



METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY

LOCALLY AND FEDERALLY FUNDED

REQUEST FOR PROPOSALS

FOR

P50421

DESIGN BUILD SERVICES FOR SAFE ROUTES TO TRANSIT



2424 Piedmont Road, NE
Atlanta, GA 30324-3330
404-848-5000

May 26, 2026

TO: ALL PROSPECTIVE PROPONENTS

**SUBJECT: REQUEST FOR PROPOSALS (RFP) NUMBER P50421:
DESIGN BUILD SERVICES FOR SAFE ROUTES TO TRANSIT**

You are invited to submit to the Metropolitan Atlanta Rapid Transit Authority ("MARTA" or "Authority"), a proposal for the above-captioned solicitation. A Virtual Pre-Proposal Conference will be held to discuss the Request for Proposals ("RFP") Number P50421 using the following weblink: <https://events.gcc.teams.microsoft.com/event/4703d06f-c706-40ba-a3d8-21216d5cf04a@d5b52ccb-1bf9-4a3e-a010-0f3b332bc26a> on, **June 2, 2026, at 10:00 a.m. (local time)**. To be eligible for consideration your proposal must be received by the Authority no later than **2:00 p.m. (local time) on June 30, 2026**. The RFP can be reviewed and downloaded from MARTA's website (www.itsmarta.com). On the home page, point to "More"/click Current Opportunities/click on RFP P50421/Download Invitation for Bids/Request for Proposals/Log-in (first time users must register).

All questions regarding this RFP should be submitted in writing to MARTA's contact person, **Folayan Battle, Senior Contract Specialist**, via e-mail fbattle@itsmarta.com. The deadline for receipt of questions is **June 9, 2026**. Written inquiries received prior to 11:59 p.m. (local time) on June 9, 2026, by MARTA will be answered and posted as a Response to Inquiries to this RFP on MARTA's website at www.itsmarta.com. If you need additional information, please contact Folayan Battle, Senior Contract Specialist at 404-848-5834.

Sincerely,

DocuSigned by:

Rickey Brasley

49BACA3241FB4C9...

for Jacqueline A. Holland
AGM, Contracts, Procurement & Materials

REQUEST FOR PROPOSALS

P50421: DESIGN BUILD SERVICES FOR SAFE ROUTES TO TRANSIT

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PART 1: INFORMATION AND INSTRUCTIONS TO PROPONENTS

1. **General and Background Information:** The Metropolitan Atlanta Rapid Transit Authority (“**MARTA**”) operates the ninth largest transit system in North America, providing bus, rail and paratransit services in the greater metropolitan Atlanta area. MARTA transports over 500,000 people in the City of Atlanta and counties of Clayton, DeKalb and Fulton daily. MARTA has approximately 4,540 employees.

2. **Services Being Procured:** MARTA is seeking Proposals from interested and qualified Firms to provide Design Build Services for the Safe Routes to Transit program. Safe Routes to Transit will identify barriers and provide safe access to bus stops through a variety of pedestrian and Americans with Disabilities Act (ADA) improvements. MARTA’s Department of Planning and Development will administer the contract (if awarded) pursuant to the terms and conditions contained in that certain form of **Design Build Services for Safe Routes to Transit** attached hereto at Part 4 (“**Contract**”).

3. **Definitions:** The following terms shall have the following meanings when used throughout this Request for Proposals (“**RFP**”):

Proponent: Each Firm or aggregation of Firms (which may include a joint venture partnership, limited liability company or limited liability partnership) submitting a proposal in response to this RFP with the intent of performing the services as the prime contractor.

Firm(s): A Firm that has or will obtain, prior to the execution of any contract awarded hereunder, all necessary licenses required by the State of Georgia to perform the Services and is authorized to do business in the State of Georgia.

Proposal(s): A written response (i.e., technical proposal and price proposal) to this RFP prepared by a Proponent and submitted to MARTA’s Office of Contracts, Procurement and Materials (“**CPM**”).

4. **Minimum Qualifications:** To participate in this procurement, Proponent must satisfy the minimum qualifications required by this RFP. Where the Proponent is a partnership, joint venture arrangement, limited liability company, limited liability partnership or other multiple entity organization, the entity that holds a majority ownership interest in the Proponent (i.e., over 50% ownership) must meet the minimum requirements set forth in this RFP. Additionally, prior to execution of the Contract, the successful Proponent will be required to demonstrate that it is duly authorized to conduct business in the State of Georgia.

Proponent or entity comprising Proponent **must** not submit more than one (1) Proposal under the same or different names or as part of multiple organizations. Any Proponent or entity comprising Proponent that submits more than one (1) Proposal in response to this solicitation shall be deemed non-responsive. **NOTE:** This restriction set forth in this paragraph is not applicable to subcontractors.

By submitting a Proposal in response to this RFP, the Proponent represents and warrants to MARTA that Proponent has or will acquire all of the licenses, certifications, permits, bonding capacity and insurance. By submitting a Proposal concerning this procurement, Proponent acknowledges that it is familiar with all laws applicable to this procurement, including, but not limited to, all of MARTA's policies and procedures (as the same may change from time to time), all of which is incorporated into this RFP by this reference.

5. **No Offer by MARTA; Firm Offer by Proponent:** This procurement does not constitute an offer by MARTA to enter an agreement and cannot be accepted by any Proponent to form an agreement. This procurement is only an invitation for offers from interested Proponents and no offer or Proposal shall bind MARTA. However, Proponent's offer is a firm offer to MARTA for a period of 200 calendar days from the Proposal Deadline and may not be withdrawn during such 200 calendar days period.
6. **Pre-Proposal Conference:** A virtual pre-proposal conference is scheduled for **June 2, 2026, at 10:00 a.m. (local time)** using the following weblink: <https://events.gcc.teams.microsoft.com/event/5d5f48c7-751e-4bea-8657-5431973dd8bb@d5b52ccb-1bf9-4a3e-a010-0f3b332bc26a>. Attendance at the pre-proposal conference is not required but is strongly encouraged. Each Proponent is responsible for being fully informed regarding all existing and expected conditions and matters that may affect the cost or the performance of the Services. Any failure to fully investigate the requirements of this RFP shall not relieve any Proponent from the responsibility to properly estimate the difficulty or cost of successfully performing the Services being sought under this RFP.
7. **Additional Documentation:** Each Proponent, if successful, acknowledges and agrees to submit such additional documentation (e.g., insurance/bonds, etc.) promptly after an award pursuant to any notice provided by MARTA and as required by the terms of this RFP and the Contract.
8. **Procurement Questions; Prohibited Contacts:** Any questions regarding this procurement **must** be submitted in writing to MARTA's contact person, **Folayan Battle** via electronic mail fbattle@itsmarta.com, on or before **June 9, 2026, at 11:59 p.m. (local time)**. **Questions submitted after the designated period may not be considered by MARTA.** Any response made by MARTA will be provided in writing to all Proponents by posting the same to MARTA's website at www.itsmarta.com. It is the responsibility of each Proponent to obtain a copy of all responses and/or any addenda issued for this procurement by monitoring MARTA's website. No Proponent may rely on any verbal

response to any question concerning this procurement. All Proponents (and any representative thereof) are strictly prohibited from contacting any MARTA employees (or third-party representatives or consultants of MARTA) on any matter having to do with this procurement. All communications by any Proponent **must** be made with MARTA's contact person or any other MARTA employees or representatives designated by the head of MARTA's Contracts, Procurement and Materials Department.

9. **Proposal Deadline:** To be considered responsive, a Proponent must complete and submit its Proposal and all required submittals and attachments in accordance with the instructions contained or referenced in this RFP. All responses to this RFP must be received by MARTA's Department of Contracts, Procurement & Materials, 2400 Piedmont Road N.E., Atlanta, Georgia 30324-3330, on or before **June 30, 2026, at 2:00 p.m. (local time)**. Any Proposal received after this time will not be considered/reviewed and will be rejected and returned.
10. **Required Submittals:**
 - a. **Form 1: Illegal Immigration Reform and Enforcement Act.** Each Proponent **must** complete, sign and submit a Contractor's Affidavit with its Proposal. This RFP is subject to the Illegal Immigration Reform and Enforcement Act of 2011 ("**Act**"), as amended. Pursuant to the Act, the Proponent must provide with its Proposal proof of its registration with and continuing and future participation in the E-Verify program established by the United States Department of Homeland Security. Under state law, MARTA cannot consider any Proposal which does not include a completed Contractor's Affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Act. All Proponents intending to do business with MARTA are responsible for independently apprising themselves of and complying with the requirements of the Act and assessing its effect on MARTA procurements and their participation in those procurements. For additional information on the E-Verify program or to enroll in the program, go to <https://e-verify.uscis.gov/enroll>.
 - b. **Form 2: Acknowledgement of Addenda.** Each Proponent **must** complete, sign and submit an acknowledgement with its Proposal that it has received all Addenda issued by MARTA for this RFP. This form is provided and may be used to satisfy this requirement.
 - c. **Form 3: Price Proposal.** Each Proponent **must** complete, sign and submit a Price Proposal with its Proposal, which **must be packaged in a separately sealed envelope from the Technical Proposal** (hereinafter defined).
 - d. **Form 4: No Conflict of Interest.** Each Proponent **must** complete, sign and submit with their Proposal the information called for by the form.

- e. **Form 5: List of Proposed Subcontractors.** Each Proponent is requested to furnish with their Proposal the information called for by the form. If the form is omitted or if the information furnished is incomplete or inadequate, the Authority may require that additional information be submitted after the Proposal Deadline and before an award is made.
 - f. **Form 6: Qualifications and Business References.** Each Proponent is requested to furnish with their Proposal the information called for by the form. If the form is omitted or if the information furnished is incomplete or inadequate, the Authority may require that additional information be submitted after the Proposal Deadline and before an award is made.
 - g. **Form 7: Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters.** Each Proponent should complete, sign and submit with their proposal the information called for by the form.
 - h. **Form 8: Certification of Lower-Tier Participant Regarding Debarment, Suspension, and Other Ineligibility and Voluntary Exclusion.** Each Proponent should complete, sign and submit with their proposal the information called for by the form.
 - i. **Form 9: Certification Regarding Lobbying.** Each Proponent should complete, sign and submit with their proposal the information called for by the form.
 - j. **Form 10: Disclosure of Lobbying Activities.** Each Proponent should complete, sign and submit with their proposal the information called for by the form. If Proponent has no lobbying activities to disclose, please mark this form as not applicable.
 - k. **Form 11: Buy America Certificate.** Each Proponent must sign, complete, and submit with their proposal the information called for by this form.
11. **Appendix A: Corporate Compliance & Engagement Requirements.** MARTA's Office of Corporate Compliance & Engagement program(s) applicable to this procurement and any Contract that may be awarded pursuant to this procurement are set forth in **Appendix A** attached hereto. Each Proponent should furnish the information requested by **Appendix A** with their Proposal. If the form is omitted or if the information furnished is incomplete or inadequate, the Authority may request this information.
12. **Ownership of Proposals:** Each Proposal submitted to MARTA will become the property of MARTA, without compensation to a Proponent, for MARTA's use, in MARTA's sole discretion.

13. Proposal Evaluation, Award and Multiple Awards:

- a. Upon receipt and review of the Proposals, MARTA shall determine which Proponents are responsive and responsible. MARTA will notify each Proponent in writing of MARTA's determination. After the Proposal Deadline, MARTA's Source Evaluation Committee ("**SEC**") will evaluate each responsive Proposal in accordance with the evaluation criteria described in this RFP. If MARTA elects to award this RFP, MARTA will award the same to the most responsive and responsible Proponent that submits a Proposal that is in the best interest of MARTA to accept. Proponents may be required to make an oral presentation to the SEC at any stage of the selection and evaluation process.
- b. The selection of the successful Proponent(s), if any, will be based on the following criteria, which are listed in descending order of importance:
 - (i) Team Composition and Professional Qualifications;
 - (ii) Specialized Experience with Required Work;
 - (iii) Project Monitoring and Control;
 - (iv) Quality Assurance Program;
 - (v) Price Proposal;
 - (vi) Financial Stability and Capabilities; and
 - (vii) An evaluation of the response to information requested in **Appendix A** regarding Employment Laws and Disadvantaged Business Enterprises.
- c. MARTA anticipates that it will award a Contract to a single successful Proponent, if any. The Authority reserves in its sole discretion, the option to award to multiple Proponents. The award(s) will be based on the Proposal(s) in its entirety or by components. If only one (1) acceptable Proponent is received, MARTA will determine whether a price or cost analysis of the Proposal is required. If MARTA decides to make a price or cost analysis, the Proponent will provide all information needed and requested by MARTA to do so and shall otherwise cooperate as necessary for the purpose.

14. Submission of Proposals:

- a. Proposals should be submitted according to the requirements of this RFP. All blank spaces must be typed or handwritten in blue or black ink. All corrections to any entry should be lined out and initialed by the Proponent prior to Proposal submission. Do not use correction tape or liquid paper.
- b. Proposals should be signed by hand by a principal of the Proponent with the authority to bind the Proponent and enter into an agreement with MARTA. Joint ventures or partnerships must designate one joint venture member/partner to represent the joint venture or partnership, respectively, with the authority to submit and execute a

Proposal, bind the entity as well as enter an agreement with MARTA. Each Proponent is responsible for the preparation of its Proposal and for the costs associated therewith.

- c. Each Proponent should submit a complete Proposal in accordance with the requirements of this RFP. The format for the submission of a Proposal mandated by this RFP is not negotiable. The name and number of the project is: **RFP P50421: Design Build Services for Safe Routes to Transit**. Proposals must be submitted in sealed envelope(s) or package(s) and the outside of the envelope(s) or package(s) should clearly identify the name of the Solicitation, Solicitation Number, Proponent's Name and address, and Proponent's Federal Work Authorization User Identification Number. All Proposals must be submitted to:

**Metropolitan Atlanta Rapid Transit Authority
Office of Contracts, Procurement and Materials
2400 Piedmont Road, N.E.
Atlanta, Georgia 30324-3330
Attn: Contract Control (RFP P50421)**

[See end of Part 1 for directions]

- d. **Proposals must be submitted to the above address between the hours of 9:00 a.m. and 2:00 p.m. (local time) Monday through Friday. Proposals will not be accepted on the following days: New Year's Day, Martin Luther King, Jr's birthday, Memorial Day, Juneteenth, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day and Christmas Day.**
- e. A Proponent **must** submit one (1) USB drive [a.k.a., jump or flash drive] with an electronic copy of its Technical Proposal, and one (1) USB drive [a.k.a., jump or flash drive] with an electronic copy of its Price Proposal. The Proponent's USB drive copies should be submitted in an unlocked Portable Document Format (i.e., pdf).
- f. Each Proposal should contain a table of contents and separate sections for the information requirements set forth in this RFP, as well as for the forms required to be submitted.
- g. Each Proponent shall promptly notify MARTA in writing, prior to the Proposal Deadline, should the Proponent find discrepancies, errors, ambiguities or omissions in any of Proponent's Proposal documents or should the intent or meaning set forth in Proponent's Proposal documents appear unclear or ambiguous.
- h. Each Proponent shall promptly notify MARTA in writing should the Proponent find discrepancies, errors, ambiguities or omissions in any of the RFP documents prior to the end of the question/comment period set forth herein. MARTA will reply to such

notices, if necessary, by issuing an addendum to the RFP. It is the responsibility of each Proponent to obtain a copy of any addendum issued for this RFP by monitoring MARTA's website at www.itsmarta.com.

15. **Rejection of Proposals; Cancellation of RFP; Waiver of Technicalities.** MARTA reserves the right to reject any Proposal or all Proposals or to waive any technical defect in a Proposal before or after Proposal submission. MARTA also reserves the right to cancel this RFP at any time for any reason or no reason. Additionally, MARTA may, by addendum, modify any provision or part of this RFP at any time prior to the proposal deadline. The Proponent shall not rely on oral clarifications to the RFP unless they are confirmed, in writing, by MARTA in an issued addendum. MARTA also reserves the right to award based upon a Proponent's original submission without discussion.
16. **Georgia Open Records Act:** Information provided to MARTA is subject to disclosure under the Georgia Open Records Act ("**GORA**"). Pursuant to O.C.G.A. § 50-18-72(a)(34), "*[a]n entity submitting records containing trade secrets that wishes to keep such records confidential under this paragraph shall submit and attach to the records an affidavit affirmatively declaring that specific information in the records constitute trade secrets pursuant to Article 27 of Chapter 1 of Title 10 [O.C.G.A. § 10-1-760 et seq.].*"
17. **Representation.** By submitting a proposal in response to this RFP, Proponent acknowledges and represents that: (a) the accompanying quote is made by a person or business entity that is neither a high cost lender nor a predatory lender, nor is the Proponent an affiliate of a high cost lender or a predatory lender, as described in Chapter 6A of Title 7 of the Official Code of Georgia Annotated ("**Code**"); (b) it has read all of the RFP documents (including, without limitation, the Contract) and acknowledges that, if successful, Proponent shall be bound by the requirements stated therein; (c) the signatory to the Proposal is the Proponent (or Proponent's duly authorized agent or employee of the Proponent with the authority to bind Proponent hereto); (d) any information or disclosure provided in response to this RFQ are fully restated herein and remain truthful and accurate representations up to and including the date Proponent submits its Proposal to MARTA; (e) Proponent has submitted all substantive revisions to the Contract for MARTA's review with its Proposal; (f) it will be bound by MARTA's Code of Ethics: available at [https://www.itsmarta.com/uploadedFiles/More/About MARTA/Code%20of%20Ethics%2010-10-24.pdf](https://www.itsmarta.com/uploadedFiles/More/About%20MARTA/Code%20of%20Ethics%2010-10-24.pdf) as the same may be amended from time to time in MARTA's sole discretion; and (g) it agrees that it will voluntarily notify MARTA immediately if any information or disclosure provided to MARTA during any part of this procurement process changes, is no longer accurate or would be misleading in any way.
18. **Protests:** Any protest or objection to this RFP or the solicitation process related to this RFP must be submitted, in a timely manner, in accordance with the Protest Procedures

set forth on MARTA's website at <https://itsmarta.com/uploadedfiles/Bid%20Protest%20Procedure.pdf>

19. **Equal Employment Opportunity and Small Businesses.** All Proponents are strongly encouraged to consider the use of Small Businesses in all aspects of the Contract that will be awarded pursuant to this solicitation process.

MARTA has assigned a 0% goal for Disadvantaged Business Enterprise (DBE) participation in this project, the Proponent agrees and warrants that Proponent:

- (a) does not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin; (b) complies with all the provisions of Title VI of the Civil Rights Act of 1964, and of the rules, regulations and other relevant orders of the US Secretary of Labor, and Proponent will furnish all information and reports required by Title VI of the Civil Rights Act of 1964, as well as, the Age Discrimination in Employment Act effective June 12, 1968, and will permit access to books, records and accounts by the Authority, the Secretary of Labor and/or the Secretary of Transportation, for purposes of investigation to ascertain Proponent's compliance with such rules, regulations, and orders; and (c) takes affirmative action to assure that Disadvantaged Business Enterprises are strongly pursued for participation on this contract and will document their best efforts to ascertain DBE participation in different aspects of the project as an integral part of their submitted Proposal. The breach of any of the foregoing agreements and warranties shall be a material breach of this contract, for which MARTA, in addition to all other remedies, shall have the right to cancel the contract.
20. **Electronic Solicitation Documents.** This RFP is being made available to all Proponents by electronic means. By responding to this RFP, Proponent acknowledges and accepts full responsibility to ensure that it is responding to the correct form of RFP, including any addenda issued by MARTA's Department of Contracts, Procurement and Materials. Proponent acknowledges and agrees that in the event of a conflict between the RFP in the Proponent's possession and the version maintained by MARTA's Department of Contracts, Procurement and Materials, the version maintained by MARTA's Department of Contracts, Procurement and Materials shall govern. The RFP document is available at www.itsmarta.com.
21. **Award of Contract; Execution:** If MARTA awards a Contract pursuant to this procurement, MARTA will prepare and forward to the successful Proponent a Contract for execution substantially in the form included in solicitation document.

The address for receiving all deliveries to MARTA Headquarters Complex (HQ - 2424 Piedmont Rd NE and HQ Annex - 2400 Piedmont Rd NE) is:

MARTA HQ Annex
2400 PIEDMONT RD NE
ATLANTA GA 30324
404-848-5081 Annex Mail Center
404-848-4773 Mail Services Supervisor

RECEIVING HOURS:
Monday – Friday
9:00 am – 2:00 pm

Closed: New Year’s Day/Martin Luther King, Jr
Holiday/Memorial Day/Independence Day/Labor
Day/Thanksgiving Day/Friday Following//Thanksgiving
Day/Christmas Day

Driving Directions from I-75 S

From I-75 S,

Use the left 3 lanes to take exit 251 to merge onto I-85 N,
follow signs for I-85 N

Take the Buford Hwy N exit

Merge onto GA-13 N

Take the GA-237 N/Piedmont Rd NE exit

Turn right onto Piedmont Rd NE

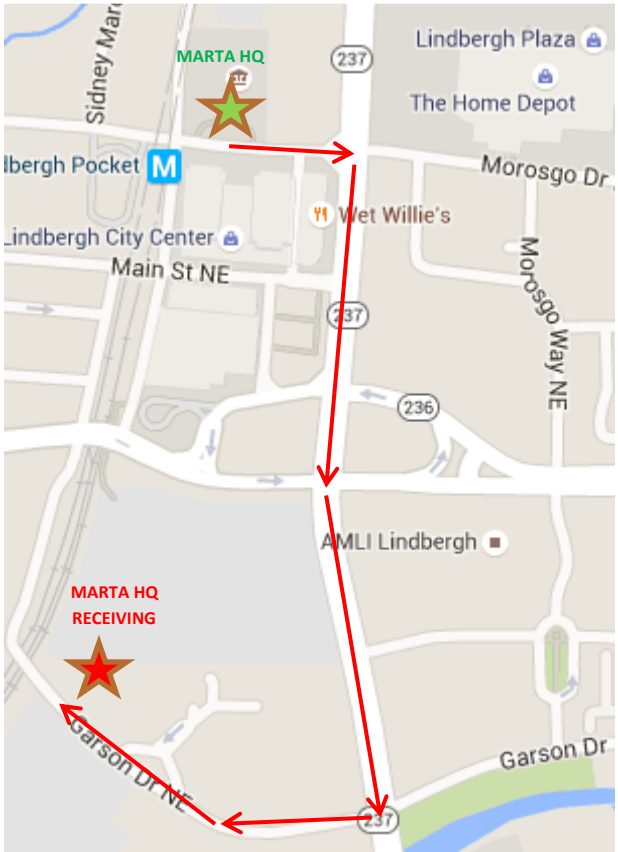
Turn left onto Garson Dr. NE (turn into third driveway on
right)

**Directions from MARTA HQ to MARTA Receiving
at the HQ Annex (see map below):**

East on Morosgo Drive to Piedmont Rd. NE

South on Piedmont Rd to Garson Dr. NE

West on Garson Dr. NE to third driveway on the
right



OVER FOR DRIVING DIRECTIONS FROM I-75 N/I-85 N, I-85 S AND GA - 400

&

DIRECTIONS TO THE HQ ANNEX MAIL CENTER LOADING DOCK

<u>Driving Directions from I-75/I-85 N</u>	<u>Driving Directions from I-85 S</u>	<u>Driving Directions from GA-400 S</u>
From the I-75 N/I-85 N Connector northbound, Keep left at fork to stay on I-85 N, follow signs for I-85 N Take the Buford Hwy N exit Merge onto GA-13 N Take the GA-237 N/Piedmont Rd NE exit Turn right onto Piedmont Rd NE Turn left onto Garson Dr. NE (turn into third driveway on right)	From I-85 southbound, Take exit 88 for Lenox Rd toward GA-400 N/Cheshire Br Rd Turn left onto Cheshire Bridge Rd NE Turn right onto GA-236 W/Lavista Rd NE/Lindbergh Dr NE Turn left onto GA-237S/Piedmont Rd NE Turn right onto Garson Dr NE (turn into third driveway on right)	From GA-400 southbound, Take exit 18 for Sidney Marcus Blvd Turn left onto GA-237 S/Piedmont Rd NE Turn right onto Garson Dr NE (turn into third driveway on right)

Directions to the HQ Annex Mail Center Loading Dock

Enter the driveway (note signage on fence for MARTA HQ Annex, MARTA Police) and proceed to the gate and intercom. Press the intercom button and provide the Protective Specialist:

- Your Name
- Your Company Name
- Purpose for Your Visit

From the gate, proceed to the first stop sign and turn left to the HQ Annex Mail Center and loading dock. The pedestrian entrance and doorbell are to the left of the loading dock.



PART 2: CONTENTS OF PROPOSALS AND SUBMITTALS

1. **General Contents of Proposals:** A Proponent should submit a complete Proposal in response to this RFP in the format specified in this RFP. A Proposal consists of two (2) parts:
 - (a) **Technical Proposal:** This part will contain all of the information and submittals that are required by the RFP or being provided by Proponent as part of its Proposal; and
 - (b) **Price Proposal:** This part will contain the price proposal form, which must be packaged in a separately sealed envelope from the Technical Proposal. **FAILURE TO SUBMIT THE PRICE PROPOSAL FORM MAY, IN MARTA'S SOLE DISCRETION, BE CAUSE FOR PROPONENT TO BE DEEMED NON-RESPONSIVE.**
2. **Technical Proposal:**
 - (a) **Title Page:** The title page should show the RFP number and title, the Proponent's name, address and telephone and fax numbers of the contact person(s) for Proponent and the date of Proponent's Proposal.
 - (b) **Table of Contents:** The table of contents should outline and index the contents of the Proposal and correspond to the requirements of this RFP.
 - (c) **Transmittal Letter:** A letter that briefly states the Proponent's understanding of the work to be performed, its commitment to perform the work, and a statement of the reason(s) why the Proponent believes it is the best qualified individual or entity to perform the work.
 - (d) **Executive Summary:** Each Proponent should include an overview of the Proponent's qualifications to provide the services being procured through this RFP and a high-level description of the proposed solution. At a minimum, the Executive Summary should contain the following information:
 - (i) Complete legal name of the Proponent and the name of the legal entities that comprise the Proponent. The Proponent should provide the domicile where each entity comprising it is organized, including entity name, brief history of the entity, contact name, address, phone number, and facsimile number, as well as the legal structure of the entity.
 - (e) **Response to all Requirements:** The Proponent's response to all requirements should include, but is not limited to, the following information:
 - (i) A detailed description of the services proposed by the Proponent to meet the requirements and goals of MARTA. The description shall demonstrate the Proponent understands the requirements and Authority's goals by describing how Proponent will achieve the same;

- (ii) A Quality Control (QC)/ Quality Assurance (QA) Inspection Plan detailing how the Proponent will manage quality at each step of the program.
 - (iii) A Program Management Strategy describing how the Proponent will manage all phases of the program, particularly if the Proponent is a partnership, joint venture or affiliation of two or more firms.
 - (iv) A Program Phasing Strategy describing how the Proponent anticipating delivering the work through the contract
- (f) Organizational Structure and Key Personnel:** The Proponent should provide **(a)** an organizational chart of the Proponent's management structure and **(b)** corresponding resumes for each of the individuals listed on the organizational chart provided. The organizational structure and resumes should clearly identify the Proponent's management team and the Contractor Program Manager who is expected to be responsible for supervising, superintending, directing, and managing the project. The Proponent should also provide **(c)** an expanded organizational chart including the Proponent's construction crews including the number of crews expected to be available, type of work each crew will have the ability to complete, and the composition of the crews as it relates to the overall management structure.
- (i) Legal form of the Proponent and the state in which it is domiciled. In the case where the Proponent is a partnership, joint venture or affiliation of two or more firms, please provide information for all participants and the nature of the relationship. This should include organizational documents and a brief description of the rights and obligations of the parties.
 - (ii) Resumes should include at least the following information:
 - a. Name and Title;
 - b. Professional Background;
 - c. Education; and
 - d. Current and Past Employment.
 - (iii) The Proponent should also include a statement that clearly identifies the level of authority vested to each individual within Proponent's management structure to make decisions on behalf of the Proponent.
 - (iv) The Proponent should include the name, address, telephone and fax number for the contact person authorized to communicate and negotiate on behalf of the Proponent.
 - (v) List any outstanding disputes or business relationships between the Proponent and the following entities, if any:

- a. MARTA;
- b. The United States Department of Transportation;
- c. Federal Transit Administration;
- d. Georgia Department of Transportation;
- e. City of Atlanta;
- f. County of Clayton;
- g. County of Cobb;
- h. County of DeKalb;
- i. County of Fulton; and/or
- j. County of Gwinnett.

Describe any other outstanding disputes involving the Proponent that may affect the Contract, which MARTA should be made aware.

(g) References and Client List: Proponents should provide:

- (i) At least three (3) written reference letters/statements from Proponent's clients (including name of client, name of Project, and contact information) regarding completed development projects similar to the services being procured by this RFP;
- (ii) A list of past and present clients Proponent has worked for or with over the last five (5) years. Please use **Form 6** to respond to this request.

NOTE: By submitting a response to this RFP, Proponent acknowledges and agrees that MARTA may directly contact any of Proponent's references or clients.

(h) Project Monitoring and Control: The Proponent should provide details of how the Proponent will ensure the project will be delivered within in scope, on budget, and on time.

(i) Quality Assurance Program: The Proponent should provide details of how the Proponent will provide and execute a robust quality assurance program and process to ensure deliverables are high quality.

(j) Experience and Qualifications: To allow MARTA to fully understand the capabilities of the Proponent, the Proponent should provide the information requested below for Proponent and if Proponent is a partnership or joint venture, then each member of Proponent shall provide the following information. Please provide the information stated below for each member of the Proponent's team. Use additional sheets, if necessary.

- (i) The Proponent should describe the experience and role it has within the last five (5) years designing, permitting, and constructing similar infrastructure as

described in the scope of work. Proponents should highlight, at a minimum, each of the following:

- (a) Number of years in business.
 - (b) A list of at least ten (10) projects of similar or greater size than those described in the scope of work that the Proponent completed topographical and utility surveying.
 - (c) A list of at least ten (10) projects of similar or greater size than those described in the scope of work that the Proponent completed construction-ready design documents with at least three (3) of the ten (10) with a scope of work that had predominantly bicycle and/or pedestrian components.
 - (d) A list of at least ten (10) projects of similar or greater size than those described in the scope of work that the Proponent completed permitting within the project area.
 - (e) A list of at least ten (10) projects of similar or greater size than those described in the Performance Specifications that the Proponent acted as the construction contractor to build the project.
 - (f) Certifications or awards the Proponent has related to the design and construction of bicycle and/or pedestrian infrastructure.
- (ii) The Proponent should list all Georgia Department of Transportation (GDOT) work classes the Proponent has been approved for Prequalification as a Contractor or Registered as a Subcontractor by GDOT. Additionally, the Proponent should list projects completed within each work class during the period of Prequalification/Registration. The list should include:
- (a) If Proponent is a partnership or joint venture, the member or members who are GDOT Prequalified/Registered for the respective work class.
 - (b) When the Prequalification/Registration was approved.
 - (c) When the Prequalification/Registration expires.
 - (d) Relevant Projects completed within the Prequalification/Registration period

NOTE: If the Proponent is a partnership, joint venture or newly formed entity (e.g., limited liability company or corporation), the minimum requirements set forth throughout the RFP must be satisfied by the entity or individual(s) that own and control a majority equity interest (i.e., over 50% ownership) of the partnership, joint venture or newly formed entity.

(k) Exceptions to RFP: Proponent shall list any deviation(s), exception(s), or variation(s) to: the terms and conditions of this solicitation, the terms and conditions of any attachment(s) to this solicitation, the terms and conditions of any addendum to this solicitation, and, the terms and conditions of the proposed contract. The section of Proponent's proposal containing any such deviation(s), exception(s), or variation(s) shall be clearly labeled "**Exceptions to RFP**". If a Proponent fails to note a deviation, make an exception, or list a variation to the terms and conditions of this solicitation, any attachment(s), or addenda to this solicitation, or the terms and conditions of the proposed contract, it shall be deemed as an express waiver by that Proponent of such deviation, exception, or variation. **MARTA will not accept or review any deviation(s), exception(s), or variation(s) after the Proponent's proposal has been received by MARTA.**

(l) Financial Information: Given the nature of this project, MARTA needs to understand the Proponent's financial capability to undertake and successfully complete this project. Proponents should provide the following:

(i) Audited financial statements or tax filings for the past three (3) years (i.e., 2022, 2023, and 2024). If Proponent's current year's audited financial statements or tax filings are not yet complete, Proponent may provide either (a) audited financial statements or tax filings for 2022, 2023 and 2024 or (b) audited financial statements or tax filings for 2023 and 2024 as well as unaudited summary statements for the current year. The statements should include each of the following at a minimum:

- (A) Balance sheet;
- (B) Income statement; and
- (C) Statement of change in financial position, if any.

(ii) The names and phone numbers of references for the following:

- (A) Two commercial banks; or
- (B) Two institutional partners; or
- (C) One commercial bank and one institutional partner.

(iii) Terms and conditions of any significant contingent liabilities, such as guaranteed loans or other obligations which could affect the ability of Proponent to obtain financing for this project.

(iv) **ANY FINANCIAL STATEMENTS THAT PROPONENT DEEMS TO BE CONFIDENTIAL SHOULD BE MARKED AS PROPRIETARY.**

NOTE: If the Proponent is a partnership, joint venture or newly formed entity (e.g., limited liability company or corporation), the minimum requirements set

forth throughout the RFP **must** be satisfied by the entity or individual(s) that own and control a majority equity interest (i.e., over 50%) of the partnership, joint venture or newly formed entity.

3. **Price Proposal.** Each Proponent is **required** to fully complete the Price Proposal Form (**Form 3**) attached to this RFP **and submit it in a separately sealed envelope from the Technical Proposal.**

PART 3: SUBMITTAL FORMS

1. Illegal Immigration Reform and Enforcement Act Affidavit (Form 1)
2. Contract Affidavit (Form 1a)
3. Subcontractor Affidavit (Form 1b)
4. Sub-Subcontractor Affidavit (Form 1c)
5. Acknowledgement of Addenda (Form 2)
6. Price Proposal (Form 3)
7. No Conflict of Interest (Form 4)
8. List of Proposed Subcontractors (Form 5)
9. Qualification and Business References (Form 6)
10. Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters (Form 7)
11. Certification of Lower-Tier Participant Regarding Debarment, Suspension, and Other Ineligibility and voluntary Exclusion (Form 8)
12. Certification of Regarding Lobbying (Form 9)
13. Disclosure of Lobbying Activities (Form 10)
14. Buy America Certificate (Form 11)
15. Office of Corporate Compliance & Engagement (Appendix A)

FORM 1
ILLEGAL IMMIGRATION REFORM AND ENFORCEMENT ACT FORMS

All Proponents must comply with the Illegal Immigration Reform and Enforcement Act of 2011, O.G.G.A § 13-10-90, et seq. ("IIREA"). Proponents must familiarize themselves with IIREA and are solely responsible for ensuring their compliance therewith. Proponents may not rely on these instructions for that purpose. These instructions are offered only as a convenience to assist Proponents in complying with the requirements of MARTA's procurement process and the terms of this RFP.

1. The attached Contractor Affidavit must be filled out COMPLETELY and submitted with the Proposal prior to the proposal deadline.
2. The Contractor Affidavit must contain an active Federal Work Authorization Program (E-Verify) User ID Number and Date of Registration.
3. Where the business structure of a Proponent is such that Proponent is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Proponent must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Proponent itself (see Example 1 below). Where the business structure of a Proponent does not require it to obtain an EIN, each entity comprising Proponent must submit a separate Contractor Affidavit (see Example 2 below).

Example 1: ABC, Inc. and XYZ, Inc. form and submit a bid/proposal as TransitService, LLC. TransitService, LLC must enroll in the E-verify program and submit a single Contractor Affidavit in the name of TransitService, LLC which includes the Federal Work Authorization User ID Number issued to TransitService, LLC.

Example 2: ABC, Inc. and XYZ, Inc. execute a joint venture agreement and submit a bid/proposal under the name TransitService, JV. If, based on the nature of the JV agreement, TransitService, JV is not required to obtain an Employer Identification Number from the IRS. The bid/proposal submitted by TransitService, JV must include both a Contractor Affidavit for ABC, Inc. and a Contractor Affidavit for XYZ, Inc.

4. All Contractor Affidavits must be executed by an authorized representative of the entity named in the Affidavit. All Contractor Affidavits must be notarized.
5. Subcontractor and sub-subcontractor affidavits are not required at the time of bid/proposal submission, but will be required at or prior to Contract execution or in accordance with the timelines set forth in IIREA.

FORM 1a
Contractor Affidavit
O.C.G.A. § 13-10-91(b)(1)

By executing this Contractor Affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of MARTA has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

 Federal Work Authorization User Identification Number

 Date of Authorization

Name of Contractor: _____

Name of Project: _____

Name of Public Employer: Metropolitan Atlanta Rapid Transit Authority

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, _____, 20__ in _____ (city), _____ (state)

 Signature of Authorized Officer or Agent

 Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE
 ME ON THIS THE ____, DAY OF _____, 20_____

 NOTARY PUBLIC
 My Commission Expires:

FORM 1b
Subcontractor Affidavit
O.C.G.A. § 13-10-91(b)(3)

By executing this Subcontractor Affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with _____ (name of contractor) on behalf of MARTA has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice of receipt of an affidavit from any sub-subcontractor that has contracted with a sub-subcontractor to forward, within five business days of receipt, a copy of such notice to the contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

 Federal Work Authorization User Identification Number Date of Authorization

Name of Subcontractor: _____

Name of Project: _____

Name of Public Employer: Metropolitan Atlanta Rapid Transit Authority

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, ____, 20__ in _____ (city), _____ (state)

 Signature of Authorized Officer or Agent

 Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE
 ME ON THIS THE ____, DAY OF _____, 20_____

 NOTARY PUBLIC
 My Commission Expires: _____

FORM 1c
Sub-subcontractor Affidavit
O.C.G.A. § 13-10-91(b)(4)

By executing this affidavit, the undersigned sub-subcontractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract for _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract) and _____ (name of contractor) on behalf of MARTA has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. §13-10-91. Furthermore, the undersigned sub-subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned sub-subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the sub-subcontractor with the information required by O.C.G.A. §13-10-91(b). The undersigned sub-subcontractor shall submit, at the time of such contract, this affidavit to _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Additionally, the undersigned sub-subcontractor will forward notice of the receipt of any affidavit from a sub-subcontractor to _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Sub-subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

 Federal Work Authorization User Identification Number

 Date of Authorization

Name of Sub-Subcontractor: _____

Name of Project: _____

Name of Public Employer: Metropolitan Atlanta Rapid Transit Authority

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, ____, 20__ in _____ (city), _____ (state)

 Signature of Authorized Officer or Agent

 Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE
 ME ON THIS THE ____, DAY OF _____, 20____

 NOTARY PUBLIC
 My Commission Expires: _____

FORM 2
ACKNOWLEDGMENT OF ADDENDA

Each Proponent must complete and submit an acknowledgement with its proposal that it has received all Addenda issued by MARTA for this solicitation. If none were issued check the box next to the word "NONE" below. This form has been included and may be used to satisfy this requirement. This is to acknowledge receipt of the following Addenda for **Design Build Services for Safe Routes to Transit, RFP P50421**.

NONE []

1. _____;
2. _____;
3. _____;
4. _____;
5. _____;
6. _____;
7. _____;
8. _____;
9. _____;
10. _____; and
11. _____.

Date: _____, 20____

Corporate Proponent or Respondent:
[Insert Corporate Name]

By: _____

Print Name: _____

Title: _____

Corporate Secretary/Assistant
Secretary (Seal)

Date: _____, 20____

Non-Corporate Proponent or Respondent:
[Insert Proponent Name]

By: _____

Print Name: _____

Title: _____

Notary Public (Seal)
My Commission Expires: _____

FORM 3
PRICE PROPOSAL

On and as of _____, 2026, the undersigned, having examined carefully and become familiar with the (a) accompanying Request for Proposals for **RFP No. P50421 Design Build Services for Safe Routes to Transit ("RFP")**; (b) any addenda to the RFP; and (c) the Services (as defined in the RFP) being solicited by the Metropolitan Atlanta Rapid Transit Authority ("MARTA"), hereby submits this proposal to MARTA in response to **RFP No. P50421**.

See Attached

Notes: 3: Line Item 3 value in this line item will be set by the cost estimates provided per Section 2.2 of the Performance Criteria. Following completion of Final Design and Cost Estimation, MARIYA will make the sole determination whether to proceed with construction of the Site(s) per Section 2.2 of the Performance Criteria

4: Line Item 5 will be paid on a monthly basis and is subject to an approved invoice format per Section 2.1 of the Performance Criteria

4: For Line Item 6 value in this line item will only be paid per Article 17 SUSPENSION OR INTERRUPTION OF WORK of the Contract Terms

P50421 - SAFE ROUTES TO TRANSIT UNIT PRICING FORM				
References: Exhibit A - Performance Criteria, Sec 2.4; Exhibit A - Performance Criteria, Appendix G				
Item	GDOT Pay Item No.	Description	Unit	Unit Price
0100 - ROADWAY				
1	150-1000	TRAFFIC CONTROL - PER SITE	EA	
2	210-0100	GRADING COMPLETE - PER SITE	EA	
3	437-1571	STRAIGHT GRANITE CURB, 5 IN X 17 IN, TP A	LF	
4	441-0104	CONC SIDEWALK, 4 IN	SY	
5	441-0106	CONC SIDEWALK, 6 IN	SY	
6	441-0108	CONC SIDEWALK, 8 IN	SY	
7	441-0300	CONC SPILLWAY, SPCL DES	EA	
8	441-0748	CONCRETE MEDIAN, 6 IN	SY	
9	441-4020	CONC VALLEY GUTTER, 6 IN	SY	
10	441-4030	CONC VALLEY GUTTER, 8 IN	SY	
11	441-5002	CONCRETE HEADER CURB, 6 IN, TP 2	LF	
12	441-5052	CONC DOWELED INTEGRAL CURB, TP 2, INCL DOWELS	LF	
13	441-6216	CONC CURB & GUTTER, 8 IN X 24 IN, TP 2	LF	
14	441-6222	CONC CURB & GUTTER, 8 IN X 30 IN, TP 2	LF	
15	441-9997	CONCRETE SIDEWALK, 4 IN, STAMPED CONC TILE, RED BRICK PTRN	SY	
16	441-9998	CONCRETE SIDEWALK, 8 IN, STAMPED CONC TILE, RED BRICK PTRN	SY	
17	444-1000	SAWED JOINTS IN EXIST PAVEMENTS - PORTLAND CEMENT CONCRETE ONLY	LF	
18	643-8200	BARRIER FENCE (ORANGE), 4 FT	LF	
19	999-5200	DETECTABLE WARNING SURFACE - REPLACEMENT WITHOUT CONCRETE RAMP CONSTRUCTION ONLY	SF	
0110 - PAVEMENT				
20	310-1101	GR AGGR BASE CRS, INCL MATL	TN	
21	401-1000	COLD MIX - INCLUDES PLACEMENT AND COMPACTION	LB	
22	441-0016	DRIVEWAY CONCRETE, 6 IN TK	SY	
23	441-0018	DRIVEWAY CONCRETE, 8 IN TK	SY	
24	500-9999	CLASS B CONC, BASE OR PVMT WIDENING	CY	
25	402-3102	RECYCLED ASPH CONC 9.5 MM SUPERPAVE, TYPE II, BLEND 1, INCL BITUM MATL & H LIME	TN	
26	402-3121	RECYCLED ASPH CONC 25 MM SUPERPAVE, GP 1 OR 2, INCL BITUM MATL & H LIME	TN	
27	402-3190	RECYCLED ASPH CONC 19 MM SUPERPAVE, GP 1 OR 2,INCL BITUM MATL & H LIME	TN	
28	413-0750	TACK COAT	GL	
0200 - DRAINAGE				
29	550-3318	SAFETY END SECTION 18 IN, STORM DRAIN, 4:1 SLOPE	EA	
30	550-5180	STORM DRAIN PIPE, 18 IN, CLASS III	LF	
31	550-3318	SAFETY END SECTION 18 IN, STORM DRAIN, 4:1 SLOPE	EA	
32	550-5180	STORM DRAIN PIPE, 18 IN, CLASS III	LF	
0300 - TEMPORARY EROSION CONTROL				
33	163-0240	MULCH	TN	
34	163-1930	CONSTRUCT AND REMOVE COMPOST FILTER SOCK, 18 IN	LF	
35	165-0010	MAINTENANCE OF TEMPORARY SILT FENCE, TP A	LF	
36	165-1500	MAINTENANCE OF COMPOST FILTER SOCK (ALL SIZES)	LF	
37	171-0010	TEMPORARY SILT FENCE, TYPE A	LF	
0400 - PERMANENT EROSION CONTROL				
38	700-7000	AGRICULTURAL LIME	TN	
39	700-8000	FERTILIZER MIXED GRADE	TN	
40	700-8100	FERTILIZER NITROGEN CONTENT	LB	
41	700-9300	SOD	SY	
0600 - SIGNING				
42	610-9001	REM SIGN	EA	
43	611-5551	RESET SIGN	EA	
44	636-1033	HIGHWAY SIGNS, TP 1 MATL, REFL SHEETING, TP 9	SF	
45	636-1036	HIGHWAY SIGNS, TP 1 MATL, REFL SHEETING, TP 11	SF	
46	636-2070	GALV STEEL POSTS, TP 7	LF	
47	636-2090	GALV STEEL POSTS, TP 9	LF	
48	636-4100	PLASTIC FLEXIBLE DELINEATOR, TP 2B	EA	
0610 - PAVEMENT MARKING				
49	653-0105	PAVEMENT MARKING, BIKE SHARED LANE SYMBOL	EA	
50	653-0110	THERMOPLASTIC PVMT MARKING, ARROW, TP 1	EA	
51	653-0120	THERMOPLASTIC PVMT MARKING, ARROW, TP 2	EA	
52	653-0130	THERMOPLASTIC PVMT MARKING, ARROW, TP 3	EA	
53	653-0320	THERMOPLASTIC PVMT MARKING, SYMBOL, TP 4	EA	
54	653-1501	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN, WHITE	LF	
55	653-1502	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN, YELLOW	LF	
56	653-1704	THERMOPLASTIC SOLID TRAF STRIPE, 24 IN, WHITE	LF	
57	653-1804	THERMOPLASTIC SOLID TRAF STRIPE, 8 IN, WHITE	LF	
58	653-6004	THERMOPLASTIC TRAF STRIPING, WHITE	SY	
59	653-6006	THERMOPLASTIC TRAF STRIPING, YELLOW	SY	
60	654-1001	RAISED PVMT MARKERS TP 1	EA	
61	654-1002	RAISED PVMT MARKERS TP 2	EA	
62	654-1003	RAISED PVMT MARKERS TP 3	EA	
63	654-1010	RAISED PVMT MARKERS TP 10	EA	
64	656-0050	REMOVE EXIST SOLID TRAF STRIPE, 5 IN, THERMOPLASTIC	LF	
65	656-0080	REMOVE EXIST SOLID TRAF STRIPE, 8 IN, THERMOPLASTIC	LF	
66	656-0240	REMOVE EXIST SOLID TRAF STRIPE, 24 IN, THERMOPLASTIC	LF	
67	656-4001	REMOVE EXIST TRAF MARKINGS, THERMOPLASTIC	SY	
68	657-1054	PREFORMED PLASTIC SOLID PVMT MKG, 5 IN, WHITE, TP PB	LF	
69	657-1084	PREFORMED PLASTIC SOLID PVMT MKG, 8 IN, WHITE, TP PB	LF	
70	657-1085	PREFORMED PLASTIC SOLID PVMT MKG, 8 IN, CONTRAST (BLACK-WHITE), TP PB	LF	

P50421 - SAFE ROUTES TO TRANSIT
UNIT PRICING FORM

References: Exhibit A - Performance Criteria, Sec 2.4; Exhibit A - Performance Criteria, Appendix G

Item	GDOT Pay Item No.	Description	Unit	Unit Price
71	657-1244	PREFORMED PLASTIC SOLID PVMT MKG, 24 IN, WHITE, TP PB	LF	
72	652-0091	PAVEMENT MARKING SYMBOL, TP 1	EA	
73	652-0094	PAVEMENT MARKING SYMBOL, TP 4	EA	
74	652-9000	TRAFFIC STRIPE, GREEN	SY	
75	653-1906	THERMOPLASTIC SOLID TRAF STRIPE, 6 IN, WHITE	LF	
76	653-2602	THERMOPLASTIC SOLID TRAF STRIPE, 6 IN, YELLOW	LF	
0700 - SIGNALS				
77	647-1000	PHB TRAFFIC SIGNAL INSTALLATION - 1 STRAIN POLE INSTALLATION - 60 FT MAST ARM	EA	
78	647-1001	PHB TRAFFIC SIGNAL INSTALLATION - 2 STRAIN POLE INSTALLATION - 40 FT MAST ARMS	EA	
79	647-1030	RRFB INSTALLATION NO - DOUBLE SIDED RRFB, SOLAR POWERED	EA	
80	647-1030	RRFB INSTALLATION NO - SINGLE SIDED RRFB, SOLAR POWERED	EA	
81	647-1030	RRFB INSTALLATION NO - SINGLE SIDED SUPPLEMENTAL RRFB, SOLAR POWERED	EA	
82	647-1050	SCHOOL SPEED ZONE FLASHING BEACON - SOLAR POWERED	EA	
83	647-1020	PHB INSTALLATION - 1 STRAIN POLE INSTALLATION - 60 FT MAST ARM	EA	
84	647-1021	PHB INSTALLATION - 2 STRAIN POLE INSTALLATION - 40 FT MAST ARMS	EA	
85	647-1030	RRFB INSTALLATION - DOUBLE SIDED RRFB, SOLAR POWERED	EA	
86	647-1031	RRFB INSTALLATION - SINGLE SIDED RRFB, SOLAR POWERED	EA	
87	647-1032	RRFB INSTALLATION - SINGLE SIDED SUPPLEMENTAL RRFB, SOLAR POWERED	EA	
88	647-7001	PEDESTRIAN PUSH BUTTON - INSTALLATION	EA	
89	647-7002	PEDESTRIAN SIGNAL INSTALLATION	EA	
0900 - MISCELLANEOUS				
90	999-0010	BARRIER ELEMENTS - PLANTERS 48"L X 20" W X 24" H	EA	
91	900-0526	BOLLARDS	EA	
92	999-2453	RAISED BIKE LANE	LS	
Notes:	Populate proposed unit price for all GDOT Pay Items listed			
	Proposed prices will not be utilized as part of Proponent Evaluation and are for reference during review of the cost estimates produced as part of the project by the successful Proponent			

THIS PROPOSAL IS A FIRM OFFER IRREVOCABLE FOR TWO HUNDRED (200) DAYS

Date: _____, 20____ Corporate Proponent or Respondent: [Insert Corporate Name] _____ By: _____ Print Name: _____ Title: _____ _____ Corporate Secretary/Assistant Secretary (Seal)
--

Date: _____, 20____ Non-Corporate Proponent or Respondent: [Insert Proponent Name] _____ By: _____ Print Name: _____ Title: _____ _____ Notary Public (Seal) My Commission Expires: _____
--

FORM 4
NO CONFLICT OF INTEREST

Except as may be identified and explained below, the undersigned hereby certifies that (a) no member of the Board of Directors, officer, and employee of the Metropolitan Atlanta Rapid Transit Authority, (b) no elected, appointed, and employed official or employee of the State of Georgia and of a governing body, instrumentality, or political subdivision within the territory comprising the Counties of Fulton, DeKalb or Clayton, Georgia, and (c) no relative of any persons described above, (d) no member of and delegate to the Congress of the United States has an interest whatsoever in Proponent's organization and in the proceeds of a Contract and agreement which might be made between Proponent and the Metropolitan Atlanta Rapid Transit Authority as a result of the proposal, quote, bid and/or qualification statement accompanied by this certification, and (e) no person who is or who during the past six (6) months has been a member of the Board of Directors, an officer, or an employee of the Metropolitan Atlanta Rapid Transit Authority is employed by or on behalf of the Proponent's organization.

The undersigned certifies that he/she is legally authorized by the Proponent to make the above representation, and that the representation is true to the best of his/her knowledge and belief and without deliberate omission of any inquiry which would to the best of his/her belief tend to change the above representation. The undersigned understands that any representation made knowing it to be false may disqualify the Proponent from being awarded the Contract and future work by MARTA.

NOTE: THIS CERTIFICATION MUST BE COMPLETED, SIGNED AND SUBMITTED TO MARTA.

Signature _____

Print Name _____

Title _____ Telephone #: (____) _____

Name of Proponent Company _____

Address _____

FORM 5
LIST OF PROPOSED SUBCONTRACTORS

1.

NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

SUBCONTRACT EFFORT: _____

AGE OF FIRM: _____ YEAR(S) _____ MONTH(S) q DBE q NON-DBE

ANNUAL GROSS RECEIPTS OF FIRM:

q \$0 - \$99,999 q \$100,000 - \$499,999 q\$500,000 - \$999,999 q\$1,000,000 - \$4,999,999

q \$5,000,000 - \$9,999,999 q\$10,000,000 - \$14,999,999 q\$15,000,000 – 24,999,999

2.

NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

SUBCONTRACT EFFORT: _____

AGE OF FIRM: _____ YEAR(S) _____ MONTH(S) q DBE q NON-DBE

ANNUAL GROSS RECEIPTS OF FIRM:

q \$0 - \$99,999 q \$100,000 - \$499,999 q\$500,000 - \$999,999 q\$1,000,000 - \$4,999,999

q \$5,000,000 - \$9,999,999 q\$10,000,000 - \$14,999,999 q\$15,000,000 – 24,999,999

3.

NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

SUBCONTRACT EFFORT: _____

AGE OF FIRM: _____ YEAR(S) _____ MONTH(S) q DBE q NON-DBE

ANNUAL GROSS RECEIPTS OF FIRM:

q \$0 - \$99,999 q \$100,000 - \$499,999 q\$500,000 - \$999,999 q\$1,000,000 - \$4,999,999

q \$5,000,000 - \$9,999,999 q\$10,000,000 - \$14,999,999 q\$15,000,000 – 24,999,999

(use additional sheet(s) if needed)

FORM 6
QUALIFICATIONS AND BUSINESS REFERENCES

Name of Respondent:		
Principal Office Address		
	State:	Zip Code:
Telephone Number	()	Fax Number: ()
Social Security Number (if Individual)		
Federal ID Number		
DUNS Number		

1. Are you registered to do business in Georgia? Yes ☐ No ☐
Business Classification: _____
2. Is your company licensed to do Business in the State of Georgia? Yes ☐ No ☐
Business License Number: _____
3. Please mark the appropriate classification of your organization.

Individual ☐	Partnership ☐	Corporation ☐
Limited Liability Company ☐	Joint Venture ☐	

Please identify the State which your organization is incorporated. _____

If a partnership, list names and addresses of partners; if a corporation, list names of officers and directors and State of Incorporation; if a joint venture, list names and addresses of ventures and, if any venturer is a corporation, partnership, or joint venture, list the same information for each such corporation, partnership, and joint venture.

4. How many years has your organization been in business under your present business name?
_____ yrs.
5. How many years of experience has your organization had in work similar to the work of this Contract?
 - (a) As a prime contractor? _____
 - (b) As a subcontractor? _____

6. (A) List all the contracts which your organization has completed during the last 5 years which demonstrate the qualifications to perform the work of this Contract. (For joint venture work, show the sponsoring individual or company.) ***Use additional sheet(s), using the same format (s) below as needed.***

Customer Name:			
Customer Address:			
Year:	Contract Price:	Kind of Contract:	Location of Work:

Customer Name:			
Customer Address:			
Year:	Contract Price:	Kind of Contract:	Location of Work:

(B) Please utilize the space below to provide contact information for previous clients, which your firm has provided services of similar size and scope. List clients which you have performed work during the past three (3) years.

Organization Name:		
Contact Person Name:		
Contact Number:	Email Address:	
Address:		
City:	State:	Dates/Period of Service:
Project Name and Service Description:		

Organization Name:		
Contact Person Name:		
Contact Number:	Email Address:	
Address:		
City:	State:	Dates/Period of Service:

Project Name and Service Description:

7. Have you or your organization, or any officer or partner thereof, failed to complete a contract?

If so, provide details _____

8. In what other lines of business are you financially interested? _____

9. Describe the composition of your company’s labor force by job classification, including management:

10. Provide information about the experience of the principal individuals of your present organization.

Individual's Name	Title	Years of Experience	Magnitude and Type of Work

11. List similar contract work which you have currently underway, or for which you are committed:

Name and Address of Customer	Kind of Contract	Contract Price	Expected Completion Date	Completion Date	Location of Work

12. Reference is hereby made to the following financial institutions as to the financial responsibility of the Respondent:

Name of the Bank:	
Street Address:	
City and State:	
Telephone:	
Contact Name:	

Name of the Bank:	
Street Address:	
City and State:	
Telephone:	
Contact Name:	

13. Reference is hereby made to the following surety/insurance company or companies as to the financial responsibility and general reliability of the Respondent:

Name of Surety/Insurance Company:	
Street Address:	
City and State:	
Telephone:	
Contact Name: (Person familiar with Respondent's Account)	

Name of Local Agent (if different):	
-------------------------------------	--

14. Financial information for last two (2) years:

	Year Ending:	Year Ending:
Total Gross Sales	\$	\$
Net Profit (Loss)	\$	\$
Current Assets	\$	\$
Current Liabilities	\$	\$
Audited Financial Statements Available?	Yes ☐ No ☐	Yes ☐ No ☐

15. Is any litigation pending against your organization or has your organization been engaged in any litigation or adversarial proceedings within the last five (5) years? [Check the correct response below:]
Yes ☐ No ☐

If the response is yes, please provide a detailed description of each proceeding below:
(Use additional pages if necessary.)

The undersigned certifies that he is legally authorized by the Respondent to make the statements and representations contained in this form, and represents and warrants that the foregoing information is true and accurate to the best of his knowledge, and intends that the Metropolitan Atlanta Rapid Transit Authority rely thereon in awarding the Contract.

RESPONDENT NAME _____

DATE OF SIGNING _____

SIGNATURE _____

TITLE _____

RESPONDENT MAY USE ADDITIONAL SHEETS IF NECESSARY TO RESPOND TO ANY QUESTION(S).

FORM 7
CERTIFICATION OF PRIMARY PARTICIPANT
REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

The Primary Participant (potential Contractor for a major third-party contract), _____, certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or Local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or Local) terminated for cause or default.

(If the primary participant is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT, (POTENTIAL CONTRACTOR FOR A MAJOR THIRD-PARTY CONTRACT) _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

Date

FORM 8
CERTIFICATION OF LOWER-TIER PARTICIPANT
REGARDING DEBARMENT, SUSPENSION, AND OTHER
INELIGIBILITY AND VOLUNTARY EXCLUSION

The Lower-Tier Participant (potential subcontractor under a major third party contract), _____ certifies by submission of this proposal that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(If the Lower-Tier participant is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.)

THE LOWER-TIER PARTICIPANT (POTENTIAL SUBCONTRACTOR UNDER A MAJOR THIRD-PARTY CONTRACT) _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

Date

FORM 9
CERTIFICATION REGARDING LOBBYING

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence a member of the Board of Directors, officer, or employee of the Metropolitan Atlanta Rapid Transit Authority, or any elected, appointed, or employed official or employee of the State of Georgia, member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, or the amendment or modification of any Federal contract.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence a member of the Board of Directors, officer, or employee of the Metropolitan Atlanta Rapid Transit Authority, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal Contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award of all subcontracts anticipated to be of a value of \$100,000 or more and that all subcontractors shall certify and disclose accordingly.

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

Signature: _____ Date: _____

Title: _____ Telephone No.: _____

Firm or Corporate Name: _____

Address: _____

FORM 10

DISCLOSURE OF LOBBYING ACTIVITIES

DISCLOSURE OF LOBBYING ACTIVITIES Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 (See reverse for public burden disclosure)		
1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award	3. Report Type: ☐ a. initial filing ☐ b. material change For Material Change Only: Year _____ quarter _____ Date of last report _____

Name and Address of Reporting Entity:

☐ Prime ☐ Subawardee tier _____, if known: Congressional District, if known	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known
4. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number if applicable: _____
8. Federal Action Number, if known:	9. Award Amount, if known:
10. a. Name and address of Lobbying Entity (if individual, last name, first name, MI): (Attach Continuation Sheet(s) SF-LLL-A, if necessary)	b. Individuals Performing Services (including address if different from No. 10a) (Attach Continuation Sheet(s) SF-LLL-A, if necessary)
11. Amount of Payment (check all that apply): \$ _____ ☐ actual ☐ planned	13. Type of Payment (check all that apply): ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other, specify: _____
12. Form of Payment (check all that apply): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	
14. Brief Description of Services Performed or to be Performed and Date(s) of service, including officer(s), employee(s), or Members contacted, for Payment Indicated in Item 11:* (attach Continuation Sheet(s) SF-LLL-A, if necessary)	
15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No	
16. Information requested through this form is authorized by Title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	
Authorized for Local Reproduction Standard Form-LLL	

FORM 11

**BUY AMERICA CERTIFICATE FOR PROCUREMENTS OF STEEL, IRON, MANUFACTURED
PRODUCTS AND CONSTRUCTION MATERIALS**

This procurement is subject to the Federal Transit Administration's (FTA) Buy America requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 C.F.R. § 661.5, and the Build America, Buy America Act, Public Law 117-58 §70911-70927 and, as applicable, 2 C.F.R. Part 184.

Bidder/Proponent must agree to comply with 49 U.S.C. § 5323(j) and 49 C.F.R. part 661, which provides that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA- funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11. A waiver from the Buy America Provision may be sought if grounds for the waiver exist. In such event, Bidder/Proponent shall submit pertinent data as required by MARTA or the FTA.

Bidder/Proponent must also agree to comply with the Build America, Buy America Act, Public Law 117-58 § 70911-70927, including, as applicable 2 C.F.R. part 182 which only permits participation in this contract only if all construction materials used in the FTA funded project are produced in the United States.

Bidder/Proponent hereby certifies that it will comply with the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 C.F.R. part 661, and the Build America, Buy America Act, Public Law 11758 § 70911–70927, including, as applicable, 2 C.F.R. part 184.

Date_____

Signature_____

Company_____

Name_____

Title_____

APPENDIX A
OFFICE OF CORPORATE COMPLIANCE & ENGAGEMENT REQUIREMENTS

See attached.

PART 4
FORM OF CONTRACT

- 1.** Contract
- 2.** Exhibit A: Scope of Work/Performance Criteria
 - a.** Exhibit A-1: MARTA Procedural Specification - Safe Routes to Transit Program
 - b.** Exhibit A-2: 30% Design Plans
 - c.** Exhibit A-3: 30% Design Quantities
 - d.** Exhibit A-4: MARTA Criteria for Drawings
 - e.** Exhibit A-5: MARTA BIM User Guidelines
 - f.** Exhibit A-6: MARTA BIM Execution Guidelines
 - g.** Exhibit A-7: MARTA Issued Technical Document Procedure
 - h.** Exhibit A-8: MARTA Bus Stop Standard Pad Details
 - i.**
- 3.** Exhibit B: Special Terms and Conditions
- 4.** Exhibit C: Payment Terms
- 5.** Exhibit D: Insurance and Bonding Requirements
- 6.** Exhibit E: No Conflict of Interest
- 7.** Exhibit F: Price Proposal Form
- 8.** Exhibit G: Unit Pricing Form
- 9.** Exhibit H: Alertness Assurance Program Procedure
- 10.** Exhibit I: Distraction Avoidance Policy
- 11.** Appendix A: Corporate Compliance & Engagement Requirements

DESIGN BUILD SERVICES FOR SAFE ROUTES TO TRANSIT
CONTRACT NO. P50421 / PROJECT NO. 32296

This Design Build Services for Safe Routes to Transit Contract ("Contract") is entered into and made effective on and as of [] ("Effective Date") by and between the METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY ("MARTA" or the "Authority") and [], a [] ("Contractor"). MARTA and Contractor are collectively referred to herein as "Parties" and each, individually, as a "Party." This document containing Articles 1 through 62 shall be referred to as the "Terms and Conditions." The Contract is made up of the "Contract Documents" (defined below) that includes these Terms and Conditions and all other things included in the definition of Contract Documents.

Contract Name: Design Build for Safe Routes to Transit _	Contract No: P50421 _
Contractor: []	MARTA Department: Planning and Project Development
Address: []	Address: 2424 Piedmont Road, NE Atlanta, Georgia 30324-3330
Phone: []	Phone: 404-848-[]
Contractor's Authorized Representative: []	MARTA's Authorized Representative: [] (or his/her designee(s))

WHEREAS, MARTA requires the services of Contractor to act as design-builder for ***Safe Routes to Transit***, and

WHEREAS, Contractor has agreed to perform such services in accordance with the terms and conditions set forth in this Contract;

NOW THEREFORE, in exchange for the mutual covenants and agreements contained herein and other good and valuable consideration, the legal sufficiency of which is acknowledged by the Parties, MARTA and Contractor agree as follows:

1. **DEFINITIONS**. Whenever used in the Contract Documents (defined below), the terms defined below shall have the meanings indicated. Unless otherwise defined, words used in the Contract Documents (defined below) that have usual and customary meanings shall be given their usual and common meanings, and words having technical or trade meanings shall be given their customary meaning in the subject business, trade, or profession.
 - A. **Administrative Approval** or **Approval** means any review and written approval by MARTA's Authorized Representative of any document, submission, or submittal from Contractor in relation to the Contract or that a deliverable, milestone, submittal, process or activity has been successfully completed by Contractor. The Authority's review and approval shall not relieve Contractor from the sole and absolute responsibility for (i) the adequacy, correctness, completeness, and constructability of the Design Documents and (ii) the construction means, methods, techniques, sequences, or procedures used to complete the Work. Nor shall the Authority's review and approval diminish Contractor's sole and absolute responsibility for the satisfaction of the requirements set forth in the Contract Documents (defined below). Issuance of Administrative Approval by MARTA shall not relieve Contractor or Designer of Record of their responsibilities under this Contract. Unless otherwise specified, MARTA will have 45 days to review submissions made by Contractor to MARTA. The Baseline Schedule shall include this time. Any delay in return of any submission by MARTA shall not be deemed to be Administrative Approval or Approval.

- B. Approval for Permitting means the written notice issued by the Authority authorizing Contractor to proceed solely with the application for permits with the applicable permitting jurisdictions for the sites within the Approval for Permitting. The Approval for Permitting does not authorize Contractor to perform Construction Phase Work.
- C. Applicable Law means any and all applicable federal, state, local or municipal laws, statutes, ordinances, codes, rules, regulations, requirements, resolutions, or orders, as well as any orders, acts, rulings, decrees, or by-laws of any court, government, agency, or body with (1) jurisdiction over the Parties or Project; or (2) relating to the manner in which the Work is performed.
- D. Authority or MARTA means the Metropolitan Atlanta Rapid Transit Authority.
- E. Authority-Caused Delay means a delay to the critical path of the completion of the Work as set forth in the Baseline Schedule caused by a material breach by the Authority of an express obligation under the Contract that meets all of the requirements set forth in Article 18 of these Terms and Conditions.
- F. Authority Change means a Change made at the request of the Authority.
- G. Baseline Schedule means the initial Progress Schedule prepared by Contractor in accordance with Article 16 of these Terms and Conditions and subsequently approved and designated in writing as the Baseline Schedule by the Authority inclusive of any changes to the Contract Time as may be effectuated by a Change Order.
- H. Budget means the maximum total cost that MARTA intends to spend for the Contract Price in accordance with the Construction Documents set forth in the Price Proposal Form.
- I. Certificate of Final Completion has the meaning set forth within Article 30 of these Terms and Conditions.
- J. Certificate of Substantial Completion has the meaning set forth within Article 30 of these Terms and Conditions.
- K. Change means an addition to, deletion from, suspension of, or any other material modification or adjustment of the Work or the Contract Time, including but not limited to any change that alters, adds to, or deducts from such Work.
- L. Change Order means a written document executed by the Authority which, when in conformity with the Contract, authorizes or directs a Change or Changes to the Contract Price, Contract Time, or the Contract Documents.
- M. Change Notice means a written Notice to Contractor of a Change directed by the Authority.
- N. Claim means a written demand or assertion seeking, as a matter of right, an adjustment of the Contract Price, Contract Time, or other relief arising out of or relating to the terms of the Contract Documents. Submission of a Claim serves as Contractor's exclusive remedy for resolving disputes with the Authority regarding Contractor's entitlement to additional compensation, schedule time, or any other form of relief relating to the Contract.
- O. Concealed Site Condition has the meaning set out in Article 19 of these Terms and Conditions.
- P. Contract Completion Date or CCD is defined as the number of Days allowed for the achievement of Substantial Completion of the Contract Work.
- Q. Construction Documents means collectively the signed and sealed plans, Project-Specific Specification, drawings and other documents prepared and developed by the Designer of Record to one hundred percent (100%) completion that (i) depict how the Work will be constructed in accordance with (1) all requirements set forth in the Contract Documents, including without limitation all safety protocols; and (2) the Final Design Documents; and (ii) are approved by any government or quasi-government entities with jurisdiction over the Project for the construction of the Work.
- R. Construction Phase is the phase of the Project whereby Contractor will commence construction of the Work depicted in the Construction Documents and progress the Work to Final Completion in accordance with the Baseline Schedule.

- S. Construction Phase Notice to Proceed or CNTP means the written Notice issued by the Authority authorizing Contractor to proceed with some or all Construction Phase Work as identified therein. The CNTP may apply to a specific Job Site only and not other Job Sites.
- T. Construction Phase or Construction Phase Work is the portion of the Work that will be completed during the Construction Phase.
- U. Construction Price shall be the price that Contractor will accept as total compensation for costs and expenses of construction and completion of the Construction Phase Work in accordance with the Contract Documents.
- V. Contract means the reciprocal understandings, obligations, and rights of the Authority and Contractor contained or incorporated by reference within the Contract Documents.
- W. Contract Documents means several writings that evidence the Contract. They consist of these Terms and Conditions, the Supplementary Conditions (if any), Procedural Specifications, the Performance Criteria, the Project-Specific Specification, the Final Design Documents, the Price Proposal Form, the Bond(s), the Construction Documents, and all exhibits attached to or referred to by any of the foregoing including the Insurance Requirements, the Community Relations Provisions, the Equal Employment Opportunity and Disadvantaged Business Enterprise Requirements, and any other documents incorporated in the Contract by reference. The Contract Documents only include things expressly included and does not include things not expressly incorporated or expressly not included.
- X. Contract Price means the total compensation payable to Contractor for all completion of the Work in accordance with the terms of the Contract. Unless stated otherwise within a Contract Document, the Contract Price is the amount reflected on the Price Proposal Form and is comprised of the Design Fee and the Construction Price.
- Y. Contract Time means the period of time established by the Contract Documents for completion of the Work.
- Z. Contractor means the person, partnership, firm, corporation, company, or joint venture or combination thereof, identified within the Contract as the party that has entered into this Contract with MARTA.
- AA. Day or Days means a calendar day, unless otherwise provided.
- BB. Design Development Documents are the drawings, plans and specifications, and other documents that develop, clarify, and refine the design ideas during the Design Development Phase.
- CC. Design Development Phase is the phase of the Project requiring the development of Final Design Documents, Construction Documents, and other similar documents prepared by the Designer of Record in connection with the design of the Project inclusive of (i) any redesign by Contractor on account of the Contract Price exceeding the Budget; and (ii) the Design Review. For avoidance of doubt, the Owner may elect to proceed with a fast-track process by which the Design Development Phase overlaps with the Construction Phase to the extent MARTA expressly directs Contractor to do so by issuance of a CNTP, if any and as appropriate.
- DD. Design Documents means the drawings, plans, specifications, reports, calculations, records, submittals, and other specified documents prepared by the Design Builder in the course of performing the Project engineering and design Work at any stage of the Project.
- EE. Design Fee means the price that Contractor will accept as total compensation for the services rendered for completion of the Work during the Design Development Phase of the Project in accordance with the Contract Documents.
- FF. Design Phase Notice to Proceed or DNTP means the written notice issued by the Authority authorizing Contractor to proceed solely with the Design Development Phase inclusive of survey or exploratory Work. The DNTP does not authorize Contractor to perform Construction Phase Work.

- GG. Design Professional means the Designer of Record or any other engineer, architect, landscape architect, surveyor, geologist, or specialty consultant or professional engaged by Contractor or the Designer of Record to perform design services for the Project and working under the supervision of the Designer of Record.
- HH. Design Review means the Designer of Record's comprehensive and exhaustive examination of the Design Documents and the Final Design Documents, undertaken during the Design Development Phase and as set forth below, to verify that they are in conformance with the requirements of the Contract Documents.
- II. Designer of Record means the appropriately licensed Contractor principal, specialized Subcontractor to Contractor, or Contractor's in-house designer that leads the team furnishing and performing the design of the Project in accordance with the requirements of the Contract Documents and in accordance with Applicable Law. For the purposes of this Contract, the Designer of Record is the individual identified in the Price Proposal Form. The Designer of Record shall be licensed in the jurisdiction of which the Work will be performed.
- JJ. Equipment means all physical devices, components, devices, network, and hardware needed to deliver a fully operational and safe system that meets with the requirements of the Contract Documents.
- KK. Final Acceptance means Contractor has achieved Final Completion of the Work, MARTA has issued a Certificate of Final Completion, and MARTA's Board of Directors has accepted the Work.
- LL. Final Completion or Final Completion of the Work means the full and final completion of all Work in accordance with the Contract Documents.
- MM. Final Design means the design of the Work that is depicted in the Final Design Documents.
- NN. Final Design Documents means, collectively, the one hundred percent (100%) complete, signed, and sealed set of Design Documents prepared by the Designer of Record that the Designer of Record has certified meets or exceeds all of the requirements of the Contract and Applicable Law. The Final Design Documents must include (i) schematic designs and drawings necessary to fully illustrate the scale and relationship of all of the systems, infrastructure, equipment and all other components of the Project; (ii) all drawings, specifications, plans and other documents necessary to completely identify and describe all of the systems, infrastructure, equipment, and components with respect to the following disciplines of work including architectural, civil, geotechnical, structural, mechanical, electrical, plumbing, fire, piping, controls, acoustical, life safety, and any other required discipline; and (iii) all details necessary to demonstrate that the Final Design meets with the requirements of the Contract.
- OO. Final Payment shall have the meaning as set forth in Articles 35.A.2, 35.A.3 and 35.A.5 of these Terms and Conditions.
- PP. Force Majeure means unusually severe weather, such as catastrophic storms, floods, tornadoes, and hurricanes, earthquakes, and other acts of God, wars, civil disturbances, terrorist attacks, revolts, insurrections, sabotage, commercial embargoes, epidemics, fires, explosions, changes in law; provided that such act or event (i) delays the critical path of the Baseline Schedule or renders impossible the affected Party's performance of its obligations under the Contract; (ii) is beyond the reasonable control of the affected Party, not due to the affected Party's fault or negligence, and was not reasonably foreseeable; and (iii) could not have been prevented or avoided by the affected Party through the exercise of due diligence, including the expenditure of any reasonable sum. For avoidance of doubt, Force Majeure shall not include any of the following: (i) economic hardship; (ii) changes in market conditions; (iii) late delivery, unavailability, or failure of equipment; (iv) labor availability, strikes, or other similar labor actions of personnel working on the Project; or (v) nonperformance or delay by Contractor or its Subcontractors, unless such nonperformance or delay is otherwise caused by Force Majeure.
- QQ. Insurance Requirements means the insurance requirements set forth in **Exhibit D** and elsewhere in the Contract Documents. At all times during the term of the Contract, Contractor shall comply with the Insurance Requirements and ensure that all Subcontractors, Design Professionals, vendors, supplier, and materialmen comply with the insurance requirements.
- RR. Job Site means the area or areas to be occupied for construction and all adjacent areas and other related areas occupied or used by Contractor during performance of the Work, including storage areas and building staging areas, and areas for the production, procurement, storage, and disposal of earthwork, concrete, and paving materials, and similar materials and equipment. The Job Site or Job Sites for this Project are identified and

depicted within **Exhibit A of the Performance Criteria**. Additional Job Sites may be identified after contract execution.

SS. Key Personnel means the Designer of Record, Contractor's project manager, and all other individuals identified and agreed upon pursuant to the process set forth in Article 10 of these Terms and Conditions.

TT. Labor Standards Provisions means wage rates applicable to the Project with which Contractor is obligated to comply, including the specific wage rates set forth within

UU. Letter Directive means the document issued by MARTA authorizing use of an Owner Allowance.

VV. Line Item means an item of Work listed in the Price Proposal Form for which a price is or will be indicated.

WW. MARTA Design Criteria means the requirements set forth within the MARTA Design Criteria document.

XX. Notice or Notice of Claim means a written document executed by an authorized representative of Contractor or the Authority that invokes a right or requests a remedy under the Contract or provides any Notice required by the Contract.

YY. Notice of Termination means a Notice from the Authority terminating all or a portion of the Contract as set forth in Articles 40 and 41 of these Terms and Conditions.

ZZ. Owner Allowance(s) means an allowance specified in the Price Proposal Form, if any, that may be paid to Contractor only for expenses that are Approved by the Authority that are actually incurred by the Contractor for necessary work performed under said allowances. Use of an Owner Allowance is only permitted if MARTA issues a Letter Directive. Provided MARTA issues a Letter Directive, the Contractor thereafter shall apply for payment under the Owner Allowance and submit proof of payment acceptable to the Authority. Any unspent monies left in an allowance shall not be paid to Contractor and be retained by MARTA.

AAA. Price Proposal Form means the final and binding version of the form on which the Authority requires pricing to be set forth that is submitted by Contractor during the request for proposal process and accepted by MARTA.

BBB. Procedural Specifications means the part of the Contract Documents so entitled that define and specify (1) the requirements and quality of the Work to be performed, the materials to be used, and any equipment and other fixtures to be installed under the Construction Phase of the Contract; and (2) the procedures to be followed by Contractor during the Work inclusive of the Design Development Phase and the Construction Phase.

CCC. Program Manager or Project Manager means the MARTA designated individual who will be the primary point of contact for the Contractor and be responsible for the day-to-day management of the project.

DDD. Progress Schedule means a schedule of the Work, in a form satisfactory to the Authority, as further defined in Article 16 of these Terms and Conditions.

EEE. Project means the design and total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Authority or by separate contractor(s).

FFF. Project-Specific Specification means the set of project specifications and requirements developed, designed, and created by the Designer of Record during the Design Development Phase that specifies the quality of the Work to be performed, the materials to be used, and any equipment and other fixtures to be installed under the Construction Phase of the Contract. The Project-Specific Specification needs to be designed, developed, and created by the Designer of Record all in accordance with the Standard of Care and the Contract Documents as approved by MARTA.

GGG. Reference Document(s) means the documents contained or cross-referenced in this Contract.

HHH. Schedule of Values means the written list that apportions the Contract Price in the manner set forth in the Price Proposal Form and will be used as a basis to measure the payment due to Contractor, if any, on the basis of work performed.

- III. Performance Criteria means the project requirements and preliminary design criteria issued by MARTA during the request for proposal process that will form the basis of the Final Design and preliminarily specify the requirements and quality of the Work to be designed, constructed, performed, and provided.
- JJJ. Shop Drawings or Working Drawings means Contractor's submittals in the form of drawings, diagrams, illustrations, or other information or data detailing how Contractor will meet the requirements of the Contract Documents. Shop Drawings are not Contract Documents and do not modify the requirements of the Contract Documents.
- KKK. Software means the Contractor-provided or utilized programs, firmware, interfaces, documentation, databases, and other operating information, together with all documentation, tools, enhancements, improvements, upgrades, updates, and modifications required to install, operate, and maintain the System.
- LLL. Reserved.
- MMM. Subcontractor means a person or entity that contracts with Contractor or any subcontractor, consultant, supplier, or materialmen of any tier for the performance of any part of the Work or to provide services, materials, or equipment for use in the Work.
- NNN. Substantial Completion means the time at which the Work, or a designated portion thereof to the extent set forth within the Price Proposal Form^J, has progressed to the point where it is sufficiently complete in accordance with the Contract Documents, so that the Work, or designated portion thereof, can be commercially utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" used herein refer to the defined term "Substantial Completion."
- OOO. Supplementary Conditions means the Contract Document so entitled that supplements this Contract.
- PPP. Warranty means the obligations set forth in Article 36 of these Terms and Conditions.
- QQQ. Work means (i) all efforts to be performed or provided by Contractor that are necessary to complete its obligations under the Contract, including but not limited to all planning, design, architectural and engineering services, labor, materials, transportation, plant, tools, equipment, materials, consumables, supplies, products, services, rights, licenses, permits, supervision, field costs, safety services and control, quality control, and management inclusive of all project management activities required for the proper design, construction, manufacture and installation of the work required or specified by the Contract Documents; (ii) all other incidentals required for the proper design and construction of the work as required or specified by the Contract Documents or reasonably inferable therefrom and the performance of all obligations and duties imposed on Contractor under this Contract; (iii) the Design Review and preparation of all iterations and progression of the Design Documents to issue the Final Design Documents, clarifications and addenda thereto, as well as all other submittals and shop drawings, estimating, expediting, computation and all other administrative or professional services required by the Contract Documents or as reasonably requested by MARTA; (iv) all labor, workmanship, manufacture, fabrication of physical work and services to be performed on the Job Site, or other temporary locations as necessary, to construct the Project; (v) furnishing of materials, equipment, parts, services; and (vi) manufacture, procurement, fabrication and integration of all Systems, components, assemblies and interfaces that accomplish the objective(s) of the Project, including integration of any existing systems, components, assemblies and interfaces with any new Systems, components, assemblies and interfaces being designed and supplied under this Contract.

2. SERVICES AND WORK TO BE PROVIDED AND COMPENSATION

- A. Contractor shall perform all design and construction to complete the Work as described in the Contract Documents and provide a turnkey Project to the satisfaction of MARTA in accordance with the Standard of Care, for the Contract Price, and within the time limits permitted, and shall provide the warranties and guarantees for the Work as required by the Contract. Contractor shall protect, support, and maintain all structures, properties, utilities, and facilities within the Job Site, which includes MARTA's facilities and any other property, whether owned by MARTA or any other person or entity, with their appurtenances and connections, as may be affected by Contractor's performance of the Work; and promptly reconstruct and restore all equipment, structures, properties, utilities, and facilities which are damaged thereby to at least as good a condition that existed before the Work commenced.

- B. Contractor acknowledges and agrees that the total compensation payable to Contractor shall not exceed the Contract Price of _____ as set forth in the Price Proposal Form. Contractor acknowledges and agrees that it will submit invoices in a format approved by MARTA (using MARTA's online invoicing system ("OLIS")) and Contractor will clearly segregate costs by prime and subcontractors, by phase, activity, and sub-activity. Subject to other terms of this Contract, MARTA will pay each undisputed invoice that is properly formatted, rendered, and accepted by MARTA within thirty (30) Days after MARTA receives such invoice.

3. DESIGN RESPONSIBILITIES

- A. **DESIGN DEVELOPMENT PHASE.** Contractor shall, through the Designer of Record and in accordance with the Standard of Care, advance the design of the Project through the various stages as necessary by way of iterations to the Design Documents to produce the Final Design Documents, and submission of those iterations to MARTA for Administrative Approval in accordance with the Contract Documents. Contractor's submissions of the design iterations to MARTA for Administrative Approval should occur at the iterations specified by MARTA, which shall be no less than at 90% progress and 100% completion of the Design Documents. The Design Documents and the Final Design Documents shall integrate the requirements of the Contract Documents and Applicable Law into the overall design of the Project. The Final Design Documents, including the Changes thereto, shall be signed and sealed by the Designer of Record. With its submission to MARTA, the Designer of Record shall certify that the Final Design Documents meet or exceed all of the requirements of the Contract Documents.
- B. To the extent the Designer of Record delegates any component or portion of the Final Design to a Design Professional other than the Designer of Record, then the Designer of Record shall review and determine that the portion of the Work performed by such Design Professional conforms to the requirements of the Contract Documents.
- C. **DESIGN REVIEW.** Contractor shall ensure and certify that (i) it has engaged in a thorough and comprehensive Design Review; (ii) the Final Design is in strict conformance with, and adequate for the purposes set forth in, the Contract Documents; (iii) the Final Design meets or exceeds the requirements of the Contract Documents and Applicable Law; (iv) the dimensions and details set forth in the Final Design Documents and Construction Documents are accurate; and (v) the Construction Documents are in accordance with the Final Design.
- D. Any Administrative Approval of Contractor's submissions of the iterations of Design Documents and the Final Design Documents by MARTA shall not relieve Contractor of its responsibility under this Contract to (1) provide a complete and detailed design that meets the requirements of the Contract Documents and Applicable Laws; (2) perform the Work in accordance with the Standard of Care; and (3) comply with all of the obligations under this Contract including without limitation any indemnity, liabilities, warranties, or guarantees.
- E. **STANDARD OF CARE.** Contractor warrants that all design and professional services performed under this Contract, including that of the Designer of Record, will be performed in a manner consistent with all of the following: (i) the diligence, care, and skill commensurate with that provided and exercised by engineering, design or architecture professionals, and firms that have experience providing services to entities owning or developing similarly situated projects of complexity, technology, and size similar to that of the Project; and (ii) professional engineering and design standards generally accepted as standard by those practicing in the industry within the United States (the "Standard of Care"). Contractor further agrees that all Work, work product, design, or engineering, whether supplied by Contractor or incorporated into the Work by Contractor in relation to the Project will (1) be suitable and fit for the intended purposes and functions of the Work and as required by the Contract Documents; and (2) be performed in conformance with all Applicable Law.
- F. Contractor represents and warrants to MARTA that Contractor, the Designer of Record, and their employees and Subcontractors, as applicable, have the experience, skill, training, and licenses necessary to properly and timely perform the Work in conformance with this Contract. Contractor will remove from the Project any employee or Subcontractor that violates the applicable Job Site rules, safety standards, or is not, in Owner's reasonable opinion, properly skilled, licensed, or competent to meet the Standard of Care for the performance of the Work.

- G. Unless otherwise directed in writing by MARTA in accordance with the terms of this Agreement including Article 3(H) of these Terms and Conditions, other than Design Development Phase, no Work may proceed prior to completion and approval of the Final Design Documents. Any progression of the Work, including procurement of labor, equipment, or materials, in advance of approval of the Final Design Documents will be at Contractor's own risk and Contractor will have no Claim relating to changes made during the Design Development Phase unless and until the Final Design Documents have been approved by MARTA. Changes made after approval of the Final Design Documents will be handled in accordance with this Contract.
- H. FAST TRACK OPTION. To the extent MARTA agrees in writing (which agreement may be withheld in MARTA's sole discretion), in an appropriate circumstance(s), Contractor may elect to subdivide the Work and advance portions of the design related to the subdivided Work. MARTA may also elect to permit Construction Phase Work for a portion of the design, provided that Contractor shall not proceed with Construction Phase Work in any respect unless and until MARTA issues a CNTP(s). To the extent Contractor is behind schedule, MARTA has no obligation to fast-track any of the Construction Phase Work in order to mitigate any delays.
- I. RESERVED.
- J. RESERVED
- K. RESERVED.

4. INTERPRETATION.

- A. The Contract Documents establish the minimum requirements for the design and construction of the Project. Contractor shall design, furnish, provide, and perform any and all design, Work, materials, or equipment that can be reasonably inferred from the Contract Documents, industry standards, or generally accepted practices as being required to produce the intended result. Contractor will perform its Work with the utmost concern and regard for the safety of life and property.
- B. Contractor shall specify and provide materials, equipment, and workmanship that are (1) in accordance and conformance with the Standard of Care; (2) in accordance and conformance with the Contract Documents; (3) the most suitable grade of their respective kinds for their intended use and the latest design of manufacturers regularly engaged in the production of such equipment or materials; and (4) conform to the latest operative version (as of the Effective Date) of all applicable codes, standards, requirements, or specifications of any third party, authority, organization, or society unless a different or earlier version is specified in the Contract Documents. If requested by MARTA, Contractor will furnish a certification from any manufacturer or supplier of such material or equipment that such material or equipment complies and conforms with the applicable codes, standards, requirements, and specifications, respectively.
- C. Omissions from the Contract Documents or the misdescription of details of Work that are manifestly necessary to carry out the intent of the Contract, or that are customarily performed, shall not relieve Contractor from the obligation to perform such omitted Work, howsoever extensive, or misdescribed details of the Work, but Contractor shall perform them as if they were fully and correctly set forth and described in the Contract Documents.
- D. In the event of a conflict or inconsistency between or among the Contract Documents, Contractor agrees that it will (i) provide the better quality or greater quantity of Work or (ii) comply with the more stringent requirement. To the extent that any such inconsistency, ambiguity, or conflict among the Contract Documents is not resolved by the rule of interpretation set out above, then the order of precedence set forth below shall be applied and the document with the higher priority shall control in resolving such conflicts: (1) Change Orders; (2) these Terms and Conditions; (3) Supplemental Conditions; (4) Performance Criteria; (5) MARTA Design Criteria; (6) Procedural Specifications; (7) Project Specific Specification; (8) Final Design Documents; (9) Construction Documents; and (10) any remaining Contract Documents. For example and without limitation, any inconsistency between the Project Specific Specification and any Final Design Document or Construction Document, the Project Specific Specification will control over any Final Design Document or Construction Document.
- E. The Reference Documents are not part of the Contract Documents.
- F. The Contract Documents include the following MARTA policies and procedures inclusive of any revisions, amendments and updates that may be issued thereto after execution of the Contract. The version of these policies and procedures, inclusive of any updates, revisions or amendments that may be issued by MARTA from time to time, are available to the Contractor are provided by hyperlink above. All policies and procedures being provided by hyperlink, including those above and elsewhere in this Contract, are incorporated herein by reference as if fully stated herein. Contractor and its Subcontractors are required to comply with all such policies and procedures along with any updates, revisions or amendments to those policies that may be issued by MARTA from time to time inclusive of any such update, revision or amendment issued after execution of this Contract which may be issued through Change Order or Letter Directive.
- G. In case of differences between small- and large-scale drawings, the large-scale drawings shall govern. In case of a discrepancy between a picture or diagram in a drawing and the dimensions written thereon, the written dimensions shall govern.
- H. References to articles, paragraphs, subparagraphs or specifications of this Contract or these Terms and Conditions, includes all subparagraphs under the referenced article, paragraph, subparagraph or specification thereto; for example, a reference to Article 7 of these Terms and Conditions is also a reference to paragraphs 7.A through 7.D and a reference to subparagraphs similarly includes reference to sub-subparagraphs.

- I. Unless otherwise expressly provided, the words "directed," "required," "ordered," "designated," "prescribed," and all words of like import shall be understood to mean that the direction, requirement, order, designation, prescription, etc., by the Authority is intended.
 - J. The words "as shown," "as indicated," "as detailed," and all words of like import shall be understood to refer to the Contract Documents unless otherwise expressly provided.
 - K. Should it appear that the Work to be done or any matter related to it is not sufficiently explained in the Contract Documents, or that any provisions thereof are in conflict or are inconsistent, as soon as Contractor learns or should have learned that clarification by the Authority is needed, Contractor shall apply to the Authority for such further explanation or instructions as may be necessary and shall conform to the explanation and instructions provided as part of the Contract, subject only to the right, as hereinafter provided, to submit an appropriate Claim if Contractor believes such instructions impose obligations in excess of those required of Contractor by the Contract.
 - L. All Contract Documents shall govern over all documents that are not Contract Documents, such as submittals, Shop Drawings prepared by Contractor, and the Construction Documents, whether or not Administrative Approval has been issued by MARTA.
 - M. The Contract Documents constitute the entire Contract between the Parties and exclude and supersede any statement or undertaking, oral or written, not included therein. The Contract Documents cannot be changed, modified, or amended except by a writing signed on behalf of authorized representatives of the Authority and Contractor.
5. **TRADE NAMES AND ALTERNATIVES.** In the case of any materials, equipment, supplies, or other products specified by trade names or by the names of manufacturers and their catalogue information, if any, Contractor may, unless the contrary is expressly stipulated in the Performance Criteria, and in any case subject to the Authority's written approval (which may be withheld in the Authority's sole discretion), use alternatives that are at least equal in quality and have the characteristics required for the purpose intended. Contractor shall show that any such alternative Contractor proposes is in fact equal with respect to quality, reliability, suitability, safety, and ease of maintenance, and Contractor shall provide the Authority with all information reasonably needed to do so. If a classification, rating, or other certification by an independent agency is required by the Performance Criteria, the MARTA Design Criteria, or the Procedural Specifications, Contractor shall provide reports or certifications by such agency, or by an equivalent independent testing laboratory, showing that Contractor's proposed alternative complies. All proposals to use such alternatives shall be accompanied by adequate data and shall be made in time to consider them without delaying any part of the Work. The Authority shall be the sole judge of the acceptability of proposed alternatives. Approval shall be only for the characteristics and use stated therein and shall not imply that the alternative is or will be acceptable for any other purpose under the Contract or for any other use or purpose on the Authority's system. Contractor shall be responsible for any costs of testing proposed alternatives or costs of any redesign or modification of other parts of the Work or of other facilities of the Authority in order to use them. If any such redesign or modification is necessary, this will be considered in determining whether the proposed alternative is acceptable, and such redesign or modification may be sufficient reason to reject it.
6. **PERFORMANCE AND PAYMENT BONDS.** Contractor shall obtain separate payment and performance bonds, each in an amount at least equal to the Construction Price. The performance bond shall secure to the Authority Contractor's full and faithful performance of the Contract. The payment bond shall provide security to all persons who, by contract or otherwise, furnish labor or materials to be incorporated in the Project. These bonds shall be in a form, and issued by sureties, acceptable to the Authority. The surety company, as a minimum, shall comply with U.S. Department of Treasury Circular C570 and be authorized to do business in the State of Georgia. When any subsequent Change Order, or combination of Change Orders, increases the Construction Price by five percent (5%) or more, Contractor shall obtain a rider to the payment and performance bonds increasing the penal sum to match the increased Contract Price.
7. **CONTRACTOR'S UNDERTAKING.** Contractor shall (i) design, manufacture, deliver, furnish, install, construct, test, and commission all equipment and supplies for the Project called for by the Contract Documents, the Final Design Documents, and Construction Documents; and (ii) perform all Work and other services and supply all materials, equipment, and other fixtures to be incorporated therein, all in full and in accordance with the Contract. Contractor shall furnish and supply all labor, materials, tools, equipment, and supplies necessary to complete the Work in

accordance with the Contract.

- A. If Contractor is a partnership or a joint venture, notwithstanding anything to the contrary in the parties' joint venture agreement or the conduct of the joint venture's entities, managers, or members before, during, or after the Project, each party, partner, member, manager to the partnership or joint venture is to be considered a general partner of the joint venture and agrees to be jointly and severally responsible to the Authority for all obligations under the Contract, irrespective as to whether the Authority reviewed or approved the partnership or joint venture agreements. Any limitation of liability of the partners, members, managers, or parties to the partnership or joint venture is not binding on the Authority or any other third party.
- B. Contractor is solely responsible for implementing the Work in full compliance with all Applicable Laws and the Contract and shall supervise and direct the Work using Contractor's best skill and attention to assure that each element of the Work conforms to the requirements of the Contract Documents. In connection, Contractor makes the following representations and warranties to the Authority:
 - (1) Contractor is able to furnish the plant, tools, materials, supplies, equipment, and labor required to complete the Work and perform the obligations required by the Contract, and Contractor has sufficient experience and competence to do so.
 - (2) Contractor has carefully viewed and examined the Job Site of the Work and has taken all other steps necessary to ascertain the nature, physical character, and location of the Job Site, as well as its adjacent area, and all other general and local conditions that might affect the Work or the cost thereof, and in doing so, Contractor has not relied upon any statement or representation concerning such conditions made by or on behalf of the Authority including without limitation any Reference Documents. No failure to perform the foregoing examination and inspection shall relieve Contractor of the obligation to conduct due diligence and perform all Work satisfactorily at no added cost to the Authority.
 - (3) Contractor has reviewed the Contract and has correlated personal observations and field measurements with the requirements and conditions of the Contract.
 - (4) The Contract Price is reasonable compensation for the Work, and the Contract Time is adequate for the performance of the Work.

8. SUBCONTRACTORS AND SUPPLIERS.

- A. Contractor may subcontract work under the Contract, provided that Contractor shall self-perform not less than 25% of the Construction Phase Work, measured by its value, with Contractor's own organization, unless the Authority, in writing, permits Contractor to perform less. For purposes of determining this percentage, the production of materials on the Job Site by forces other than Contractor's shall be considered to be subcontracted Work; and for such purposes, the cost of project management shall be deducted from the total Contract Price. If less than all of any Line Item is subcontracted, the value of the Work subcontracted will be estimated by the Authority; Contractor shall submit such information as may be needed to make such estimate.
- B. Contractor shall be responsible to the Authority for acts and omissions of the Subcontractors performing portions of the Work. Contractor shall be responsible for supervising, managing, and coordinating the Work of its Subcontractors and other persons or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor. Contractor is responsible for resolving any conflicts that may arise among its Subcontractors, suppliers, and materialmen, including those disputes (among any other disputes) concerning Contractor's and Subcontractor's respective responsibilities or the scope of their portion of the Work. Contractor shall at all times enforce strict discipline and good order among its employees and Subcontractors, suppliers and materialmen. Contractor shall not employ on the Project any unfit person or anyone not skilled in the Work assigned. Contractor shall require all Subcontractors to employ only skilled and experienced workers to perform the task assigned to them. Contractor shall require all Subcontractors to assign sufficient workers to perform their assigned Work so as not to delay the progress of the Work.
- C. The organization of the specifications into divisions, sections, parts, or articles, and the arrangement and titles of the Contract Documents shall not control the extent of Work to be performed by any trade or Contractor's division of the Work among Subcontractors.

- D. Contractor shall endeavor to mediate and resolve disputes with Subcontractors, if appropriate, so as to prevent disruption to the Project.
- E. The Authority shall have the right to approve all Subcontractors, except that, if the solicitation of proposals for the Contract required or authorized certain Subcontractors to be under contract at the time of the Effective Date, such Subcontractors shall be considered to have been approved. In such event, Contractor remains responsible to ensure that such Subcontractor meets the requirements of the Contract Documents with respect to Subcontractors including this Article. Contractor shall not employ any Subcontractor, supplier, or other person or entity against whom the Authority has a reasonable objection (or a conflict of interest exists), including, without limitation, any Subcontractor previously approved by the Authority.
- (1) Before entering into any subcontract, Contractor shall obtain the Authority's approval of the Subcontractor's qualifications to perform the Work, employment data, and Equal Employment Opportunity and Disadvantaged Business Enterprise ("DBE") programs. Contractor shall supply the relevant information on the same forms as required of Contractor. The Authority shall notify Contractor in writing that the proposed subcontractor is approved or disapproved; in the latter case, Contractor may propose another subcontractor. Before any Subcontractor performs any work at the Job Site, Contractor shall submit all required certificates of insurance. If the Authority does not approve a proposed Subcontractor, Contractor may propose another Subcontractor to the Authority or Contractor may elect to self-perform the portion of the work on notice to the Authority and provided that Contractor still meets the self-perform limitations contained within Article 8.A of these Terms and Conditions. Contractor shall not be entitled to additional compensation arising out of the Authority's reasonable disapproval of any proposed subcontractor.
 - (2) Contractor shall not, without the Authority's consent, replace or terminate any Subcontractor approved by the Authority, or permit any approved Subcontractor to assign or transfer its subcontract, or permit the part of the labor or on-site Work subcontracted to be performed by anyone else, except that Contractor may, upon Notice to the Authority, perform such work itself with qualified personnel subject to the self-perform limitations contained within Article 8.A of these Terms and Conditions.
- F. Contractor shall enter into written agreements with all Subcontractors and suppliers which specifically bind the Subcontractors to terms and conditions of the Contract to the fullest extent applicable to the scope of the Work subcontracted. The Authority has the right to specify that certain requirements be adhered to by all Subcontractors, and those requirements shall be made a part of the agreement between Contractor and any Subcontractor. At a minimum, all subcontracts must contain language requiring:
- (1) the Subcontractor to be compensated for any and all expenses the Subcontractor experienced because of a suspension of all or part of the Work by the Authority during alerts under the National Terrorism Advisory Service (NTAS);
 - (2) the Subcontractor to comply with the Authority's safety policies and procedures
 - (3) the Subcontractor to comply with the Authority's Alertness Assurance Program available and any updates, revisions or amendments thereto issued by MARTA from time to time including any such update, revision or amendment issued after execution of this Contract;
 - (4) the Subcontractor to comply with the Authority's Distraction Avoidance Policy and any updates, revisions or amendments thereto issued by MARTA from time to time including any such update, revision or amendment issued after execution of this Contract;
 - (5) the Subcontractor to perform background checks of all employees that will perform any of the Work; [https://itsmarta.com/uploadedfiles/consent%20form%202024%20\(Updated%2012.02.24\).doc](https://itsmarta.com/uploadedfiles/consent%20form%202024%20(Updated%2012.02.24).doc);
 - (6) the Subcontractor to comply with all applicable requirements of the "Illegal Immigration Reform and Enforcement Act of 2011," including but not limited to O.C.G.A. § 13-10-91 (b)(3) and (4);
 - (7) the Subcontractor to comply with O.C.G.A. §§ 13-11-1 through 13-11-11 (the "Prompt Pay Act") and Article 8.F.3 of these Terms and Conditions;

- (8) the Subcontractor to mediate and endeavor to resolve disputes with lower tier entities so as to not disrupt the Project;
- (9) the Subcontractor shall comply with MARTA's Code of Ethics and Standards of Conduct [Code of Ethics 10-10-24.pdf](#) and any updates, revisions or amendments thereto issued by MARTA from time to time including any such update, revision or amendment issued after execution of this Contract;
- (10) the Subcontractor shall comply with the Historical, Scientific and Archaeological Discoveries requirements set forth in Article 53 of these Terms and Conditions;
- (11) the Subcontractor shall comply with the Environmental Protection requirements set forth in Article 52 of these Terms and Conditions; and
- (12) the Subcontractor (including any trucking firms and firms providing professional services) shall comply with all Insurance Requirements as set forth in this Contract applicable to the nature of its scope of work. Contractor shall certify in a form acceptable to MARTA that Contractor has received appropriate evidence from Subcontractors demonstrating that the insurance coverage meets or exceeds MARTA's requirements to conduct the Work under.

No later than 10 days prior to the commencement of subcontracted Work, Contractor shall submit a copy of the executed subcontract for each Subcontractor performing Work in connection with the Contract. Each subcontract must denote (i) the signature of the person(s) authorized to sign for the Subcontractor; (ii) the date on which the subcontract was signed; (iii) the name(s) of any witness(es) required, if any; (iv) the scope of the Work subcontracted; (v) the compensation to be paid to the Subcontractor; and (vi) the beginning and ending date for the performance of the subcontracted Work. Authority will not allow any Subcontractor to perform any work under the Contract unless the relevant subcontract was received at least 10 days prior to commencement of the Subcontractor's work in accordance with this Article.

- G. It is the policy of the Authority that prompt payment for all purchases and services satisfactorily rendered are to be made to all Subcontractors of any tier in accordance herewith:
 - (1) Contractor, in paying its Subcontractors and suppliers, shall fully and strictly comply with the Prompt Pay Act and shall ensure that all Subcontractors and suppliers fully and strictly comply with the Prompt Pay Act.
 - (2) Contractor is required to pay Subcontractors for satisfactory performance of their subcontracts within 10 days after the Authority has paid Contractor for such work or within the time period established by the subcontract, whichever occurs earlier. Contractor shall not require retainage of Subcontractors that is greater than the retainage required of Contractor by the Authority. In addition, Contractor shall release any retainage to Subcontractors within 14 days after the Subcontractor's work related to this Contract is satisfactorily completed and Contractor's receipt of the partial retainage payment related to the Subcontractor's work, whichever occurs earlier.
 - (3) Subcontractors are required to pay lower tier subcontractors for satisfactory performance of their contracts within 10 days after Contractor has paid the Subcontractor for such work or within the time period established by the subcontract, whichever occurs earlier. The Subcontractor shall not require retainage of lower tier subcontractors that is greater than the retainage required of Contractor by the Authority. In addition, the Subcontractor shall release retainage to those lower tier subcontractors within 14 days after the lower tier subcontractor's work related to this Contract is satisfactorily completed and Subcontractor's receipt of the partial retainage payment related to the lower tier subcontractor's work, whichever occurs earlier.
- H. Entering into subcontracts shall not relieve Contractor of its responsibility for the whole of the Work or for any other obligation under the Contract. Contractor shall be fully responsible to the Authority for all acts and omissions of Subcontractors, suppliers, and other persons performing or furnishing any of the Work under a direct or indirect contract with Contractor just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, supplier, or other person any contractual relationship between the Authority and any such Subcontractor, supplier or other person, nor shall it create any obligation on the part of the Authority to pay or to see to the payment of any moneys due any such Subcontractor, supplier, or other person.

- I. Non-performance, improper performance, or other default by any Subcontractor or employee of Contractor shall not excuse Contractor from its obligation to assure timely performance of the Work in compliance with the Contract. Contractor shall not be entitled to an extension of Contract Time or adjustment to the Contract Price for the acts or omissions of a Subcontractor.
 - J. Contractor shall notify the Authority of the proposed replacement or substitution of any Subcontractor, including the reasons for the replacement or substitution. Any replacement Subcontractor requires prior approval of the Authority.
9. **AUTHORITY'S REPRESENTATIVE.** The Authority may have one or more representatives on the Job Site to perform certain functions in the administration of the Contract and in the observance of Contractor's performance thereof. The Authority, not later than the time it issues a CNTP, will advise Contractor in writing of the extent of and the limitations upon the Authority of its representative on the Job Site and of all other employees or agents of the Authority who will assist in the Authority's administration of Contract, to act on the Authority's behalf. The Authority shall be bound by the actions of its representative, employees, and agents only to the extent they are authorized in accordance with such writing.
10. **ORGANIZATION AND KEY PERSONNEL.** Before starting Work and as set forth in this Article, Contractor shall obtain the Authority's approval of Contractor's organization that depicts the following individuals in the respective phases of Work: (1) the Design Professionals working at the direction and under the responsibility of the Designer of Record; and (2) personnel working on the Job Site. Contractor shall also designate in writing those individuals considered to be Key Personnel within Contractor's organization. Subject to Article 10.A of these Terms and Conditions, Contractor's organization shall be headed by a Project Manager who is fully qualified, experienced, and competent to administer all aspects of the Contract, who is satisfactory to the Authority, and who shall be responsible for supervision of the Work and shall be authorized to act on Contractor's behalf.
- A. Contractor's organization shall include the following qualified, experienced, and competent individuals who will be staffed, present, and assigned at each individual Job Site: (i) superintendent services whereby specific shift foreman and one superintendent shall be identified by Contractor as the individuals who will be present and in charge of performance at all times at each Job Site when work is being performed during their respective shift; and (ii) a sufficient number of field and office engineers, surveyors, and other professional personnel to ensure that the Work is performed properly and efficiently. Neither the Construction Quality Control Officer, nor the Designer of Record, shall report to or through Contractor's Project Manager on the Job Site or superintendent on the Job Site or any other personnel on the Job Site but they shall report directly to a responsible officer in Contractor's main office, whose level of authority is equal to or higher than that of the officer to whom the Job Site Project Manager will report.
 - B. For this project:
 - (1) Contractor shall provide a qualified Program Manager who shall be responsible for supervising, directing, and managing the project
 - (2) Contractor shall provide a qualified Design Quality Control Officer who shall be responsible for implementing the quality program during the Design Development Phase Work
 - (3) Contractor shall provide a qualified Construction Quality Control Officer who shall be responsible for implementing the quality control program during the Construction Phase Work
 - C. Sixty (60) days prior to the commencement of any Construction Phase Work, Contractor shall submit, for the Authority's approval, an organization chart showing Contractor's Job Site organization, the Key Personnel and reporting relations within it, and the relationships between the Job Site organization and Contractor's main office. This chart shall be accompanied by the name, qualifications, and experience of each person whom Contractor proposes to fill each of the positions on the proposed chart, the name and position of Contractor's officer to whom Contractor's Job Site project manager will report, and the name or names and the position or positions of Contractor's officers to whom the Quality Control Officer, Safety Engineer and the Designer of Record will report. Contractor shall likewise submit for the Authority's approval the proposed scope of Contractor's project manager's authority to deal with the Authority on Contractor's behalf.

- D. The Authority shall have the right to disapprove any proposed organization for reasonable cause, the right to disapprove any proposed personnel whom it considers unqualified or unsuitable to perform the required duties or to whom it has other reasonable objection, and the right to disapprove of the proposed scope of the project manager's authority if deemed inadequate.
 - E. Before making any change in Contractor's organization or Key Personnel, Contractor shall submit to the Authority all relevant information in accordance with the foregoing for the Authority's approval as provided herein. If Contractor removes or reassigns Key Personnel (excluding, however, instances where such Key Personnel become unavailable due to death, disability, separation from the employment of Contractor, or instances of leave that is provided by way of Applicable Law or by the respective employer's policies), the Parties stipulate and agree that removing any Key Personnel without the Authority's prior approval may, in the Authority's discretion, be deemed to be a default under the Contract.
 - F. The Authority shall have the right, by written direction, to require Contractor to remove, from the Job Site and the performance of Work, any employee whom the Authority deems not properly qualified, or to whom the Authority has other reasonable objection.
11. WORKMANSHIP. All Work under the Contract shall be performed in accordance with the Standard of Care and the Contract Documents. All personnel employed by Contractor or by Subcontractors to perform it shall be fully qualified, licensed, if required, and certified for their respective tasks. Contractor shall supervise and direct the Work using diligent skill and attention in order to ensure satisfactory progress of the Work and that the quality of the Work complies with the Contract. Contractor and the Designer of Record shall be solely responsible for and shall coordinate all design and construction means, methods, techniques, sequences, and procedures, including, without limitation all coordination with governmental agencies.
12. UNAUTHORIZED WORK. Other than (i) design services; (ii) material storage outside of the Job Site; or (iii) other services required for the Work that does not take place at the Site, Work performed beyond the Job Site limits shown on the Contract Documents or otherwise established by the Authority, and any Work done without written authorization, shall be considered to be unauthorized work, and Contractor shall not be compensated therefor. If the Authority so directs, unauthorized work shall be remedied, removed, or replaced by Contractor with no cost to the Authority. If Contractor fails to remedy, remove, or replace unauthorized work, the Authority may take action in accordance with Article 29.C of these Terms and Conditions and shall be promptly reimbursed for the same.
13. MATERIALS. Except as may otherwise be expressly specified by the Authority, all materials, equipment, and other products specified in the Final Design Documents and Construction Documents and incorporated into the Work or supplied hereunder shall be new and of the grade or quality most suitable for the use intended. Contractor shall furnish all such materials, equipment, and products identified therein, except such as may be expressly designated in the Performance Criteria, MARTA Design Criteria, or the Procedural Specifications as to be furnished by the Authority or by others.
- A. Only materials, equipment, and other products that conform to the requirements of the Contract Documents and that are in good and suitable condition shall be specified by Contractor in the Final Design Documents and Construction Documents and incorporated into the Work. Contractor shall transport, handle, and store such materials, equipment, and other products in a manner that will ensure the preservation of their quality, appearance, and fitness for use in the Work and shall store them in a manner that facilitates inspection. Contractor shall not be relieved of any responsibility for their conformity to the requirements of the Contract or for their condition by any inspection by or on behalf of the Authority.
 - B. The Authority shall have the right to reject all materials, equipment, or other products furnished by Contractor that do not conform to the requirements of the Contract Documents, whether in place or not. Contractor shall promptly remove all rejected materials, equipment, and other products from the site of the Work, unless otherwise permitted in writing by the Authority. If Contractor, after a request or instruction by the Authority, fails to do so, the Authority may cause the removal and replacement thereof, and charge the cost of doing so to Contractor. No such rejected material, equipment, or products, even if the defects thereof have been corrected, shall be used in the Work, unless the Authority shall have approved such use in writing.
 - C. To the extent the Authority has designated that certain material or equipment be used or incorporated into the Work, the Authority shall have no responsibility to Contractor for or with respect to local material sources.

Contractor shall be responsible for arranging with the owners of such sources for the use of such materials. Contractor shall be responsible for all costs of exploring, developing, and arranging for the use of all such materials, including any costs from sources that the Authority may have designated as required to be used, except any such costs as the Authority may expressly have agreed to pay directly.

- D. Except as the Contract Documents may otherwise provide, Contractor shall make Contractor's own arrangements for the proper disposal of waste, excess materials, and parts in accordance with all Applicable Law, including but not limited to laws, regulations, restrictions, and requirements established, regulated, and enforced by the State of Georgia and Federal Environmental Protection Agencies. Disposal shall take place outside of the Job Site and any cost relating thereto is included in the Contract Price. Contractor shall not dispose of any waste or materials outside the Job Site without first having obtained the written permission of the owner of the place at which such disposal is to be made. Contractor shall furnish to the Authority such written permission, or a certified copy thereof, together with a written release by the property owner, releasing the Authority from any and all responsibility in connection with the disposal of waste and material.
- E. Contractor shall have no title to or other property right in any material, equipment, or other product after it has been attached or affixed to, or incorporated into, the Work or the soil of the Job Site, or after the Authority has paid for material delivered to such site or stored elsewhere subject to or under Contractor's control. Irrespective as to the responsibility for the risk of loss of material, equipment or products (which shall be in accordance with Articles 14, 24 and 36.E of these Terms and Conditions) Contractor warrants and guarantees that title to all such material, equipment, or other products will pass to the Authority free and clear of all liens when it is attached or affixed to, or incorporated into, the Work, and after the first partial payment therefor is made.
- F. Any materials, equipment, or other products to be furnished by the Authority will be made available at the times and places indicated in the Performance Criteria. Contractor shall transport such materials to and store them at the place of use at Contractor's expense, including any loading and unloading that may be required. All costs of transporting, storing, handling, protecting, and installing such material shall be considered to be included in the Contract Price. Contractor shall further be responsible for any storage or demurrage charges arising from Contractor's failure to take delivery of such material on the date indicated by MARTA. Contractor shall be responsible for all such materials delivered to Contractor and for the cost of replacing or repairing any such materials that may be lost or damaged, from any cause whatsoever, after they have been delivered.

14. RESPONSIBILITY FOR THE WORK AND FOR MATERIALS. Contractor shall bear the risk of loss, injury, and damage for the Work and for all materials until relieved of such responsibility as provided herein.

- A. Until such time as the Authority (i) issues to Contractor a beneficial occupancy Substantial Completion Certificate and (ii) takes possession of the substantially completed Work, Contractor shall (1) bear the risks of damage, loss, or injury to the Work or any part thereof, whether complete or incomplete, arising from any cause whatsoever, including but not limited to Contractor's performance under the Contract, or Contractor's failure or omission to perform; and (2) bear all such risks with respect to materials to be incorporated into the Work, or to be used in the prosecution thereof, regardless as to whether a progress payment has been made for such material and wherever located, including those present on the Job Site, inclusive of all materials furnished by the Authority that are in Contractor's custody, possession, or control. For avoidance of doubt, Contractor's obligations include an obligation to protect the unfinished and finished Work against any damage, loss, injury, theft and/or vandalism, and in the event of such damage, loss, injury, theft, and/or vandalism, Contractor shall promptly replace and/or repair such Work at Contractor's sole cost and expense and with the Authority's written approval. Contractor shall provide all temporary structures, drainage, barriers, and any other protections or measures necessary to protect the Work from loss, injury, theft, and/or vandalism.
- B. ***Contractor is on notice that the Work under this Contract involves multiple sites. As such, the Parties agree that MARTA may take beneficial use and occupancy of a part of the Work earlier than other portions and that the risk of loss for all other portions of the Work shall remain on Contractor until the requirements of Article 14.A of these Terms and Conditions are met with respect to those other portions of the Work. In such event, MARTA may issue a Partial Beneficial Occupancy and Substantial Completion Certificate that will specifically identify the part of the Work that MARTA is taking possession of. Contractor will continue to bear the risk of loss, injury, damage, theft and/or vandalism as set forth in***

Article 14 of these Terms and Conditions with respect to all other parts of the Work not specifically identified within the Partial Beneficial Occupancy and Substantial Completion Certificate issued by MARTA.

During the performance of the Work and through the date of Final Completion, Contractor shall take all reasonable precautions to protect all persons and the property of the Authority and of others from damage, loss, or injury resulting from Contractor's and/or its Subcontractors' operations under the Contract.

- C. The obligation to deliver finished Work in strict accordance with the Contract shall be absolute and shall not be affected by the Authority's approval of, or failure to prohibit, the means and methods of construction used by Contractor.
15. **NOTICE TO PROCEED.** Contractor shall deliver the certificates of insurance (as required by Exhibit D) to the Authority within thirty (30) days from the Effective Date of the Contract, or as otherwise set forth in Exhibit D. Contractor shall deliver all bonds (as required by Exhibit D) to the Authority at least thirty days before issuance of the first CNTP. For each day beyond the respective deadline that Contractor fails to satisfy these conditions, a day will be deducted from the Contract Time.
- A. The Authority will issue a DNTP to Contractor within thirty (30) days of receipt of the certificates of insurance. The DNTP will authorize and direct Contractor to initiate and perform the Design Development Phase of the Work. The DNTP will not authorize any Work at the Job Site but for survey and other exploratory or investigative work needed to progress the Design Development Phase of the Work. The Authority may issue one (1) or more DNTPs. Upon receiving a DNTP, Contractor shall diligently prosecute the Work in accordance with the Baseline Schedule as hereinafter stipulated and shall commence the Work included in the Design Development Phase including any site inspection or investigatory Work, within the Contract Time applicable to that portion of the Work so identified.
 - B. From and after the effective date of the DNTP, Contractor shall make preparations necessary to begin Work, which includes complying with the terms set forth in the Performance Criteria, MARTA Design Criteria, and the Procedural Specifications and submitting and obtaining Administrative Approval of the following items:
 - (1) Project Management Plan as described in Performance Criteria Section 2.1 Project Management.
 - (2) Baseline Schedule as described in Procedural Specifications Section 013216 Network Analysis Project Schedule and Performance Criteria Section 2.1 Project Management and to be updated in accordance with Procedural Specifications Section 013216 Network Analysis Project Schedule and Performance Criteria Section 2.1 Project Management and Article 16 of these Terms and Conditions.
 - (3) Safety Management Plan as described in the Procedural Specifications Section 013523 Authority Safety Requirements;
 - (4) Site Inspection Plan;
 - (5) Testing Plan; and
 - (6) Existing equipment survey and inspection plan and schedule.
 - C. Contractor shall refer to Performance Criteria Section 2.1 Project Management and Procedural Specifications Section 017113 Mobilization for other documents to be submitted at the kickoff meeting.
 - D. Contractor shall satisfy the requirements set forth above within ninety (90) days after the effective date of the DNTP. To the extent Contractor requires Administrative Approval of the Final Design Documents to prepare and issue final versions of the requirements set forth in Article 15.B of these Terms and Conditions, Contractor shall issue preliminary versions of these documents to the Authority. After Administrative Approval of the Final Design Documents, Contractor shall issue final versions of these requirements within thirty (30) Days for review. For each Day beyond these deadlines that Contractor fails to submit the specified items, a Day will be deducted from the time allowed for completion of the Work.

- E. The Authority may issue an Approval for Permitting after Administrative Approval of the Final Design. Within fourteen (14) days after the effective date of the Approval for Permitting the Contractor shall submit all applicable permit applications to the applicable jurisdictions for the Site(s) included within the Approval for Permitting.
- F. The Authority may issue a CNTP after receiving notification of receipt for all necessary permits to complete all aspects of the Work. Within seven (7) Days after the effective date of the CNTP and, provided that Contractor has satisfied the conditions of this Article, Contractor shall start the Work. If the Authority issues a CNTP and Contractor has failed to satisfy these requirements, Contractor may not proceed with the Work until the requirements are satisfied and Contractor will not receive a time extension.
- G. Notice of Commencement. Within fifteen (15) Days after physically commencing Work at the Job Site, Contractor shall record a Notice of Commencement with the Clerk of the Superior Court of the County where the Project is located in strict conformance with O.C.G.A. § 36-91-92. Contractor shall post the Notice of Commencement at the Job Site. Contractor shall provide a copy of the Notice of Commencement to any person or entity who makes a written request for such copy within ten (10) Days of its receipt thereof. Contractor shall defend, indemnify, and hold harmless Authority and its parent, affiliate, and subsidiary companies from and against all cost, expenses, losses, damages, including attorneys' fees, arising out of or resulting from Contractor's failure to fully comply with this Article.

16. SCHEDULING OBLIGATIONS.

- A. The scheduling of all design, submittals (including review and comment periods), procurement, and construction in accordance with the milestones is the responsibility of Contractor. To enable the Work to be performed in an orderly and expeditious manner, Contractor shall prepare and submit a proposed critical path method schedule as described in this Article and as otherwise provided in the Performance Criteria Section 2.1 Project Management and the Procedural Specifications Section 013216 Network Analysis Project Schedule. Contractor's proposed schedule shall not exceed time limits provided in the Contract and shall be related to the completion of all of the Work required by the Contract Documents, including the development and finalization of the Final Design Documents and all the attendant submittal, review and comment periods, and shall provide for expeditious and practicable execution of the Work in accordance with the Contract Documents. Provided that the Authority issues Administrative Approval of such schedule, such schedule shall become the Baseline Schedule.
- B. The Authority's Approval of any schedule submittal, Progress Schedule, or other schedule required under this Contract does not constitute a waiver of any requirement of the Contract, does not constitute adoption by the Authority of the respective schedule or sequencing of the Work and does not waive, release or relieve Contractor from its obligations to properly and fully perform the Work in accordance with the Standard of Care and the Baseline Schedule. Contractor is responsible for correcting any error, omission, or deficiency in the schedule submittals and the associated approved Baseline Schedule. Timely submittal and revision of the Progress Schedule is essential to ensure the satisfactory prosecution and timely completion of the Work, and a failure by Contractor to submit and maintain the Progress Schedule is a material breach of the Contract.
- C. If Contractor fails to submit the Progress Schedule or revisions thereof within the times stipulated in the Performance Criteria Section 2.1 Project Management and the Procedural Specifications Section 013216 Network Analysis Project Schedule, the Authority, in addition to all other remedies for such default, may withhold payments otherwise coming due and payable, and may direct Contractor to take remedial measures, as provided in the Contract Documents. All revisions submitted shall show the effects of any occurrence upon which Contractor has based or will base any Claim or notice of potential Claim for an extension of time, for additional compensation for delay, or for both, and shall expressly call the Authority's attention thereto. Failure to do so in the case of any occurrence shall conclusively establish that such occurrence had no adverse effect upon Contractor's execution of the Work.
- D. All requests or Claims by Contractor for an adjustment to the Contract Time, because of a Change or Changes to the Work, excusable or compensable delays, or any other reason, and whether or not Contractor's right to such adjustment is in dispute, shall be supported by a network schedule analysis prepared in accordance with the Procedural Specifications relating to the Baseline Schedules. If additional compensation is requested or claimed because of such adjustment, this network schedule analysis shall include support of the amount thereof in accordance with the Contract.

- E. The initial schedule shall become the Baseline Schedule once Approved and designated in writing by the Authority as the Baseline Schedule. Contractor must utilize and comply with the Baseline Schedule. On a monthly basis, or as otherwise directed by the Authority, Contractor must submit an updated Progress Schedule at its own expense to the Authority indicating actual progress. The Progress Schedule shall be utilized to assess the Contractor's performance and progress of the Work and for review of the Contractor's requests for progress payments. Submission of, or Administrative Approval of, a Progress Schedule shall not be effective to modify the Baseline Schedule or Contract Time. Similarly, no update, projection or other modification to the Baseline Schedule or any Progress Schedule will be effective to alter the Baseline Schedule or Contract Time. The Baseline Schedule and Contract Time shall be modified only by Change Order executed in accordance with this Contract. To the extent a Change Order is executed in accordance with this Contract, and the Change Order impacts the Contract Time, the Baseline Schedule will be modified accordingly.
- F. If, in the opinion of the Authority, (i) the progress of the Work falls behind the approved Baseline Schedule, and (ii) Contractor or any of its Subcontractors are responsible for the delay, then Contractor shall take any and all steps necessary to regain compliance with the Baseline Schedule, including but not limited to those steps necessary to increase the number of shifts, initiate or increase overtime operations, increase Days of work in the workweek, or increase the amount of construction plant, or all of the foregoing. All of the foregoing shall be without additional cost to the Authority. In addition to any other remedies the Authority may have under the Contract, the Authority may require that Contractor prepare, at Contractor's cost, a schedule to explain and display how Contractor intends to regain compliance with the Baseline Schedule ("Recovery Schedule"). The Recovery Schedule shall conform to the requirements of this Article 16 of these Terms and Conditions. If the Authority issues a written request for a Recovery Schedule, Contractor shall do the following:
- (1) Within five (5) Business Days of such written request, Contractor shall prepare the Recovery Schedule and submit it to the Authority for review. The Recovery Schedule shall represent Contractor's best judgment as to how it shall regain compliance with the Baseline Schedule.
 - (2) Within five (5) Business Days of the submittal of the Recovery Schedule, Contractor shall participate in a conference with the Authority, and with any other person, including Subcontractors, whom the Authority designates to participate, to review and evaluate the Recovery Schedule. Any revisions necessary as a result of this review shall be resubmitted for the Authority's review.

Once approved by the Authority, Contractor shall execute the Work in accordance with the Recovery Schedule until such time as Contractor has regained compliance with the Baseline Schedule. The Authority's request for, and any Administrative Approval of, a Recovery Schedule shall not relieve Contractor of any obligations for the performance of the Work or be construed to establish the reasonableness of the Recovery Schedule or modification of the Baseline Schedule or Contract Time.

- G. Even if the Work is otherwise in compliance with the Baseline Schedule, the Authority may, at any time, direct Contractor by unilateral or mutually agreed Change Order to accelerate the Work by, among other things, establishing additional shifts, paying or authorizing overtime, or providing or expediting additional equipment. If the Authority directs Contractor to accelerate the Work, Contractor shall immediately commence and diligently perform the acceleration of the Work as directed by the Authority, and Contractor shall prepare a schedule to explain and display how it intends to accelerate the Work and how that acceleration will affect the critical path of the Progress Schedule ("Acceleration Schedule"). Contractor shall prepare and submit the Acceleration Schedule to the Authority for its review, which Acceleration Schedule shall represent Contractor's best judgment as to how Contractor shall satisfy the Authority's acceleration directive. Provided that MARTA issues a Change Order implementing the approved Acceleration Schedule, such Acceleration Schedule shall be the schedule which Contractor uses in planning, organizing, directing, coordinating, performing, and executing that portion of the Work that is affected by such acceleration, with the Baseline Schedule governing the performance of all other Work. Contractor shall be responsible for the workability, feasibility, and safety of the Acceleration Schedule. The Authority's review and Administrative Approval, if any, of an Acceleration Schedule shall not constitute an independent evaluation or determination by the Authority of the workability, feasibility, safety, or reasonableness of the Acceleration Schedule.

H. ACCELERATION COMPENSATION, IF ANY.

- (1) In the event of an acceleration directive by the Authority, and if the acceleration directive is intended to recover delay or disruption in the progress of the Work that has not been caused, in whole or in part, by an Unexcused Delay, then the Authority's sole liability shall be to pay to Contractor any documented direct costs of the Work that are clearly and solely attributable to implementing the Acceleration Schedule and otherwise recoverable under the Contract. Contractor will keep accurate, detailed, and separate daily records of the acceleration costs thereby incurred, present those costs to the Authority as required by these Terms and Conditions and demonstrate to the Authority's reasonable satisfaction Contractor's entitlement to such additional costs pursuant to the Contract. Any adjustment to the Contract Price or any other Contract term that the Parties agree will be changed by the Authority's acceleration of the Work shall be implemented by Change Order.
- (2) In the event of an acceleration directive by the Authority and if the acceleration directive is intended to recover delay or disruption in the progress of the Work that has been caused, in whole or in part, by an Unexcused Delay, Contractor shall be responsible for all costs and expenses of implementing the Acceleration Schedule without any increase to the Contract Price or other compensation.
- (3) In the event of an acceleration directive unrelated to recover delay to the progress of the Work, such directive shall be handled in accordance with Article 20 of these Terms and Conditions.

I. Failure of Contractor to comply with any instruction given by the Authority under this provision shall be sufficient ground for a determination by the Authority that Contractor is not prosecuting the Work with such diligence as will ensure completion within the Contract Time. Upon such determination, the Authority may terminate Contractor's right to proceed with the Work, or any separate part thereof, in accordance with this Contract.

J. Contractor shall be fully liable to the Authority for any failure to complete Work authorized by any government permit within the time or times, if any, stipulated in such permit, in the full amount of any and all damages or consequences the Authority may suffer as a direct or indirect result of such failure. If any such failure delays completion of the Work, or of any separate part thereof, for which Liquidated Damages are stipulated, such damages shall include, but shall not be limited to, Liquidated Damages for such delay.

17. SUSPENSION OR INTERRUPTION OF WORK. The Authority may, by written order and for any reason, suspend, delay, or interrupt the performance of all or any part of the Work for such period of time as the Authority may determine to be appropriate. Contractor shall comply with such orders immediately upon receipt thereof and shall cause all Subcontractors affected thereby to do the same. Work shall be resumed when the Authority notifies Contractor in writing.

A. During any such suspension, Contractor shall properly protect and secure such suspended Work in such manner as the Authority may reasonably require. Unless otherwise instructed by the Authority, Contractor shall during any such suspension maintain its staff and labor on or near the Site and otherwise be ready to proceed expeditiously with the Work upon receipt of the Authority's further instruction.

B. If Final Completion of the Work, or the completion of any part thereof for which a separate completion date is stipulated in the Contract, is delayed by any order of the Authority under this Article, then the time for completion of the Work or of the part so affected shall be extended in accordance with Article 18 of these Terms and Conditions.

C. If the Secretary of Homeland Security announces an alert under the National Terrorism Advisory Service (NTAS), whether such alert is issued publicly or otherwise, the Authority, in addition to the right to suspend or delay completion of the Work, shall have the right to take action as the Authority, in its sole discretion, deems necessary to secure the Authority's facilities, including, without limitation, action to monitor all work areas and Contractor's personnel and equipment entering work areas and to restrict or deny access to work areas until such alert expires.

- (1) The Authority shall provide notice to Contractor, as soon as is practicable, of the receipt of a NTAS Alert and the effect such NTAS Alert will have upon the work of Contractor. To facilitate the provision of such

notice, Contractor is required to provide the Authority's Program Manager with emergency contact information in the form of cell phone numbers and e-mail addresses to which such notices may be forwarded, and to keep said numbers current or otherwise updated. Notice or attempted notice given to the most recent point of contact shall be deemed to be sufficient notice to Contractor that Work shall be delayed or suspended in accordance with this Paragraph.

- (2) Should the Authority suspend all or any part of the Work during a NTAS Alert, Contractor shall be compensated from the Line Item on the Price Proposal Form titled COMPENSATION FOR WORK SUSPENSION DURING NTAS ALERTS, for each 24-hour Day starting at 6:00 p.m. and ending at 6:00 p.m. on the following Day. Each fraction of a Day, both at the beginning of a suspension and at its end, shall be considered a Day. The daily rate at the time of suspension shall be submitted by Contractor for approval by the Authority and will be paid from this Line Item. Any residual remaining in the Line Item at the completion of the Work will not be paid. If the Final Completion of the Work, or the completion of any part thereof for which a separate completion date is stipulated in the Contract, is delayed, then the time for completion of the Work or of the part so affected will be extended by the number of Days of suspension during NTAS Alerts. This Article sets forth full and complete compensation for any and all impacts arising out of NTAS Alerts. Any suspension unrelated to NTAS Alerts, including any imminent threats indicated as imminent by the Federal Homeland Security's alert system is orange or higher but where an NTAS Alert is not issued, shall not qualify for financial compensation under this Paragraph.
 - (3) Should the Federal Transit Administration (FTA) or the Secretary of Homeland Security adopt a different method of identifying threats to homeland security, or if the FTA or the Secretary of Homeland Security adopt rules binding upon the Authority for the suspension of work which differ from those set forth herein, this Contract shall be modified by written agreement of the Parties to reflect such changes.
- D. Except where a suspension ordered by the Authority arises from a NTAS Alert or is the result of or due to the fault or negligence, in whole or in part, of Contractor or any Subcontractor, Contractor will be entitled to the actual field labor, material, and equipment costs actually and reasonably incurred directly as a result of such suspension, but no allowance or markup is allowed for profit, indirect costs, or for overhead. Contractor must take all reasonable and prudent measures to reduce the costs resulting from any suspension of the Work, and Contractor will not be compensated for any such cost that could have been avoided by such measures. Other than the limited compensation and extension of time relief set forth in this Article 17.D, Contractor is not entitled to any additional profits or damages due to such suspension.
 - E. Notwithstanding the remainder of this Article 17.E, Contractor shall not receive, nor be entitled to financial compensation if the cause of the suspension, delay, or termination request is related to or the result of war or similar abnormal condition. Contractor's sole compensation and relief for such instances shall be an extension of Contract Time equivalent to the time impact to the critical path of the Work as determined by a network schedule analysis based on the Baseline Schedule provided that Contractor supplies timely notice of such delay in accordance with Articles 18 and 20 of these Terms and Conditions. Except to the extent compensation is authorized by Article 17.C of these Terms and Conditions, this Article 17.E shall also apply when war or terroristic threats are imminent as indicated by the Federal Homeland Security's alert system of orange or higher.
 - F. Contractor must give the Authority Notice of any Claim for compensation or for an adjustment of the Contract Time in the manner and within the time stipulated in Article 18 after the termination of the suspension, delay, or interruption of Work. No Claim under this Article can be submitted or claimed after Final Payment under the Contract has been made.
 - G. Upon receipt of Notice to resume suspended Work, Contractor must immediately resume performance of the Work to the extent required in the Notice.
 - H. Contractor shall insert in all subcontracts, and cause to be inserted in all sub-subcontracts, provisions sufficient to require that all Subcontractors and their sub-subcontractors comply with the provisions of this Article.

18. EXCUSABLE DELAYS AND EXTENSIONS OF THE CONTRACT TIME. Contractor's failure to complete the Work within the time required by the Contract or any part thereof for which a separate completion date is stipulated, shall be excused only if the failure arises out of an Excusable Delay and Contractor otherwise demonstrates its entitlement to relief in accordance with this Article.

A. An Excusable Delay is a delay to the critical path of the completion date of the Work caused solely by one or more of the following enumerated causes, provided that the delay was otherwise beyond Contractor's control and without fault or negligence on Contractor's part:

- (1) An Authority-Caused Delay;
- (2) An event of Force Majeure;
- (3) A Concealed Site Condition;
- (4) An order of suspension of the Work issued by the Authority pursuant to Article 17 of these Terms and Conditions;
- (5) A delay caused by a third-party not under the control of either the Authority or Contractor including without limitation a utility, railroad, governmental agency or authority including the Georgia Department of Transportation, any county or municipality; and
- (6) A Change Order requested by the Authority pursuant to Article 17 of these Terms and Conditions.

B. Unless otherwise expressly provided for in Article 20.B of these Terms and Conditions, Contractor's sole relief in the event of an Excusable Delay is an extension of time that represents the time impact to the critical path of the completion date of the Work as determined by a network schedule analysis based on the Baseline Schedule; provided, however, that Contractor demonstrates that the following conditions were met:

- (1) Contractor shall provide Notice of the Excusable Delay to the Authority within three (3) Days of the beginning of such delay. Within ten (10) Days after the end of the Excusable Delay, Contractor shall, supply a Notice of Claim and furnish the Authority with detailed information concerning the circumstances of the Excusable Delay, the number of Days of actual delay claimed and the network schedule analysis demonstrating the number of Days claimed, the appropriate Contract Document references, and the measures taken to prevent or minimize the impact of the Excusable Delay.
- (2) If performance of only a part of the Work is delayed, Contractor shall diligently perform other parts not affected by the delay and prosecute them either to completion or until performance of the delayed part of the Work can be resumed.
- (3) Contractor shall take all actions reasonable and necessary to overcome or mitigate the impact of the Excusable Delay, including the expenditure of reasonable sums and the resequencing of the Work or Contractor's operations at no cost to the Authority.
- (4) A Claim of Force Majeure based upon the occurrence of unusually severe weather must be demonstrated using data showing, where applicable, high and low temperatures, rainfall, and the number of Days of normal, means, and extremes of weather in the Atlanta area for the previous 20 years, as compiled by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration.
- (5) An extension of the Contract Time will not be granted for a shortage of materials caused by an event of Force Majeure unless Contractor furnishes to the Authority documentary proof that Contractor has diligently made every effort to obtain such materials from all known sources within reasonable reach of the Work. No consideration will be given to any Claim that material could not be obtained at a reasonable, practical, or economical cost, unless it is shown to the satisfaction of the Authority that such material could have been obtained only at prices grossly exceeding reasonable market value and entirely inconsistent with current rates, taking into account the quantities involved and the usual practices in obtaining such quantities.

- C. Any delay other than an Excusable Delay is an “Unexcused Delay” for which Contractor shall not be entitled to adjustment of the Contract Time or to the Contract Price or any other term of the Contract. Unexcused delays include, but are not limited to, a failure by Contractor to take reasonable action to mitigate an Excusable Delay, and Contractor shall not be entitled to any adjustment of the Contract Time to the extent Contractor could have taken, but failed to take, reasonable actions to mitigate the Excusable Delay.
 - D. Excusable Delays demonstrated in accordance with this Article shall entitle Contractor only to an adjustment of the Contract Time and excuse from Liquidated Damages and other consequences of untimely performance for the delay period. All extensions of the Contract Time will be granted in calendar Days and must be memorialized in a Change Order executed in accordance with Article 20 of these Terms and Conditions. In no event will an extension of the Contract Time be granted for delays that merely extend the duration of non-critical activities or which only consume float without delaying Substantial Completion, or other milestones, or Final Completion. Subject to Article 20.B of these Terms and Conditions, no such extension of the Contract Time for an Excusable Delay, or any other disruption, interference, or hindrance arising from the Excusable Delay, shall be the basis for additional compensation to Contractor.
 - E. When the completion of the Work is simultaneously delayed by both an Excusable Delay and an Unexcused Delay, Contractor shall not be entitled to an extension of the Contract Time for the period of concurrent delay.
 - F. Timely notice and timely submittal of information within the times stipulated above shall be conditions precedent to Contractor's right to any extension of the Contract Time. Failure to give such notice or to submit such information within the time stipulated therefor shall be sufficient cause to deny any such Claim. The Authority will ascertain the facts and the extent of the Excusable Delay, and its findings with respect thereto shall be final and conclusive, unless shown to be arbitrary and capricious, unsupported by any evidence, or so grossly erroneous as necessarily to imply bad faith.
 - G. Notwithstanding anything to the contrary contained herein and in addition to all other remedies and rights available to MARTA, Contractor acknowledges and agrees that if Contractor has committed the material breach of failing to submit and obtain issuance of a mutually agreed baseline schedule, Contractor shall not be entitled to any extension of Contract Time.
 - H. No Claim for any adjustment to the Contract Time will be allowed if asserted after Final Payment under the Contract has been made.
19. **CONCEALED CONDITIONS.** The term “Concealed Site Condition(s)” shall mean those concealed physical conditions existing at the Job Site which were unknown and differ materially from (i) conditions identified in the Contract Documents (“Type I”) that Contractor was entitled to rely upon pursuant to Article 7.B.2 of these Terms and Conditions (if any); or (ii) conditions reasonably anticipated or expected by a reasonably observant and prudent construction contractor (“Type II”). No Claim arising out of Type II Concealed Site Conditions shall be asserted or allowed unless the existing physical conditions: (i) were not discovered and could not have been discovered by a reasonable inspection of the Job Site; and (ii) could not be reasonably anticipated or expected by a reasonably prudent construction contractor.
- A. If Contractor believes it has encountered Concealed Site Conditions, Contractor must not disturb the conditions and give Notice of such to the Authority promptly before such conditions are further disturbed, but in no event no later than three (3) Days after the first observance of the claimed Concealed Site Conditions. The Notice required by this Article is in addition to the Notice requirements set forth in Articles 18 and 20 of these Terms and Conditions and necessary for submitting a Claim for an extension of the Contract Time or increase to the Contract Price.
 - B. Following receipt of the Notice set forth above, the Authority will promptly investigate such conditions. If the Authority determines that the conditions encountered by Contractor qualify as Concealed Site Conditions and will result in entitlement to an increase or decrease in the cost or time required for the performance of Work as set forth in Article 18 of these Terms and Conditions, then the Authority will issue a Change Order and the provisions of Article 20 of these Terms and Conditions will apply. If the Authority determines that the conditions encountered by Contractor do not qualify as Concealed Site Conditions, or that no change in the Contract Price

or Contract Time is justified, the Authority will notify Contractor in writing.

- C. Timely notice and timely submittal of information within the times stipulated above shall be conditions precedent to Contractor's right to any Claim for adjustments to the Contract Time and Contract Price, if any. If the Authority is not given Notice before the conditions are disturbed and within the time period provided above, Contractor will be deemed to have waived its right to assert a Claim for any adjustment to the Contract Price or to the Contract Time arising out of such Concealed Site Conditions. In addition to submitting timely notice and substantiation of Contractor's Claim, no Claim for any adjustment to the Contract Price or to the Contract Time will be allowed if asserted after Final Payment under the Contract has been made.

D. **Reserved.**

- 20. **CHANGES.** Notwithstanding anything to the contrary in the Contract or the Parties' course of conduct during the performance of the Work, adjustments, modifications, or other revisions to the Contract or to the Work shall at all times require the prior written approval of the Authority and shall only be valid if accomplished either pursuant to a written amendment to this Contract executed by both Parties or pursuant to a Change Order executed in accordance with this Article.

- A. In the event of an Excusable Delay demonstrated in the manner described in Article 18 of these Terms and Conditions, Contractor's sole remedy for relief will be a Change Order extending the Contract Time only. Subject to Article 20.B of these Terms and Conditions, Contractor shall not be entitled to a Change Order increasing the Contract Price for an Excusable Delay.

- B. Contractor will be entitled to a Change Order increasing the Contract Price, as appropriate, only in the event of the following circumstances and provided that the Contractor establishes entitlement thereto and complies with all conditions as set forth in the Contract including without limitation all notice and substantiation requirements:

- (1) Authority-Caused Delay;
- (2) A Change Order requested by the Authority pursuant to this Article;
- (3) Concealed Site Conditions; and
- (4) An order of suspension of the Work issued by the Authority pursuant to Article 17 of these Terms and Conditions.

The Parties acknowledge that the occurrence of one or more of the circumstances listed above does not automatically entitle Contractor to a Change Order hereunder, and Contractor's entitlement to an adjustment of the Contract Price or an extension of the Contract Time remains at all times subject to Contractor's compliance with the specific requirements set forth elsewhere in the Contract.

The amount of the adjustment to the Contract Price, if any, in such an instance shall be governed by this Article 20. The amount of entitlement to an adjustment to the Contract Time, if any, in such an instance, shall be governed by the requirements of Article 18 of these Terms and Conditions and shall be determined by a network schedule analysis based on the Baseline Schedule; provided, however, that Contractor demonstrates that the requirements of Article 18 of these Terms and Conditions are met.

- C. Without invalidating the Contract and without notice to any surety, the Authority may, at any time or from time to time, order additions, deletions, revisions, or any other change to the Work within the general scope of the Contract ("Authority Changes"). All Authority Changes shall be made and documented in accordance with this Article 20. All such Authority Changes shall be considered as part of the Work and shall be performed under the applicable conditions of the Contract.

- (1) The Authority will advise Contractor of contemplated changes to the Contract through Change Notices, which will also solicit Contractor's proposals for the changes. A Change Notice will not authorize or obligate

Contractor to carry out the contemplated change or to perform any work otherwise than in accordance with the requirements of the Contract. It will neither change any term of the Contract nor obligate the Authority to pay for Work as proposed to be changed. Changed Work will be authorized, and the Authority will be obligated to pay for it, only after the Authority has expressly directed Contractor by a written Change Order or Change Directive to carry out the change.

- (2) Within ten (10) Days following the receipt of a Change Notice, Contractor shall prepare and submit to the Authority a proposal containing a detailed breakdown with documentation sufficient to enable the Authority to determine the effect, if any, of the change on the scope of the Work, Contract Price, Contract Time, and/or any other term or obligation of the Contract. The proposal shall include a price breakdown in sufficient detail to permit an analysis of all labor, material, equipment, subcontract, and overhead costs, as well as of profit, and shall cover all work involved in the change whether such work is to be deleted, added, or changed. Any amount related to subcontracts shall be supported by a similar price breakdown. The composition of proposed labor, material, and equipment costs shall be as provided in Article 21.B.(1), A.(2), and A.(3) of these Terms and Conditions. If Contractor's proposal includes an extension to the Contract Time, a justification therefor in the form of a network schedule analysis showing a critical path delay must also be furnished for Authority review. Each item of cost, value, or time of performance shall be stated separately and shall be supported by such documents or other evidence as the Authority may reasonably require. If no proposal is submitted by Contractor within ten (10) Days of Contractor's receipt of a Change Notice, then the Authority Change will be incorporated into the Work and performed without an adjustment to the Contract Price or Contract Time. Timely notice and timely submittal of information within the times stipulated above shall be conditions precedent to Contractor's right to recovery of any Claim under the Contract and Contractor's failure to fully and timely comply with any of these requirements will waive and release any Claim by Contractor for additional compensation or an extension of the Contract Time.
- D. Contractor may propose Changes to the Authority for its review and approval or disapproval. The approval or acceptance of any Change proposed by Contractor shall be solely within the Authority's discretion, and the disapproval thereof shall not entitle Contractor to any compensation, damages, adjustment to the Baseline Schedule, or any other modification of or relief from the requirements of the Contract. If the Authority approves or accepts any Change proposed by Contractor, it will be made by a Change Order issued in accordance with this Article.
- E. If Contractor believes that any act or omission of the Authority (including any order, direction, instruction, or determination), or any Project circumstance, condition (concealed or otherwise), or event, will cause a Change in the Work or otherwise entitle Contractor to a Change Order modifying the Contract Price or extending the Contract Time, and such work or circumstance has not been authorized or addressed by a Change Notice, or by Change Order pursuant to this Article 20 executed by the Authority, Contractor must: (i) provide Notice of the Claim to the Authority within ten (10) Days of the first occurrence of the event giving rise to the Claim; (ii) identify in this first Notice the basis of the Claim, including a detailed explanation of all grounds for any Contract adjustment; (iii) provide with this first Notice an estimate of the impact of the event on the Contract Price and Contract Time; (iv) to the extent that any adjustment to the Contract Time is sought, fully comply with the time extension request requirements in Article 18 of these Terms and Conditions; and (vi) submit to the Authority, with Contractor's initial notice and as reasonably available thereafter, verifiable evidence (e.g., payroll records, material invoices, records of actual equipment use, Subcontractor cost records) of any additional costs claimed. The time period for providing the information required by subsections (iii), (iv), (v), and (vi) may be extended in writing by the Authority if reasonable cause for such an extension is demonstrated by Contractor.
- (1) The Parties acknowledge that the Authority will be prejudiced if Contractor fails to provide any Notice required under the Contract, and the Parties agree that such requirements are an express condition precedent necessary to any right to any Claim of Contractor under the Contract. Failure to give Notice as required herein shall waive Contractor's right to Claim any additional compensation, adjustment to the Contract Time, or other relief to which Contractor may otherwise be claimed. Verbal notice, shortness of time, or the Authority's actual knowledge of a particular circumstance shall not waive, satisfy, discharge, or otherwise excuse Contractor's strict compliance with the Contract.

- (2) No extension of the time in which to give any Notice required by the Contract, or waiver of Contractor's failure to give any such Notice within the time required, shall be binding upon the Authority or otherwise effective, unless made in writing by an officer or agent of the Authority expressly authorized to do so. Any such extension or waiver shall not be, imply, operate as, or be considered to be an extension or waiver of any other time or other notice requirement.
 - (3) It is the intention of this Article that differences between the Parties arising under and by virtue of the Contract shall be brought to the attention of the Authority at the earliest possible time, in order that such matters may be witnessed contemporaneously, mitigated and settled, if possible, or other appropriate action promptly taken.
- F. If any of the circumstances enumerated in Article 20.A of these Terms and Conditions causes an increase or decrease in Contractor's cost of performing the Work, as substantiated by Contractor in accordance with the Contract and as otherwise requested by the Authority, the Contract Price will be adjusted by a Change Order; and except as otherwise provided hereinafter, such adjustment shall be made as follows:
 - (1) The Contract Price shall be increased by the additional costs actually and reasonably incurred or that are estimated to be incurred in order to perform the added or changed work and reduced by the costs actually and reasonably saved or estimated to be saved because of all Work deleted or made less costly by the Change. For purposes of this adjustment, factors for overhead and profit computed in accordance with Paragraph G of this Article shall be applied to the actual or estimated costs and savings that result from the Change. In the case of Changes both adding Work or making it more costly, and deleting Work or making it less costly, the adjustment shall be the net increase or decrease thus determined.
 - (2) If the Work added, deleted, or required by the Change, or any part of such Work, is like Work for which the Contract provides a unit price Line Item, the adjustment for such like work shall be made at the unit price reflected on the Price Proposal Form for such unit price Line Item. No other or different adjustment shall be made for such like Work, except as may be authorized by Article 33.C of these Terms and Conditions. For purposes of this Paragraph, Work similar to Work for which the Contract provides a unit price Line Item shall not be considered to be like Work unless it can practicably be performed by methods and under conditions that are substantially the same as in the case of the Work subject to such Line Item.
- G. The factors for overhead and profit for determining Contract Price adjustments pursuant to Paragraph F of this Article shall be computed as follows:
 - (1) Contractor shall submit, within 90 Days after the CNTP or concurrently with submittal of Contractor's first price proposal, whichever is earlier, Contractor's forward pricing rates and factor structure to be used for the pricing of Changes under this Article, if any. Contractor shall update this submittal every 12 months, or more frequently if required to keep the Authority apprised of changes to the rates or their structure. The data supporting Contractor's proposed pricing structure, and changes thereto, are subject to verification by the Authority's audit. All data necessary for such verification shall be made available by Contractor. The forward pricing rates shall be utilized to determine an appropriate overhead compensation. All overhead compensation and profit markups are subject to the following conditions and limitations:
 - a. Neither the compensation based on unit price Line Items in accordance with Subparagraph F.(2) of this Article, nor any allowance under Paragraph G of this Article for indirect costs of the Changes, shall be included in the costs to which these markups are applied.
 - b. Contractor shall be paid a markup for profit for each Change in the fixed amount of five percent (5%). For the avoidance of doubt, the fixed 5% is in the aggregate for both the Contractor and any Subcontractor. Thus, in the case of subcontracted work, a markup of not more than 5 percent of the Subcontractor's compensation shall be allowed; provided that such markups shall be allowed only to Subcontractors who have previously been approved as such by the Authority as provided in these Terms and Conditions and who are actually working on the Project at the time the changed Work is performed. Contractor shall apportion this 5 percent markup amongst itself and the applicable Subcontractors. No additional markup shall be provided to Contractor.

- c. For purposes of the foregoing markups, suppliers of major materials specially fabricated or modified for use in the Contract (such as structural steel or precast concrete) shall be considered to be Subcontractors.
- (2) To the extent to that cost adjustments provided under this Article are based upon unit price Line Items, no adjustment or allowance will be made to the unit price Line Items thereafter in respect of bond premiums, as the original unit price Line Items shall be conclusively deemed to include such allowance in their components for undistributed costs. As set forth in Article 6 of these Terms and Conditions, adjustments to the penal sum of Contractor's performance and payment bond is only required in certain circumstances. After the Work has been completed and the final Contract Price has been determined, the effect, if any, of price adjustments under this Article that are not based upon unit price Line Items upon the premiums for Contractor's performance and payment bonds shall be determined, and a net allowance will be made for any additional premium actually due, or a net credit taken for any refund. No additional markup, under Subparagraph G.1 of this Article or otherwise, shall be applied to any allowance or any credit provided under this paragraph.
- H. It will be Contractor's responsibility to demonstrate, with reasonable certainty and by satisfactory evidence, both that a Contract Price adjustment is due and the amount thereof. The Change Order executed by the Parties shall constitute a full and complete settlement and compensation for any lessened or impaired efficiency of the workforce, disruption of the Work or any part thereof, and all other indirect costs, resulting from the change and from all other changes, separately, cumulatively, or in combination, up to the date of such change.
- I. If within the time stipulated above in Article 20.C.(2) of these Terms and Conditions, or within any extension of such time to which the Authority, prior to the expiration thereof, may have agreed in writing, Contractor fails to submit a proposal in the form stipulated herein, then the Authority may direct Contractor to carry out the Change through a Change Directive and Contractor shall be required to carry out the Work as so changed and shall be bound by the Authority's determination with respect to the adjustment, if any, due; and in any and all such cases Contractor shall be deemed to have released and waived any Claim to any other or different adjustment or other relief that might otherwise have been due.
- J. If Substantial Completion of the Work is delayed by an Authority-Caused Delay or Authority Change, as must be demonstrated by Contractor through a network schedule analysis in accordance with Article 18 of these Terms and Conditions, Contractor will be compensated for any actual costs that Contractor reasonably incurs directly as a result of such Authority-Caused Delay that Contractor would not otherwise have incurred, and that are not included in the costs previously compensated under Article 20.H of these Terms and Conditions or otherwise waived under Article 20.I of these Terms and Conditions; in addition, Contractor may be allowed a markup for indirect general and administrative costs and overhead costs incurred off the Job Site, and for profit, calculated as provided in Subparagraph G of this Article. Contractor must take all reasonable and prudent measures to reduce the costs resulting from any delay caused by the change and shall not be compensated for any such cost that could have been avoided by such measures. It shall be Contractor's responsibility to demonstrate any such costs, which shall be verified by the Authority's audit. This additional payment shall be Contractor's full, complete, and exclusive compensation for all costs resulting from such delay, including but not limited to all direct and indirect costs of maintaining the project active for the additional time, of any additional supervision required, of any resulting inefficiencies owing to the rescheduling or coordination of the Work or to lessened productivity of Contractor's workforce, and all similar costs of Contractor's Subcontractors.
- K. The adjustments, if any, of the Contract Price and Contract Time agreed to by the Authority and Contractor must be made by a written Change Order, which shall be final and conclusive upon both Parties.
- L. If Contractor and the Authority are unable to agree upon (i) whether a change in the Work has occurred; (ii) the matters described in a Change Notice or proposal, regardless whether such Change Order proposal was initiated by Contractor or by the Authority; or (iii) resolution of any Claim by Contractor for a Change Order pursuant to Subparagraph 20.F., then Contractor must perform the changed Work if the Authority so directs Contractor in writing with a "Change Directive." If an adjustment to the Contract Time is in dispute, the Contract Time may be adjusted by the Authority, in its sole discretion, to reflect the material and adverse delay to the critical path of the Work that the Authority believes Contractor is entitled with respect thereto, in which case Contractor shall have the right to pursue a dispute pursuant to Article 37 of these Terms and Conditions. If an adjustment to the Contract

Price is in dispute, the Authority may adjust the Contract Price by the amount to which the Authority believes Contractor is entitled with respect thereto, if any, in which case Contractor shall have the right to pursue a dispute pursuant to Article 37 of these Terms and Conditions, or the Authority may direct that Contractor perform such work with the compensation therefor to be determined on a Force Account basis in accordance with Article 21 of these Terms and Conditions. In either case, Contractor shall proceed promptly and diligently to perform the Work in accordance with such Change Directive. If Contractor fails or refuses to do so, the Authority may withhold any and all payments, including progress payments and Final Payment, that may otherwise be or become due under the Contract, and such withholding shall not be a basis for any Claim by Contractor for additional compensation; and such failure or refusal shall also be a sufficient ground for the Authority to terminate the Contract as provided in this Contract. The reservation of the foregoing rights and remedies to the Authority is in addition to, and not instead of, all other remedies to which the Authority is lawfully entitled for any default under or breach of the Contract, and the exercise of either or both of these rights shall not waive any other or additional right or remedy to which the Authority is entitled.

21. **FORCE ACCOUNT WORK.** "Force Account Work" is work for which no price has been agreed upon and that the Authority directs to be performed through a Change Directive as provided in Article 20.L. Such direction shall not be an admission by the Authority that the Force Account Work subject thereto is in addition to the base Contract requirements, or that Contractor is entitled to additional compensation therefor, or to any other adjustment of the Contract by reason thereof. Provided that the Contractor establishes entitlement to additional compensation or time pursuant to other Articles of these Terms and Conditions including without limitation Articles 18 and 20, payment for Force Account Work shall be made in accordance with the provisions of this Article. If no other price adjustment for such work is agreed upon, and provided that the Contractor establishes entitlement, the compensation determined as provided herein, if any, shall be Contractor's full and complete compensation for such work. This Article applies only to Force Account Work directed to be performed through a Change Directive pursuant to Article 20.L of these Terms and Conditions. The remedies provided through this Article 21 (and entitlement to payment, if any) shall not apply to any other work.

A. Work Performed by or for Contractor: Contractor will be paid for the actual, reasonable, and verifiable labor, materials, and equipment as hereinafter provided, except where agreement has been reached to pay in accordance with Paragraph B of this Article. Markups for overhead and profit will be determined in accordance with Paragraph 20.G. Labor, materials, and equipment shall be furnished by Contractor or by a Subcontractor or by others on behalf of Contractor. When work paid on a Force Account basis is performed by forces other than Contractor's, Contractor shall reach agreement with such other forces as to the distribution of the payment made by the Authority for such work and, except as specified herein, no additional payment therefor will be made by the Authority by reason of performance of work by a Subcontractor or by others. The cost of subcontracted work will be the actual cost to Contractor for work performed by a Subcontractor as computed in accordance with this Paragraph and its Subparagraphs A.(1), A. (2), and A.(3) of this Article.

(1) Labor: The cost of labor used in performing the Work, whether the employer is Contractor, a Subcontractor, or other forces, will be the sum of the following Sub-subparagraphs (a), (b) and (c):

- a. The gross actual wages paid including income tax withholdings but not including any employer payments to or on behalf of workmen for health and welfare, pension, vacation, insurance, or similar purposes.
- b. To the gross actual wages, as specified in the previous Sub-subparagraph, will be added a percentage based upon current State and federal laws and applicable labor contracts concerning payments made to or on behalf of workmen other than actual wages, which percentage shall constitute full compensation for all payments imposed by State and federal laws and for all other payments made to or on behalf of the workmen, other than actual wages as defined in the previous Sub-subparagraph and the subsistence and travel allowances as specified in the following Sub-subparagraph. Contractor shall compute a separate percentage for each craft, or a composite percentage for all crafts if so approved by the Authority. All computed percentages shall be submitted to the Authority for approval.
- c. Subsistence and travel allowances paid to workmen as required by collective bargaining agreements.

- d. The charges for labor shall include all classifications up to but not including foremen, and when authorized by the Authority, shall include foremen engaged in the actual and direct performance of the Work. Labor charges shall not include charges for assistant superintendents, office personnel, timekeepers, or maintenance mechanics unless authorized by the Authority in advance of the start of Work.
- (2) Materials: The cost of materials required for the accomplishment of the Work will be the delivered cost to the purchaser, whether Contractor, Subcontractor, or other forces, from the supplier thereof, except as the following are applicable:
 - a. If a cash or trade discount by the actual supplier is offered or available to Contractor, it shall be credited to the Authority notwithstanding the fact that such discount may not have been taken.
 - b. If Contractor procures materials by a method that is not a direct purchase from and a direct billing by the actual supplier, the cost of such materials shall be deemed to be the price paid to the actual supplier, as determined by the Authority. No additional markup for the supplier's work will be allowed except to the extent of actual costs to Contractor for handling the materials, not to exceed five percent of the price paid to the actual supplier.
 - c. If the materials are obtained from a supply or source owned wholly or in part by Contractor, payment therefor will not exceed the price paid for similar materials furnished from said source on Contract items or the current wholesale price for such materials delivered to the Job Site, whichever is lower.
 - d. If the cost of the materials is, in the opinion of the Authority, excessive, then the recoverable cost of such materials shall be deemed to be the lowest current wholesale price at which such materials are available in the quantities concerned, delivered to the Job Site, less any discounts as provided in Sub-subparagraph A.(2).a of this Article.
 - e. If Contractor does not furnish satisfactory evidence of the cost of materials from the actual supplier thereof, the cost shall be determined in accordance with Sub-subparagraph A.(2).d.
 - f. Contractor shall have no claims for costs or profit on materials furnished by the Authority.
- (3) Equipment: Contractor will be paid for the use of equipment at hourly rates for ownership or rental and for operation determined from actual costs as reflected in Contractor's accounting records and as customarily charged on changes in other contracts. Such rates shall not exceed rates computed in accordance with Sub-subparagraph A.(3).a of this Article.
 - a. Limiting computed rates shall be 80 percent of both the rental rates and the estimated hourly operating costs for the equipment as listed in the current Rental Rate Blue Book for Construction Equipment except that the hourly rental rate shall be the listed monthly rate divided by 176. Regional adjustments will not be applied.
 - b. The rates for equipment on which Contractor has no cost and use data and which is not listed in the Blue Book cited in Sub-subparagraph A.(3).a of this Article shall be negotiated. The reasonable ownership costs of purchase, depreciation, maintenance, and overhead, the average annual usage, the service life, and the salvage value of the equipment, as well as probable operating costs, shall be considered in these negotiations.
 - c. In no case will the total equipment rental paid on any one change exceed 33 percent of the fair market price of any piece of equipment used.
 - d. Equipment operator costs will not be included in equipment rates but will be paid as stipulated in Subparagraph A.(1) of this Article.
 - e. All equipment shall be in good working condition and suitable for the purpose intended.

- f. Unless otherwise specified, manufacturer-approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum rating recommended by the manufacturer of such equipment.
 - g. Individual pieces of equipment or tools having a net individual value of \$500.00 or less, whether or not consumed by use, shall be considered to be small tools and no payment will be made therefor.
 - h. Compensation will not be allowed while equipment is inoperative because of breakdown. Time will be computed in half and full hours. In computing the time of use of equipment, less than 30 minutes shall be considered one half-hour.
 - i. The equipment use period shall begin only at the time equipment is unloaded at the site of the changed Work, shall include each Day that the equipment is in use at the site of the changed Work, excluding Saturdays and Sundays and other legal holidays unless the changed work is performed on such days, and shall terminate at the end of the day on which the use of such equipment becomes unnecessary. The maximum time to be paid per day will not exceed 8 hours unless the equipment is in operation for a longer time. The minimum time to be paid for the entire period of use shall not be less than 8 hours. The time that will be paid for per day will be the hours for which the equipment is actually in operation.
 - j. Should Contractor desire to return the equipment to a location other than its original location, the Authority will pay the cost of transportation, in accordance with the provisions of Article 21.A.(3).j. of this Contract, provided such payment shall not exceed the cost of moving the equipment to the Work.
 - k. Rented equipment will not be brought onto the Job Site nor will costs for such equipment be payable unless the Authority or its representative has approved the necessity of such rental. To gain approval, Contractor must show that owned equipment needed to perform the changed work is not reasonably available.
- B. Special Items of Work: If the Authority and Contractor, by agreement, determine that (a) an item of Force Account Work does not represent a significant portion of the total Contract Price, (b) such item of work cannot be performed by the forces of Contractor or the forces of any of Contractor's Subcontractors, and (c) it is not in accordance with the established practice of the industry involved to keep the records which the procedure outlined in Paragraph A of this Article would require, charges for such special Force Account Work items may be made on the basis of invoices for such work without complete itemization of labor, materials, and equipment rental costs. To such invoiced price, less a credit to the Authority for any cash or trade discount offered or available, will be added 5 percent of the discounted price, in lieu of the markups provided in Paragraph A of this Article. In no event will the price paid exceed the current fair market value of such work plus 5 percent.
- C. Records: Contractor shall maintain Contractor's records to provide a clear distinction between the direct costs of work paid for on a Force Account basis and the costs of other operations.
- (1) Contractor shall prepare and furnish to the Authority, on the following workday, report sheets in electronic form of each day's work performed for on a Force Account basis. The daily report sheets shall itemize the materials used and shall cover the direct cost of labor and the charges for equipment, whether furnished by Contractor, a Subcontractor, or other forces, except for charges described in Paragraph B of this Article. The daily report sheets shall provide names or identifications and the classifications of the workmen, the hourly rate of pay and hours worked, and the size, type, and identification number of the equipment, and hours operated. Contractor or Contractor's authorized agent shall sign daily report sheets.
 - (2) Valid copies of Contractor's invoices shall substantiate material charges. Such invoices shall be submitted with the next submitted daily report sheet. Should Contractor's invoices not be submitted within 20 days after the date of delivery of the material or 15 days after acceptance of the Work, whichever comes first, the Authority reserves the right to establish the cost of such materials in accordance with Article 21.A.2 of these Terms and Conditions at the lowest current wholesale prices at which such materials are available in the quantities concerned, delivered to the location of the Work, less any discounts as appropriate and as indicated in the aforementioned section.

- (3) The Authority will compare its records with the daily report sheets furnished by Contractor, make any necessary adjustment, and, provided there is agreement on entitlement, compile the costs of work paid for on a Force Account basis on daily Force Account Work report forms furnished by the Authority. When these daily reports are agreed upon and signed by the representative of the Authority, provided there is agreement by MARTA as to entitlement, the daily reports may become the basis of payment for the Work performed but shall not preclude subsequent adjustment based on a later audit. Signature of the Force Account reports by MARTA or its designated inspector is contemporaneous to verify the presence of the labor, materials or equipment during the time period so designated but does not indicate concurrence by MARTA of entitlement of Contractor with respect to any dispute.
- (4) Contractor's original cost records pertaining to work paid for on a Force Account basis shall be retained and shall be open to inspection and audit as may be required by other provisions of the Contract.

D. If, in the Authority's opinion, Contractor or any of Contractor's Subcontractors, in performing Force Account Work, is not making efficient use of labor, material, or equipment or is proceeding in a manner which makes Force Account Work unnecessarily more expensive to the Authority, the Authority may, in whole or in part, direct Contractor in the deployment of labor, material, and equipment. By way of illustration, inefficiency may arise in the following ways: (i) the timing of the Work, (ii) the use of unnecessary labor or equipment, (iii) the use of a higher percentage of apprentices than in non-force account Work, (iv) failure to procure materials at lowest prices, or (v) using materials of quality higher than necessary.

22. ACCESS TO THE SITE. Contractor's access to the Job Site shall be as shown by the Contract Documents and by a reasonable inspection of the Site. Contractor shall not permit any person other than Contractor's Subcontractors and sub-subcontractors, and persons delivering materials, supplies, or equipment required to perform the Work, to use or occupy the Job Site, or any part thereof or any building or structure thereon, for any purpose whatsoever, with or without compensation, except as the Authority may specifically authorize in advance in writing. Contractor shall not occupy any property or facility of the Authority outside the Job Site without the Authority's prior written approval. Any property or facilities of the Authority not on the Job Site that are used or occupied by Contractor during performance of the Contract shall be returned to the Authority in a condition comparable to that at the time Contractor entered upon such use or occupancy. Contractor shall notify the Authority at least thirty (30) Days before it intends to vacate any such Job Site or property or facility. Contractor shall not enter upon private property or upon the area of any easement, either for access to the site or to perform any Work under or related to the Contract, without (i) express written permission from the owner or tenant of the property; and (ii) the legal right to do so in accordance with Applicable Law. The use of all easements of access or for construction purposes, and the performance of all work on private property, shall be in a manner that will avoid or minimize inconvenience to the owners or tenants. Any utility or railroad companies, counties or municipalities or their agencies, or other public or private organizations that have facilities within the limits of the Work shall be allowed access to such facilities at all times for the purposes of inspecting, repairing, maintaining, protecting, or relocating them.

23. WORK BY OTHERS. The Authority reserves the right to perform other work, including but not limited to work related to the Project, on or about the Job Site, and to engage other contractors for such work. Such work may include work by utility and railroad companies, by counties or municipalities and their agencies, and by other public or private organizations having facilities on the site of the Work or otherwise affected by it.

- A. Contractor shall cooperate fully with the Authority and all such contractors, utilities, railroads, counties, municipalities, their agencies, and others as necessary to permit their work to be performed properly and efficiently and shall not permit any interference with such work. Contractor shall carefully design and fit Contractor's Work to such work by others as the Authority may direct. Contractor shall afford the Authority and such other contractors reasonable access to and use of the Job Site for the introduction and storage of their materials and equipment and the proper and efficient performance of their work.
- B. If any part of Contractor's work depends for proper performance or results upon the Work of the Authority or of any separate contractor, Contractor, before proceeding with such part of Contractor's work, shall promptly report to the Authority any apparent discrepancies or defects in such other work that render it unsuitable for such proper performance or results. Contractor's failure so to report shall constitute Contractor's acceptance of such other work as fit and proper to receive Contractor's work, except as to defects that would not be revealed by a reasonable inspection and that become apparent afterwards.

- C. To the extent any of the other work described in Paragraph 23.A interferes or delays Contractor's Work, relief to Contractor, if any, shall be limited to an Extension of Time governed by Article 18 of these Terms and Conditions.

24. USE AND POSSESSION BEFORE COMPLETION. In accordance with Article 14 of these Terms and Conditions, the Authority shall have the right to expressly take possession of or to use any completed or partially completed part of the Work prior to Substantial Completion. The Authority shall take possession by issuance of a Certificate of Completion. Such possession or use shall not be deemed to be or constitute acceptance of any Work not completed in accordance with the Contract. While the Authority is in such possession, Contractor, notwithstanding the provisions of Article 14, shall be relieved of the responsibility for loss of or damage to the Work other than that resulting from Contractor's operations, fault or negligence or those working for. Absent issuance of such Certification of Completion by MARTA, there shall be no transfer of the risk of loss. If such prior possession or use by the Authority delays the progress of the Work or causes additional expense to Contractor, an adjustment of the Contract Price or the Contract Time will be made as provided in Article 20 of these Terms and Conditions.
25. EMERGENCIES. In an emergency affecting the safety of life, the Work, or adjacent property, Contractor shall make reasonable efforts, under the circumstances, to notify the Authority as early as possible that an emergency exists, but nevertheless, without special instructions or authorization from the Authority, shall act at Contractor's own discretion to prevent such threatened loss or injury. As emergency work proceeds, the Authority may issue instructions, which Contractor shall follow. Unless the emergency is caused wholly or in part by the fault or neglect of Contractor, Contractor's Subcontractor or sub-subcontractor, or their employees, Contractor shall be compensated in accordance with Article 20 of these Terms and Conditions for any added costs thus incurred.
26. PERMITS AND COMPLIANCE WITH LAWS. In the performance of the Work, Contractor agrees that it will comply with Applicable Laws which relates to or in any manner affects the performance of the Work and all such costs are included in the Contract Price. Contractor acknowledges and agrees that it is solely responsible to obtain any permits or licenses required to complete the Work, if any, and that the cost for such permits and licenses are included in the Contract Price. Contractor shall be responsible for any delay in the issuing of the permits resulting from Contractor's failure to furnish any such plan, document, submittal, or information, or to furnish the same timely, and in form and content satisfactory to the jurisdiction from which the permits must be obtained. Contractor shall be responsible for obtaining and maintaining all licenses and permits required in connection with the prosecution of the Work and for complying with Applicable Law. Contractor shall not be entitled to additional compensation for any expense incurred in order to comply with any such Applicable Law that may be enacted or may take effect while the Work is being performed, or with any amendment to any such Applicable Law that may be made, or may take effect, during such time. Contractor shall protect, indemnify, and hold harmless the Authority and all of its officers, agents, and employees against all claims and liability arising from or based on the violation of any such requirement of law, whether by Contractor or Contractor's employees, agents, or Subcontractors.
27. SAFETY. In order to provide safety controls for protection of the life and health of employees and other persons, for prevention of damage to property, materials, supplies, and equipment, and for avoidance of interruptions in the performance of the Contract, Contractor shall (1) comply with all pertinent provisions of the Contract Documents; (2) ensure that the Work is performed in strict accordance with the approved Safety Management Plan (as required by Article 15.B.4 of these Terms and Conditions); and (3) shall also take or cause to be taken such additional measures as the Authority may determine to be reasonable for such purposes. Contractor assumes full and sole responsibility for the safety precautions and safety programs required in connection with the Work and for the safety of Contractor's personnel and Subcontractors.
28. PROTECTION OF EXISTING IMPROVEMENTS. Contractor shall protect from damage all existing improvements at or near the site of the Work and shall repair or restore any damage to such facilities resulting from failure to comply with the requirements of the Contract or the failure to exercise reasonable care in the performance of the Work. In the case of damage to public facilities the repair or restoration shall be made to the standards of the agency owning or having jurisdiction over such facilities. If Contractor fails or refuses to repair any such damage promptly, the Authority may have the necessary work performed and charge the cost thereof to Contractor.
 - A. Contractor shall preserve and protect all existing vegetation, such as trees, shrubs, and grass, on or adjacent to the Job Site, which is not indicated to be removed and which does not unreasonably interfere with the Work.

- B. Contractor shall not repair or attempt to repair utilities damaged by Contractor's construction operations but shall immediately contact the utility owner and the Authority. Contractor shall be responsible for all damage caused to the affected utilities.
- C. Contractor shall be responsible for coordinating its Work with all utility companies during the construction of the Work. It shall be Contractor's responsibility to determine the exact location and depth of all utilities, including service connections, which have been marked by the respective utility owners and which Contractor believes may affect or be affected by Contractor's operations. Before beginning any excavation, Contractor shall notify the appropriate utilities protection center, in accordance with Section 25-9-6 of the Georgia Code, and shall comply fully with all other provisions of Title 25, Chapter 9, of said Code. Blasting is not permitted and will not be allowed at the Job Site.
- D. Contractor shall comply with the High-Voltage Safety Act, Section 46-3-30 et. Seq. of the Georgia Code, regarding precautions to be taken in the proximity of high voltage electric lines, and the Rules and Regulations of the Commissioner of Labor pursuant thereto, to the extent applicable.
- E. Contractor shall maintain access to fire hydrants and fire alarm boxes throughout the prosecution of the Work. Hydrants, alarm boxes, and standpipe connections shall be kept clear and visible at all times unless approved otherwise. If visibility cannot be maintained, Contractor shall provide clearly visible signs showing the location of the fire hydrant, fire alarm box, or standpipe connection.

29. QUALITY CONTROL AND INSPECTION. Contractor shall be responsible for ensuring that all materials, equipment, and workmanship incorporated into the Work are fully conformed to all requirements of the Contract inclusive, without limitation, of the Final Design Documents, the Project-Specific Specification, and the Construction Documents. Contractor shall carry out a quality control program for this purpose. The Authority's exercise of rights under this Article or other provisions of the Contract shall not relieve Contractor of this responsibility.

- A. All Work shall be subject to inspection and testing by the Authority at all reasonable times and at all places prior to acceptance, but the Authority shall have no obligation to make any such inspection or test. Any such inspection or test is for the sole benefit of the Authority and shall not relieve Contractor of the responsibility of providing quality control measures to ensure that the Work strictly complies with the Contract Documents. Except to the extent specified by the Authority, no inspection or test by the Authority shall be construed as constituting or implying acceptance. Inspection or testing shall not relieve Contractor of responsibility for damage to or loss of the material nor in any way affect the continuing rights of the Authority after acceptance of completed Work.
- B. Contractor shall, without charge, replace any material or correct any workmanship found by the Authority not to conform to the Contract Documents, unless the Authority consents in writing to accept such material or workmanship with an appropriate adjustment in the Contract Price. Contractor shall promptly segregate and remove rejected material from the Job Site.
- C. If Contractor does not promptly replace rejected material or correct rejected workmanship, the Authority may (i) by contract or otherwise, replace such material or correct such workmanship, or remove unauthorized work, and charge the cost thereof to Contractor, or (ii) terminate Contractor's right to proceed in accordance with Article 40 of these Terms and Conditions.
- D. Contractor shall furnish promptly, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspection and testing as may be required by the Authority. All inspection and testing by the Authority shall be performed in such manner as to not unnecessarily delay the Work. Special, full size, and Performance Tests shall be performed as described in the Contract Documents. The Authority reserves the right to charge to Contractor any additional cost of inspection or testing when the material or workmanship is not ready at the time specified by Contractor for the inspection or test, or when reinspection or retesting is necessitated by prior rejection.
- E. Should it be considered necessary or advisable by the Authority at any time before acceptance of the entire Work to make an examination of work already completed, by removing or tearing out same, Contractor shall, on request, promptly furnish all necessary facilities, labor, and material. If such Work is found to be defective, or nonconforming in any material respect, because of the fault of Contractor or Contractor's Subcontractors,

Contractor shall pay all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, an adjustment to the Contract Price, calculated in accordance with the Force Account payment provisions in Article 21 of these Terms and Conditions, shall be made to the Contract Price to compensate Contractor for the additional services involved in such examination and reconstruction in accordance with Article 20 of these Terms and Conditions, and, if completion of the Work has been delayed thereby, Contractor may in addition be granted a commensurate extension of the Contract Time pursuant to Article 18 of these Terms and Conditions provided that the Contractor satisfies the substantiation requirements of Articles 20 and 18 of these Terms and Conditions, respectively.

- F. The Authority shall at all times have access to the Work during its construction. All work done and all materials provided shall be subject to the Authority's on-site and off-site inspection and approval. When work is performed during hours other than Contractor's normal schedule, Contractor shall so advise the Authority not less than 24 hours in advance. Contractor shall provide access to the Work for authorized representatives of the Authority for the purpose of inspecting the Work.
 - G. The Authority's inspection and approval of Work or materials shall not relieve Contractor of any of Contractor's obligations to fulfill the requirements of the Contract Documents. Work and materials not meeting the requirements shall not be incorporated in the Work. Unsuitable or nonconforming work or materials may be rejected by the Authority, notwithstanding that such work or materials may have been inspected previously by the Authority or its representative, or that payment therefor was made by the Authority.
 - H. Contractor shall allow access to the Work to authorized representatives of the Georgia State Highway Engineer for the purpose of inspecting work associated with the Georgia Department of Transportation and to authorized representatives of the municipalities, counties, railroads, and utilities for the purpose of inspecting the Work associated with their respective interests. In the case of any work under the Contract that is to be performed for the benefit of, or for later transfer to, the State of Georgia, or to any county, municipality, or other public agency, to any railroad or utility, or to any other third party, Contractor shall be responsible for ensuring that the design and construction of such Work conforms to all Applicable Law; for attending inspections of such work, and for cooperating and assisting in the conduct of such inspections; and for assuring the approval or acceptance of such work by such third parties.
 - I. The Authority may inspect the production of material, and the manufacture of products, at the source of supply, and Contractor must ensure that the producer or manufacturer of the material or products provides reasonable assistance and coordination to the Authority. The Authority shall have free entry during normal working hours to such parts of the plant as concern the manufacture or production of the materials or products. Adequate facilities shall be furnished to make the necessary inspection; however, the Authority assumes no obligation to inspect materials at the source of supply. The responsibility for incorporating satisfactory materials and products in the design and the Work rests entirely with Contractor, notwithstanding any prior inspections or tests.
 - J. Contractor shall (1) conform its Final Design to meet with all Applicable Laws; and (2) notify, arrange, schedule, and facilitate any required governmental, including municipal and State, inspections. Contractor shall deliver to the Authority one copy of each notice, arrangement and schedule, and inspection result in accordance with the Contract Documents.
30. **SUBSTANTIAL COMPLETION.** When Contractor considers the Work, or a portion thereof designated for Substantial Completion by the Contract Documents, as having achieved Substantial Completion in accordance with the Contract Documents, Contractor shall (i) certify in writing that the Work, or the designated portion thereof, is substantially complete and (ii) prepare and propose to the Authority a list ("Punchlist") detailing all unfinished items of Work that constitute non-critical deficiencies ("Punchlist Items").
- A. Contractor's proposed Punchlist must also include a schedule and cost estimate for the completion, correction, or repair of the Punchlist Items. Following the Authority's receipt of the proposed Punchlist, the Authority will make all observations and tests it deems appropriate for the purpose of ascertaining that the Work has achieved Substantial Completion and, if necessary, correct or add to the Punchlist. If the Work is determined by the Authority to be substantially complete, the Authority will issue a Certificate of Substantial Completion and establish the time within which Contractor must complete remaining Punchlist Items. If the Work is not substantially complete, the Authority will so advise Contractor, and Contractor will promptly remedy and

complete any Work necessary to achieve Substantial Completion. The Authority is not obligated to perform a detailed inspection to identify all incomplete items and the Authority's issuance of a Certificate of Substantial Completion shall not relieve Contractor of its obligations to complete the Work in accordance with the Contract Documents.

- B. The failure to include any items on the Punchlist does not alter the responsibility of Contractor to complete all Work in accordance with the Contract Documents. Contractor shall revise and resubmit the Punchlist as necessary to reflect the additional Punchlist Items identified by the Authority or Contractor, and to address objections raised by the Authority to the reasonableness of the proposed schedule and cost estimate proposed by Contractor. This process shall continue until the Authority approves the Punchlist in writing. Contractor shall then expeditiously complete and correct the Punchlist Items in accordance with the schedule provided in the approved Punchlist. The Punchlist Items will not be considered to be complete until the Authority has observed and approved the completion, correction, or repair of each Punchlist Item and has acknowledged in writing, by notation upon the approved Punchlist, that such Work as observed is complete and acceptable.
 - C. If Contractor fails to diligently pursue and expeditiously complete the Punchlist, or any Punchlist Item remains incomplete and uncorrected more than thirty (30) Days following Substantial Completion, then the Authority may elect to complete any Punchlist Item and assess against Contractor the cost of performing the remaining Punchlist Items. Neither the Authority's issuance of a Certificate of Substantial Completion, nor approval of a Punchlist by the Authority, nor the Authority's failure to identify deficiencies to be added to a Punchlist shall relieve Contractor from its sole and absolute responsibility for the adequacy, correctness, and completeness of design and construction of the Work, nor shall those acts by the Authority diminish Contractor's sole and absolute responsibility for compliance with the requirements of the Contract Documents in accordance with the Standard of Care.
 - D. When the Authority has determined that all Punchlist Items have been completed and met all other requirements for Final Completion, Contractor will apply for, and the Authority will review and issue a Certificate of Final Completion, if appropriate.
 - E. A determination by the Authority that Contractor achieved Substantial Completion or Final Completion of the Work, or the Authority's decision to issue a Certificate of Substantial Completion or Certificate of Final Completion, or the Authority's payment following Substantial Completion, Final Completion or Final Acceptance, or the Contractor's achievement of Final Acceptance of the Work, shall not preclude or diminish the Authority's rights or remedies for non-conforming Work discovered after such events. All rights and remedies of the Authority shall continue after such events.
31. **TIME OF COMPLETION.** Contractor shall complete the Work and the Project in accordance with the Contract Time and the Baseline Schedule. Contractor may complete the Project or any part of it earlier than the time period(s) stipulated herein, and may schedule the Work to do so, but shall not in any event be entitled to additional compensation for delays, whatever the cause, unless completion is delayed beyond the dates so stipulated, and in such case only to the extent completion is delayed beyond such dates for causes that are otherwise compensable as specified in Articles 18 and 20 of these Terms and Conditions.
- A. **Contract Time:** Contractor shall complete all design, manufacture, installation, construction, achieve Substantial Completion, **and achieve Final Completion of the Project within three (3) years of Contract execution.**
 - B. Contractor shall complete Work in the durations **as set forth in the Performance Criteria. The Contract Time for the Construction Phase will be developed by MARTA and the Contractor during the Design Phase. Such schedule shall be (1) agreeable and Approved by MARTA; and (2) shall achieve Final Completion of the Project no later than three (3) years from Contract execution.** The Baseline Schedule prepared by Contractor and accepted by the Authority shall be recognized as Contractor's planning tool and a general guide for projected task and location completion. Any adjustment to the time allowed for completion of Work will be made using the change process set forth in Article 20 of these Terms and Conditions.
 - C. *Reserved.*

D. Completion of Task and Location Work: Time of completion and release to the Authority of activities pertaining to a task or Job Site shall be within the Contract Time allocated in the Baseline Schedule. Contractor will start and diligently progress the Work according to the Baseline Schedule and the time needed to complete each task or location.

E. The Authority reserves the right to accelerate the release of locations within the Job Site as it sees fit.

32. **PROGRESS PAYMENTS.** Subject to Article 35 of these Terms and Conditions, the Authority will make progress payment(s) for the Contract Price in accordance with major milestone payment(s) included in the Price Proposal Form. The payments for these milestones will be made upon completion of the respective milestone(s) unless otherwise approved by the Authority. Contractor shall furnish a breakdown of the total Contract Price, or lump sum Line Items, prepared in a manner approved by the Authority, showing the amount included therein for each principal category of the Work, to provide a basis for determining progress payments. In preparing pay estimates, Contractor may, subject to and to the extent authorized by subparagraph G of this Article, include materials and equipment to be used in the Work.

A. Ten percent of each progress payment will be retained until Substantial Completion of the Work; however, when 50 percent of the Work, as measured by its estimated value including all Change Orders and other additions to the Contract Price provided for by the Contract, has been completed, the Authority, in its sole discretion, may authorize the remaining progress payments to be made in full. When all Work has achieved Substantial Completion in accordance with the Contract Documents, the Authority will release to Contractor the amount retained in excess of the sum of: (i) twice the estimated value of completing or correcting the Punchlist Items; (ii) reasonable amounts of outstanding items required for administration and closeout of the Contract, such as change proposals, testing prerequisites, final corrected Shop Drawings, project record documents, etc.; (iii) the reasonable amount of any claims the Authority may have against Contractor; (iv) any amounts reasonable or appropriate to protect the Authority from any claims of third parties arising out of the Contract; and (v) other amounts permitted to be withheld by the Authority as provided elsewhere in the Contract.

B. All materials and work covered by progress payments made shall thereupon become the sole property of the Authority, but this provision shall not be construed as relieving Contractor from (1) the sole responsibility of the risk of loss; and (2) care, custody, and control for all material and work upon which payments have been made or for the restoration of all damaged work, all in accordance with Article 14 of these Terms and Conditions, or as waiving the right of the Authority to require the fulfillment of all of the terms of the Contract Documents.

C. Progress payments will be made within 15 Days after the Authority approves a proper invoice, prepared in accordance with this Article.

D. No progress payment will be made when the total value of work covered by the invoice is less than \$500.00.

E. *Reserved.*

F. Invoices for progress payments shall be on forms supplied by the Authority and include Georgia statutory waivers and releases of lien and bond rights upon interim payment from Contractor and all Subcontractors seeking progress payment. The invoice shall be supported as required by the Contract Documents and by other evidence that is required by this Article. Contractor shall certify that the Work invoiced has been done and that the materials listed are stored where indicated. In the case of all progress payments after the first, Contractor shall submit a certificate that all Subcontractors and suppliers who, whether directly to Contractor or through intermediate Subcontractors, performed work or supplied materials or equipment, payment for which was included in the previous progress payment, have been paid all amounts due for all work, materials, and equipment for which the Authority has so paid Contractor. Contractor shall sign this certificate, or if Contractor is a corporation, on behalf of the corporation, and shall submit this certificate with the invoice; submittal of this certificate shall be a condition precedent to each progress payment being made.

G. The Authority will authorize payment for material and equipment to be incorporated into the Work that has been delivered to the Job Site but not yet so incorporated, and in its sole discretion may authorize payment for material or equipment to be incorporated into the Work but stored elsewhere than the Job Site, as follows:

- (1) Contractor shall, within 90 Days after it receives the CNTF, provide to the Authority a list of all materials and equipment for which Contractor will request payment under the provisions of this Paragraph.
- (2) Material and equipment must be delivered on the Job Site or delivered to Contractor and properly stored in a warehouse, storage yard, or similar suitable facility within 25 miles of the Job Site or as may be approved by the Authority. Before each payment is made for material or equipment delivered to the Job Site, Contractor shall furnish the Authority evidence of ownership and properly executed bills of sale to Contractor for such material or equipment upon which payment is requested.
- (3) Payment for materials or equipment furnished and delivered as indicated in Subparagraph G.(2) of this Article will be made with retention withheld as specified in Paragraph A of this Article. In no event shall payments for materials or equipment made under Subparagraph G.(2) of this Article exceed 85 percent of the Line Item price until such material or equipment has been incorporated into the Work.

H. Contractor must not permit any mechanics' or materialmen liens, claims, violations or other encumbrances to be recorded against the Project, the Job Site, or any other property owned or utilized by the Authority. If any such lien or other encumbrance, or any notice or claim of such lien, is filed for any labor, materials, supplies, or equipment claimed to have been furnished to or incorporated into the Work, or for any other alleged contribution thereto, Contractor must promptly satisfy, transfer to bond, or otherwise cause the removal of the lien or claim within 30 Days. If Contractor fails to do so, the Authority shall have the right to retain from payments otherwise due Contractor, in addition to all other amounts properly withheld under this Article or under other provisions of the Contract, in an amount equal to such lien or liens or encumbrances claimed, or violations issued, and may, in its sole discretion, use those funds to cause the removal of the lien or claim.

I. All sums due under this Contract including progress payments, and Final Payment as set forth in Article 35 of these Terms and Conditions, if any, is subject to withholding and other deductions reasonably necessary to (i) satisfy any Claims against Contractor; (ii) to cure Contractor's defaults; (iii) to protect the Authority from damages, liens, judgments or claims as may relate to Contractor's Work; or (iv) to satisfy Liquidated Damages or other costs chargeable by the Authority or creditable to the Authority under this Contract.

33. CONTRACT PRICES. The Contract Price shown in the Price Proposal Form shall be full compensation for furnishing all design, plant, labor, equipment, appliances, and materials needed to perform all operations required to complete all Work in full and strict conformity to the Contract Documents. All costs of all the foregoing, although not specifically provided for by a Line Item in the Price Proposal Form, shall be included in the price for the most appropriate Line Item. Except as set forth in Article 20 of these Terms and Conditions that may provide for relief, the fact that a specific Line Item is not provided for materials, equipment, or activities necessary to complete the Work shall not entitle Contractor to additional compensation therefor. The prices so proposed shall likewise include Contractor's full compensation for restoring any loss and repairing any damage arising from the nature of the Work, or from the action of the elements, from any unforeseen difficulties that may be encountered in performing the Work, or from any other risk of any kind or nature whatsoever, or from any interruption, suspension, or discontinuance of the Work, except as and only to the extent provided elsewhere in the Contract.

- A. In the case of Line Items paid for on a unit price basis, the quantities are subject to adjustment at the unit prices under the Contract. No adjustment to the unit price will be made because of differences in quantities. The adjustment of the quantities at the unit price shall be deemed full compensation for the change in quantity including without limitation loss of anticipated profits or for consequential damages relating to any adjustment downward of the quantities.
- B. The Authority has a right to review prices for any item for price reasonableness and have such a price adjusted if found unreasonable.
- C. All amounts for Owner Allowances specified in the Price Proposal Form are Owner Allowances that may be paid to Contractor only for expenses that are Approved by the Authority and actually incurred by the Contractor for necessary work performed under the Owner Allowance. If use of an Owner Allowance is approved by MARTA and MARTA issues a Letter Directive, the Contractor thereafter shall apply for payment under the Owner Allowance and submit proof of payment acceptable to the Authority. Any unspent monies left in an Owner Allowance shall not be paid to Contractor and be retained by MARTA.

D. *Reserved.*

34. **TAXES.** The Contract Price shall include full compensation for all taxes that Contractor is or may be required to pay. The Authority is exempt from payment of the Federal Manufacturers' Excise Tax and from the State of Georgia Sales and Use Taxes. These exemptions may or may not, however, extend to materials or other property purchased or otherwise acquired by Contractor and used in performing the Contract. Contractor shall be responsible for any sales or use tax incurred with respect to such materials or other property. If the Authority furnishes Contractor, for installation under the Contract or for use in performing it, with material or other property with respect to which sales or use tax has not been paid, a use tax may be incurred with respect thereto. If so, the Authority will reimburse Contractor for such use tax as actually assessed and paid, provided Contractor has requested such reimbursement within 30 Days after paying such use tax and has provided the Authority with a copy of the receipt therefor, and provided further that no overhead, profit, or other markup shall be added to the amount of such tax. Contractor represents and warrants that the prices of any imported materials, equipment, or supplies do not violate the laws of the United States relating to Countervailing and Anti-Dumping Duties, U.S. Code, Title 19, Sections 1303 and 1671 *et seq.*, as amended, and agrees to pay any duties assessed under the said Act and to indemnify and hold harmless the Authority from any loss or expense, including but not limited to reasonable attorneys' fees, that the Authority may incur from any claim, demand, or investigation of any alleged violation of the said Act.
35. **FINAL PAYMENT.** Contractor may apply for, and MARTA will issue Final Payment, in accordance with this Article 35.
- A. Contractor shall prepare and submit a proposed final invoice to the Authority showing the proposed total amount due to Contractor, segregated as to Line Item quantities, Force Account Work, and other bases for payments; all deductions made or to be made for prior payments; amounts the Authority shall or may retain as set forth in this Contract; final waivers and releases of lien and bond rights upon Final Payment on the Georgia statutory form from Contractor and Subcontractors and Sub-Subcontractors; any Claims that Contractor has or a statement that Contractor is not pursuing any Claims; and any unsettled Claims, stating the amount of each. All prior invoices and payments shall be subject to correction in the proposed final invoice. Any Claims identified with the final invoice must be otherwise timely and properly substantiated as required under this Contract.
- (1) The Authority will review Contractor's proposed final invoice and issue any necessary changes or corrections to Contractor. Within 10 Days thereafter, Contractor shall submit a final invoice incorporating any changes or corrections made by the Authority together with any additional Claims resulting therefrom. Upon approval by the Authority, the corrected proposed final invoice will become the approved final invoice.
 - (2) If Contractor submits no Claims with the final invoice and no Claims remain unsettled within 30 Days after final inspection of the Work by the Authority, and agreements are reached on all questions regarding the final invoice and the Work, the Authority, in exchange for the Affidavit of Final Payment and Final Release (as defined and referenced in Article 35.A.4 of these Terms and Conditions, and provided that Contractor has supplied all supporting documentation as required by this Article 35 and Article 30 of these Terms and Conditions) will pay the entire sum found due on the approved final invoice; provided, however, that the Authority may continue to withhold any sums required or permitted to be withheld pursuant to this Contract.
 - (3) The payment made pursuant to this Article 35.A.2 or Article 35.A.5 of these Terms and Conditions, if any, shall be termed the "Final Payment."
 - (4) The "Affidavit of Final Payment and Final Release" will release all Claims by Contractor arising from the Work under the Contract and will inure to the benefit of the Authority. This release will include a certificate under oath and in accordance with O.C.G.A. § 44-14-361.2, that all Subcontractors and suppliers who, whether directly to Contractor or through intermediate Subcontractors, performed work or supplied materials or equipment, payment for which was included in any prior payment, have been paid all amounts due for all work, materials, and equipment for which the Authority has so paid Contractor. If Contractor's Claim to amounts payable under the Contract has been assigned, a release may also be required of the assignee.

- (5) If Contractor lists Claims with the final invoice, upon final determination of all of Contractor's Claims, the Authority, in exchange for the Affidavit of Final Payment and Final Release and subject to Article 35.A.6 of these Terms and Conditions, will pay the entire sum found due on the approved final invoice, including the amount, if any, agreed by the Authority for Claims provided, however, that the Authority may continue to withhold any sums required or permitted to be withheld pursuant to this Contract.
- (6) The Authority will pay the whole amount, but for any sums required or permitted to be withheld pursuant to this Contract, within 30 Days after (i) receipt of a final invoice that is approved by the Authority and release as required by Article 35.A.(4) of these Terms and Conditions; and (ii) resolution of all of Contractor's Claims.
- (7) If an approved final invoice has not been submitted within sixty (60) Days after final inspection of the Work, however, the Authority may elect to make payment of sums not in dispute (except the Authority may continue to withhold sums pursuant to this Contract) without prejudice to the rights of either the Authority or Contractor in connection with such disputed items.
- (8) Except where inspection of records retained by Contractor, as provided elsewhere in the Contract Documents, shows that Final Payment was incorrectly determined, Final Payment made in accordance with this Article shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and compensation owed under this Contract. Final Payment notwithstanding, the Authority's rights under this Contract are not waived or released upon issuance of Final Payment including without limitation those relating to any Warranty or indemnification obligations.

B. If any mechanic's or materialman's lien, or any notice or claim of any such lien, is filed or recorded against the project for any labor, materials, supplies, or equipment claimed to have been furnished to or incorporated into the Work, or for any other alleged contribution thereto, the Authority shall have the right to retain from payments otherwise due Contractor, in addition to all other amounts properly withheld under this Article or under other provisions of the Contract, an amount equal to such lien or liens claimed, until such lien or claim of lien has been discharged of record or has expired as provided by law.

36. WARRANTY OF WORK. All Work shall be free from defects and conform to the requirements of the Contract Documents including without limitation that (i) Contractor's Final Design be suitable and fit for the intended purposes and functions of the Work as set forth in the Contract Documents; and (ii) that Contractor's Work meets with the Performance Criteria, MARTA Design Criteria, and the Procedural Specifications. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of good quality. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials and Work. Contractor shall also, without additional cost to the Authority, obtain guarantees and warranties from Subcontractors for all Subcontractor-furnished Work, equipment, materials, services, and any other items used and installed as part of the Work, that comply with Contractor's warranty obligations as set forth herein. The foregoing obligations and the obligations contained in the remainder of this Article 35, collectively, shall be referred to as the "Warranty."

A. If the Authority, or any public body, utility, or railroad to whom the ownership of the Work has been transferred or who has agreed to maintain the Work, gives Contractor a Notice within a reasonable time after discovery of any failure to meet any of the guarantees as set forth in the Contract, which failure will appear prior to (i) the expiration of one (1) year after issuance of the Certificate of Final Completion; or (ii) the expiration of any longer warranty or correction period required by the Contract Documents, Contractor will within 10 Days promptly perform repair or replacement or reperform the Work necessary to remedy the failure with the expenses thereof to be borne by Contractor (the "Warranty Period"). Provided that the time for repair or replacement of the Work will reasonably take more than 10 Days, then Contractor is required to commence efforts to perform repair or replacement of the Work within that time frame and thereafter diligently prosecute the repair or replacement. In addition, Contractor will, at its own expense, conduct tests as the Authority may reasonably require to demonstrate the effect of such repair, replacement, or re-performance. With respect to Work, or portion thereof, that is repaired, replaced, or re-performed, the warranty and correction period will be further extended for one (1) year after the date of completion of such repair, replacement, or re-performance or until the end of any warranty period specified, whichever is later (the "Evergreen Period"). Issuance of any payment to Contractor shall not relieve Contractor of any obligation hereunder. Contractor, at no additional expense to the Authority, shall also remedy damage to

equipment, the Job Site, or the buildings or the contents thereof that is the result of any failure or defect, and restore any work damaged in fulfilling the terms of this Article. Should Contractor fail to remedy any such failure or defect within the time provided after receipt of notice thereof, the Authority shall have the right to replace, repair, or otherwise remedy such failure or defect and to recover the cost of doing so from Contractor. In the event the Authority must take emergency action with respect to corrective work in order to avoid injury to person or property, the Authority will be allowed to take corrective action as needed and as determined in its sole discretion, and Contractor shall reimburse the Authority for all costs associated with the corrective actions taken by the Authority. Contractor's warranty and guarantee obligations set forth in the Contract inclusive of this Article 36.A is irrespective as to whether any Subcontractor has supplied warranty or guarantees, or assignments thereof, to MARTA in accordance with Article 36.B of these Terms and Conditions.

- B. Subject to this Article 36.A, all Subcontractors' warranties and guaranties, express or implied, respecting any part of the Work or any material used therein shall be deemed to be obtained by Contractor as the agent of and for the benefit of the Authority, and shall be enforced as such, without the necessity of separate transfer or assignment thereof; provided that, if directed by the Authority, Contractor shall require such Subcontractors to execute such warranties and guaranties, and assignments thereof, in writing, directly to the Authority. The existence of a warranty or guarantee provided by any Subcontractor or assignment thereof in accordance with this Article 36.B shall not obviate Contractor's express warranty and guarantee obligations set forth in Article 36.A of these Terms and Conditions. Contractor's role as agent for MARTA, to the extent required as contemplated by this paragraph, shall be strictly limited to sourcing, procuring, and enforcing the warranties and guarantees provided in relation to this Contract. All of Contractor's obligations set forth in this Contract, inclusive of the indemnity obligations set forth in Article 49 of these Terms and Conditions, shall fully apply to Contractor's work in this regard.
- C. The warranties set forth herein, and those contained elsewhere in the Contract Documents or implied by law, will be deemed cumulative and not alternative or exclusive. No one or more of them will be deemed to alter or limit any other warranty or any other right or remedy under the Contract or at law. Nothing contained in this Article will be construed to establish a period of limitation with respect to any liability that Contractor has under the Contract, or under any separate warranty required thereby, or at law. The Warranty Period, the Evergreen Period, and any other warranty time period established by any separate warranty, relates only to the specific obligation of Contractor to correct its Work and has no relationship to the time within which Contractor's obligation to comply with the Contract Documents or applicable provisions of law or any breaches may be sought to be enforced or remedied. The rights and remedies of the Authority provided in this Article are in addition to and do not limit any rights afforded to the Authority by any other provision of the Contract or otherwise by law.
- D. Nothing in the above intends or implies that this warranty shall apply to Work that has been abused or neglected by the Authority or other public body, utility, or railroad to whom ownership has been transferred.
- E. The equipment and components to be designed, manufactured, or installed and the related construction under this Contract shall constitute a single, complete, and integrated system that meets with the requirements of the Contract Documents. However, all Work completed at each location shall be inspected and tested, and if satisfactory, the Authority may take possession of the completed location or any component thereof and place such part(s) of the Work into use pursuant to Articles 14 and 24 of these Terms and Conditions. In such a case, title and risk of loss of such part shall pass to the Authority but shall not constitute acceptance thereof. Although the Authority may take possession of a location or multiple locations, Contractor will be responsible for (i) achieving Final Completion and Final Acceptance of the Work; (ii) maintaining the equipment and the system through the duration of the Contract until Substantial Completion; and (iii) satisfying all other requirements and obligations as required by the Contract Documents.

37. **CLAIMS AND DISPUTE RESOLUTION.** If the Parties fail to reach an agreement on any Claim by Contractor for a Change Order pursuant to Articles 18 or 20 of these Terms and Conditions, or any other dispute arises out of or otherwise relates to the Parties' respective obligations under the Contract, Contractor's sole remedy shall be to file a Claim with the Authority as provided in this Article.

- A. Nothing herein is intended to waive or extend any earlier Notice and Claim requirements set forth elsewhere in the Contract, and in all events, any Claim or dispute initiated by Contractor must be raised as follows collectively:

(i) within Contractor's application for Final Payment, (ii) within twenty (20) Days from the date of the first circumstance giving rise to the Claim, and (iii) within the time period required by the specific provision of the Contract upon which the Claim is based.

- B. A Notice of Claim shall (i) be made in writing; (ii) be sent through electronic mail with a copy hand delivered or sent via U.S. Mail with return receipt; (iii) include a title or subject line that clearly identifies the document as a "Claim;" (iv) identify the specific provision of the Contract upon which the Claim is based, and (v) set forth in detail the basis for the Claim. Claims for adjustments to the Contract Price or other damages or compensation shall identify the amount of the Claim and shall include appropriate documentation of the amount claimed. Claims for extensions of Contract Time shall identify the number of Days claimed, the cause of any delay, the affected schedule activities, and information, including a network schedule analysis, to demonstrate that the critical path was extended. It will be the responsibility of Contractor to furnish, when requested by the Authority or upon Contractor learning of any change to the basis or amount of its Claim, further information and details as may be required to determine the facts or contentions involved in Contractor's claims. Failure to submit such information and details will be sufficient cause for denying Contractor's Claims and will constitute a waiver of any relief to which Contractor might otherwise be entitled.
- C. Timely submittal of Claims within the time and in the form stipulated above, with adequate supporting evidence, shall be a condition precedent to Contractor's right to any compensation, time extension, or other relief based thereon. Contractor acknowledges and agrees that the Authority will be prejudiced by any failure of Contractor to fully comply with all contractual Notice and substantiation requirements, and Contractor hereby stipulates and agrees that it will not assert, and hereby waives, any and all Claims not timely asserted, pursued, and substantiated within the time periods established by the Contract, including but not limited to those for additional compensation, adjustment of the Contract Time, or adjustment of any other term or condition of the Contract.
- D. The Authority shall be entitled to a reasonable time, in no case less than thirty (30) Days, after it receives each Claim, in writing and accompanied by supporting documents and evidence, in which to investigate, review, and evaluate such Claim. When the Authority has completed its investigation, review, and evaluation, it will advise Contractor of the relief, if any, to which it has found Contractor to be entitled. The Authority's decision with respect to Contractor's claim is final unless shown by Contractor to be arbitrary and capricious, unsupported by any evidence, or so grossly erroneous as necessarily to imply bad faith. If Contractor is not satisfied with the Authority's findings, Contractor shall, within 10 Days after being advised thereof, request the Authority to reconsider and specify the basis on which Contractor seeks to demonstrate that the Authority's decision was arbitrary and capricious, unsupported by any evidence, or so grossly erroneous as necessarily to imply bad faith. Contractor's failure within that time to request reconsideration shall waive any relief other than or in addition to that, if any, which the Authority has found to be due. Within thirty (30) Days after the Authority receives such a request to reconsider, it will advise Contractor of its final determination with respect to the Claim that is the subject of such request.
- E. Contractor promises and agrees that Contractor will not institute any action at law, suit in equity, or other legal proceeding against the Authority, arising in any manner whatsoever out of or in connection with the Contract or the performance or breach, or alleged breach, hereof, or the warranty hereunder, unless and until Contractor shall first have submitted a Claim and requested and received the Authority's final determination (after Contractor's submission for reconsideration) with respect to the subject matter of such action, suit, or other proceeding as provided above. Failure to submit a Claim and pursue it to a final determination as set forth in the procedures contained in these Terms and Conditions shall be deemed a waiver of such Claim or any damages or relief that may be due in respect thereof. Contractor further promises and agrees that no action at law, suit in equity, or other legal proceeding arising as aforesaid shall be brought after Final Payment is received by Contractor. Failure to commence any action, suit, or other proceeding within the appropriate time, or failure to preserve any Claim by way of pursuing the Claim through the administrative remedies set forth herein, will constitute a waiver of any and all damages or other relief that may be due in respect thereof.
- F. Provided that the Contractor is entitled to additional compensation, Claims for increases to the Contract Price shall be no greater than the actual Job Site costs incurred by the Contractor plus any markup expressly permitted by this Contract. If any other provision of the Contract Documents limits or precludes additional compensation to Contractor in certain events or circumstances, then any Claim for additional compensation related to such event

or circumstance shall be limited or precluded as provided in such provision. As an additional condition to increase the Contract Price, Contractor shall retain contemporaneous documentation of all costs supporting such increase and shall submit copies thereof to the Authority along with the Notice of Claim or, for continuing Claims, on a daily basis after submitting the Notice of Claim and as may be otherwise required by the Contract Documents. Provided that the Contractor is entitled to additional compensation, such compensation shall not include any indirect or consequential damages. In the case of Claims for additional compensation for the actual costs of performing Work added or changed by the Authority by an express Change Order under Article 20.B of these Terms and Conditions, markups on any additional compensation found due for such costs of performance shall be allowed in accordance with the terms set forth in Article 20 of these Terms and Conditions.

- G. Neither the submittal of a Claim nor the fact that any such Claim or Claims is or are pending shall excuse Contractor from the full and timely performance of the Work and all other obligations under the Contract. Contractor shall continue such performance, unless otherwise instructed in writing by the Authority, notwithstanding any dispute that may arise concerning the compensation due Contractor or either party's performance of or failure to perform any obligation required by the Contract. Contractor waives any right to cancel the Contract or to suspend or discontinue work that may arise out of any breach, alleged breach, or other act, conduct, or omission by the Authority.

38. LIQUIDATED DAMAGES FOR DELAY. Time limits stated in the Contract Documents are of the essence to Contractor's performance under the Contract. If the Work, or any part thereof or which a separate completion date is stipulated, is not completed within the time or times stipulated in the Contract, the Authority will sustain damages the amount or extent of which will be impracticable or impossible to ascertain. If Contractor fails to complete the Work or any part thereof within the time so stipulated, Contractor shall pay to the Authority as liquidated damages the amount stipulated below for each Day's delay, or fraction thereof, in completion of the Work, or of any part thereof for which a separate completion date is stipulated (the "Liquidated Damages"). For this purpose, the Work shall be considered complete when the Authority, on the basis of its inspection as provided in Article 29 of these Terms and Conditions, issues a Certificate of Substantial Completion in accordance with Article 30 of these Terms and Conditions, subject to completion of the Punchlist Items. Contractor shall correct and complete all such items within 30 Days after receiving this list; if it fails to do so, the assessment of Liquidated Damages shall resume at the end of such 30 Days. The Authority may deduct the amount of liquidated damages from any monies otherwise due, or that may otherwise become due, Contractor, or if such monies are insufficient, may recover the balance from Contractor.

- A. The Authority's right to assess Liquidated Damages in accordance with this Contract is in addition to, and not in lieu of, all other rights and remedies other than compensatory damages that the Authority has, under the Contract or otherwise according to law, for Contractor's failure to timely complete the Work within the Contract Time. Any such Liquidated Damages assessed and collected shall compensate the Authority only for its damages resulting from such late completion, and the Authority shall be entitled to recover, in addition, all other damages resulting from Contractor's default from which such late completion results, and from any and all other defaults by Contractor, and to pursue all other rights and remedies the Authority has, under the Contract or otherwise according to law, for all such defaults.
- B. The Contract Time and Contract Completion Date may be extended as provided in Article 18 or elsewhere in the Contract, in which case Contractor shall be responsible for Liquidated Damages only if it fails to complete the Work within the additional time or times.
- C. Liquidated Damages for failure to complete the Work specified in Contract Documents within the Contract Time shall be assessed at the rate of \$1,600.00 per Day per site (or portion thereof) for each Day (or portion thereof) past 120 Days after issuance of a CNTP, plus any additional Days added to the Contract Time pursuant to fully executed Change Orders, and fraction thereof, that Contractor is in default of completing such Work.

D. *Reserved.*

39. NON-CONFORMING AND UNTIMELY WORK. The Authority shall have the right, at its election, to terminate Contractor's right to perform or to proceed with any part of the Work required by the Contract, if Contractor fails, neglects, or refuses to perform the Work in a timely manner, or if Contractor performs it in a manner that does not conform to the requirements of the Contract, or installs or incorporates into such Work any materials, equipment, or

other products that do not conform to the requirements of the Contract. If the Authority chooses to exercise this right, it may perform or complete such part of the Work, or cause it to be performed or completed, and deduct all costs of doing so from payments otherwise due Contractor. The Authority shall exercise this right subject to the following conditions:

- A. In the case of Work Contractor has failed, neglected, or refused to perform, or to perform in a timely manner, the Authority will give Contractor 10 Days' Notice to begin such Work, or to take such measures as may be necessary to ensure its timely completion. If at the end of 10 Days, Contractor has not complied with such Notice in a manner satisfactory to the Authority, the Authority may take over the Work by giving Contractor a further Notice of its election to do so.
- B. In the case of Work, materials, equipment, or other products that do not conform to the requirements of the Contract Documents, the Authority will give Contractor 10 Days' Notice to remove the same and to begin replacing it with Work, materials, equipment, or products that fully and strictly conform to such requirements. If at the end of 10 Days, Contractor has not begun to remove and replace such work, materials, equipment, or other products, or if having begun to do so Contractor fails, neglects, or refuses to carry out such removal and replacement with sufficient diligence to ensure the timely completion thereof, the Authority may take over the Work by giving Contractor a further Notice of its election to do so.
- C. Contractor will be responsible for the Authority's costs of performing or completing any Work the Authority takes over pursuant to this Article, including without limitation any costs for design services in connection therewith.
- D. Any delay to the completion of the Work, or of any part for which a separate completion date is stipulated, or to the Progress Schedule, that may result wholly or in part from the Authority's election to take over any part of the Work in accordance with this Article shall be considered to have resulted from the fault of Contractor and an Unexcused Delay.

40. **TERMINATION FOR DEFAULT.** The events described below shall be events of default, upon the occurrence of any of which the Authority shall have the right, at its option, to terminate Contractor's performance under the Contract. In the case of any such event except Contractor's insolvency, assignment for benefit of creditors or transfer in fraud of creditors, bankruptcy, or receivership, the Authority shall first give to Contractor a Notice that Contractor is in default as defined herein, and of the reason for such default. If Contractor (1) fails to remedy such default within ten (10) Days after it receives such notice; or (2) for remedies that will take more than ten (10) Days to remedy and Contractor fails to commence actions to remedy the default, the Authority may terminate the Contract by giving Contractor a further Notice of its election to do so. Such termination shall be effective immediately, or at such other time as the Authority may specify in such notice. In case of Contractor's insolvency, assignment for benefit of creditors or transfer in fraud of creditors, bankruptcy, or receivership, Contractor shall not be entitled to prior notice of such default. The Authority's right to terminate the Contract as provided in this Article shall be in addition to all other rights and remedies, at law, in equity, or otherwise, to which the Authority may be entitled arising out of such events of default. If upon the occurrence of any event of default, the Authority shall waive the same or shall elect not to exercise its right to terminate the Contract, such waiver or election shall not be or be construed as a waiver of any rights or remedies of the Authority pursuant to the Contract or at law, nor to be a waiver of the Authority's right to declare default or terminate including without limitation because of a like default on another occasion.

- A. The events of default for which the Authority may terminate the Contract in accordance with this Article are the following:
 - (1) If Contractor fails to complete the Work, or any part of the Work for which a separate completion date is stipulated, within the Contract Time, as such time may be extended as provided by the Contract;
 - (2) If Contractor fails to make progress sufficient to ensure the completion of the Work, or any part of the Work for which a separate completion date is stipulated, within the Contract Time, as such time may be extended as provided by the Contract;
 - (3) Contractor or the Designer of Record loses any license related to performance of the Work;
 - (4) If Contractor abandons the Contract or the Work;

- (5) If Contractor or any Subcontractor performs Work contrary to the requirements of the Contract;
 - (6) If Contractor performs the Work in a manner that is unsafe or otherwise poses a danger to person or property;
 - (7) If Contractor violates, or fails, neglects, or refuses to perform, any covenant, promise, condition, understanding, obligation, or other term of the Contract;
 - (8) If Contractor assigns all or any portion of the Contract without the Authority's consent or subcontracts the performance of all or any part of the Work under the Contract without the Authority's approval as required by these Terms and Conditions;
 - (9) If the event of any of the following occurrences: (a) Contractor becomes insolvent, or makes an assignment for benefit of creditors, or makes any transfer in fraud of creditors; (b) Contractor files a petition under any section of the National Bankruptcy Act, or under any similar law of the United States or any State thereof; (c) a petition in bankruptcy or insolvency or any similar proceeding is filed against Contractor and is not dismissed within 90 Days; (d) Contractor is adjudged a bankrupt or insolvent in any proceeding filed against it; or (e) a receiver or trustee is appointed for all or substantially all of Contractor's assets; or
 - (10) Contractor's verification made pursuant to Article 54 was erroneous.
- B. On receipt of a Notice of Termination from the Authority, Contractor shall:
- (1) Stop all Work under the Contract on the date of and to the extent specified in such Notice;
 - (2) Place no further orders or subcontracts for materials, equipment, or services except as may be necessary for completion of such portions of the Work as may be expressly excluded from the Notice of Termination;
 - (3) Cancel or terminate all orders or subcontracts, or assign those agreements to the Authority as directed by the Authority, to the extent to which they relate to the performance of Work terminated; and
 - (4) Comply with such other instructions as the Authority may give with respect to the Work so terminated.
- C. Upon termination of Contractor's right to proceed with the Work, or with any part thereof, the Authority shall have the right to take over such Work, and to complete it or cause it to be completed by whatever means and in whatever manner the Authority deems most expedient. The Authority shall have the right to take possession of all materials and equipment on the Job Site to be incorporated or installed into, or utilized for the completion of, the Work. Such materials of which the Authority takes possession shall become the property of the Authority. Such equipment of which the Authority takes possession will be made available to Contractor for pick up by the Authority after the completion of the Work. The Authority will not be required to obtain the lowest prices for completing the Work so terminated, but shall make such expenditures as, in the Authority's sole judgment, are necessary or expedient in order to complete the Work.
- D. If a termination for default by the Authority occurs, Contractor shall be liable for all damages resulting from such default including without limitation (i) the difference between the Contract Price and the actual expense of the Authority to complete the Work; (ii) Liquidated Damages for delay in completion of the Work, or any part thereof or which a separate completion date is stipulated, within the Contract Time; (iii) reasonable charges for engineering, managerial, and administrative services; and (iv) any other costs or expenses incurred by the Authority arising out of or relating to the termination or correction of Contractor's default. The expenses owed by Contractor to the Authority will be deducted by the Authority out of such monies as may be due or may at any time thereafter become due to Contractor for Work satisfactorily performed on (i) the terminated part of the Work prior to the effective date of the termination; and (ii) the portion of the Work that was not terminated. In the event such expense owed to the Authority by Contractor is in excess of the sum which otherwise would have been payable to Contractor had it completed the Contract, then Contractor or Contractor's surety shall promptly pay the amount of such excess to the Authority upon notice from the Authority of the excess so due. The Authority may, in its sole discretion, withhold all or any part of any progress payments otherwise due Contractor until completion of the Work terminated and final settlement for the costs thereof. The foregoing damages are in addition to any other liabilities and damages owed to the Authority pursuant to this Contract inclusive without

limitation of the indemnification obligations set forth in these Terms and Conditions.

- E. Contractor shall insert in all subcontracts that the Subcontractor will stop all Work on the date of and to the extent specified in a Notice of Termination from the Authority and shall require the Subcontractors to insert the same provision in sub-subcontracts. Contractor shall immediately upon receipt communicate any Notice of Termination issued by the Authority to the affected Subcontractors and sub-subcontractors.
- F. The surety or sureties on the performance bond provided for in the Contract may be entitled to take over Contractor's performance of Work in case of termination under this Article, with the prior written consent of the Authority.
- G. If, after Notice of Termination of Contractor's right to proceed under the provisions of this Article, it is determined for any reason (1) that Contractor was not in default under the provisions of this Article; or (2) in the event of termination upon default of Contractor relating to delays to performance, that Contractor was entitled to an extension of time under Article 18 of these Terms and Conditions or for any other reason, the rights and obligations of the Parties shall be the same as if the Notice of Termination had been issued pursuant to Article 41 of these Terms and Conditions.

41. TERMINATION FOR CONVENIENCE. The Authority shall have the right to terminate the Contract or Contractor's performance under the Contract, in whole or in part, at any time for the Authority's convenience. Such termination shall be affected by delivering to Contractor a Notice of Termination stating the date upon which such termination takes effect. From and after receiving such Notice of Termination, Contractor shall place no further subcontracts or orders for services, materials, equipment, or supplies to be used to perform any Work so terminated, and shall, at the Authority's direction, cancel, or assign all subcontracts and orders then outstanding for such services, materials, equipment, or supplies that it is legally entitled to cancel, and shall incur no other or additional cost, expense, or obligation for the purpose of performing the Contract. On the date stipulated in the said Notice of Termination, Contractor shall stop all Work so terminated. If the Contract is so terminated, Contractor shall be entitled to payment for (a) performing any part of the Work so terminated that has been performed satisfactorily on or before the effective date stipulated in the Notice of Termination and as set forth in this Article 41; (b) all materials, equipment, and supplies that, on the date Contractor receives the said notice, are in the process of manufacture specifically to be incorporated or installed in the Work so terminated and as set forth in this Article 41; (c) all materials, equipment, and supplies that on the date Contractor receives the said Notice of Termination had already been ordered specifically to be incorporated or installed in the Work so terminated as set forth in this Article 41; (d) for the orders for which Contractor cannot legally cancel without a cancellation charge or penalty, Contractor shall be entitled only to the amount of such charge or penalty. All materials, equipment, supplies, and other goods for which Contractor is paid and that are or come into Contractor's possession shall be delivered to the Authority or otherwise disposed of as the Authority directs; and (e) other costs or expenses incurred solely and directly to perform, or to prepare to perform, the Work so terminated or any part thereof, and that, because of the termination, Contractor will not otherwise recover or receive credit. Payments under items (a) through (c) of this Article, for satisfactory Work performed, shall be based upon the Contract prices therefor. Contractor shall not be entitled to any general administrative or overhead costs with respect to any other payments under this Article, or to anticipated profits with respect to the Work terminated or otherwise not performed as provided herein. Notwithstanding anything to the contrary, any claim for payment arising out of any termination of Work as provided herein shall be considered waived and released if not presented to the Authority, in writing, within 90 Days after the effective date stipulated in the Notice of Termination.

42. AUDIT. The Authority shall have the right to audit Contractor's books, accounts, and records for all purposes related to Work. These purposes shall include, but shall not be limited to, verifying that the amount of any adjustment to Contractor's compensation, whether because of changes to the Work, or of a Claim by Contractor that it is entitled to such an adjustment, or for any other reason, is based upon actual and reasonable costs, and that Contractor is entitled to the amount thereof. Contractor shall maintain books, accounts, and records that are adequate for these purposes, shall keep them for three (3) years after the Authority has made Final Payment and all pending matters arising out of the Contract have been closed, and shall make them available to the Authority and its agents upon request. If Contractor fails to maintain or to keep such books, accounts, and records, or to make them available to the Authority as needed, it shall not be entitled to any adjustment to Contractor's compensation that might otherwise be due, but for the amount of which can adequately be verified by audit.

43. RIGHTS IN DESIGN AND SHOP DRAWINGS. All designs, drawings, and specifications including without limitation the Design Documents, Final Design Documents, Project-Specific Specification, Final Design, Working Drawings, and Shop Drawings, submitted to the Authority that describes or depicts the Work including without limitation drawings

or depictions showing in detail or articulating the proposed fabrication and assembly of structural elements, or the installation, that is, details of form, fit, and attachment, of materials or equipment, and all information concerning products, materials, or equipment to be incorporated into the Work or used in performing it, shall to the greatest extent possible be considered "works made for hire" as defined in the United States Copyright Act (17 U.S.C.A. § 101 *et seq.*) and become the sole and exclusive property of the Authority along with all proprietary, intellectual and other property rights thereto, whether such drawings and information are prepared by Contractor or by a Subcontractor, sub-subcontractor, or supplier, and whether they are submitted by or through Contractor or directly by a Subcontractor, sub-subcontractor, or supplier. To the extent the foregoing works do not qualify as "works made for hire," Contractor shall ensure that the Authority has a royalty-free, non-exclusive, unlimited license for all drawings and documents submitted to the Authority by Contractor and Contractor's Subcontractors. The Authority shall have the right to use, duplicate, and disclose all such drawings and all information contained in them, and all other such information, in any manner and for any purpose. No matter subject to copyright under the laws of the United States, or to copyright or similar rights under the laws of any other government and valid or enforceable in the United States, shall be included in any such drawing without the written permission of the owner of such copyright or other right to transfer the ownership rights to Authority. Contractor warrants that the Authority's use of all such drawings and information will be free of any claim of infringement of any such copyright or other right. Contractor agrees to fully indemnify and hold harmless the Authority and its officers, employees, and agents from and against any and all such claims, and any and all loss, damage, or liability, including but not limited to attorneys' fees and other costs of defense, that may result Contractor's failure or inability to comply with its obligations under this Article, whether directly or indirectly, wholly or in part.

44. **PATENTS.** Except as provided below, Contractor warrants that all materials, equipment, supplies, processes, and devices incorporated or installed in the Work under the Contract, or otherwise used in performing such work, are and shall be free of any rightful claim by any third party for infringement of any patent issued by the United States, or by any other government and valid or enforceable in the United States.

- A. If any claim under any such patent is asserted against the Authority or any of its officers, employees, agents, or contractors, and if Contractor is so notified in writing and is given appropriate authority, Contractor, at Contractor's sole cost and expense, shall defend any suit or proceeding based upon such claim, or may settle such claim (provided that Contractor secures a full release of the Authority), and shall pay the costs of such settlement and all damages and costs awarded or assessed against the Authority or any of its officers, employees, agents, or contractors. If the use of any materials, equipment, supplies, processes, or devices incorporated or installed in the Work hereunder is enjoined as an infringement of any such patent, Contractor shall, at Contractor's sole cost and expense, either procure for the Authority the right to continue to use such materials, equipment, supplies, processes, or devices, or shall modify them so that they do not infringe such patent, or shall replace them with materials, equipment, supplies, processes, or devices that do not infringe such patent but that still does meet with the requirements of the Contract Documents.

The Authority will indemnify Contractor against any claims that any Authority-supplied or manufactured materials, equipment, supplies, processes, or devices infringe on any patent issued by the United States, or by any other government and valid or enforceable in the United States, provided Contractor notifies the Authority promptly and in writing of such claim, and if the Authority so requests, Contractor permits the Authority to defend or settle the same.

45. **GRATUITIES AND CONFLICTS OF INTEREST.** In addition to complying with the Authority's Code of Ethics and Standards of Conduct, Contractor agrees that any violation of the following representations, warranties, or undertakings shall be a material breach of the Contract and shall, in addition to all other remedies provided by law or otherwise, entitle the Authority to terminate the Contract for default:

- A. Contractor undertakes, represents and warrants that neither it nor any agent, representative, or other party acting on Contractor's behalf has offered or given any gratuity or gratuities, in the form of gifts, entertainment, or otherwise, to any director, officer, or employee of the Authority or of any architectural, engineering, or other consultant retained by the Authority, with a view to securing the Contract or to securing favorable treatment with respect to the award hereof, and Contractor further covenants and promises that neither it nor any agent, representative, or other party acting on Contractor's behalf will offer or give any such gratuity to any director, officer, or employee of the Authority or of any such consultant with a view to securing favorable treatment with respect to any change or amendment to the Contract, or to any other action with respect to the performance hereof.

B. Contractor undertakes, represents, and warrants (i) that none of the following persons, during Contractor's tenure or for six (6) months thereafter, has or will have any interest, direct or indirect, in the Contract or in any part of the proceeds hereof, and (ii) that until Final Acceptance of all Work to be performed under the Contract, Contractor shall not enter into any contract involving services or property, whether or not related to the performance of the Contract, with any of the following persons or with any business in which any such person has an interest, direct or indirect: Members of the Authority's Board of Directors; officers or employees of the Authority, or of any representative of the Authority in the administration of the Contract; members of or delegates to the United States Congress or the Georgia legislature; and members of the governing body, and other officers or employees, of the City of Atlanta or the Counties of Clayton, DeKalb, or Fulton, Georgia.

46. CONTRACTUAL RELATIONSHIPS. All rights under the Contract are for the benefit of, and all obligations hereunder are binding upon, the Authority and Contractor alone, and no others. No rights or obligations created by the Contract are intended to or shall benefit or be enforceable by any third party, except only certain indemnities as set forth in Articles 48 and 49 of these Terms and Conditions that expressly include without limitation the Authority's officers, agents, and employees. No privity of contract shall be created between the Authority and any other party by way of this Contract.

47. ASSIGNMENT. Contractor shall not assign the performance of the Work under the Contract, or any part thereof, without the prior written consent of the Authority. Contractor may, to the extent permitted by law, assign payments due or to become due hereunder, provided it shall give Notice to the Authority. The Authority shall not be bound by any such assignment until it has received such notice. Any payments so assigned shall be subject to all proper setoffs due the Authority and to all deductions provided for in the Contract Documents, whether such setoffs or deductions arise before or after such assignment. All funds withheld, whether assigned or not, shall be subject to the Authority's use to complete the Work if Contractor should fail, neglect, or refuse to do so. The validity of any assignment and the rights of the assignee against the Authority shall be subject to and governed by the law of Georgia.

48. INSURANCE REQUIREMENTS. Contractor shall maintain in effect at all times while performing Work under the Contract, all insurance as required by Exhibit D attached hereto and incorporated herein by this reference.

49. INDEMNITY. Contractor shall fully defend (if requested in writing by the Authority), indemnify, and hold harmless the Authority, any third party retained by the Authority to represent it in the administration of the Contract, any third party property owner(s) whose property rights are affected, and their officers, employees, and agents, from any and all loss of or damage to any property, or injury to or death of any persons, and from and against any and all liability or claim of liability to any person or persons for any loss, damage, or injury, of any kind or nature whatsoever, including injury to or the death of any person or persons, and loss of or damage to their property, arising directly or indirectly, wholly or in part, out of Contractor's performance of the Contract, or that of any Subcontractor or sub-subcontractor, or of any officer, employee, servant, or agent thereof; provided, however, that this indemnity shall not apply to any loss, liability, or claim of liability arising solely from the negligence or other fault of the Authority or its officers, agents, or employees. Such loss or liability from which Contractor shall hold harmless the Authority and the other aforesaid indemnitees shall include, but shall not be limited to, any costs or expenses, including attorneys' fees, that they or any of them may incur for defending against any such claim. If any claim subject to indemnity under this Article should arise, the Authority may withhold from payments otherwise due under the Contract funds reasonably sufficient to secure itself and the other aforesaid indemnitees against the loss, damage, or liability asserted against them. Where a court of competent jurisdiction determines that Section 13-8-2(c) of Georgia's anti-indemnity statute applies, and solely to the extent that portion of the anti-indemnity statute conflicts with Contractor's obligations set forth above or any other indemnity obligation herein, Contractor agrees to indemnify, hold harmless, and defend the Authority for damages, losses, or expenses to the extent caused by or resulting from the negligence, recklessness, or intentionally wrongful conduct of Contractor or other persons employed or utilized by the Contractor in the performance of the Contract.

50. WAIVER. There shall be no waiver express or implied. Any waiver of any term or condition of the Contract or any right of the Authority under this Contract unless such waiver is expressly made in writing. No waiver of any term or condition of the Contract on any occasion shall be deemed to be a waiver of any other term or condition hereof, or of the same or any other such term or condition on any other occasion. If upon the occurrence of any default the Authority shall waive the default, or shall elect to not terminate the Contract, such waiver or election shall not be a waiver of

any other default or an election not to terminate because of any other default, nor to be a waiver of the Authority's right to declare default or terminate including without limitation because of a like default on another occasion.

51. GOVERNING LAW; AUTHORIZED TO DO BUSINESS IN GEORGIA. This Contract shall be governed by and construed in accordance with the laws of the State of Georgia without regard to its choice of law principles. Contractor represents and warrants that it is authorized to conduct business within the State of Georgia and shall remain in good standing with the Secretary of the State of Georgia throughout the term of this Contract. The Contract shall be subject to and governed by the laws of the State of Georgia.
52. CONSENT TO JURISDICTION. The Parties hereto agree, submit and consent that any action, suit, or other proceeding arising out of or resulting from the Contract must be brought in either (a) the Superior Courts of Fulton County, Georgia or (b) in the United States District Court for the Northern District of Georgia. Contractor consents and submits to the jurisdiction of such courts in any such action, suit, or proceeding, and waives any objection to the jurisdiction thereof over Contractor's person and waives any objection which it may have based on improper venue or forum *non conveniens* to the conduct of any such action or proceeding in such court. If Contractor is a corporation, it promises and agrees that during the periods of performance and of warranty under the Contract it will maintain within Fulton County, Georgia, an agent empowered to accept service of legal process on its behalf. Contractor shall notify the Authority of the identity and address of the foregoing agent within ten (10) Days after the execution of the Contract Documents and upon ten (10) Days' notice should there be any change to the identity or address of the agent.
53. DISCRIMINATION AGAINST HANDICAPPED PERSONS. No otherwise qualified person shall be excluded from participating in, be denied the benefit of, or be subjected to discrimination under the Contract solely by reason of handicap.
54. VALUE ENGINEERING PROPOSALS. Contractor may submit proposals for changes to the requirements of the Contract for the purpose of reducing costs. Each such proposal shall be based upon a demonstrable and sound study indicating that the proposal: (a) will result in a net reduction in the total Contract Price; (b) will not impair any essential function or characteristic of the Work, such as safety, service life, reliability, economy of operation, ease of maintenance, and necessary standardization of features as required by the Contract Documents; (c) complies with the Standard of Care; (d) will not require an unacceptable extension of the Contract Time for completion of Work under the Contract; and (e) will require a change to the Contract Documents.
 - A. Contractor shall clearly identify any proposal submitted pursuant to this Article with the heading "Value Engineering Proposal." Article 20 of these Terms and Conditions will govern any proposed change not so identified. Contractor may withdraw any proposal made under this Article at any time before the Authority has accepted it, by so notifying the Authority in writing; provided, however, that if Contractor withdraws any such proposal within sixty (60) Days after it is submitted, it shall be responsible to the Authority for any costs the Authority incurs to review and evaluate the proposal.
 - B. All proposals that Contractor submits pursuant to this Article shall be accompanied by a price breakdown prepared in accordance with Article 18 of these Terms and Conditions, or as the Authority may otherwise require. If the proposal includes an extension of the Contract Time, a justification therefor shall also be furnished.
 - C. The approval or acceptance of any proposal Contractor submits shall be solely within the discretion of the Authority, whose decision shall be final and conclusive. Neither the disapproval of any such proposal, nor any delay in acting upon it, nor any failure to act upon it, shall entitle Contractor to any compensation, damages, adjustment to the Baseline Schedule, or any other modification of or relief from the requirements of the Contract.
 - D. The adjustment to the Contract Price for any change proposal submitted pursuant to this Article and approved or accepted by the Authority shall be based upon the net savings resulting from such change. These net savings shall be shared equally between Contractor and the Authority.
 - (1) The net savings shall be determined by first estimating the gross savings, which shall include Contractor's savings in costs for labor, materials, and equipment, Contractor's overhead and profit on the costs saved, and any resulting saving in Contractor's bond premiums. From the gross savings, Contractor's costs to develop

and to carry out the proposed change, including any such costs of any Subcontractors, and the estimated amount of any added costs to the Authority resulting from the change, such as review and evaluation, implementation, added inspection, any related items, and any material the Authority may furnish, shall be deducted.

- (2) 50 percent of the net savings, determined as above and representing the Authority's share, shall be deducted from the Contract Price.

E. All changes proposed pursuant to this Article and approved or accepted by the Authority shall be executed by written Change Orders issued by the Authority.

51. LABOR STANDARDS. Contractor shall comply with the Labor Standards Provisions, including the minimum wage rates that are included in the Contract Documents and by this reference are made a part thereof.
52. ENVIRONMENTAL PROTECTION. All equipment and supplies delivered under the Contract shall be designed and equipped to limit air pollution in accordance with all applicable standards and regulations provided by Applicable Law. In performing the Contract, Contractor shall comply with all applicable standards, orders, or requirements including those issued under section 306 of the Clean Air Act (42 U.S.C., section 7606), section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order No. 11738, Environmental Protection Agency regulations (40 C.F.R, Part 15), and any state counterpart laws, rules or regulations, all as in force on the date hereof or as they may be amended, and shall use only facilities that, unless exempt, comply with the aforesaid laws and regulations, and that are not listed on the Environmental Protection Agency's List of Violating Facilities. Contractor shall promptly report to the Authority any violation of any of the aforesaid laws and regulations, and the receipt of any communication from the Director of the Environmental Protection Agency Office of Federal Activities indicating that a facility to be used in performing the Contract is under consideration for listing by the said Agency. Contractor shall include in all subcontracts in excess of \$100,000.00 provisions sufficient to ensure the Subcontractors' compliance with the foregoing and shall take such action to enforce such provisions as the Authority or the U.S. Government may direct.
53. HISTORICAL, SCIENTIFIC, AND ARCHAEOLOGICAL DISCOVERIES. Contractor shall immediately stop work in any area of the Job Site where cultural resources, artifacts, articles of historical, scientific, or archaeological interest ("Artifacts") are discovered or uncovered by Contractor during progress of the Work. Such Artifacts shall be left undisturbed and reported immediately to the Authority. The further operations of Contractor with respect to the finding, including disposition of the Artifacts, will be decided by the Authority. Upon the stoppage of Work, Contractor shall secure and guard the Artifacts and the Job Site in a prudent manner until further operations or instruction by the Authority is provided to Contractor in writing. Contractor and its Subcontractors will have no property rights to such Artifacts. Contractor will require its Subcontractors to agree to these requirements in the applicable subcontract.
54. WORK AUTHORIZATION CERTIFICATION. To the extent this Contract requires the physical performance of services on the Authority's property:
- A. Contractor acknowledges it has verified the work eligibility of all its employees in accordance with the provisions of O.C.G.A. § 13-10-91. Contractor understands and agrees to require that its Subcontractors, and other participant at any tier of this Contract, will comply with the requirements of O.C.G.A. § 13-10-91.
 - B. The required verification is a material representation of fact upon which reliance will be placed when this Contract is entered into. If it is later determined that Contractor knowingly rendered an erroneous verification, the Authority may, in addition to all other remedies provided by law, by the Contract, or otherwise, terminate the Contract for default. Contractor shall provide immediate Notice to the Authority if at any time Contractor learns that its verification was erroneous when submitted or has become erroneous due to changed circumstances.
 - C. Contractor shall fully comply with all applicable requirements of the "Illegal Immigration Reform and Enforcement Act of 2011", including but not limited to O.C.G.A. § 13-10-91. Contractor shall cooperate with the Authority to provide all information required to submit the Authority's annual compliance report to the State Auditor as required by O.C.G.A. § 13-10-91 (b)(7).

- D. Contractor further agrees to indemnify and hold the Authority free and harmless from and against any and all liability, loss, costs, claim, demand, damage, or expense of every kind or nature whatsoever (including, without limitation, reasonable attorneys' fees and costs of litigation) that the Authority suffers or incurs arising from, or out of, or because of Contractor's non-compliance or alleged non-compliance with this Article 54.

55. ALERTNESS ASSURANCE PROGRAM. To reduce fatigue and to lessen the potential for occurrence of accidents, the Authority has instituted an Alertness Assurance Program, the operative version of which is available to Contractor In Exhibit F.

- A. Contractor and its Subcontractors are required to comply with the operative version of the Alertness Assurance Program and any updates, revisions or amendments thereto issued by MARTA from time to time, including any such update, revision or amendment issued after execution of this Contract and the following requirements
- B. Contractor and its Subcontractors shall:
 - (1) Prohibit employees from working more than 16 hours straight (excluding shift turnover time).
 - (2) Allow employees eight consecutive hours of time off within a 24-hour period.
 - (3) Prohibit employees from working more than 16 hours in any 24-hour period.
 - (4) Allow employees 24 consecutive hours of time off after working for 7 consecutive Days.
- C. Contractor is responsible for notifying all personnel of this policy, enforcing this policy with regards to its workforce; and shall include this requirement in all subcontracts.
- D. Contractor is responsible for maintaining time clock records adequate to demonstrate compliance with the Alertness Assurance Program and shall make these records available to the Authority upon request; and shall include this requirement in all subcontracts.

56. DISTRACTION AVOIDANCE POLICY. To lessen the potential for occurrence of accidents, Contractor is required to comply with the Authority's Distraction Avoidance Policy and shall include this requirement in all subcontracts. The operative version of the Authority's Distraction Avoidance Policy is available to Contractor in Exhibit G. Contractor and its Subcontractors are required to comply with the Distraction Avoidance Policy and any updates, revisions or amendments thereto issued by MARTA from time to time, including any such update, revision or amendment issued after execution of this Contract.

- A. Contractor and its Subcontractors shall comply with the following:
 - (1) Any operator of a vehicle or equipment on MARTA property, including motor vehicles, on-track vehicles (locomotives, rail cars, high-rail vehicles, rail-bound maintenance equipment, contractor test vehicles and other similar vehicles) and construction equipment, must refrain from engaging in activities that distract from the safe operation of vehicles and equipment. Distractions include, but are not limited to, use of Electronic Devices (defined below), eating, drinking, smoking, reading, reaching for fallen items, and other activities that take attention away from driving or operating vehicles or equipment. Use of an Electronic Device includes, but is not limited to, making or receiving telephone calls, texting, playing games, reading, e-mailing, internet browsing, or listening to music or other audio content.
 - (2) "Electronic Devices" are wireless and/or portable electronic equipment whether hand-held or hands-free. This includes, but is not limited to, cellular phones, smartphones (such as an iPhone), two-way pagers, portable internet devices, tablets (such as an iPad), iPods, Bluetooth devices or any headphones or earbuds of any type, and any other portable electronic devices.
 - (3) Any operator of a vehicle or equipment on MARTA property is NOT allowed to wear or carry personal Electronic Devices on their person. Personal Electronic Devices must be in a bag, purse, glove box, console, trunk, or toolbox and must be OFF (not on "silent" or "vibrate").
 - (4) Business communications during transit operations is an essential safety and operational function. Two-way radios and Push-To-Talk-only (PTT) cellular phones are permissible for vital business communications inherent to the Work. Accordingly, these devices are to be used exclusively for business communication. Use of a two-way radio or PTT cellular phone for communication necessary for the operation of transit

vehicles or equipment, or the performance of a safety-sensitive function is excluded from the prohibitions contained in the Distraction Avoidance Policy. Personnel that have been issued two-way radios and personnel operating a vehicle equipped with a two-way radio must always use the radio as the primary business communications system.

- (5) In case of an emergency and if radio communications fail, then a personal cellular phone may be used as back-up only if the vehicle or equipment is safely parked and/or secured and the operator is outside of the equipment cab, off the equipment, and has moved away from the controls.
- (6) Contractor is responsible for notifying all personnel of this policy, enforcing this policy with regards to its workforce, and including this requirement in all subcontracts.

57. **IDENTIFICATION OF PERSONNEL: SECURITY.** Contractor shall provide personnel who enter upon the Authority's property with distinctive identification badges showing the employer's name, the employee's name, the employee's photograph, the employee's job title, and any employee identification number assigned to such employee. All personnel shall display these badges prominently upon their persons while on the Authority's property. The Authority will allow only properly certified personnel of Contractor or approved Subcontractors on the Authority's property. The Authority shall have the right to require Contractor to conduct background checks on Contractor's employees and to remove from the Authority's property any employee the Authority considers incompetent, careless, or who constitutes a security risk or safety hazard. Contractor's personnel must have all appropriate documentation, as determined by the Authority's Representative, to gain access to the Authority's property. The Authority's Representative will advise Contractor in writing of the necessary documentation and identification required to gain access to the Authority's property, based upon the Federal Department of Homeland Security threat level in effect from time to time, and subject to any additional security requirements mandated by the Federal Department of Homeland Security, the Federal Transit Administration, or any other federal or state agency.

- A. MARTA Photo ID Badges may be obtained from the Authority at no cost to Contractor. The application form required for obtaining badges is included in the Contract Documents.
- B. Contractor must keep an updated list that shows every Contractor employee and Subcontractor employee that has received a MARTA Photo ID Badge. Contractor to submit the updated list to the Authority with each pay application request and in no event less than monthly. The list shall include employee's name and employee's status. Contractor is responsible to collect and return to the Authority all Photo ID Badges issued to Contractor's and Subcontractor's employees at the end of the Contract. Photo ID Badges of employees that are no longer on the Project must be collected immediately upon termination and turned in with the next month's pay application. Contractor will be charged \$50 for each Photo ID Badge that is not returned and unaccounted for.

58. **DRUG AND ALCOHOL POLICY.** The Federal government published 49 CFR Part 32, "The Drug-Free Workplace Act of 1988", which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the Federal Transit Administration. The Authority maintains compliance with this Act. All personnel conducting business on the Authority property are subject to MARTA'S drug-free workplace policy guidelines. When the Work of the Project meets the definition of "safety-sensitive function" as defined in FTA 49 CFR 655.4, Contractor shall comply with the operative versions of the (1) FTA drug & alcohol testing requirements; and (2) MARTA's Safety Management Requirements. Contractor and its Subcontractors are required to comply with such policy inclusive of any updates, revisions or amendments thereto issued by MARTA from time to time including any such update, revision or amendment issued after execution of this Contract.

59. **CIVIL RIGHTS.** The following requirements apply to the Contract:

- A. Nondiscrimination: Contractor acknowledges that Contractor is prohibited from discriminating against any employee or applicant for employment because of such employee's or applicant's race, color, creed, national origin, sex, age, disability or any other legally protected status. Contractor further agrees to comply with all Applicable Laws related to non-discrimination, including, but not limited to, the following:
 - (1) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d, *et seq.*;
 - (2) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of

Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" as amended, and maintained at 49 C.F.R. Part 21;

- (3) Section 303 of the Age Discrimination Act of 1975, as amended, and maintained at 42 U.S.C. § 6102;
- (4) Section 202 of the Americans with Disabilities Act of 1990 as amended, and maintained at 42 U.S.C § 12132;
- (5) Public Transportation law as amended, and maintained at 49 U.S.C. § 5332;
- (6) any other Federal statutes, executive orders, regulations, and policies that affect or may in the Work under the Contract; and
- (7) any state or local counterpart legislation, code, rules or regulations related to the foregoing.

B. Equal Employment Opportunity:

- (1) Equal Employment Opportunity: Contractor agrees to take affirmative action to ensure that any applicants seeking to be employed by Contractor, and all of Contractor's employees during their employment, are treated equally and without regard to their race, color, creed, national origin, sex, age, disability or any other legally protected status. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer; recruitment or recruitment advertising; lay-off or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship or internship. Contractor further agrees to comply with all Applicable Laws, including, but not limited to, the following:
 - a. Title VII of the Civil Rights Act, as amended;
 - b. 42 U.S.C. § 2000e;
 - c. 49 U.S.C. § 5332, *et seq.*;
 - d. all United States Department of Labor (U.S. DOL) regulations (including, without limitation the "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor");
 - e. 41 C.F.R. Parts 60, *et seq.* (implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," as amended, and maintained at 42 U.S.C. § 2000e note);
 - f. any and all Federal statutes, executive orders, regulations, and policies that affect the Work under the Contract; and
 - g. any state or local counterpart legislation, code, rules or regulations related to the foregoing.
- (2) Age: Contractor agrees to not discriminate against present and prospective employees on the basis of age. Contractor further agrees to comply with all Applicable Laws, including, but not limited to, the following:
 - a. Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 621 through 634 (implementing the U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations;
 - b. the regulations created under the Age Discrimination in Employment Act and maintained at 29 C.F.R. Part 1625;
 - c. all Federal transit laws provided under 49 U.S.C. § 5332;
 - d. any other Federal statutes, executive orders, regulations, and policies that may affect the Work under this Contract; and
 - e. any state or local counterpart legislation, codes, rules or regulations related to the foregoing.
- (3) Disabilities: Contractor agrees to not discriminate against any individual or employee on the basis of any disability such individual or employee may have or may have in the future. Contractor further agrees that Contractor will comply with all Applicable Laws, including, but not limited to, the following:
 - a. Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112;
 - b. the U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630 and any rules or regulations related thereto;

- c. any and all Federal statutes, executive orders, regulations, and policies that may affect or may in the Work under this Contract; and
 - d. any state or local counterpart legislation, codes, rules or regulations related to the foregoing.
- (4) ADA Access: Contractor agrees that Contractor's Final Design must comply with, and meet all requirements of, the Americans with Disabilities Act and any applicable state or local counterpart statute, regulation, law or rules in relating to access for individuals with disabilities. Contractor further agrees to comply with all Applicable Laws, including, but not limited to, the following:
- a. Section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794;
 - b. The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*;
 - c. The Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*;
 - d. Any and all applicable implementing Federal regulations and any later amendments thereto;
 - e. Any and all applicable Federal directives unless the FTA approves otherwise in writing. These obligations are in addition to Contractor's obligations set forth in Articles 2, 3 and 7 of these Terms and Conditions, among other things; and
 - f. Any state and local counterpart legislation, code, rules or regulations related to the foregoing.
60. **CONFIDENTIALITY.** The Contractor acknowledges that certain of the Authority's valuable, confidential and proprietary information may come into the Contractor's possession. Accordingly, the Contractor agrees to hold all information it obtains from or about the Authority in strictest confidence, not to use such information other than for the performance of the services, and to cause any of its employees, sub contractors or consultants to whom such information is transmitted, or may be transmitted, to be bound to the same obligation of confidentiality to which the Contractor is bound. The Contractor shall not communicate the Authority's information in any form to any third party without the Authority's prior written consent except in performance of the services contemplated hereunder. Any violation of this provision shall constitute a material breach of this Agreement, and the Authority shall be entitled to preliminary and permanent injunctive relief as well as an equitable accounting of all profits or benefits arising out of such violation, which remedy shall be in addition to any other rights or remedies to which the Authority may be entitled.
61. **HAZARDOUS MATERIAL.** Contractor shall comply with all applicable Environmental Health and Safety regulations at the Federal, State, and Municipal level. This will include but is not limited to: Environmental Protection Agency (EPA) regulations found in 40 CFR, Occupational Safety and Health Administration (OSHA) regulations found in 29 CFR 1910 and 1926, and Department of Transportation (DOT) regulations found in 49 CFR. In addition, the Contractor shall submit Safety Data Sheets (SDS) via email (EHS@itsmarta.com) or using the project's standard submittal process to EHS for any chemicals being used. Approval of each chemical must be granted by EHS prior to use.
62. **COUNTERPARTS. ELECTRONIC SIGNATURE. ENTIRE CONTRACT.** The Contract may be executed in counterparts, each of which shall be deemed an original instrument, and such counterparts taken together shall constitute one and the same instrument, and copies of the Contract and signatures thereto transmitted electronically (e.g., by facsimile, electronic mail, DocuSign, and/or other portable document format) shall be binding as originals. The Contract, comprised of those documents identified as Contract Documents, shall comprise the entire agreement of the Parties relating to the Work and supersedes all previous communications, representations, or agreements (oral or written) between the Parties with respect to the Contract and the Work.

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IN WITNESS WHEREOF, the Parties, by and through their authorized representatives, have executed this Contract as of the Effective Date.

MARTA:

METROPOLITAN ATLANTA RAPID TRANSIT AUTHORITY

Print Name: _____

Title: _____

Approved as to legal form:

Counsel, Metropolitan Atlanta Rapid Transit Authority

CONTRACTOR:

a _____

Print Name: _____

Title: _____

ATTEST:

Print Name: _____

Title: _____

EXHIBIT A
SCOPE OF WORK/PERFORMANCE CRITERIA

Acronyms

Acronym	Definition
ADA	Americans with Disabilities Act
ART	Arterial Rapid Transit
BRT	Bus Rapid Transit
CADD	Computer Aided Design and Drafting
CNTF	Construction Notice to Proceed
CPM	Critical Path Method
DNTF	Design Notice to Proceed
GDOT	Georgia Department of Transportation
GSWCC	Georgia Soil and Water Conservation Commission
HSIP	Highway Safety Improvement Program
MARTA	Metropolitan Atlanta Rapid Transit Authority
MUTCD	Manual of Uniform Traffic Control Devices
NEPA	National Environmental Policy Act
PDF	Portable Document Format
PHB	Pedestrian Hybrid Beacon
PMP	Project Management Plan
QA/QC	Quality Assurance/Quality Control
RRFB	Rectangular Rapid Flashing Beacon
SEPP	Safety Equipment Purchase Program
WBS	Work Breakdown Structure

Definitions

Term	Definition
Americans with Disabilities Act (ADA)	U.S. law that mandates accessibility for individuals with disabilities in public spaces and buildings.
Construction Quality Control Officer	The individual with the Contractor with responsible for overseeing and ensuring quality in the construction phase of a project.
Contractor Program Manager	The person identified by the Contractor to be responsible for supervising, superintending, directing, and managing the program in accordance with the Contract Documents.
Design Quality Control Officer	The individual with the Contractor with responsible for overseeing and ensuring quality in the design phase of a project.
Final Design Approval	Official confirmation that the final design documents meets all requirements.
Final Design Review	Meeting to review all final design documents with MARTA
Highway Safety Improvement Program (HSIP)	A federal program aimed at improving road safety.
MARTA Project Manager	The MARTA staff member responsible for overseeing and managing the SR2T program.
Program Schedule	The currently accepted schedule for the program
Recovery Schedule	A revised schedule created to address delays and bring a project back on track.
Site	The physical location where Work is expected to take place including design.

1. General

1.1. Background

The Metropolitan Atlanta Rapid Transit Authority (MARTA) vision is “People taking people where they want to go today and tomorrow,” with a mission “to advocate and provide safe, multimodal transit services that advance prosperity, connectivity, and equity for a more livable region.” MARTA currently operates bus, rail, streetcar, and paratransit services across the Atlanta metropolitan area and is expanding to include Bus Rapid Transit (BRT), Arterial Rapid Transit (ART), and On-Demand Transit.

1.2. Relevant Projects

The following projects are closely related to MARTA’s Safe Routes to Transit program and have influenced the scope of this Contract.

1.2.1. 1,000 Amenities

The 1,000 Amenities Program, which is sunsetting at the end of calendar year 2024, invested in 1,000 amenities across the MARTA service area. The amenities included local bus shelters, benches, and other seating types.

1.2.2. Bus Signage Regional Upgrades

As a part of the Atlanta Regional Commission’s recommendations, a unified bus stop sign design was created in consultation with MARTA and other transit operators in the region. MARTA’s 8,900+ bus stop signs are being upgraded systemwide to include configurable types and sizes to suit differing needs. The signs themselves have new features for operators and customers – most notably, route panels that display route numbers, destinations, and transit operators, as well as a passenger panel that includes customer service information.

1.2.3. NextGen Bus Project

MARTA is currently conducting a detailed study of bus routes in its service area to better meet the needs of current and future travel demands. After consulting with the public, MARTA is hoping to implement the recommendations by revising the bus routes routing and schedules across its service area.

1.3. Program Scope and Vision

Safe pedestrian access is crucial to riding transit. Nearly every passenger trip begins or ends with a journey in the roadside to one of MARTA’s 9,000 bus stops – therefore challenges like missing sidewalks or crossings create real barriers to mobility for metro Atlantans.

Through the Safe Routes to Transit program, MARTA has an opportunity to improve the first- and last-mile connection to transit with pedestrian safety improvements. This program is also an opportunity to better serve historically disadvantaged, minority, and low-income communities that do not always have safe pedestrian infrastructure to access transit and are not always located near transit corridors programmed for capital improvements.

Safe Routes to Transit will identify barriers and provide safe access to bus stops through a variety of pedestrian and Americans with Disabilities Act (ADA) improvements. These will include a mix of high-visibility crosswalks, signage curb extensions, medians and refuge islands, rectangular rapid-flash and pedestrian hybrid beacons, and installation of sidewalks, curb ramps, and other accessibility features. The program will complete design and construction of improvements at up to 240 sites over a three (3) year timeframe. These Sites will be in the three (3) congressional districts, GA-4, GA-5, and GA-13, that contributed Community Project Discretionary Funding to support the program. The program is funded by a combination of local and federal funding.

The program goals include:

- a. Continue to improve MARTA's customer experience through offering improved access to existing MARTA bus stops
- b. Enable improved bus stop and amenity placement by eliminating pedestrian connectivity barriers to preferred locations
- c. Work in coordination with other bus stop efforts.
- d. Distribute improvements geographically in an equitable way to populations who need it the most

1.4. Overview of the Program

MARTA's Safe Routes to Transit program will design and construct pedestrian infrastructure improvements near MARTA bus stops. The Site selection and 30% design of the selected Sites is being completed under a separate contract. The Contractor shall be responsible for project management, engineering design services from 30 percent design (30%) to final design, permitting, and construction services.

1.4.1. Major Components of the Scope

The list below provides an overview of the major components of the Safe Routes to Transit scope:

- a. Project Management
- b. Survey
- c. Conversion of 30% design into construction-ready documents
- d. Cost Estimation

- e. Permitting
- f. Construction
- g. Purchase, Storage, and Transportation of Materials
- h. Workflow and Documentation
- i. Testing, Inspection, and Final Documentation

1.5. Period of Performance and Schedule

The Contractor shall complete all design, manufacture, installation, construction, and achieve Substantial Completion, inclusive of System Acceptance, and shall achieve Final Completion of the Project no later than three (3) years from execution of the Contract. The following paragraphs provide the schedule requirements for progressing of sites through the design and construction process.

Unless stated in the Terms & Conditions or approved otherwise by MARTA, the Contractor shall complete necessary survey work within 30 days of the Design Notice to Proceed and shall complete documents for the Final Design Review within 30 days of receiving necessary survey documents. Revision and finalization of Site plans will adhere to the process and timeframes specified in Section 2.2. Following the completion and approval of construction plans and cost estimates, MARTA reserves the right to not proceed with construction of any Site for any reason.

If MARTA elects to do so, an Approval for Permitting will be issued for a Site or a batch of Sites. The Contractor shall submit the applicable permit applications within fourteen (14) days of receiving the relevant Approval for Permitting and shall notify MARTA of receiving of applicable permits within one (1) business day.

At MARTA's discretion and after the Contractor has completed necessary requirements to receive a Construction Notice to Proceed, MARTA will issue a Construction Notice to Proceed and the Contractor shall begin physical work on the respective Site(s) stipulated within seven (7) days after the effective date of the Construction Notice to Proceed. Unless stated in the Terms & Conditions or approved otherwise by MARTA, the Contractor shall achieve Substantial Completion within 120 days of the Construction Notice to Proceed and Final Completion within 30 days of Substantial Completion.

1.6. MARTA Responsibilities

This Contract outlines the responsibilities of the Contractor to design and build the infrastructure in the Safe Routes to Transit program. In support of this, MARTA will provide the following:

- a. Provide guidance and oversight over the project management and controls.
- b. Provide physical addresses, or geographical coordinates, for each Site location on an ongoing basis during the Contract Time.

- c. Provide 30% design drawings, in portable document format (PDF) and computer aided design and drafting (CADD) formats, and program documentation for each Site as well as any supplemental Site-specific instructions.
- d. Complete required federally required environmental/National Environmental Policy Act (NEPA) screenings
- e. Coordinate with Contractor to resolve issues that arise during the program.
- f. Provide certain equipment, such as rectangular rapid flashing beacon (RRFB) or pedestrian hybrid beacon (PHB) assemblies, for Sites specified to be using the Georgia Department of Transportation's (GDOT's) Highway Safety Improvement Program (HSIP) Safety Equipment Purchase Program (SEPP).
- g. Provide inspection services to confirm quality, safety and testing procedures are followed during construction.
- h. Provide Final Acceptance upon completion and inspection of construction work at designated Sites
- i. Act as a liaison between the local authority and the Contractor outside of standard permit discussions.
- j. Act as a liaison between the Federal Government and the Contractor.

2. Scope of Services

2.1. Project Management

Contractor shall provide project management and other support services for program coordination, scheduling, quality, safety, testing and cost control. Contractor shall provide administrative support for the program and shall ensure that proper documentation is maintained throughout the Contract. Contractor shall provide updates and make submittals to MARTA's Project Manager (PM) on a regular basis. At a minimum, the Contractor shall:

- a. Establish means of, and techniques and procedures for, constructing and otherwise executing the program.
- b. Maintain order, follow safety practices and regulations, and proper conduct at all times among Contractor's employees.
- c. Execute the work as specified and in a timely manner. Plan, organize, and staff each shift to have sufficient, compatible complement of personnel, materials, equipment, and tools to maintain and sustain scheduled work program, and to complete the project within the timeline established in this Contract.

- e. Project Staffing – the Contractor shall identify a Contractor Program Manager who will manage the program on behalf of the Contractor’s team. The Contractor Program Manager will be responsible for supervising, superintending, directing, and managing the program.
- f. Project Kick-Off Meeting – Contractor, any subconsultant team leads, and the MARTA Project Manager will conduct an in-person kick-off meeting for the program. The kick-off meeting will discuss basic project management documents and needs, review roles and responsibilities, lines of communication, and establish procedures and protocol for handling inspection/testing, deficiencies and repairs, etc.
- g. Preconstruction Kick-Off Meeting – MARTA may schedule a preconstruction kick-off meeting as outlined in the SR2T Program Division 01 Specifications found in Exhibit A-1.
- h. Project Management Plan – Contractor shall provide a Project Management Plan (PMP). The PMP, at a minimum, should address program coordination and administration; frequency and attendance at project meetings; performance of quality control; and other types of policies and procedures.
- i. Program Schedule – Contractor shall develop and maintain a Program Schedule that includes all activities of the program and relationships between the activities. This schedule shall be updated weekly and transmitted to MARTA’s PM. The Contractor shall develop and submit a Gantt formatted, Critical Path Method (CPM) Program Schedule which shall detail activities to be completed through each phase of the Contract. The Program Schedule shall provide the Work Breakdown Structure (WBS) tasks, staffing and resources, budget, milestones, task start and completion dates, task float, and dependencies between tasks. The Program Schedule shall align with SECTION 013216.13 – NETWORK ANALYSIS PROJECT SCHEDULE of the SR2T Program Division 01 Specifications. In addition to the requirements within the SR2T Program Division 01 Specifications the Contractor shall adhere to the following requirements:

- I. The Program Schedule shall include the following:

- (A) A roll-up summary view at the Milestone level
- (B) Major tasks and components within each program stage with enough detail to communicate the anticipated progression of work
- (C) Anticipated duration and dates for each activity, including early start/late start and early finish/late finish dates
- (D) Draft and final dates for all documents, deliverables, and milestones
- (E) Relationships and dependencies between milestones, phases, and activities, and anticipated critical path
- (F) MARTA activities, review timeframes and other obligations

(G) Contractor review and updates including responses to MARTA comments

- II. The Baseline Schedule and subsequent updates to the Progress Schedule must be reviewed and approved by MARTA to become the approved Program Schedule.
- III. The Contractor shall manage the program according to the approved Program Schedule.
- IV. In addition to reviews of the look-ahead schedule at the Weekly Status Meetings, a detailed review of the Program Schedule by Contractor and MARTA shall be conducted monthly to ensure that the Contractor is progressing as required.
- V. If the Contractor has failed or anticipates failing to start or complete any deliverable or milestone in accordance with the approved Program Schedule because of the Contractor's actions and/or lack of action, the Contractor shall present corrective action, including resources and associated costs to recover the lost time, and provide a Schedule Recovery Plan that shall be used to develop a Recovery Schedule as described in the SR2T Program Division 01 Specifications including at a minimum:
 - (A) Current status of program milestones including significant events (i.e., days ahead or behind the latest allowable dates, and the critical path for each release)
 - (B) Background and description of basis for change in deliverable or milestone date, including a description of any current and anticipated problems that may affect the performance of work, the factors causing the problem(s), and their impacts on the Contract
 - (C) Identify and describe schedule activity logic changes, revised durations, resource budget quantity adjustments, resource availability
 - (D) Proposed revised dates, subject to approval by MARTA
 - (E) Actions and resources proposed by Contractor to mitigate impacts to the program schedule
 - (F) Potential workarounds, re-sequencing of work, or changes that may be considered by MARTA to mitigate program schedule impacts, if the schedule status falls more than 30 calendar days behind schedule
- VI. The Contractor shall develop a weekly tracker counting and comparing the design completions, permit approvals, construction completions, and inventory deliveries against the quota required by the Program Schedule for timely delivery of the program

- VII. Failure to submit and obtain approval of schedule submittals within the time limits specified shall be sufficient cause to conclude that progress is not satisfactory or the Contractor's personnel responsible for planning and scheduling the program are not performing their work in a proper and skillful manner. MARTA will withhold approval of the Contractor's invoices for progress payment until an acceptable submittal has been processed and approved.
- j. Digital Tracking System – Contractor shall track detailed progress for each Site in a digital system accessible to MARTA’s Project Manager and other specified staff, such as an online dashboard with Site-level details. The format of the digital system should include work progress photos logged by date and Site number, have mapping capabilities and be finalized in coordination with the MARTA Project Manager. The digital system should include various filter types to be coordinated with the MARTA Project Manager. Example filter types may include improvement type, Site status and key activities, (planning, permitting, construction, or more detailed), geographic area (congressional district and/or county), among others.
 - k. Weekly Status Meetings – The Contractor shall facilitate a weekly coordination meeting with the MARTA Project Manager via conference call. This meeting is intended to provide coordination between all task items based on actions indicated by Site. Contractor shall provide weekly update reports on progress and planned activities to MARTA’s Project Manager and others as directed. The minimum requirements for the meeting are outlined in section 1.03.B of SR2T Program Division 01 Specifications.
 - l. Authority-Conducted Safety Meetings – MARTA will schedule quarterly safety meetings as outlined in in section 1.04 of SR2T Program Division 01 Specifications.
 - m. Document Control and Monitoring – Contractor shall use an approved program document control system for the program. In consultation with MARTA, the Contractor shall utilize an online project system and providing access to the MARTA Project Manager, to facilitate program management, CADD management, document control, and scheduling for this program. The online project system shall be configured to allow shared collaboration with MARTA. The Contractor shall notify MARTA, by email or another preferred communication medium, of any submissions or updates to the document control system throughout the life of the program.
 - n. Quality Control Program Plan – Contractor shall develop and utilize a Quality Control Program Plan that shall include at a minimum:
 - (A) The experience and qualifications of a designated Design Quality Control Officer who will be the point of contact and hold responsibility for the Quality Assurance/Quality Control (QA/QC) process during design
 - (B) The experience and qualifications of a designated Construction Quality Control Officer who will be the point of contract and hold responsibility for maintaining quality delivery during construction

- (C) Recognition that the Contractor is responsible for ensuring that all supplies and services procured or provide conform to the Contract
 - (D) Description of the procedures and processes for ensuring quality work is provided during both design and construction
 - (E) Plans for quality control meetings as outlined in in section 1.03.C of SR2T Program Division 01 Specifications
 - (F) Testing Plan, Inspection Plan, Substantial Completion Process, Acceptance and Rejection Criteria, Corrective Action Process, and Final Acceptance Process as outlined in Scope of Work section 2.7
- o. Monthly Invoices and Progress Reports – Contractor shall provide monthly invoices and progress reports and conduct any contract management for sub-Contractors as necessary. The monthly invoice and progress report format will be structured in coordination with the MARTA Project Manager and may include additional details such as expenditures by jurisdiction. Along with each monthly invoice, the Contractor shall provide monthly update reports, along with any related program status documents.
- p. Program Close-Out – Contractor shall, at minimum, provide the following close-out documentation:
 - I. Plats
 - II. Property deeds
 - III. Right-of-way plans
 - IV. As-built plans
 - V. Financial report per Site detailing costs associated with each Site
 - VI. Photos, organized by Site, of work in progress including Site prior to work, Site during work, and Site following completion of work taken from the same location/angle to clearly demonstrate improvements
 - VII. Any other documentation for the Sites, including survey.

2.2. Survey, Design, and Cost Estimation

- a. Survey – Contractor will be responsible for conducting surveys at each Site as required by local jurisdictions and/or GDOT as part of the design and permitting process. The surveys shall be utilized by the Contractor along with provided 30% design drawings to develop a detailed Site plan and scale drawing to be used for construction and included with the permit application. All completed 30% design plans to date are included in Exhibit A-2.

At a minimum the survey shall include the following items:

- I. Topographic survey of an area mutually agreed upon with MARTA for each Site
- II. Mapping and field verification of existing right-of-way and establish property line/right-of-way boundaries.
- III. Locate property line/right-of-way markers and compare to mapping and verification measures to have Site drawings indicate property line information when in conflict with existing right-of-way.
- IV. Research available tax records to determine and provide property owner(s) information.
- V. Locate the following features:
 - (A) Both edges of the sidewalk / pavement / curb within 10' of the edges of the proposed Site.
 - (B) Light/power poles within 100' of the edges of the proposed Site.
 - (C) Large signs, vegetation, and structures within 300' radius of proposed Site that could be a sight distance hazard. Document type of sign and approximate height.
- VI. Locate the following features within an area mutually agreed upon with MARTA for each Site, if applicable:
 - (A) Stand-alone trees (6" in diameter or larger)
 - (B) Utility meters - note if they stick out of sidewalk or are a tripping hazard.
 - (C) Curb and gutter
 - (D) Hydrants
 - (E) Utility vaults
- VII. Catch basins and inlets - inverts not required.
 - (A) Fences
 - (B) Ditches
- VIII. Utility manholes and cleanouts
 - (A) Ramps
 - (B) Crosswalks
 - (C) Traffic equipment – signals, cabinets, etc.
 - (D) Railroad tracks or other transportation features
- IX. The Contractor will also provide the following information on the survey drawing (but not limited to) the following. Where surveys are conducted, signed and sealed topographic and utility surveys should be provided to MARTA.
 - (A) Street intersections and driveways of proposed Site by surveying or by aerial photography.
 - (B) Speed limit for road(s)

- (C) Road striping and turn lane arrows
 - (D) State Route number, if applicable (e.g., SR-13 or SR-41, etc.)
 - (E) Minor building layouts from aerial photography
 - (F) Site location map
 - (G) North arrow and scale
- X. Before photos of the Site to be complied with during and after photos taken from the same angle/location to demonstrate improvements
- b. Design – The Contractor shall develop finalized Site layouts and plans that may include but are not limited to configuration of civil elements, grading, stormwater drainage, and signing and striping. Layouts and plans shall be compliant with applicable jurisdictional requirements and guidelines including the most recently published and approved version of GDOT’s Construction Standards and Details and GDOT’s Standard Specifications of Transportation Systems. Layouts and plans shall also be compliant with applicable federal NEPA requirements. MARTA will provide the Contractor with 30% design plans that shall be used as the basis for the finalized Site layouts and plans. The drawings will follow MARTA’s Issued Technical Document Procedure (Exhibit A-7). All Contract drawing submittals shall follow the guidelines and be produced in accordance with MARTA’s Criteria for Drawings (Exhibit A-3), BIM User and Execution guidelines (Exhibit A-5 and Exhibit A-6), the Issued Technical Document Procedure (Exhibit A-7) and the SR2T Program Division 01 Specifications (Exhibit A-1). For sites requiring power, the Contractor shall demonstrate that solar-powered equipment is feasible to provide safe and continuous operation compliant with applicable requirements and guidelines as part of the design process.
- c. Design Review – The Contractor shall hold Final Design Review meetings for each Site or batch of Sites to review draft final Site plans with MARTA. The Contractor shall provide all relevant Site documents, including cost estimates, to MARTA at least ten (10) business days in advance of the Final Design Review meeting unless otherwise authorized by MARTA. The Contractor shall verify Site conditions prior to submitting documents in advance of the Final Design Review. Following the Final Design Review meeting, the Contractor shall address any comments or outstanding issues as needed and submit Site documentation for Final Design Approval within ten (10) business days. Sites that are more complex may require additional time for design review prior to Final Design Approval. As needed, intermediate design review meetings may be held to confirm or discuss Site requirements, present alternative design concepts or deviations from the 30% design plans, and demonstrate progress on areas of work. The Contractor may develop interim or information documentation and/or presentations to facilitate intermediate design review meetings. All completed 30% design plans to date are included in Exhibit A-s.
- d. Cost Estimation – The Contractor shall provide a cost estimate based on the design of each Site ten (10) business days in advance of the Final Design Review meeting unless otherwise authorized by MARTA. The cost estimate shall include defined scope within the Site limits, to include civil and systems construction, utility relocations, environmental permit requirements and construction mitigation measures, proposed right-of-way/easement acquisitions and design and other professional services. The cost estimate shall be formatting using the most recently

available GDOT Pay Item Index as the line items within the estimate. Other line items may be used with approval from MARTA.

Following the completion and approval of construction plans and cost estimates, MARTA reserves the right to not proceed with construction of any Site for any reason.

2.3. Permitting

If MARTA elects to proceed with a Site or group of sites beyond design, MARTA shall issue an Approval for Permitting to the Contractor. The Contractor is responsible for identifying, developing permitting documentation, and obtaining all required local permits mandatory for delivering the program. Permit types may include but are not limited to building, land disturbance, lane closure, electrical, signal, among others. The Contractor shall submit the applicable permit applications within fourteen (14) days of receiving the relevant Approval for Permitting and shall notify MARTA of receiving of applicable permits within one (1) business day.

Permitting requirements will differ based on the Site and the local permitting authority that has jurisdiction. In cases where there are multiple jurisdictions or authorities involved, the Contractor will prepare the documentation necessary to obtain all permits. MARTA expects that the Contractor will need to comply with each jurisdiction's permitting process applicable to each Site.

The Contractor shall be responsible for developing supportive documentation and studies as required by the permitting jurisdiction.

During the permit application process, Contractor should be mindful of Sites located on public right-of-way owned and managed by different governmental entities and their respective requirements. Contractor shall add the following notation on the cover of the Site drawings "CONTRACTOR NOTE: Erosion control on Site to be performed in accordance with Georgia Soil and Water Conservation Commission (GSWCC) standards. Site to be kept clean of debris at all times" Permitting activities should be tracked actively using the digital tracking system and progress should be reported to the MARTA Project Manager on a weekly basis. If corrections are requested by the permitting authority, the Contractor will revise and resubmit corrected plans in a timely manner and in coordination with the MARTA Project Manager.

2.4. Construction

At MARTA's discretion and after the Contractor has completed necessary requirements to receive a Construction Notice to Proceed, MARTA will issue a Construction Notice to Proceed and the Contractor shall begin physical work on the respective Site(s) stipulated within seven (7) days after the effective date of the Construction Notice to Proceed. Unless stated in the Terms & Conditions or approved otherwise by MARTA, the Contractor shall achieve Substantial Completion within 120 days of the Construction Notice to Proceed and Final Completion within 45 days of Substantial Completion.

Each Site will follow permitted Site plans and constructed as required and in accordance with local jurisdictions as part of the design and permitting process. Contractor will perform construction activities in accordance with codes, ordinances, rules regulations, orders, and other legal requirements of relevant governmental bodies and public agencies, including the Authority, bearing on performance of the Work. The Contractor shall adhere with applicable federal NEPA requirements regarding construction. All construction activities will be confined to predetermined job Site operations and to areas permitted by law, ordinances, permits, and the Contract Documents. Except as otherwise specified in communication from the MARTA Project Manager, the Contractor will furnish the following and pay the cost thereof:

- a. Labor, superintendence, and products excepting those products to be furnished by the Authority.
- b. Construction supplies and materials, equipment, tools, and machinery.
- c. Water, heat, and other utilities required for construction.
- d. Other facilities and services necessary to properly execute and complete the Work.

The following outline the major components of the construction task:

- a. Site Photos – The Contractor shall take photos during construction from generally the same location/angle as before photos outlined previously to be complied with before and after photos to demonstrate improvements
- b. Coordination with Local Jurisdictions – Contractor, in partnership with the MARTA Project Manager will coordinate construction activities based on schedule with the local jurisdictions. Coordination activities, at a minimum, will follow permitting requirements. The Contractor is also responsible for pedestrian and traffic control throughout the phases of this program.
- c. Coordination with Utilities – Generally, several existing utilities including water service, natural gas, power, and fiber optic telephone service utilities may exist in the project Site locations. It is the responsibility of the Contractor to coordinate construction activities so that interruptions in service are minimized. The Contractor may address correspondence directly to the affected utility utilizing Georgia 811, its web service, and any other pertinent services. However, the MARTA Project Manager must receive copies to verify that the intent of the design is maintained and that the interests of MARTA are not adversely affected. The Contractor is responsible for assuring that all underground utilities are properly marked and located.
- d. Removal of Landscaping – Contractor shall remove or relocate landscaping materials and landscape irrigation. Landscape restoration must be completed within two days from demolition to avoid damage to non-impacted areas from irrigation or soil runoff.
- e. Removal or Demolition – Contractor shall be responsible for conducting inspections and concrete testing to determine if existing concrete at Site, if any is present, may be used.

Contractor shall be responsible for demolishing and removing existing sidewalks, bus stop pads, striping, curb and gutter, or other streetscape elements as needed on a Site-by-Site basis. Demolition shall be done in a manner to avoid damage to streetscape elements that are to remain in place. Contractor is responsible for a no-cost repair and/or replacement of damage to existing streetscape elements caused by Contractor demolition. Erosion control on Site to be performed in accordance with GSWCC standards.

- f. Removal/Relocation of MARTA Amenities – Contractor shall remove and/or relocate MARTA amenities, including but not limited to, bus shelters, bus stop signs, trash cans, and benches, as marked on the final design plans. Amenities shall be uninstalled without damage to component parts and relocated to a new location on the Site, to the Contractor’s storage facility for future installation on the Site, or to another location as designated by MARTA.
- g. Grading and Retaining Walls – Contractor shall be responsible for mitigating grade differences through grading, retaining walls, or other methods to be proposed by Contractor and approved by MARTA, detailed on plans and drawings. Erosion control on Site to be performed in accordance with GSWCC standards.
- h. Construction of Pedestrian Improvements – Contractor shall construct various pedestrian improvements as detailed on approved plans and drawings. Improvements may include, but are not limited to:
 - I. ADA Ramps and Sidewalks
 - II. Curb Extensions
 - III. Striping
 - IV. Medians and Refuge Islands
 - V. Vertical Delineators
 - VI. Raised Bike Lanes
 - VII. Rectangular Rapid Flashing Beacons (RRFBs)
 - VIII. Pedestrian Hybrid Beacons (PHBs)
 - IX. Signage
- i. Concrete Amenity Pads – Contractor shall construct concrete amenity pads per MARTA’s specifications in Exhibit A-8, Contractor will conduct any necessary testing to ensure that pad meets MARTA’s requirements, as well as Americans with Disabilities Act (ADA) requirements. In cases where existing concrete pads exist and require repair, the Contractor shall, in coordination with MARTA Project Manager, remove the existing damaged pads (and adjacent sidewalk if needed) and provide new concrete to match the existing thickness and finish grade of the abutting sidewalk and pad.

- j. Electrical Testing and Inspections – Contractor shall be responsible for coordinating electrical power at all RRFB and PHB locations. Contractor shall be responsible for coordinating electrical inspections, conducting all necessary electrical testing, coordinating connection of electrical power to each RRFB and PHB with Georgia Power (or any other electric service provider that has jurisdiction at the Site location), including installation of a local power pole when required.
- k. Construction Staging – To the maximum extent possible, the Contractor shall preserve the access and use of the bus stop to minimize the impact on transit riders while construction is undergoing. All construction staging should occur within the existing public right-of-way unless proper authorization was obtained through the local jurisdictional and adjacent property owner.
- l. Temporary Traffic Control – The Contractor shall, at all times, conduct work so as to assure the least possible obstruction of traffic. The safety and convenience of the general public and the residents along the roadway and the protection of persons and property shall be provided for by the Contractor as specified in the State of Georgia, Department of Transportation Standard Specifications Sections 104.05, 107.09 and 150. Traffic whose origin and destination are within the limits of the project Sites shall be provided ingress and egress at all times unless otherwise specified. The ingress and egress include entrances and exits via driveways at various properties, and access to the intersecting roads and streets. The Contractor shall maintain sufficient personnel and equipment (including flaggers and traffic control signing) on the project at all times, particularly during inclement weather, to ensure that ingress and egress are safely provided when and where needed. In the event of an emergency situation, the Contractor shall provide access to emergency vehicles and/or emergency personnel through or around the construction area. Any pavement damaged by such an occurrence will be repaired by the Contractor at no additional cost. The Contractor shall furnish, install and maintain all necessary and required barricades, signs and other traffic control devices (including suitable lighting for night work) in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and GDOT specifications, and take all necessary precautions for the protection of the workers and safety of the public.
- m. Ground Restoration – Contractor shall restore any grounds disturbed or damaged during work by preparing the ground and laying sod per MARTA’s specifications. Contractor shall be responsible for providing repairs, replacement, or compensation for any utility lines or property damaged during work.
- n. Clean-Up – The Contractor shall be responsible for removal and legal disposal of all debris created by the work specified herein from the premises. The Contractor shall clean up the Site area daily during construction and must always keep the area safe at all times.

Unless stated in the Terms & Conditions or approved otherwise by MARTA, the Contractor shall achieve Substantial Completion within 120 days of the Construction Notice to Proceed and Final Completion within 45 days of Substantial Completion

2.5. Purchase, Storage, and Transportation of Materials

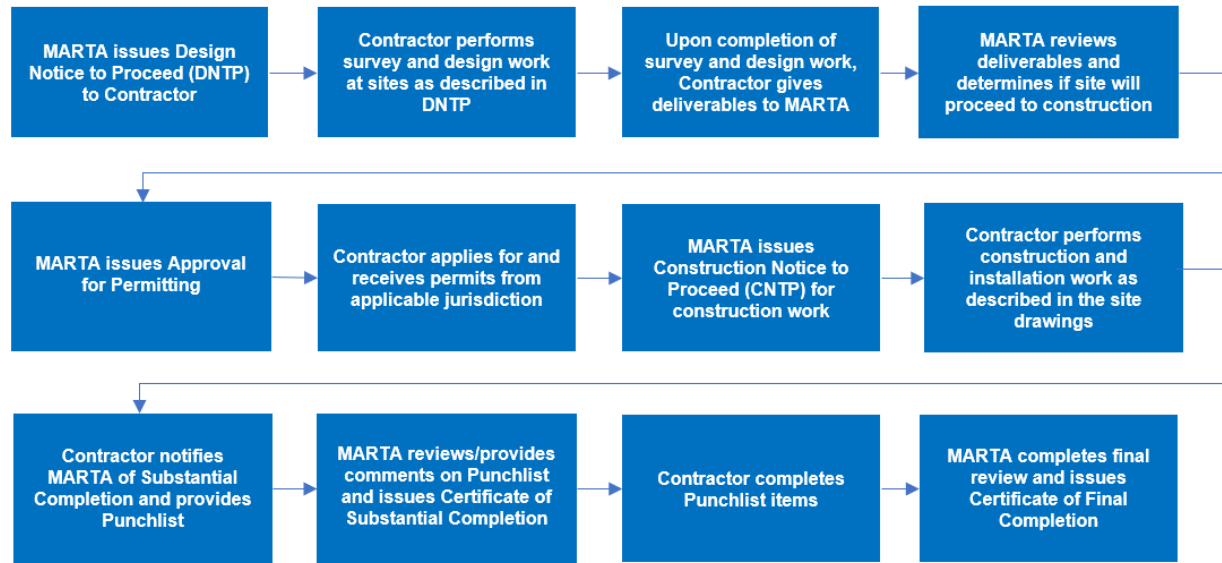
The program will require the purchase, storage, and transportation of materials and equipment. In certain cases, MARTA may provide safety materials (PHBs, RRFBs, advanced warning signs, etc.) through the GDOT (HSIP) Safety Equipment Purchase Program.

- a. Materials and Equipment –Contractor shall only purchase materials from GDOT approved sources. The Contractor shall provide in writing a list of proposed sources of materials.
- b. Storage Facility – The Contractor will locate, procure, operate, and secure a storage facility for all materials required by this program. It shall be the responsibility of the Contractor to provide any equipment or staff necessary to operate and maintain inventory at the storage facility and maintain security to avoid theft or loss.
- c. GDOT SEPP Pick-Up and Transportation – In cases where MARTA provides materials through the SEPP, the selected Contractor shall be responsible for picking up the materials from GDOT or the applicable local municipality within the timeframe prescribed by the SEPP requirements upon notification by MARTA and/or GDOT. The selected Contractor shall be responsible for transporting materials to the storage facility or project Site.
- d. Delivery – The selected Contractor will take delivery of all materials, inspect the delivery for damages or missing quantities, and store them until they are installed.
- e. Liability – Selected Contractor will be responsible for materials, equipment, and MARTA amenities while stored, in transit, and prior to any installation, and shall be responsible for any loss or damage until turned over to MARTA. Within 10 business days of the end of the Contract, the Contractor shall return any uninstalled MARTA amenities and spare parts to MARTA, in good condition and organized by part type, and deliver them to a location of MARTA's choosing.

2.6. Workflow and Documentation

This section describes the overall workflow of the program and the Contractor's obligations to draft, manage, and store all program documentation, as well as to provide users specified by the MARTA Project Manager with secured access to all documentation in electronic format. Specific documentation needs will follow and be created in support of the workflow provided below. This workflow is provided to show major steps for a Safe Routes to Transit program Site and MARTA reserves the ability to adjust as needed.

Workflow Process



- a. Program Documentation – Contractor shall develop, store, and maintain all program documentation according to a process and format that is reviewed and approved by MARTA. All program documentation management procedures are subject to MARTA’s review and approval. All documentation shall be submitted for MARTA review and approval. Documentation shall not be considered complete prior to receiving written approval from MARTA.
- b. All documents shall be supplied with a deliverable review and comment form in a digital tracking system or equivalent approved by MARTA to log and track comments from MARTA and stakeholders.
- c. All documentation shall follow a document numbering and naming system including the Site number as provided by MARTA.
- d. All documentation shall be stored in a secure document management system with restricted access to the Contractor and MARTA personnel.
- e. Contractor shall update documentation to reflect approved change orders.
- f. Contractor shall submit redlined and clean copies of each document.
- g. Each document shall include a revision history/change log.
- h. Each document shall identify the requirements relevant to the document.
- i. Final documentation shall be delivered prior to acceptance.

2.7. Testing, Inspection, and Substantial Completion

Testing and inspections are intended to confirm that the program and its deliverables meets the requirements of the Contract, and is fully operational, free from defects, safe for customers prior to Final Completion. The goals of testing include:

- a. Protecting MARTA and its partner jurisdictions from implementation risk by identifying and correcting issues;
- b. Protecting MARTA from reputational and customer risk;
- c. Ensuring that the program aligns with the Contract requirements.

The following outlines the requirements for testing, inspection, and Final Acceptance. These requirements shall be documented within the Quality Control Program Plan outlined in Scope of Work section 2.1.l.

- a. Testing Plan – The Contractor shall develop a testing plan for relevant improvements including but not limited to RRFs and PHBs that demonstrates the proper installation and operation of the equipment. The testing plan shall document and verify compliance with all relevant GDOT and jurisdictional requirements. The testing plan should include a procedure and workflow process for remediation of components that have not passed MARTA’s inspection and verification process. It is expected that the personnel performing tasks required under this Contract are skilled, certified as needed, and knowledgeable in the methods and craftsmanship needed to produce the expected workmanship.
- b. Inspection Plan – The Contractor shall develop an inspection plan for relevant improvements to verify proper installation and operation of improvements. The inspection plan shall include the following inspection types for applicable types of work:
 - i. Receiving Inspections: Inspect of products and materials as soon as they are delivered to the job Site ensuring they meet specifications, agree with the shipping documentation, and, as applicable, are accompanied by material certifications and test period.
 - ii. Preparatory Inspections: Ensure that preliminary or prerequisite work has been satisfactorily completed and that products and materials being used for subsequent work are in good condition, meet specifications, and are in sufficient quantities to complete the work.
 - iii. In-process Inspections: Inspect when work is being started and periodically as work progresses
 - iv. Final Inspections: Inspect work after completion to ensure it meets specifications, is in compliance with applicable requirements, and that previously identified discrepancies have been satisfactorily resolved.

The inspection plan shall document and verify compliance with all relevant GDOT and jurisdictional requirements. The inspection plan should include a procedure and workflow process for remediation of components that have not passed MARTA's inspection and verification process. It is expected that the personnel performing tasks required under this Contract are skilled, certified as needed, and knowledgeable in the methods and craftsmanship needed to produce the expected workmanship.

- c. MARTA Site Inspections – MARTA reserves the right to conduct drop-in visits for inspection of Sites where scheduled construction is ongoing. Inspections may result in corrective actions to bring work to the required quality. MARTA also reserves the right to perform periodic audits of the quality control and compliance process.
- d. Acceptance and Rejection Criteria – Regular checks that follow the inspection plan will be conducted through Contractor and MARTA inspections. The final criteria will be established and honed during the program kick-off during the development of the Quality Control Program Plan.
- e. Corrective Actions – Corrective actions will be implemented as necessary to bring the work to the required quality. Where replacement of work or work components are required and not an immediate safety hazard to the general public, documentation will be defined by MARTA and be rectified by the Contractor. Repairs or damage that pose a hazard to patrons or the community shall be repaired or made harmless within four (4) hours from reporting. Work components identified that are safety concerns will be addressed within 12 hours of notification to the Contractor. Work performed to comply to corrective actions will be completed at no additional cost to MARTA. Contractor will report on corrective actions status in the weekly status update reports. All repair or construction work related to amenities shall require the Contractor to contact MARTA along with the appropriate governmental entity.

- 2.8. See Exhibit A-2 – Available SR2T 30% Design Plans
- 2.9. See Exhibit A-3 – Available SR2T 30% Design Quantities
- 2.10. See Exhibit A-4 – MARTA Criteria for Drawings
- 2.11. See Exhibit A-5 - MARTA BIM User Guidelines
- 2.12. See Exhibit A-6 – MARTA BIM Execution Guidelines
- 2.13. See Exhibit A-7 – MARTA Issued Technical Document Procedure
- 2.14. Exhibit A-8 – MARTA Bus Stop Standard Pad Details

EXHIBIT A-1
MARTA PROCEDURAL SPECIFICATION - SAFE ROUTES TO TRANSIT PROGRAM

Attached Separately

EXHIBIT A-2
30% DESIGN PLAN

[SR2T 30% Design Plans Compressed.pdf](#)

EXHIBIT A-3
MARTA 30% DESIGN QUANTITIES

[SR2T 30% Design Quantities.pdf](#)

EXHIBIT A-4
MARTA CRITERIA FOR DRAWINGS

[MARTA Criteria for Drawings.pdf](#)

EXHIBIT A-5
MARTA BIM USER GUIDELINES

[MARTA BIM User Guidelines.pdf](#)

EXHIBIT A-6
MARTA BIM EXECUTION GUIDELINES

[MARTA BIM Execution Guidelines.pdf](#)

EXHIBIT A-7
MARTA ISSUED TECHNICAL DOCUMENT PROCEDURE

[MARTA Issued Tech Document Procedure.pdf](#)

EXHIBIT A-8
MARTA BUS STOP STANDARD PAD DETAILS

[MARTA Bus Stop Standard Pad Details](#)

EXHIBIT B
SUPPLEMENTARY CONDITIONS

SC1 NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES:

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

SC2 FALSE STATEMENTS OR CLAIMS – CIVIL AND CRIMINAL FRAUD:

- A. Civil Fraud. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Contract. Upon execution of the underlying Contract, the Contractor certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make, or causes to be made, pertaining the underlying Contract or the FTA assigned project for which this Contract work is being performed. In addition to other penalties that may apply, the Contractor furthers acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Contractor to the extent the Federal Government deems appropriate.
- B. Criminal Fraud. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority under 49 U.S.C. Chapter 53 or any other Federal law, the Federal Government reserves the right to impose the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable Federal law on the Contractor to the extent the Federal Government deems appropriate.
- C. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

SC3 ACCESS TO THIRD PARTY CONTRACT RECORDS:

- A. The Contractor agrees to maintain all book, records, accounts, and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract. In the event of litigation or settlement of claims arising from the performance of this Contract, the Contractor agrees to maintain such records until the Authority, the FTA Administrator, the Comptroller General, or any of the duly authorized representatives have disposed of all such litigation, appeals, claims, or exceptions related thereto. During the course of this Contract and for three (3) years thereafter from the date of transmission of the final expenditure report, the Contractor agrees to maintain intact and readily accessible all data, documents, reports, records, sub agreements, leases, third party contracts, and supporting materials related to the Contract as the Federal Government may require, and;
- B. The Contractor agrees to permit the U.S. Secretary of Transportation, the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives, upon their request to inspect all work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Contractor pertaining to this Contract.

SC4 CHANGES TO FEDERAL REQUIREMENTS:

- A. The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Authority and FTA, as they may be amended or promulgated from time to time during the term of this Contract. The Contractor's failure to so comply shall constitute a material breach of this Contract.

SC5 INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS:

- A. The preceding provisions include, in part, certain standard terms and conditions required by U. S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by U. S. DOT, as set forth in FTA Circular 4220.1F, "Third Party Contracting Guidance," November 1, 2008, and any later revision thereto, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any the Authority's requests, which would cause the Authority to be in violation of the FTA terms and conditions.
- B. The Authority, Contractor will be only paid for the Contract price for goods, equipment, and supplies delivered and accepted on or before the effective date of the termination.

SC6 ENERGY CONSERVATION:

- A. The Contractor agrees to comply with applicable mandatory energy efficiency standards and policies of applicable state energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 et seq., except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the

Contractor agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

SC7 METRIC SYSTEM:

- A. To the extent U.S. DOT or FTA directs, the Contractor agrees to use the metric system of measurement in its Project activities, in accordance with the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. §§ 205a et seq.; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. § 205a note; and applicable U.S. DOT or FTA regulations in accordance with applicable Federal directives. As practicable and feasible, the Contractor agrees to accept products and services with dimensions expressed in the metric system of measurement.

SC8 SUSPENSION AND DEBARMENT:

- A. This Contract is a covered transaction for purposes of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180. As such, the Contractor agrees to provide a debarment and suspension certification containing information about the debarment and suspension status of the Contractor and the Contractor's principals. The Contractor agrees that it shall refrain from entering into any contract of any amount to a debarred or suspended subcontractor, and to obtain a similar certification from any subcontractors, seeking a contract exceeding \$25,000. The Contractor agrees to and assures that its subcontractors and other participant at any tier of the underlying Contract will review the "Excluded Parties Listing System" at <http://epls.gov/> before entering into any agreement or other arrangement relating to the underlying Contract.
- B. The certification is a material representation of fact upon which reliance will be placed when this transaction is entered into. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Authority may pursue available remedies, including suspension and/or debarment. The Contractor shall provide immediate written notice to the Authority if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- C. The Contractor also agrees to include these requirements in each subcontract exceeding \$25,000 financed in whole or in part with Federal assistance provided by FTA.

SC9 RECYCLED PRODUCTS:

- A. To the extent applicable, the Contractor agrees to comply with U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials", 40 C.F.R. Part 247, which implements Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the Contractor

agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

SC10 LOBBYING:

- A. The Contractor agrees to comply with the requirements of 31 U.S.C. § 1352(a), the Byrd Anti Lobbying Amendment, which prohibits the use of Federal assistance to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending the Grant Agreement or Cooperative Agreement.
- B. The Contractor shall file the certification required by U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352. Each tier certifies to the tier above that it will not and has not used Federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any public agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U. S. C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contracts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U. S. C. 1352. Such disclosures are forwarded from tier to tier up to the Authority.

SC11 CLEAN AIR:

- A. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7571q. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- B. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

SC12 CLEAN WATER:

- A. The Contractor agrees to comply with all applicable Federal laws and regulations in accordance with applicable Federal directives implementing the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- B. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

SC13 FLY AMERICA:

- A. To the extent applicable, the Contractor agrees to comply with Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and

U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Further, the Supplier agrees to include the requirements of this Article in all subcontracts that may involve international air transportation.

- B. Unless otherwise directed by the non-performing party, each party shall continue performance of their respective obligations under this Contract while matters in dispute are being resolved.

SC14 ADA ACCESS:

The Contractor agrees to comply with the requirements of 49 U.S.C. § 5301(d) which expresses the federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement those policies. The Contractor also agrees to comply with all applicable requirements of sections 503 and 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires the provision of accessible facilities and services, and with the following federal regulations, including any amendments thereto: (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37; (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27; (3) Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38; (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35; (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36; (6) U.S. GSA regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19; (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630; (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and (9) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and (10) Any implementing requirements FTA may issue.

SC15 VETERANS PREFERENCE:

To the extent practicable, the Contractor agrees to give a hiring preference to veterans (as defined in 5 USC § 2108) who have the skills and abilities required to perform construction work required for a capital project supported with funds made available or appropriated for 49 USC chapter 53; provided, however, the Contractor may not give a hiring preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability or a former employee.

SC16 FEDERAL PRIVACY ACT:

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

SC17 BUY AMERICA:

- A. The Contractor agrees that steel, iron, and manufactured products used in this Contract are, have been, or will be produced in the United States to the full extent required by the Federal Public Transportation Act of 1982 (P.L. 97-424), effective January 6, 1983, as amended, and the implementing regulations, 49 C.F.R., Pt. 661.
- B. The Authority may investigate the Contractor's and any sub-Contractors' or Contractors' compliance with this provision. If an investigation is initiated, the Contractor shall document his compliance and cooperate with the investigation. The Contractor shall include the terms of this provision in every sub- contract or purchase order as necessary to enforce such provision.
- C. The Contractor's non-compliance with all or any portion of this provision shall constitute a material breach of contract for which the Authority may, in addition to all other remedies provided by law, by the Contract, or otherwise, terminate the Contract for default. The Contractor further agrees to indemnify and hold the Authority free and harmless from and against any and all liability, loss, costs, claim, demand, damage, or expense of every kind of nature whatsoever (including, without limitation, reasonable attorneys' fees and costs of litigation) that the Authority suffers or incurs arising from, or out of, or by reason of the Contractor's non-compliance or alleged non-compliance with the foregoing.

SC18 CARGO PREFERENCE:

- A. To the extent applicable, the Contractor agrees to comply with 46 U.S.C. § 55305 and U.S. Maritime Administration regulations, “Cargo Preference-U.S.-Flag Vessels,” 46 C.F.R. Part 381. Accordingly, the Contractor agrees (i) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; (ii) to furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, “on board” commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) (iii) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

SC19 EMPLOYEE PROTECTIONS (Davis-Bacon Act, Contract Work Hours and Safety Standards Act, and Copeland Anti-Kickback Act):

- A. Construction Activities. The Contractor agrees to comply with the following laws and regulations providing protections for construction employees:
1. Davis-Bacon Act, as amended, 40 U.S.C. §§ 3141 et seq., pursuant to FTA enabling legislation requiring compliance with the Davis-Bacon Act at 49 U.S.C. § 5333(a), and implementing U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. Part 5;
 2. Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 et seq., specifically, the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and implementing U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. Part 5; and the safety requirements of section 107 of that Act at 40 U.S.C. § 3704, and implementing U.S. DOL regulations, “Safety and Health Regulations for Construction,” 29 C.F.R. Part 1926; and
 3. Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874, and implementing U.S. DOL regulations, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States,” 29 C.F.R. Part 3.

- B. Activities Not Involving Construction. The Contractor agrees to comply with the employee protection requirements for nonconstruction employees of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 et seq., in particular with the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and with implementing U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. Part 5.
- C. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

SC20 MOTOR CARRIER SAFETY:

Contractor agrees that it will comply with the applicable economic and insurance registration requirements of the:

- (1) U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, “Minimum Levels of Financial Responsibility for Motor Carriers,” 49 C.F.R. part 387, if it is engaged in operations requiring compliance with 49 C.F.R. part 387, it is engaged in interstate commerce, and it is not within a defined commercial zone;
- (2) The provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311;
- (3) The safety requirements of U.S. FMCSA regulations, “Federal Motor Carrier Safety Regulations,” 49 C.F.R. parts 390 – 397, to the extent applicable; and
- (4) The driver’s license requirements of U.S. FMCSA regulations, “Commercial Driver’s License Standards, Requirements, and Penalties,” 49 C.F.R. part 383, and “State Compliance with Commercial Driver’s License,” 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA’s regulations, “Controlled Substances and Alcohol Use and Testing,” 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

SC21 SAFE OPERATION OF MOTOR VEHICLES:

Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or its Subcontractors. Contractor is further encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement. Contractor is also encouraged to conduct

workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

SC22 NOTIFICATION TO FTA:

If a current or prospective legal matter that may affect the Federal Government emerges, MARTA and Contractor must promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region IV. The types of legal matters that require notification include, but are not limited to, major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's administration or enforcement of federal laws, regulations, and requirements. MARTA must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for Region IV, if MARTA has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et. seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Contract or another agreement between MARTA and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participate of MARTA. It also applies to subcontractor at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of MARTA.

The Contractor must include this provision in all sub agreements at every tier.

SC23 SEAT BELT USE:

The Contractor agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:

(1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles; and

(2) Including a "Seat Belt Use" provision in each third-party agreement related to this Contract.

SC24 PROTECTION OF SENSITIVE AND PERSONALLY IDENTIFIABLE INFORMATION:

Contractor must implement reasonable measures to safeguard protected personally identifiable information as well as any information that the FTA or pass-through entity designates as sensitive.

SC25 TRAFFICKING IN PERSONS:

Contractor agrees that it and its employees that participate in the Contract, may not: Engage in severe forms of trafficking in persons during the period of time that the Contract is in effect, Procure a commercial sex act during the period of time that the Contract is in effect, or Use forced labor in the performance of the Contract or subagreements thereunder. Violation of this provision provides to the Authority the right to unilaterally terminate the Contract.

SC26 FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS:

By submitting a bid or otherwise attempting to enter into a contract with the Authority, the undersigned Contractor certifies that it:

(A) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(B) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

SC27 CONSTRUCTION SITE SAFETY:

The Contractor agrees that it will comply with all federal laws, regulations, and requirements providing protections for construction employees involved in the Project or related activities, including the: (i) Section 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3704, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq.; and (ii) U.S. DOL regulations, "Recording and Reporting Occupational Injuries and Illnesses," 29 C.F.R. part 1904; "Occupational Safety and Health Standards," 29 C.F.R. part 1910; and "Safety and Health Regulations for Construction," 29 C.F.R. part 1926.

SC28 DOMESTIC PREFERENCES FOR PROCUREMENTS:

As appropriate and to the extent consistent with law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this Contract.

SC29 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

(a) Definitions. As used in this Clause;

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means;

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means;

- (1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;
- (2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-
 - (i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
 - (ii) For reasons relating to regional stability or surreptitious listening;
- (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
- (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
- (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or
- (6) Federal changes emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately

delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) Prohibition. (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the Authority from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Authority any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the Authority on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) Exceptions. This Clause does not prohibit contractors from providing—

- (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) Reporting requirement. (1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Authority immediately.

END OF SUPPLEMENTARY CONDITIONS

EXHIBIT C
PAYMENT TERMS

In addition to the Price Proposal Form (attached hereto as **Form 3** and incorporated herein by this reference), MARTA shall pay to Contractor in accordance with the following, which are inclusive of all costs and expenses related to the design, construction, delivery, installation, implementation, maintenance, and repair/replacement of the equipment and additional services provided in accordance with the terms of the Contract. Notwithstanding anything to the contrary contained in this Contract, Contractor acknowledges and agrees that it shall (a) not be paid more than the amount(s) set forth in the Contract and (b) be paid in accordance with the following schedule of payments for the Contract.

The invoices will be in a format approved by MARTA (using MARTA's online invoicing system ["OLIS"]) and will segregate cost by prime and subcontractors, by phase, activity, and sub-activity corresponding to the design Work Plan and will include the status of the current billings compared to established budgets. Except as set forth in Exhibit C or elsewhere in this Contract, MARTA will pay the undisputed portions of each invoice that is properly formatted, rendered, and accepted by MARTA within thirty (30) days after MARTA receives such invoice. Contractor agrees that it will pay subcontractors for all work satisfactorily performed within five (5) working days from receipt of payment from MARTA.

PRICE PROPOSAL FORM 3

Reserved

EXHIBIT C-2
UNIT PRICE FORM

Reserved

EXHIBIT D
INSURANCE AND BONDING REQUIREMENTS

A. Preamble

The following requirements apply to all work under the Contractor. Compliance is required by the Contractor. **To the extent permitted by applicable law, the Metropolitan Atlanta Rapid Transit Authority ("MARTA") reserves the right to adjust or waive any insurance or bonding requirements contained in this Exhibit D.**

1. Evidence of Insurance Required Before Work Begins

No work under the Contractor may be commenced until all insurance and bonding requirements contained in this Exhibit D, or required by applicable law, have been complied with and evidence of such compliance satisfactory to MARTA as to form and content has been filed with MARTA. Contractor must provide MARTA with a Certificate of Insurance that clearly and unconditionally indicates that Contractor has complied with all insurance and bonding requirements set forth in this Exhibit D. If the Contractor is a joint venture, the insurance certificate should name the joint venture, rather than the joint venture partners individually, as the primary insured.

2. Minimum Financial Security Requirements

All companies providing insurance required by this Exhibit D must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide. The ratings for each company must be indicated on the documentation provided by Contractor to MARTA certifying that all insurance and bonding requirements set forth in this Exhibit D and applicable to the Contract have been unconditionally satisfied.

For all agreements, regardless of size, companies providing insurance or bonds under the Contract must meet the following requirements:

- (a) Best's Rating not less than A-;
- (b) Best's Financial Size Category not less than Class IX; and
- (c) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia; and
- (d) All bid, performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to MARTA, MARTA will notify Contractor in writing. Contractor must promptly obtain a new policy or bond issued by an insurer acceptable to MARTA and submit to MARTA evidence of its compliance with these conditions.

Contractor's failure to comply with all insurance and bonding requirements set forth in this Exhibit D and applicable to the Contract will not relieve Contractor from any liability under the agreement. Contractor's obligations to comply with all insurance and bonding requirements set forth in Exhibit D and applicable to the Contract will not be construed to conflict with or limit Contractor's indemnification obligations under the Contract.

3. Insurance Required for Duration of Contract

All insurance and bonds required by this Exhibit D must be maintained during the entire term of the Contract, including any renewal or extension thereof, and until all work has been completed to the satisfaction of MARTA.

4. Notices of Cancellation & Renewal

Contractor must, notify MARTA in writing at the address listed below by mail, hand-delivery or facsimile transmission, within two (2) days of any notices received from any insurance carriers providing insurance coverage under this Contractor and Exhibit D that concern the proposed cancellation, or termination of coverage.

MARTA
Contracts and Procurement
2424 Piedmont Road N.E.
Atlanta, GA 30324-3330

Confirmation of any mailed notices must be evidenced by return receipts of registered or certified mail.

Contractor shall provide MARTA with evidence of required insurance prior to the commencement of this agreement, and, thereafter, with a certificate evidencing renewals or changes to required policies of insurance at least thirty (30) days prior to the expiration of previously provided certificates.

5. Agent Acting as Authorized Representative

Each and every agent acting as authorized representative on behalf of a company affording coverage under this contract shall warrant when signing the Acord Certificate of Insurance that specific authorization has been granted by the companies for the agent to bind coverage as required and to execute the Acord Certificates of Insurance as evidence of such coverage. MARTA coverage requirements may be broader than the original policies; these requirements have been conveyed to the companies for these terms and conditions. In addition, each and every agent shall warrant when signing the Acord Certificate of Insurance that the agent is licensed to do business in the State of Georgia and that the company or companies are currently in good standing in the State of Georgia.

6. Certificate Holder

MARTA must be named as certificate holder. The Contractor shall add any third-party property owner(s) as certificate holders if requested by MARTA. All notices must be mailed to the attention of **Director of Risk Management at 2424 Piedmont Road N.E., Atlanta, Georgia 30324-3330.**

7. Contract Number & Name

The contract number and name must be referenced in the description section of the insurance certificate.

8. Additional Insured Endorsements – Form CG 20 26 07 04 or their carrier equivalent

MARTA shall be covered as an Additional Insured, as its interest may appear, under any and all insurance required pursuant to this Contract, and such insurance shall be primary and non-contributory with respect to the Additional Insured. However, this requirement does not apply to Workers' Compensation or Professional Liability Insurance. Additional insured status extending to ongoing and completed operations per CG 20 26 07 04 or their carrier equivalent shall be provided. Additional insured status shall be maintained following project completion equivalent to the statute of repose in the State of Georgia. A copy of the Additional Insured Endorsement or its equivalent must be forwarded to MARTA's Department of Risk Management as soon as practicable but in no event more than ten (10) days after the execution date of the Contract. Upon written request by the Authority, the Contractor shall add any third-party property owner(s) as an Additional Insured, under any and all insurance required pursuant to this Contract and forward to MARTA's Department of Risk Management as soon as possible a copy of the Additional Insured added.

9. Mandatory Sub-Contractor Compliance

Contractor must require and ensure that all sub-Contractors at all tiers to be sufficiently insured/bonded.

10. Self-Insured Retentions, Deductibles or Similar Obligations

Any self-insured retention, deductible or similar obligation will be the sole responsibility of the Contractor.

11. Task Order

Evidence of compliance with insurance requirements must be provided on a Task Order basis prior to the issuance of any Notice to Proceed.

B. Workers' Compensation and Employer's Liability Insurance

Contractor must procure and maintain Workers' Compensation and Employer's Liability Insurance in the following limits to cover each employee who is or may be engaged in work under the agreement:

Workers' Compensation: Employer's Liability:	State of Georgia Statutory Coverage
Bodily Injury by Accident/Disease	\$1,000,000 each accident
Bodily Injury by Accident/Disease	\$1,000,000 each employee
Bodily Injury by Accident/Disease	\$1,000,000 policy limit

C. Commercial General Liability Insurance

Contractor must procure and maintain Commercial General Liability Insurance on form (CG 00 00 01 or equivalent) in an amount not less than **\$2,000,000 per occurrence/\$4,000,000 aggregate**. The following indicated extensions of coverage must be provided (only if the box is checked):

- ☒ Contractual Liability
- ☒ Broad Form Property Damage
- ☒ Premises Operations
- ☒ Medical Expense
- ☒ Independent Contractor/Sub-Contractor
- ☒ Additional Insured Endorsement* (primary& non-contributing in favor of MARTA)
- ☒ Waiver of Subrogation in favor of MARTA

D. Commercial Automobile Liability Insurance

Contractor must procure and maintain Commercial General Liability Insurance on form (CG 00 00 01 or equivalent) in an amount not less than **\$1,000,000 per occurrence**. The following indicated extensions of coverage must be provided (only if the box is checked):

E. Excess or Umbrella Liability Insurance

Contractor must procure and maintain Excess or Umbrella Liability in an amount not less than **\$3,000,000** each occurrence/aggregate.

The following indicated extensions of coverage must be provided (only if the box is checked):

- ☒ Coverage must follow form with primary policy
- ☒ May be used to achieve minimum general and auto liability limits
- ☒ Coverage must be as broad as primary policy

F. Professional Liability

Contractor shall procure and maintain Professional Liability with not less than **\$3,000,000** including but not limited to coverage for all acts, errors, omissions, negligence and network security and privacy risks, including coverage for unauthorized access, failure of security, breach of privacy perils, and wrongful disclosure of information in the performance of services for and on behalf of MARTA.

G. Builders Risk

During the course of construction, Builders Risk insurance is required on a completed value basis against all risks of physical loss, covering the replacement cost value of work performed and the equipment supplies and materials.

I. Performance and Payment Bonds

Contractor must, prior to commencement of any work under this Contract, at its own expense, deliver to MARTA a Performance and a Payment Bond equal to \$_____, naming MARTA as co-oblige and issued by a surety company or companies in such form either attached hereto (or as otherwise approved by MARTA's Chief Counsel). The bonds must be kept in full force and effect during the term of the Contract and any renewals or extensions thereof. In lieu of a Performance Bond, Contractor may submit to MARTA an Irrevocable Letter of Credit in a form acceptable to MARTA, in MARTA's sole discretion.

- (a) In addition, prior to the commencement of any work by or at the instance of Contractor, it must provide to MARTA a fixed price contract/Work Order or contracts/Work Orders for all work to be performed, which contract(s) shall be insured by, and Contractor shall provide to MARTA, a Payment Bond in an amount equal to 100% of the work specified in such contract(s) and acceptable to MARTA's Chief Financial Officer and in such form as approved by MARTA's Chief Counsel. The Payment Bond shall name MARTA as the obligee, shall meet the other requirements of the Contract, and shall remain in full force and effect until: (i) all improvements are completely and fully paid for, (ii) certificates of occupancy (if required) have been issued, (iii) final lien waivers have been obtained from all contractors and subcontractors (including, Contractor); (iv) MARTA has approved the final completion of the improvements; and (v) the applicable limitations period under Georgia law for the commencement of a suit against the Payment Bond has lapsed.
- (b) The bonds must be issued as security for the full and faithful performance of this Contract, including, its covenants, stipulations and agreements of the Contractor, the payment of all bills and obligations arising out of the performance its obligations under the Contract, which bills and obligations might or would in any manner become a claim against MARTA, and guaranteeing all services and work set forth in the Contract against faulty materials or poor workmanship, or both, in accordance with any warranty provisions of the Contract, if any.
- (c) The surety company issuing the bonds must give the MARTA notice in writing by registered mail at least sixty (60) days prior to an anniversary date of the bonds of its intention not to renew or

to terminate the bonds. If surety company is terminating the same, Contractor must replace the bonds prior to the expiration of the current bonds.

- (d) A Corporate Surety that is satisfactory to MARTA, authorized to do business in the State of Georgia, and listed in the latest issue of U.S. Treasury Circular 570 must execute the bonds.

An agent of the Surety residing in the State of Georgia must execute the bonds. The date of the Bonds must be the same as the date of execution of the Contract by MARTA. The Surety must appoint an agent for service in Atlanta, Georgia upon whom all notices must be shown on each Bond. The person executing the Bonds on behalf of the Surety must file with the Bonds a general power of attorney unlimited as to amount and type of Bonds covered by such power of attorney and certified to by an official of said Surety. The Bonds must be on forms provided by MARTA. The Contract will not be executed by MARTA until after the approval of the Bonds by MARTA's Chief Counsel.

EXHIBIT E
NO CONFLICT OF INTEREST

Reserved

EXHIBIT F
ALERTNESS ASSURANCE PROGRAM PROCEDURE

<https://itsmarta.com/uploadedfiles/Alertness%20Assurance%20Program%20Policy.pdf>

EXHIBIT G
DISTRACTED AVOIDANCE POLICY

<https://itsmarta.com/uploadedfiles/Distracted%20Avoidance%20Policy.pdf>

APPENDIX A
CORPORATE COMPLIANCE & ENGAGEMENT REQUIREMENTS

Reserved