROCUREMENT & SUPPLY CHAIN MANAGEMENT
1234 Market Street, 11th Floor, Philadelphia, PA 19107-3780
EXHIBIT VII
DRAWINGS & SPECIFICATIONS
Specification SEPTA Project No. GEC 12B-22 Dated: October 30, 2015
