

DISTRICT OF COLUMBIA

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PROJECT LABOR AGREEMENT FOR THE SOUTH CAPITOL STREET CORRIDOR PROJECT – Phase I

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District of Columbia Department of Transportation

**PROJECT LABOR AGREEMENT FOR THE SOUTH CAPITOL STREET CORRIDOR-
PROJECT – Phase I**

This Project Labor Agreement ("Agreement") is made and entered into this ___ day of _____, 2016, by and among the Government of the District of Columbia acting by and through the District of Columbia Department of Transportation ("DDOT"), the Community Hub for Opportunities in Construction Employment ("CHOICE") and the signatory Unions who have, through their duly authorized officers, executed this Agreement. This Agreement shall apply to the Project Work (as defined herein) to be performed by the Design Build Contractor (as defined herein) and each of its relevant Contractors and Subcontractors of whatever tier ("Contractor" or "Contractors," as defined herein) on the South Capitol Street Corridor-Phase I (hereinafter, the "Project") as more fully described in Article 3 and Exhibit B attached to this Agreement.

The Parties recognize that timely completion of the Project without interruption or delay will require a steady supply of substantial numbers of employees from construction and supporting crafts possessing the skills and qualifications necessary to complete the Project. The Parties therefore agree to work together to furnish skilled, efficient craft workers for the construction of the Project, as required by this Agreement.

The Parties desire to mutually establish and stabilize wages, hours and working conditions for the craft workers on the Project, to encourage close cooperation between the Contractors and the Unions to the end that a satisfactory, continuous and harmonious relationship will exist between the Parties. This Agreement

is intended to enhance this cooperative effort through the establishment of a framework for labor-management cooperation and stability.

To accomplish the important purposes of this Agreement, DDOT and the Design Build Contractor will implement this Agreement by including appropriate provisions in the bid documents and the Design Build Contract Documents for the Project Work. The Project Work will be contracted exclusively to Contractors who agree to execute a "Letter of Assent" in the form attached as Exhibit A and be bound by the terms of this Agreement. All such Contractors shall be deemed Parties to this Agreement.

In recognition of the special needs of the Project, and to maintain a spirit of harmony, labor-management peace, and stability during the term of this Agreement, the Parties agree to abide by the terms and conditions in this Agreement and to establish effective and binding methods for the settlement of all misunderstandings, disputes or grievances which may arise in connection with this Agreement. Further, all Contractors agree not to engage in any lockout, and the Unions agree not to engage in any strike, slowdown, or interruption or other disruption of or interference with the Project Work.

ARTICLE 1 - INTENT AND PURPOSES

SECTION 1. MUTUAL UNDERSTANDINGS

This Agreement is entered into in furtherance of Executive Order No. 13502 (February 6, 2009). It is mutually understood and agreed that the terms and conditions of this Agreement are intended to promote the public interest in obtaining timely and economical completion of the Project by encouraging productive and efficient construction operations; by establishing a spirit of harmony and cooperation among

the Parties; and by providing for peaceful and prompt settlement of any and all labor grievances or jurisdictional disputes of any kind without strikes, lockouts, slowdowns, delays or other disruptions to the prosecution of the Project Work. In furtherance of this goal, the Parties agree that this Agreement will be made available to all proposers or bidders for the Project Work and will fully apply to any successful proposer or bidder performing the Project Work. Further, the Contractors shall be selected without regard to whether they perform work at other sites on either a union or a non-union basis, and without regard to whether employees of such Contractors are or are not members of any Union. This Agreement shall not apply to any Contractor for work that is performed on work other than the Project. The Unions hereby pledge to work cooperatively on the Project with all Contractors awarded Project Work.

SECTION 2. SEPARATE EMPLOYERS

It is understood that the Design Build Contractor and each Contractor will be considered and accepted by the Unions as separate employers, and it is further agreed that the employees working under this Agreement shall constitute a bargaining unit separate and distinct from all others. The Parties also agree that this Agreement shall be applicable solely with respect to the Project and shall have no bearing on the interpretation of any other collective bargaining agreement or as to the recognition of any bargaining unit other than for the specific purposes of the Project.

ARTICLE 2 - GENERAL CONDITIONS

SECTION 1. DEFINITIONS

A.. Throughout this Agreement, the various Union parties, including CHOICE and its participating affiliated Local Unions, are referred to singularly and collectively

as "Union(s)" or "Local Unions."

B. As used herein, the term "Arbitrator" shall mean the individual designated pursuant to Article 7, Section 4. B., who shall be the Arbitrator under the provisions of Articles 7, 8 or 9 of this Agreement to arbitrate any grievance, dispute or other matter under this Agreement.

C. As used herein, the term "Contractor or Contractors" shall include all construction contractors of whatever tier, including all subcontractors engaged in the Project Work and shall include the Design Build Contractor or any construction manager when it performs the Project Work. This definition is solely for the purpose of defining the responsibilities of the Parties under this Agreement and is not intended to change the contractual relationships of any of the contractors working on the Project.

D. As used herein, the term "Collective Bargaining Agreements" means those collective bargaining agreements listed in Schedule A of this Agreement and as they may be amended pursuant to Article 17.

E. As used herein, the term "Design Build Contract Documents" means the design-build agreement and other contract documents identified in the design-build agreement executed between DDOT and Design Build Contractor for the Project, including any amendments and change orders thereto.

F. As used herein, the term "Design Build Contractor" means the contractor executing a design-build agreement with DDOT for the Project.

G. As used herein, the term "Holiday" means those days identified in Article 12, Section 3.

H. As used herein, the term "Party or "Parties" means DDOT, CHOICE, the

signatory Unions, any additional unions added pursuant to Article 2, Section 3, the Design Build Contractor and any other Contractor executing a “Letter of Assent” in the form attached as Exhibit A.

I. As used herein, the term “Project Site” means the shaded area identified in Exhibit C of this Agreement. Also included are “secondary sites,” such as staging areas, concrete batch plants, lay down areas, and sites used to temporarily store materials delivered to the Project..

J. As used herein, the term “Project Work” is as defined in Article 3, Section 1.

K. As used herein, the term “Small Business Enterprise (SBE)” means a small business concern as defined in section 3 of the Small Business Act, 15 U.S.C. § 632.

SECTION 2. CONDITIONS FOR AGREEMENT TO BECOME EFFECTIVE

This Agreement shall not become effective unless each of the following conditions are met: this Agreement is: (1) executed by CHOICE, the participating Unions, and DDOT; and (2) is approved by the Federal Highway Administration of the U.S. Department of Transportation.

SECTION 3. ENTITIES BOUND & ADMINISTRATION OF AGREEMENT

This Agreement shall be binding on all Unions and all Contractors performing Project Work. The Contractors shall include in any subcontract that they let for performance of the Project Work during the term of this Agreement a requirement that their subcontractors, of all tiers, become a Party and bound by this Agreement with respect to that subcontracted Project Work and all Contractors, including the

Design Build Contractor, performing Project Work shall be required to sign a "Letter of Assent" in the form attached as Exhibit A. This Agreement shall be administered by the Design Build Contractor on behalf of all Contractors.

It is the intent of the Parties that all unions representing crafts working on the Project Site be a Party and be bound to this Agreement. Additional unions may be added as Parties upon mutual agreement between CHOICE and the Design Build Contractor should additional crafts be identified during the course of construction of the Project. Failure to add such a union shall have no effect on the provisions of this Agreement.

SECTION 4. SUPREMACY CLAUSE

This Agreement, together with the local Collective Bargaining Agreements, represents the complete understanding of all signatories and supersedes any national agreement, local agreement or other collective bargaining agreement of any type which would otherwise apply to the Project Work, in whole or in part, except work performed under the NTL Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, all instrument calibration work and loop checking which shall be performed under the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, and the National Agreement of the International Union of Elevator Constructors, with the exception of Articles 7, 8, 9, 11 and 17 herein. Subject to the foregoing, where a subject covered by the provisions of this Agreement is also covered by a Collective Bargaining Agreement, the provisions of this Agreement shall prevail.

It is further understood that no Contractor shall be required to sign any other

agreement as a condition of performing the Project Work. No practice, understanding or agreement between a Contractor and a Local Union, which is not set forth in this Agreement, shall be binding on Project Work unless endorsed in writing by the Design Build Contractor. The Design Build Contractor shall notify DDOT in writing of the Design Build Contractor's endorsement of any such practice, understanding or agreement.

SECTION 5. LIABILITY

The liability of any Contractor and the liability of any Union under this Agreement shall be several and not joint. The Design Build Contractor and any Contractor shall not be liable for any violations of this Agreement by any other Contractor; and CHOICE and the Local Unions shall not be liable for any violations of this Agreement by any other Union.

SECTION 6. THE DESIGN BUILD CONTRACTOR

As a condition of award, the Design Build Contractor shall require for the Project Work that all Contractors become bound by, and a Party to, this Agreement. Neither DDOT nor the Design Build Contractor shall be liable for any violation of this Agreement by any Contractor. It is understood that nothing in this Agreement shall be construed as limiting the sole discretion of the Design Build Contractor in determining which Contractors shall be awarded contracts for the Project Work so long as such Contractors become bound by and a Party to this Agreement by signing the "Letter of Assent" attached as Exhibit A. It is further understood that DDOT or the Design Build Contractor have the sole discretion at any time to terminate, delay or suspend the Project Work, in whole or part, on the Project.

SECTION 7. AVAILABILITY AND APPLICABILITY TO ALL SUCCESSFUL BIDDERS

The Unions agree that this Agreement will be made available to, and will fully apply to, any successful proposer or bidder who becomes a Contractor for the Project Work, without regard to whether that Contractor performs work at other sites on either a union or non-union basis and without regard to whether employees of such Contractor are, or are not, members of any unions. This Agreement shall not apply to the work of any Contractor that is performed at any location other than the Project Site of the Project Work.

SECTION 8. SUBCONTRACTING

Subject to the exclusions in Article 3, Section 2, the Design Build Contractor and Contractors shall subcontract the Project Work only to a person, firm or corporation who is or agrees to become a Party to this Agreement.

ARTICLE 3-SCOPE OF THE AGREEMENT

SECTION 1. WORK COVERED

Project Work shall be defined as all construction work related to the Project as generally described in Exhibit B and within the Project Site and specifically defined by the Design Build Contract Documents, subject to the exclusions of Article 3, Section 2.

SECTION 2. EXCLUDED PERSONS

The following persons are not subject to the provisions of this Agreement, even though performing Project Work:

A. Superintendents, supervisors (excluding general forepersons, forepersons, and field surveyors, specifically covered by a craft's Collective Bargaining Agreement), engineers, professional engineers and/or licensed architects engaged in inspection and testing, quality control assurance personnel, timekeepers, mail carriers, clerks, office workers, messengers, guards, technicians, non-manual employees, and all professional, engineering, administrative and management persons;

B. DDOT employees;

C. DDOT's existing on-call contractors, or contractors retained in a non-competitive environment, retained separately by DDOT to correct, replace or remedy defective, non-conforming or faulty Project Work performed by the Design Build Contractor or its Contractors;

D. DDOT's construction manager (except when performing the Project Work);

E. Any other municipal or public agency, authority or entity, and their respective employees;

F. Employees and contractors of utility companies.

G. Employees and entities engaged in off-site manufacture, modifications, repair, maintenance, assembly, painting, handling or fabrication of project components, materials, equipment or machinery or involved in deliveries to and from the Project Site, except to the extent they are lawfully included in the bargaining unit of a Collective Bargaining Agreement;

H. Employees of the Design Build Contractor (except when performing the

Project Work);

I. Employees engaged in on-site, non-routine servicing of equipment (such as repair and warranty work), unless employees are already working on the Project Site and are certified to service equipment;

J. Employees engaged in geophysical testing other than boring for core samples;

K. Employees engaged in laboratory, specialty testing, or inspections, pursuant to a professional services agreement between the Design Build Contractor, or any of the Design Build Contractor's other professional consultants, and such laboratory, testing, inspection or surveying firm; and

L. Employees engaged in on-site maintenance of installed equipment or systems, which maintenance is awarded as part of a contract that includes Project Work, but which maintenance occurs after installation of such equipment or system and is not directly related to construction services.

SECTION 3. NON-APPLICATION TO CERTAIN ENTITIES

This Agreement shall not apply to those parents, affiliates, subsidiaries, or other joint or sole ventures of any Contractor that do not perform the Project Work. It is agreed that this Agreement does not have the effect of creating any joint employment, single employer or alter ego status among the Design Build Contractor or any Contractor.

As the contracts involving the Project Work are completed and accepted, this Agreement shall not have further force or effect on such items or areas except to resolve outstanding grievances arising under this Agreement and also where

inspections, additions, repairs, modifications, check-out and/or warranty work are assigned in writing (copy to Local Union involved) by the Design Build Contractor for performance under the terms of this Agreement.

SECTION 4. LOCAL HIRING PREFERENCE

A. The Federal Highway Administration has approved the use of a local hiring preference for the Project under a local hiring pilot program ("Pilot Program"). The application to participate in the Pilot Program and the FHWA approval are attached as Exhibit D.

B. Under the Pilot Program: (1) at least 51% of all new jobs ("new hires") are to be performed by residents of the District of Columbia and (2) for all training and apprenticeship positions identified, at least 51 percent of the participants are residents of the District of Columbia. For purposes of this Section 4.B., a "new hire" is defined as an individual who has never worked for the Contractor or has been separated from the Contractor for more than 90 consecutive days.

C. Notwithstanding any provision of this Agreement, the local hiring provisions of Article 3, Section 4. B., regardless of tier, shall supersede and be incorporated into the referral and hiring provisions of this Agreement. It is understood by the Parties that the provisions of the FHWA approved Pilot Program (Exhibit D) will be incorporated into the Design Build Contract Documents and all subcontracts thereunder.

ARTICLE 4- UNION RECOGNITION AND EMPLOYMENT

SECTION 1. PRE-HIRE RECOGNITION

The Contractors recognize the Unions as the sole and exclusive

bargaining representatives of all employees who are or will be performing on-site Project Work, with respect to that work.

SECTION 2. UNION REFERRAL

A. The Design Build Contractor and Contractors agree to utilize, employ and hire craft employees for Project Work through the job referral systems and hiring halls established in the Local Unions' area Collective Bargaining Agreements.

Notwithstanding this, the Contractors shall have sole right to determine the competency of all referrals; to determine the number of employees required; to select employees for layoff (subject to Article 5, Section 3); and to reject any applicant referred by a Local Union, subject to the show-up payments. In the event that a Local Union is unable to fill any request for qualified employees within a 48 hour period after such requisition is made by a Contractor (Saturdays, Sundays and Holidays excepted), a Contractor may employ qualified applicants from any other available source. In the event that the Local Union does not have a job referral system, the Contractor shall give the Local Union first preference to refer applicants, subject to the other provisions of this Article. The Contractor shall notify the Local Union of craft employees hired for the Project Work within its jurisdiction from any source other than referral by the Union.

B. A Contractor may request by name, and the Local Union will honor, referral of persons who have applied to the Local Union for the Project Work and who meet the following qualifications:

- (1) possess any license required by District of Columbia law for the Project Work to be performed;

- (2) have worked a total of at least 1000 hours in the construction field during the prior 3 years; and
- (3) were on the Contractor's active payroll for at least 60 out of the 180 calendar days prior to the contract award.

No more than twelve per centum (12%) of the employees covered by this Agreement, per Contractor by craft, shall be hired through the special provisions above. Under this provision, name referrals begin with the eighth employee needed and continue on that same basis.

C. All Contractors and Unions shall participate in up to five (5) career fairs to be organized by the Parties in a concerted effort to recruit potential applicants for employment, apprenticeship and apprenticeship readiness opportunities.

SECTION 3. NON-DISCRIMINATION IN REFERRALS

CHOICE represents that each Local Union hiring hall and referral system will be operated in a non-discriminatory manner and in full compliance with all applicable federal and District of Columbia laws and regulations that require equal employment opportunities, including, but not limited to 23 CFR Part 230 and CFR Section 635.117(b). Specifically:

A. Referrals shall not be affected in any way by the rules, regulations, bylaws, constitutional provisions or any other aspects or obligations of union membership, policies or requirements and shall be subject to such other conditions as are established in this Article.

B. No employment applicant shall be discriminated against by any referral system or hiring hall because of the applicant's union membership, or lack thereof.

SECTION 4. MINORITY AND FEMALE REFERRALS

In the event a Local Union either fails, or is unable to refer qualified minority or female applicants in percentages equaling the workforce participation goals adopted by the DDOT and set forth in the Design Build Contractor's bid specifications, within 48 hours of the request for same, the Contractor may employ qualified minority or female applicants from any other available source.

SECTION 5. SBE and DBE CONTRACTORS

The Local Unions recognize that DDOT has a program to encourage and foster work opportunities for Small Business Enterprises and certified Disadvantaged Business Enterprises ("DBEs") and the Local Unions will work cooperatively with DDOT and the Design Build Contractor in their efforts to provide such work opportunities.

The Project is subject to the federal Disadvantaged Business Enterprise ("DBE") program (49 CFR Part 26), with a DBE goal, and federal Equal Employment Opportunity requirements (23 CFR Part 230). **Notwithstanding the above provision and subject to the below, a certified DBE or an SBE, with 40 or more employees not signatory to a Collective Bargaining Agreement may, with respect to its first 40 hires, request referral by name under the above requirements of up to 50% of the employees covered by this Agreement, by craft, provided such employees meet the qualifications of Article 4, Section 2. B.** In that case, the first name referral must be a general foreperson (if otherwise included in a craft's Collective Bargaining Agreement). Then, every odd numbered hire from the 3rd through the 39th may be a

name referral. Thereafter, the above 12 per centum referral provision will apply, meaning that the 48th, 56th, 64rd and every 8th employee thereafter may be a name referral. In the event there is an insufficient number of name referrals who meet the requirements of Article 4, Section 2.B, to satisfy the ratios set forth above, then the DBE/SBE shall obtain referrals through the hiring hall and may not be requested by name.

DBEs and SBEs with fewer than 40 employees not signatory to a Collective Bargaining Agreement may designate up to 20 employees meeting the qualifications of Article 4, Section 2.B who may be retained or hired by the SBE or DBE without going through the Union referral or hiring hall. In the event less than 20 employees meet the requirements of Article 4, Section 2.B, then the DBE/SBE shall obtain referrals for the remaining first 20 hires through the hiring hall, and may not be requested by name. The remaining hires (21-40) shall be referred through the hiring hall, and may not be requested by name.

All SBE and DBE employees shall otherwise be subject to the terms of this Agreement.

SECTION 6. CROSS AND QUALIFIED REFERRALS

The Local Unions shall not knowingly refer to a Contractor an employee then employed by another Contractor working under this Agreement. The Local Unions will exert their utmost efforts to recruit sufficient numbers of skilled and qualified craft employees to fulfill the requirements of the Contractor.

SECTION 7. UNION SECURITY PROVISIONS

A. All employees shall be required to comply with the union security provisions of the applicable Collective Bargaining Agreement for the period during which they are performing Project Work, but the Unions agree to honor and respect any non-member worker's right to limit his/her financial obligation to the payment of the applicable Local Union's fee for representation services, calculated in accordance with applicable law.

B. Upon receipt of a voluntary written authorization from the employee, the Contractor agrees to deduct and forward to the Union any dues check off or working assessment required to be paid in accordance with the provisions relating to dues check off and working assessments in the applicable Collective Bargaining Agreement.

SECTION 8. CRAFT FOREPERSONS AND GENERAL FOREPERSONS

The selection of craft forepersons and/or general forepersons and the number of forepersons required shall be solely the responsibility of the Contractor, provided that all craft forepersons shall be experienced and qualified journeypersons in their trade as determined by the appropriate Local Union. All forepersons shall take orders exclusively from the designated Contractor representatives. Craft forepersons shall be designated as working forepersons at the request of the Contractor.

ARTICLE 5- UNION REPRESENTATION

SECTION 1. LOCAL UNION REPRESENTATIVE

Each Local Union representing on-site employees shall be entitled to designate in writing (copy to the Contractor involved and the Design Build Contractor) one

representative, and/or the business manager, who shall be afforded access to the Project Work Site.

SECTION 2. STEWARDS

A. Each Local Union shall have the sole discretion to select and designate any working journeyperson as a steward and an alternate steward. The Union shall notify the Contractor and the Design Build Contractor of the identity of the designated steward and alternate prior to the assumption of such duties. Stewards shall not exercise supervisory functions and will receive the regular rate of pay for their craft classifications. All stewards shall be working stewards.

B. In addition to their work as an employee, the steward shall have the right to receive complaints or grievances and to discuss and assist in their adjustment with the Contractor's appropriate supervisor. Each steward shall assist the employees of the steward's trade and, if applicable, subcontractors of their Contractor, but not the employees of any other trade Contractor. No Contractor shall discriminate against the steward as a result of the proper performance of Union duties.

C. The stewards shall not have the right to determine when overtime shall be worked, or who shall work overtime.

SECTION 3. LAYOFF OF A STEWARD

Contractors agree to notify the appropriate Union 24 hours prior to the layoff of a steward, except in cases of discipline or discharge for just cause. A steward shall be the last to be laid off provided the steward possesses the necessary qualifications to perform the work required. In any case in which a steward is discharged or disciplined for just cause, the Local Union involved shall be notified

immediately by the Contractor.

ARTICLE 6- MANAGEMENT'S RIGHTS

SECTION 1. RESERVATION OF RIGHTS

Except as expressly limited by a specific provision of this Agreement, Contractors retain full and exclusive authority for the management of their operations including, but not limited to, the right to: direct the work force, including determination as to the number of employees to be hired and the qualifications therefore; the promotion, transfer, layoff of its employees; require compliance with the directives of DDOT, including standard restrictions related to security and access to the Project Site that are equally applicable to DDOT employees, guests, or vendors; or the discipline or discharge for just cause of its employees; assign and schedule work; promulgate reasonable Project Work rules that are not inconsistent with this Agreement or rules common in the industry and are reasonably related to the nature of work; and, the requirement, timing and number of employees to be utilized for overtime work. No rules, customs, or practices which limit or restrict productivity or efficiency of the individual shall be permitted or observed.

SECTION 2. MATERIALS, METHODS & EQUIPMENT

Nothing in this Agreement shall be read to limit or restrict the Contractors' choice of materials, techniques, methods, technology or design, or, regardless of source or location, upon the use and installation of equipment, machinery, package units, pre-cast, pre-fabricated, pre-finished, or pre-assembled materials or products, tools, or other labor-saving devices. Subject to the Design Build Contract Documents, Contractors may, without

restriction, install or use materials, supplies or equipment regardless of their source. The on-site installation or application of such items shall be performed by the craft having jurisdiction over such work; provided, however, it is recognized that other personnel having special qualifications may participate, in a supervisory capacity, in the installation, check off or testing of specialized or unusual equipment or facilities as designated by the Contractor. There shall be no restrictions under this Agreement as to work which is performed off-site for the Project Work.

ARTICLE 7- WORK STOPPAGES AND LOCKOUTS

SECTION 1. NO STRIKES-NO LOCK OUT

There shall be no strikes, sympathy strikes, picketing, work stoppages, slowdowns, hand billing, demonstrations or other disruptive activity on the Project Work for any reason by any Union or employee against the Design Build Contractor and Contractors or other employers. This Agreement, including the provisions of this Article, shall apply to all Project Work and any work that is not covered by this Agreement is not considered Project Work and shall not be covered by this provision of this Agreement. There shall be no lockout at the Project Site by the Design Build Contractor or any Contractor. Contractors and Affiliated Unions shall use their best efforts to ensure compliance with this Section and to ensure uninterrupted construction and the free flow of traffic in the Project area for the duration of this Agreement.

SECTION 2. DISCHARGE FOR VIOLATION

The Design Build Contractor may discharge any employee violating Article 7, Section 1, and any such employee will not be eligible thereafter for referral

under this Agreement for a period of 100 days.

SECTION 3. NOTIFICATION

If the Design Build Contractor contends that any Union has violated this Article, it will notify the Local Union involved advising of such fact, with copies of the notification to CHOICE. The Local Union shall instruct and order, CHOICE shall request, and each shall otherwise use their best efforts to cause the employees (and where necessary CHOICE shall use its best efforts to cause the Local Union), to immediately cease and desist from any violation of this Article. If CHOICE complies with these obligations it shall not be liable for the unauthorized acts of a Local Union or its members. Similarly, a Local Union and its members will not be liable for any unauthorized acts of CHOICE. Failure of a Contractor or the Design Build Contractor to give any notification set forth in this Article shall not excuse any violation of Article 7, Section 1.

SECTION 4 . EXPEDITED ARBITRATION

The Design Build Contractor, and any Contractor or Union alleging a violation of Article 7, Section 1 may utilize the expedited procedure set forth below (in lieu of, or in addition to, any actions at law or equity) that may be brought.

A. The Design Build Contractor, Contractor, or Union shall first attempt to resolve the matter informally through consultation among the effected parties. If, after such consultation, the matter is not resolved, the parties or any party may refer the matter to expedited arbitration.

B. The Arbitrator shall be one of the following individuals: **[Suggest a list of 5 people]**. Each person on the foregoing list will serve in turn as the

Arbitrator for the matter. If the person whose turn it is to serve is not available, the next person on the list shall serve as the Arbitrator. The person unable to serve will then be next in line should another dispute, allegation or violation arise.

C. A party invoking this procedure shall notify the Arbitrator. Copies of such notification will be simultaneously sent to the alleged violator and CHOICE

D. The Arbitrator shall thereupon, after notice as to time and place to the Contractor, the Local Union involved, CHOICE and the Design Build Contractor, and notice of the arbitration proceeding to DDOT, hold a hearing within 48 hours of receipt of the notice invoking the procedure if it is contended that the violation still exists. The hearing will not, however, be scheduled for less than 24 hours after the notice required by Article 7, Section 3.

C. All notices pursuant to this Article may be provided by email, hand delivery, or fax, confirmed by overnight delivery, to the Arbitrator, Contractor, Design Build Contractor, CHOICE and Local Union involved. The hearing may be held on any day including Saturdays or Sundays. The hearing shall be completed in one session, which shall not exceed 8 hours duration (no more than 4 hours being allowed to either side to present their case, and conduct their cross examination) unless otherwise agreed. A failure of any Union or Contractor to attend the hearing shall not delay the hearing of evidence by those present or the issuance of an award by the Arbitrator.

D. The sole issue at the hearing shall be whether a violation of Article 7, Section 1, occurred. If a violation is found to have occurred, the Arbitrator

shall issue a cease and desist award restraining such violation and serve copies on the Contractor and Union involved. The Arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages (any damages issue is reserved solely for court proceedings, if any). The cease and desist award shall be issued in writing within 3 hours after the close of the hearing, and may be issued without an opinion. If any involved party desires an opinion, one shall be issued within 15 calendar days, but its issuance shall not delay compliance with or enforcement of the cease and desist award.

E. The Design Build Contractor (or such other designee of the Design Build Contractor) may participate in full in all proceedings under this Article.

F. A cease and desist award issued under this procedure may be enforced by any court of competent jurisdiction upon the filing of this Agreement together with the cease and desist award. Notice of the filing of such enforcement proceedings shall be given to the Union or Contractor involved, the Design Build Contractor and CHOICE.

G. Any rights created by statute or law governing arbitration proceedings which are inconsistent with the procedure set forth in this Article, or which interfere with compliance thereto, are hereby waived by the Contractors and Unions to which they accrue.

H. The fees and expenses of the Arbitrator shall be equally divided between the involved Contractor and Union.

I. The Arbitrator shall inform DDOT of any arbitration under this Agreement and of the results of such arbitration.

SECTION 5. ARBITRATION OF DISCHARGES FOR VIOLATION

Procedures contained in Article 8 shall not be applicable to any alleged violation of this Article, with the single exception that an employee discharged for violation of Article 7, Section 1, may have recourse to the procedures of Article 8 to determine only if the employee did, in fact, violate the provisions of Article 7, Section 1; but not for the purpose of modifying the discipline imposed where a violation is found to have occurred.

ARTICLE 8- GRIEVANCE & ARBITRATION PROCEDURE

SECTION 1. PROCEDURE FOR RESOLUTION OF GRIEVANCES

Any question, dispute or claim arising out of, or involving the interpretation or application of this Agreement (other than jurisdictional disputes or alleged violations of Article 7, Section 1) shall be considered a grievance and shall be resolved pursuant to the exclusive procedure of the steps described below, provided, in all cases, that the question, dispute or claim arose during the term of this Agreement.

Step 1:

(a) When any employee covered by this Agreement feels aggrieved by a claimed violation of this Agreement, the employee shall, through the Local Union business representative or job steward give notice of the claimed violation to the work site representative of the involved Contractor and the Design Build Contractor. To be timely, such notice of the grievance must be given within 7 calendar days after the act, occurrence or event giving rise to the grievance or as soon thereafter as practical but not to exceed an additional 7 calendar days. The

business representative of the Local Union or the job steward and the work site representative of the involved Contractor shall meet and endeavor to adjust the matter within 7 calendar days after timely notice has been given or as soon thereafter as practical. If they fail to resolve the matter within the prescribed period, the grieving party, may, within 7 calendar days or as soon thereafter as practical, pursue Step 2 of the grievance procedure by serving the involved Contractor with written copies of the grievance setting forth a description of the claimed violation, the date on which the grievance occurred, and the provisions of this Agreement alleged to have been violated. Grievances and disputes settled at Step 1 are non-precedential except as to the specific Local Union, employee and Contractor directly involved unless the settlement is accepted in writing by the Design Build Contractor (or designee) as creating a precedent.

(b) Should any Party (excluding DDOT) have a dispute (excepting jurisdictional disputes or alleged violations of Article 7, Section 1) with any other Party (excluding DDOT) and, if after conferring, a settlement is not reached within 7 calendar days, or as soon thereafter as practical, the dispute shall be reduced to writing and proceed to Step 2 in the same manner as outlined in subparagraph (a) for the adjustment of employee grievances.

Step 2:

The business manager or designee of the involved Local Union, together with representatives of the involved Contractor, CHOICE and the Design Build Contractor (or designee), shall meet in Step 2 within 7 calendar days of service of the written grievance to arrive at a satisfactory settlement or as soon thereafter as practical.

Step 3:

(a) If the grievance shall have been submitted but not resolved in Step 2, any of the participating Step 2 entities may, within 21 calendar days after the initial Step 2 meeting, submit the grievance in writing (copies to other participants, including the Design Build Contractor or designee) to the Arbitrator. The Labor Arbitration Rules of the American Arbitration Association shall govern the conduct of the arbitration hearing, at which all Step 2 participants shall be parties. The decision of the Arbitrator shall be final and binding on the involved Contractor, Local Union and employees and the fees and expenses of such arbitrations shall be borne equally by the involved Contractor and Local Union.

(b) Time is of the essence. Failure of the grieving party to adhere to the time limits set forth in this Article shall render the grievance null and void. These time limits may be extended only by written consent of the Design Build Contractor (or designee), involved Contractor and involved Local Union at the particular step where the extension is agreed upon. The Arbitrator shall have authority to make decisions only on the issues presented to him and shall not have the authority to change, add to, delete or modify any provision of this Agreement.

SECTION 2. LIMITATION AS TO RETROACTIVITY

No arbitration decision or award may provide retroactivity of any kind exceeding 60 calendar days prior to the date of service of the written grievance on the Design Build Contractor and the involved Contractor or Local Union.

SECTION 3. PARTICIPATION BY DESIGN BUILD CONTRACTOR

The Design Build Contractor shall be notified by the involved Contractor of all actions at Steps 2 and 3 and, at its election, may participate in full in all

proceedings at these Steps, including Step 3 arbitration.

ARTICLE 9 - JURISDICTIONAL DISPUTES

SECTION 1. DEFINITION

As used in this Agreement, the term "Jurisdictional Dispute" shall be defined as any dispute, difference or disagreement involving the assignment of particular work to one class or craft of employees rather than to a different class or craft of employees, regardless of that Contractor's contractual relationship to any other employer, contractor, or organization on the Project Site.

SECTION 2. RESOLUTION OF DISPUTES

It is agreed that any and all Jurisdictional Disputes shall be resolved in the following manner; each of the steps hereinafter listed shall be initiated by the disputing Parties in sequence as set forth herein and all signatory affiliates agree that upon request, a representative shall be assigned without delay to attempt a settlement in the event of a question on assignments.

(a) Negotiation by and between the local business representatives of the disputing Unions and employer shall take place within two (2) business days. Business days as used in this Article are defined as Monday through Friday excluding Holidays. Such negotiations shall be pursued until it is apparent that the dispute cannot be resolved at the local level.

(b) The international representatives of the disputing Unions shall meet or confer and attempt to resolve said dispute. This meeting shall take place within two (2) business days.

(c) The parties to the Jurisdictional Dispute shall submit the dispute

directly to the Arbitrator after complying with paragraph (2b) above. The disputed parties shall meet with the Arbitrator within three (3) business days. The Arbitrator's bench decision will be given the day of the hearing and will be final and legally binding on the Project only. The Arbitrator's bench decision will be implemented without delay. The cost of arbitration will be shared equally by the disputing parties. Any party to the dispute can require that a "long form" written decision be provided from the Arbitrator; however, the cost of the "long form" written decision will be the responsibility of the Party making the request.

(d) A Jurisdictional Dispute may be submitted based upon a pre-job assignment.

(e) If any party to the Jurisdictional Dispute does not fully comply with the steps and time limits within each step, then the party in non-compliance will lose by "automatic default."

(f) Time limits at any step can be extended if all parties to the Jurisdictional Dispute mutually agree in writing.

(g) All parties to a Jurisdictional Dispute can mutually agree to waive the time limits in steps (a) and (b) and proceed directly to an expedited arbitration hearing.

(h) The Arbitrator is not authorized to award back pay or any other damages for a mis-assignment of work; nor may any party bring an independent action for back pay or any other damages based upon a decision of an Arbitrator.

SECTION 3. NO INTERFERENCE WITH WORK

The Parties agree that Jurisdictional Disputes cannot and shall not interfere

with the efficient and continuous operations required for the successful application of this Agreement. There will be no strikes, sympathy strikes, work stoppages, slowdowns, picketing or other disruptive activity of any kind arising out of any Jurisdictional Dispute. Pending the resolution of the Jurisdictional Dispute, the work shall continue uninterrupted and as assigned by the Contractor. No Jurisdictional Dispute shall excuse a violation of Article 7.

SECTION 4. DELIVERIES

Equipment or material delivered to the jobsite will be unloaded promptly without regard to Jurisdictional Disputes, which will be handled as per the provisions of this Agreement. The Contractor will supply the Union with delivery schedules, allowing as much time as possible to ensure the appropriate crafts will be available to unload the materials or equipment.

ARTICLE 10 - WAGES AND BENEFITS

SECTION 1. CLASSIFICATION AND BASE HOURLY RATE

All employees covered by this Agreement shall be classified in accordance with the work performed and paid the hourly wage and fringe benefit rates applicable for those classifications as required by the applicable Collective Bargaining Agreement.

SECTION 2. EMPLOYEE BENEFITS

A. The Contractors agree to pay on a timely basis contributions on behalf of all employees covered by this Agreement to those established jointly trustee employee benefit funds designated in the Collective Bargaining Agreement

(in the appropriate Collective Bargaining Agreement amounts).

B. The Contractors agree to be bound by the written terms of the legally established jointly trustee trust agreements specifying the detailed basis on which payments are to be paid into, and benefits paid out of, such trust funds but only with regard to the Project Work done under this Agreement and only for those employees to whom this Agreement requires such benefit payments.

C. In consideration of the Unions' waiver of their rights to withhold labor from a Contractor delinquent in the payment of fringe benefits contributions ("Delinquent Contractor"); to the extent permitted by law the Design Build Contractor agrees that where any such union and/or fringe benefit fund shall notify the Design Build Contractor and the Delinquent Contractor in writing with back-up documentation that the Delinquent Contractor has failed to make fringe benefit contributions to it as provided herein and the Delinquent Contractor shall fail, within ten (10) calendar days after receipt of such notice, to furnish either proof of such payment or notice that the amount claimed by the union and/or fringe benefit fund is in dispute, the Design Build Contractor shall withhold from amounts then or thereafter becoming due and payable to the Delinquent Contractor an amount equal to that portion of such payment due to the Delinquent Contractor that relates solely to the Project Work performed by the Delinquent Contractor which the union or fringe benefit fund claims to be due it, and shall remit the amount when and so withheld to the fringe benefit fund and deduct such payment from the amounts then otherwise due and payable to the Delinquent Contractor, which payment shall,

as between the Design Build Contractor and the Delinquent Contractor, be deemed a payment by the Design Build Contractor to the Delinquent Contractor. The Union or its employee benefit funds shall include in its notification of delinquent payment of fringe benefits only such amount it asserts the Delinquent Contractor failed to pay on the Project Work and the Union or its employee benefit funds may not include in such notification any amount such Delinquent Contractor may have failed to pay on any other DDOT or non-DDOT project.

D. Payment to a fringe benefit fund under this provision shall not relieve the Design Build Contractor or Delinquent Contractor from responsibility for the Project Work covered by the payment. Nothing contained herein shall create any obligation on the part of DDOT to pay any union or fringe benefit fund, nor shall anything provided herein serve to create any relationship in contract or otherwise, implied or expressed, between the union/fund and/or fringe benefit and DDOT.

ARTICLE 11. EMPLOYMENT OF VETERANS

SECTION 1. HELMETS TO HARDHATS

The Contractors and Unions desire to facilitate the entry into the building and construction trades of veterans and members of the National Guard and Reserves who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment ("Center"), a joint Labor-Management Cooperation Trust, established under the authority of Section 6(b) of the Labor-Management Cooperation Act of 1978, 29 U.S.C. Section 175(a), and Section

302(c)(9) of the Labor-Management Relations Act, 29 U.S.C. Section 186(c)(9), and a charitable tax exempt organization under Section 501(c)(3) of the Internal Revenue Code, and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties. The Unions and Contractors agree to coordinate with the Center to create and maintain an integrated database of veterans and members of the National Guard and Reserves interested in working on the Project and of apprenticeship and employment opportunities for the Project. To the extent permitted by law, the Contractors and Unions will give credit to such veterans and members of the National Guard and Reserves for bona fide, provable past experience.

SECTION 2. CONTRIBUTIONS

(a) Each Contractor performing work on the Project shall contribute to the Center the amount of two cents (\$0.02) per hour for each hour worked by each individual employee covered by this Agreement. This payment may be modified upon the mutual agreement of the Union, CHOICE, and the Design Build Contractor. Payment shall be forwarded monthly to the Center in a form and manner to be determined by the Center's trustees.

(b) The Center shall function in accordance with, and as provided in the Agreement and Declaration of Trust creating the fund, and any amendments thereto, and any other of its governing documents. Each Contractor performing work covered

by this Agreement approves and consents to the appointment of the trustees designated pursuant to the trust agreement establishing the Center and hereby adopts and agrees to be bound by the terms and provisions of the trust agreement.

(c) Contractors who fail to pay contributions or other payments owed to the Center within thirty (30) days of the date when such contributions or other payments are due shall be liable to the Trust for all costs of collection incurred by the trust, including interest, attorneys' fees, court costs and penalties as may be assessed by the trustees. The trustees are empowered to initiate proceedings at law or equity, and to take any other lawful action necessary to collect contributions and all other payments due.

ARTICLE 12- HOURS OF WORK, PREMIUM PAYMENTS, SHIFTS AND HOLIDAYS

SECTION 1. WORK WEEK AND WORK DAY

(a) The normal workday shall be eight (8) hours and the normal workweek shall be forty (40) hours, Monday through Friday. Regular work hours will be between 5:30 a.m. and 5:30 p.m. plus one-half ($\frac{1}{2}$) hour unpaid for lunch approximately mid-way through the shift, which may be changed by mutual agreement of the Union and the Contractor. The Design Build Contractor may arrange for multiple shifts outside of normal work hours. Saturdays and Holidays may be make-up days on a voluntary basis for weather-related lost time only, with no less than eight (8) hours work opportunity if called in. The Union and the Design Build Contractor may, by mutual agreement, increase or decrease the minimum hours of make-up work. Make-up days shall be paid as straight time unless otherwise required by law.

(b) If the Design Build Contractor and the Contractor determine that it would be beneficial to the Project, the Contractor may implement a four (4) ten-hour day workweek or a five (5) ten-hour day workweek (exclusive of one-half hour unpaid lunch approximately mid-way through the shift) after providing three (3) days' notice to the Union. Once established, a four-ten or five-ten workweek shall remain in effect for at least four (4 or 5) consecutive working days. Regular working hours during the four/ten workweek will be between 5:30 a.m. and 5:30 p.m., Monday through Friday. Saturdays and Holidays may be make-up days on a voluntary basis for weather-related lost time only, with no less than ten (10) hours work opportunity if called in.

(c) A uniform starting time will be established for each craft or segment of the work. The Union(s) shall be informed of the work starting time set by the Contractor at the pre-job conference.

SECTION 2. OVERTIME

The need to work overtime will be determined by the Contractor. The Contractor will determine the distribution of approved overtime work. All overtime hours shall be paid at the rate of one and one-half (1½) times the straight-time rate of pay. Employees shall be paid at the straight- time rate of pay for the: first eight (8) hours in a single day when working on a five (5) days x eight (8) hours schedule and at the overtime rate thereafter; or the first 10 hours worked per day in a four (4) days x ten (10) hours schedule and at the overtime rate thereafter. Any other type of alternative schedule shall be paid at the straight time rate for the first eight (8) hours per day and at the overtime rate for all hours after eight (8) hours. Work on Sundays and Holidays shall be paid at the overtime rate.

SECTION 3. HOLIDAYS

The recognized Holidays shall be the following days: New Year's Day; Inauguration Day; Martin Luther King Jr. Birthday; Presidents' Day; Memorial Day; Emancipation Day; Independence Day; Labor Day; Columbus Day; Veterans Day; Thanksgiving Day; and Christmas Day. When any Holiday falls on Sunday, the Holiday will be observed on the following Monday. When any Holiday falls on a Saturday, the Holiday will be observed on the immediately preceding Friday.

SECTION 4. SHIFTS

The Unions will use their best efforts to provide sufficient manpower to work on multiple shifts if the Design Build Contractor or the Contractors determine that multiple shifts are necessary. Employees on a second shift shall receive eight (8) hours pay for a seven and one-half ($\frac{1}{2}$) hour shift. Employees on a third shift shall receive eight (8) hours pay for a seven (7) hour shift. The Contractor shall notify the Union with two (2) days' notice of the starting and quitting time of all second or third shifts in advance of initiation of said shifts.

SECTION 5. ACCOMMODATING OPERATIONAL NEEDS

If DDOT needs to restrict work to accommodate DDOT's operations, shift starting times and duration may be adjusted to meet these needs and work shall be performed at the regular hourly rate. The Design Build Contractor will provide not less than three (3) days' notice to the Union(s) and affected work crews. The Unions and the employees agree that the employees will work the adjusted shifts. Where such shift adjustments are

known at the time employees are requested from the hiring hall, the Contractor shall notify the dispatcher of the variable shifts requirement and the dispatcher will notify the workers being dispatched of the requirement. Nothing in this section shall be deemed to restrict the right of DDOT to order the suspension of Project Work pursuant to Section 10 of this Article.

SECTION 6. ABSENTEEISM

The Parties agree that chronic and/or unexcused absenteeism is undesirable and must be controlled. The Design Build Contractor, after consultation with the Unions, shall implement a uniform absenteeism policy for the Project and such policy will be published and posted in conspicuous places throughout the Project Site. The policy may provide for reasonable disciplinary actions, including suspension and discharge, subject to the employee's right to file a grievance over such discipline.

SECTION 7. BEGINNING AND END OF WORKDAY

Employment begins and ends at the Project Site. Employees shall be at their place of work at the starting time; and employees shall remain at their place of work until quitting time unless otherwise instructed by the Contractor.

SECTION 8. REPORTING PAY

A. Employees who report to the work location pursuant to their regular schedule and who are not provided with work shall be paid two hours reporting pay at straight time rates. An employee whose work is terminated early by a Contractor due to weather, power failure, fire or natural disaster or for similar circumstances beyond the Contractor's control shall receive pay only for such time

as is actually worked. In other instances in which an employee's work is terminated early (unless provided otherwise elsewhere in this Agreement), the employee shall be paid for his full shift.

B. When an employee who has completed his/her scheduled shift and left the Project Site is "called out" to perform special work of a casual, incidental or irregular nature, the employee shall receive overtime pay at the rate of time and one-half of the employee's straight time rate for hours actually worked.

C. When an employee leaves the job or work location of his/her own volition or is discharged for cause or is not working as a result of the Contractor's invocation of Article 12, Section 9, he/she shall be paid only for the actual time worked.

D. Except as specifically set forth in this Article there shall be no premiums, bonuses, hazardous duty, high time or other special premium payments or reduction in shift hours of any kind.

E. There shall be no pay for time not actually worked except as specifically set forth in this Article.

SECTION 9. PAYMENT OF WAGES

Termination- Employees who are laid off or discharged for cause shall be paid in full for that which is due them at the time of termination. The Contractor shall also provide the employee with a written statement setting forth the date of lay off or discharge.

SECTION 10. EMERGENCY WORK SUSPENSION

A Contractor may, if considered necessary for the protection of life and/or

safety of employees or others, or at the direction of DDOT or a safety or security agency of the federal or District of Columbia government, suspend all or a portion of the Project Work or make temporary shift changes to accommodate the emergency. In such instances, employees will be paid for actual time worked, except that when a Contractor requests that employees remain at the Project Site available for work, employees will be paid for that time at their hourly rate of pay.

SECTION 11. INJURY/DISABILITY

An employee, who, after commencing work, suffers a work-related injury or disability while performing work duties, shall receive no less than 8 hours wages for that day. Further, the employee shall be rehired at such time as able to return to duties provided there is still Project Work available for which the employee is qualified and able to perform.

SECTION 12. TIME KEEPING

A Contractor may utilize brassing or other systems to check employees in and out. Each employee must check in and out. The Contractor will provide adequate facilities for checking in and out in an expeditious manner.

SECTION 13. MEAL PERIOD

A Contractor shall schedule an unpaid period of not more than 1/2 hour duration at the work location between the 3rd and 5th hour of the scheduled shift. A Contractor may, for efficiency of operation, establish a schedule which coordinates the meal periods of two or more crafts or which provides for staggered lunch periods within a craft or trade. If an employee is required to work through the meal period, the employee shall be compensated in a manner established in the applicable

Collective Bargaining Agreement.

SECTION 14. BREAK PERIODS

There will be no non-working time established during working hours, provided, however, that individual nonalcoholic beverage containers will be permitted at the employee's work location, except in specific instances where liquids on the Project Site are not allowed by the Contractor.

ARTICLE 13 – APPRENTICES

The parties recognize the need to maintain continuing support of programs designed to develop adequate numbers of competent workers in the construction industry. The parties further recognize that apprenticeship and training shall be offered consistent with the applicable Union's Collective Bargaining Agreement and consistent with the apprenticeship and training programs currently maintained by the joint apprenticeship and training committees sponsored by the Unions and their signatory contractors.

The parties agree that, subject to any restrictions contained in applicable law, the Contractor(s) will employ apprentices in the respective crafts which are performing the Project Work, and within the jurisdiction of the craft in which those apprentices are working. The parties further agree to a goal that apprentices will perform a portion of the total craft work hours that is consistent with Article 3, Section 4. B. . The Unions agree to cooperate with the Contractor in furnishing apprentices as requested. Apprentices shall be properly supervised and paid in accordance with the applicable Collective Bargaining Agreement.

The Contractors recognize the Unions' commitment to the community to use the

opportunities provided by the Project to identify and promote, through cooperative efforts, programs, procedures, and ways to assist interested disadvantaged and low-income individuals who have typically been underrepresented in the construction industry, in pursuing careers in the construction industry through apprenticeship programs. These efforts may include, for example, programs to prepare persons for entrance into formal apprenticeship programs such as pre-apprenticeship programs utilizing the Building Trades' Multi-Craft Core Curriculum, and outreach programs to the community describing opportunities available as a result of the Project. The Contractors agree to cooperate in such efforts. In addition, in the hiring and use of apprentices, the Contractors and the Union must be consistent with the local hiring preference and apprenticeship provisions of Article 3, Section 4.B.

ARTICLE 14-SAFETY PROTECTION OF PERSON AND PROPERTY

SECTION 1. SAFETY REQUIREMENTS

Each Contractor will ensure that applicable OSHA and safety requirements are at all times maintained on the Project Site and the employees and Unions agree to cooperate fully with these efforts to the extent consistent with their rights and obligations under the law. The employer may require its employees to comply with employer safety policies and to perform their work at all times in a safe manner to protect themselves and the property of the Contractor and Design Build Contractor from injury or harm, to the extent consistent with their rights and obligations under the law. Failure to do so will be grounds for discipline, including discharge. Nothing in this Agreement will make the Unions liable to any employees or to other persons in the event that injury or accident occurs.

SECTION 2. CONTRACTOR RULES

Employees covered by this Agreement shall at all times be bound by the reasonable safety, security, and visitor rules as established by the Contractors and the Design Build Contractor for the Project Work. Such rules will be published and posted in conspicuous places throughout the Project Site. Any Project Site security and access policies established by the Design Build Contractor intended for specific application to the construction workforce for the Project Work shall be implemented only after notice to the Unions and an opportunity for the Unions to respond. A failure to agree shall be treated as a grievance. This section does not apply to emergency situations pursuant to Article 12, Section 10.

SECTION 3. INSPECTIONS

The Contractors and Design Build Contractor retain the right to inspect incoming shipments of equipment, apparatus, machinery, and construction materials of every kind.

ARTICLE 15 - NO DISCRIMINATION

SECTION 1. COOPERATIVE EFFORTS

In accordance with Title VII of the Civil Rights Act of 1964, as amended and the District of Columbia Human Rights Act of 1977 as amended, the Contractors and Unions agree that they will not discriminate against any employee or applicant for employment because of (actual or perceived) race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability,

matriculation or political affiliation, or any other status provided by law, in any manner prohibited by law or regulation.

It is recognized that special procedures may be established by mutual consent of the Contractors, Local Unions, the District Department of Employment Services and DDOT's Office of Civil Rights, for the training and employment of persons who have not previously qualified to be employed on construction projects of the type covered by this Agreement. The Parties shall assist in such programs and agree to use their best efforts to ensure that the goals for female and minority employment are met on the Project.

SECTION 2. LANGUAGE OF AGREEMENT

The use of the masculine or feminine gender in this Agreement shall be construed as including both genders.

ARTICLE 16- GENERAL TERMS

SECTION 1. PROJECT RULES

The Design Build Contractor and the Contractors shall establish such reasonable Project Work rules that are not inconsistent with this Agreement or rules common in the industry. These rules will be explained at the pre-job conference and posted at the Project Site and may be amended thereafter as necessary. Notice of amendments will be provided to the appropriate Local Union. Failure of an employee to observe these rules and regulations shall be grounds for discipline, including discharge. The fact that no order was posted prohibiting a certain type of misconduct shall not be a defense to an employee disciplined or discharged for such misconduct when the action taken is for cause.

SECTION 2. TOOLS OF THE TRADE

The welding/cutting torch and chain fall are tools of the trade having jurisdiction over the work performed. Employees using these tools shall perform any of the work of the trade. There shall be no restrictions on the emergency use of any tools or equipment by any qualified employee or on the use of any tools or equipment for the performance of work within the employee's jurisdiction.

SECTION 3. SUPERVISION

Employees shall work under the supervision of the craft foreperson or general foreperson.

SECTION 4. TRAVEL ALLOWANCES

There shall be no payments for travel expenses, travel time, subsistence

allowance or other such reimbursements or special pay except as expressly set forth in this Agreement.

SECTION 5. FULL WORK DAY

Employees shall be at their work area at the starting time established by the Contractor, provided they are allowed access to the work area.

SECTION 6. COOPERATION AND WAIVER

The Design Build Contractor, Contractors and the Unions will cooperate in seeking any Federal Highway Administration or any other government approvals that may be needed for implementation of any terms of this Agreement. In addition, CHOICE, on its own behalf and on behalf of the participating Local Unions and their individual members, intend the provisions of this Agreement to control to the greatest extent permitted by law, including specifically, but not limited to those provisions relating to shift, night, and similar differentials and premiums. This Agreement does not constitute a waiver or modification of the prevailing wage schedules applicable to work not covered by this Agreement.

ARTICLE 17 – FOUNDATION FOR FAIR CONTRACTING

(a) Each Contractor performing work under this Agreement shall be required to contribute to the Foundation for Fair Contracting – C.H.O.I.C.E (“Foundation”), which is a Labor-Management Cooperation Committee established under the authority of Section 6(b) of the Labor-Management Cooperation Act of 1978, 29 U.S.C. Sec. 175(a), and Section 302(c)(9) of the Labor-Management Relations Act, 29 U.S.C. Sec. 186(c)(9).

(b) Each Contractor performing work under this Agreement shall contribute

to the Foundation the amount of twenty-five cents (\$0.25) per hour for each hour worked by each individual employee covered by this Agreement. Payment shall be forwarded monthly to the Foundation in a form and manner determined by its Trustees.

(c) The Foundation shall function in accordance with the Agreement and Declaration of Trust creating the fund, and amendments thereto, and any other of its governing documents. Each Contractor performing work covered by this Agreement approves and consents to the appointment of the Trustees designated pursuant to the Trust Agreement establishing the Foundation and hereby adopts and agrees to be bound by the terms and provisions of the Trust Agreement.

(d) Contractors who fail to pay contributions or other payments owed to the Capital Region Foundation for Fair Contracting within thirty (30) days of the date when such contributions are due shall be liable to the Trust for all costs of collection incurred by the Trust, including interest, attorneys' fees, and court costs. The Trustees are empowered to take any lawful action necessary to collect contributions and all other payments due.

(e) All costs associated with Article 17 of this Agreement are not eligible for Federal participation.

ARTICLE 18 - FUTURE CHANGES IN COLLECTIVE BARGAINING AGREEMENTS

SECTION 1. CHANGES TO AREA CONTRACTS

(a) Each Collective Bargaining Agreement shall continue in full force and effect until the Contractor and/or Union parties to one of those Collective Bargaining Agreements notifies the Design Build Contractor of the hourly rate changes agreed to

in such Collective Bargaining Agreement, which are applicable to work covered by this Agreement and their effective dates.

(b) It is agreed that any provisions negotiated into the Collective Bargaining Agreements will not apply to work under this Agreement if such provisions are less favorable to those uniformly required of contractors for construction work normally covered by those Collective Bargaining Agreements.

(c) Any disagreement between signatories to this Agreement over the incorporation into the Collective Bargaining Agreement of provisions agreed upon in the renegotiation of the Collective Bargaining Agreements shall be resolved in accordance with the procedure set forth in Article 8 of this Agreement.

SECTION 2. LABOR DISPUTES DURING AREA CONTRACT NEGOTIATIONS

The Unions agree that there will be no strikes, work stoppages, sympathy actions, picketing, slowdowns or other disruptive activity or other violations of Article 7 affecting the Project Work by any Local Union involved in the renegotiation of the Collective Bargaining Agreements nor shall there be any lock-out on such Project Work affecting a Local Union during the course of such renegotiations. The Unions reserve all of their collective bargaining rights with respect to the negotiation of successor Collective Bargaining Agreements.

ARTICLE 19. SAVINGS AND SEPARABILITY

SECTION 1. THIS AGREEMENT

The parties to this Agreement promise and covenant to comply with all federal and local laws, rules, executive orders and regulations applicable to the Project or the work performed on the Project. In the event that the application of this Agreement or any

provision of this Agreement is enjoined, on either an interlocutory or permanent basis, or otherwise found in violation of the law, the provision involved shall be rendered, temporarily or permanently, null and void but the remainder of this Agreement shall remain in full force and effect, unless the part or parts so found to be illegal or void are wholly inseparable from the remaining portions of this Agreement. The Contractor and Union parties agree that if and when such an order is issued, the parties will promptly enter into negotiations concerning the substance affected by such order for the purpose of achieving conformity with the requirements of any applicable law and the intent of the parties hereto.

SECTION 2. NON-WAIVER

Nothing in this Article shall be construed as waiving the prohibitions of Article 7, Work Stoppages and Lockouts, as to any Contractor or Union.

SECTION 3. APPLICABLE LAW

The laws of the District of Columbia shall govern the interpretation and enforcement of this Agreement, without giving effect to choice of law principles.

ARTICLE 20- DURATION OF AGREEMENT

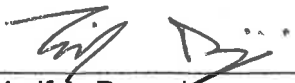
It is understood that this Agreement, together with all of its provisions, shall remain in effect for all Project Work until completion.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed and effective as of the _____ day of _____, 201__.

FOR CHOICE

BY: Mark A. Coles
Mark A. Coles
Executive Director

FOR THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION

BY: 
Leif A. Dormsjo
Director

FOR SIGNATORY UNIONS

BY: _____
Local #24, Asbestos Workers

BY: _____
Local #193, Boilermakers

BY: _____
Local #1, Bricklayers and Allied Craft Workers

BY: _____
Local #26, Electrical Workers

BY: _____
Local #10, Elevator Constructors

BY: _____
Local #5, Iron Workers

BY: 
Local #7, Operating Engineers

BY: _____
Local #891, Operative Plasterers & Cement Masons

BY: _____

FOR THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION

BY: _____
Leif A. Dormsjo
Director

FOR SIGNATORY UNIONS

BY: NOT APPLICABLE
Local #24, Asbestos Workers

BY: _____
Local #193, Boilermakers

BY: _____
Local #1, Bricklayers and Allied Craft Workers

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Local #26, Electrical Workers

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Local #10, Elevator Constructors

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Local #5, Iron Workers

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Local #77, Operating Engineers

BY: _____
Local #891, Operative Plasterers & Cement Masons

BY: _____

Painters District Council #51

BY: _____
Local #5, Plumbers

BY: _____
Local #201, Reinforced Rodmen

BY: NOT APPLICABLE
Local #100, Sheet Metal Workers

BY: _____
Local #669, Sprinkler Fitters

BY: _____
Local #602, Steamfitters

BY: _____
Baltimore-Washington Laborers District Council

BY: _____
United Brotherhood of Carpenters & Joiners

FOR THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION

BY: _____
Leif A. Dormsjo
Director

FOR SIGNATORY UNIONS

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Local #193, Boilermakers

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Local #1, Bricklayers and Allied Craft Workers

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FOR THE DISTRICT OF COLUMBIA
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Leif A. Dormsjo
Director

FOR SIGNATORY UNIONS

BY: _____
Local #24, Asbestos Workers

BY: _____
Local #193, Boilermakers

BY:  _____ 03/28/16
Local #1, Bricklayers and Allied Craft Workers

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Local #26, Electrical Workers

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Local #10, Elevator Constructors

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Local #77, Operating Engineers

BY: _____
Local #891, Operative Plasterers & Cement Masons

BY: _____

FOR THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION

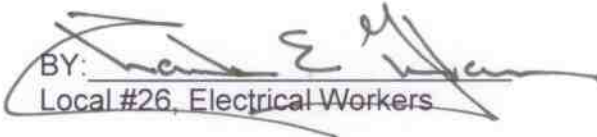
BY: _____
Leif A. Dormsjo
Director

FOR SIGNATORY UNIONS

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Local #24, Asbestos Workers

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Local #193, Boilermakers

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Local #1, Bricklayers and Allied Craft Workers

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Local #891, Operative Plasterers & Cement Masons

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FOR THE DISTRICT OF COLUMBIA
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Leif A. Dormsjo
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Local #891, Operative Plasterers & Cement Masons

BY:  _____

Painters District Council #51

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Local #201, Reinforced Rodmen

BY: _____
Local #100, Sheet Metal Workers

BY: _____
Local #669, Sprinkler Fitters

BY: _____
Local #602, Steamfitters

BY: _____
Baltimore-Washington Laborers District Council

BY: _____
United Brotherhood of Carpenters & Joiners

Painters District Council #51

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BY: _____
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BY: _____
Baltimore-Washington Laborers District Council

BY: _____
United Brotherhood of Carpenters & Joiners

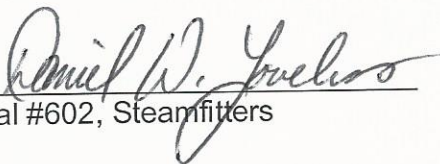
Painters District Council #51

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Local #669, Sprinkler Fitters

BY: _____
Local #602, Steamfitters

BY: David L. Allen
Baltimore-Washington Laborers District Council

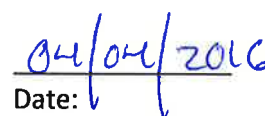
BY: _____
United Brotherhood of Carpenters & Joiners

South Capitol Street Bridge
Project Labor Agreement
Leif A. Dormsjo, Director
March 15, 2016

Signing for Local Union 179 of the
NERCC, of the UBC&JA



David Roncinske
Business Representative


Date:

BY: _____
Local #77, Operating Engineers

BY: _____
Local #891, Operative Plasterers & Cement Masons

BY: _____
Painters District Council #51

BY: _____
Local #5, Plumbers

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Local #201, Reinforced Rodmen

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Local #100, Sheet Metal Workers

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Local #669, Sprinkler Fitters

BY: _____
Local #602, Steamfitters

BY: _____
Baltimore-Washington Laborers District Council

BY:  _____
United Brotherhood of Carpenters & Joiners

FOR THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION

BY: _____
Leif A. Dormsjo
Director

FOR SIGNATORY UNIONS

BY: _____
Local #24, Asbestos Workers

BY: _____
Local #193, Boilermakers

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BY: _____
Local #602, Steamfitters

BY: _____
Baltimore-Washington Laborers District Council

BY: _____
United Brotherhood of Carpenters & Joiners

EXHIBIT A

Project Labor Agreement - - Letter of Assent

The undersigned party confirms that it agrees to be a party to and be bound by the Project Labor Agreement ("PLA") covering the South Capitol Street Corridor Project-Phase I ("Project"), as the PLA may, from time to time, be amended by the parties or interpreted pursuant to its terms. The terms of the PLA, its Schedules, Addenda and Exhibits are hereby incorporated by reference herein.

The undersigned, as a contractor or subcontractor (hereinafter "Contractor") on the Project, for and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the mutual promises made in the PLA, a copy of which was received and is acknowledged, hereby:

- (1) Accepts and agrees to be bound by the terms and conditions of the PLA, together with any and all schedules; amendments and supplements now existing or which are later made thereto.
- (2) Agrees to be bound by the legally established collective bargaining agreements and local trust agreements as set forth in the PLA, but only to the extent of Project Work and as required by the PLA.
- (3) Authorizes the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor but only to the extent of Project Work as required by the PLA.
- (4) Certifies that it has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the PLA. The Contractor agrees to employ labor that can work in harmony with all other labor on the Project and shall require labor harmony from every lower tier subcontractor it has engaged or may engage to work on the Project. Labor harmony disputes/issues shall be subject to the labor management committee provisions.
- (5) Agrees to secure from any contractor(s) performing the Project Work which is or becomes a subcontractor (of any tier), to the undersigned Contractor, a duly executed agreement to be bound in from identical to this document.

Provide description of work; identify craft jurisdiction(s) and all contract numbers below:

Name of contractor or subcontractor:

Authorized Officer & Title: _____

Address: _____

Phone: _____ Fax: _____

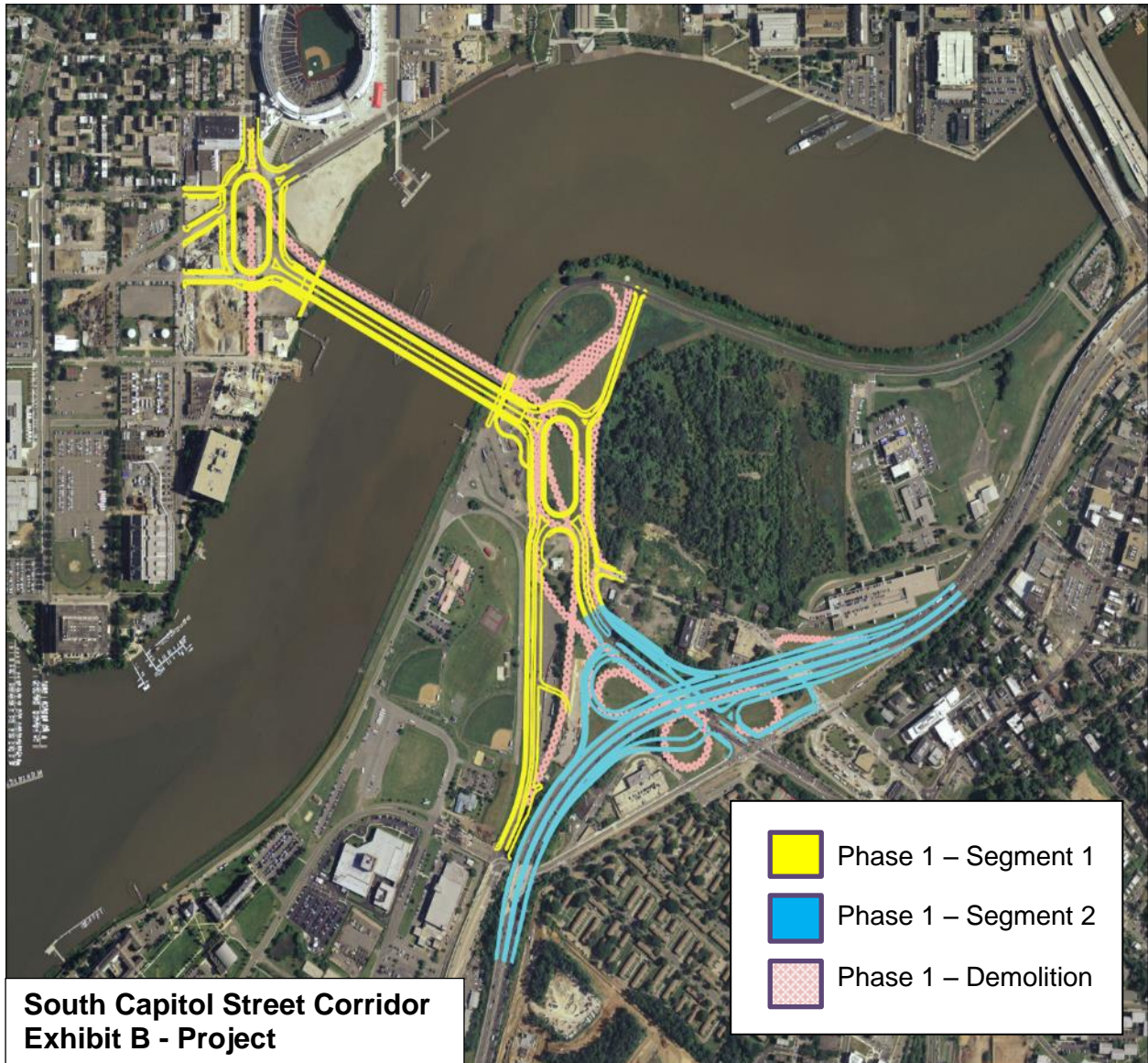
Contractors State License #: _____

Entity your company is contracted with and address: _____

Sworn to before me this
_____ day of _____, 20

Dated: _____

Notary Public



**South Capitol Street Corridor
Exhibit C - Project Site**

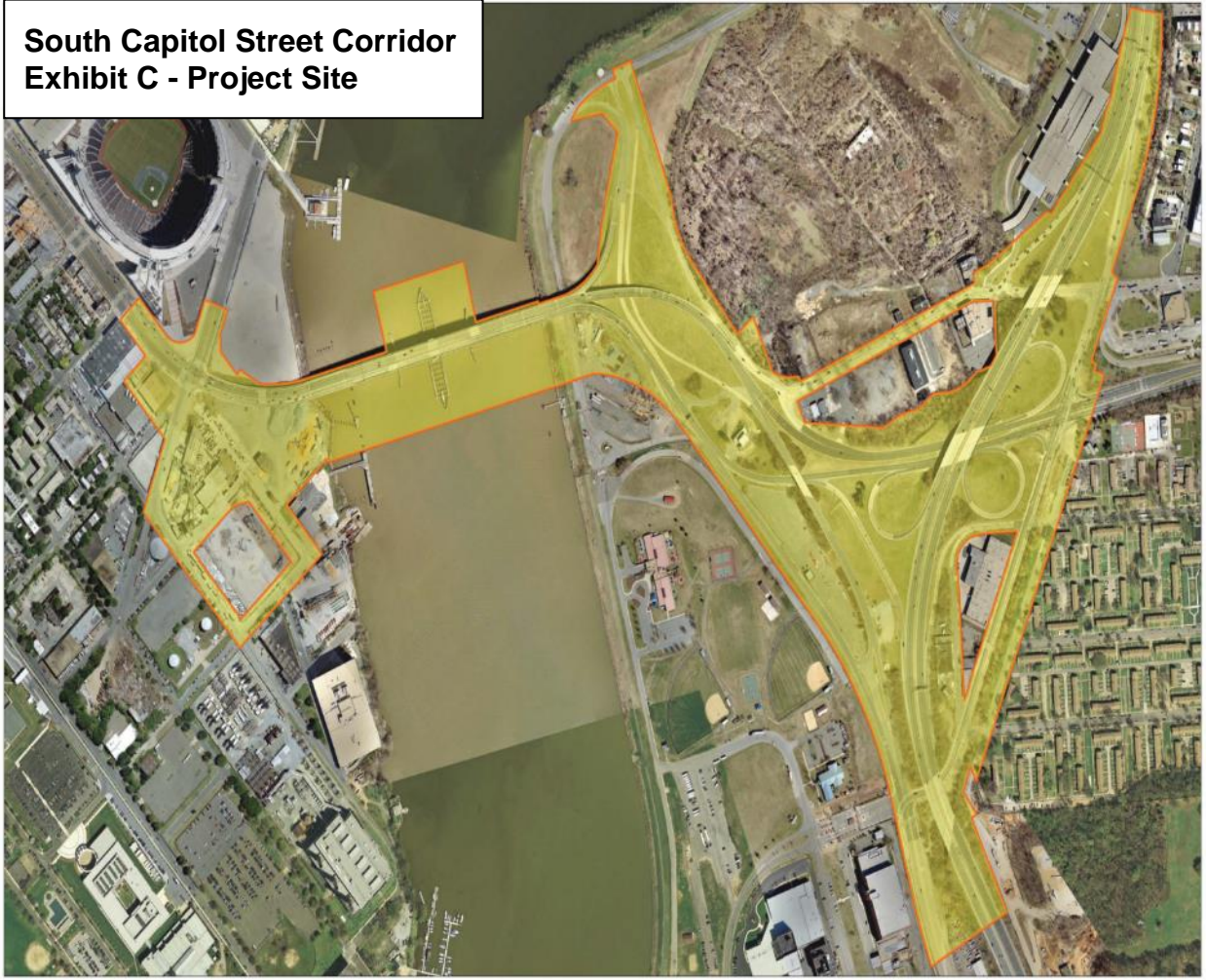


EXHIBIT D

SEP-14 Application and Approval

[see attached]

SEP-14 Application: Locally-Based Hiring Preferences on the South Capitol Street Corridor Project Phase 1

September 8, 2015

Rev 2

Contents

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1. Introduction

The District Department of Transportation (DDOT) is submitting this work plan to the Federal Highway Administration (FHWA) for review and approval to include a Local Labor Hiring Preference (LLHP) contract provision on the South Capitol Street Corridor Project, Phase 1 (the Project) to evaluate whether the local labor hiring preferences unduly restrict competition. For the purpose of this application local labor is classified as any resident of the District of Columbia as defined in DC Code 47-1801.04 as “an individual domiciled in the District at any time during the taxable year, and every other individual who maintains a place of abode within the District for an aggregate of 183 days or more in the taxable year, whether or not the individual is domiciled in the District”. This application is made under the Notice: Contracting Initiative announced in the March 6, 2015 Federal Register, as well as the associated Pilot Program under Special Experimental Project No. 14 (SEP-14) Alternative Contracting.

Historically, FHWA prohibited its recipients of Federal-aid from using contract provisions, such as LLHP, that do not directly relate to the bidder’s performance of work. The District of Columbia has used LLHP contract provisions for many years on its city-funded contracts, and is requesting FHWA’s approval for the use of these provisions on this Federal-aid project under the experimental authorities under 23 U.S.C. 502 and SEP-14. The Project is being procured under a single design build contract.

2. Purpose

The purpose of this work plan is to outline how the impact, if any, that LLHP contract provisions have on the delivery of the Federal-aid project and to determine the extent to which the contract provision affected competition. The District promotes the principle that local residents should participate in, and benefit from, the capital investments in their neighborhoods such as: (1) access to job opportunities; (2) economic benefits to the adjacent communities where the project is located; and (3) helps build a middle-class tax base. DDOT believes that recruiting from the local labor pool will not unduly restrict competition for a Federal-aid project and will not significantly increase the total project cost for the project and that any increase in total project cost will be offset by the benefit to the local community in providing training opportunities and creating a workforce of skilled and qualified workers available to fill the employment needs for future transportation projects.

The current National unemployment rate is 5.5%, however, Washington, DC continues to have a higher than average rate at 7.5%. While the city average is only two points higher than the national average, several areas of the city struggle with unemployment rates of 11% to 15% - twice that of the city average. The majority of the project is located in Ward 8 in Washington, DC where the local unemployment rate is 14.8%. The use of LLHP will provide significant employment opportunities in Washington, DC.

2.1 Project Description

The scope of the South Capitol Street Corridor Phase 1 Project includes the following:

- Construction of a new Frederick Douglass Memorial Bridge and removal of the existing bridge.
- Construction of the bridge approach ovals and connections to adjacent streets.
- Reconstruction of South Capitol Street, SE and Suitland Parkway up to their intersection with Firth Sterling Avenue.
- Replacement of the Interstate 295 bridges over Howard Road, Suitland Parkway and Firth Sterling Avenue.
- Reconstruction of the Interstate 295/Suitland Parkway Interchange.

2.2 Project Schedule

The Project schedule is as follows:

Date of RFP Advertisement	March 4, 2016
Contract Award	December 15, 2016
Project Completion	December 31, 2020

2.3 Project Funding Phase 1

As set forth in the draft Initial Financial Plan (dated May 20, 2015) DDOT anticipates funding the South Capitol Street Corridor Project through a combination of Federal and local funds.

The breakdown of the total estimated Phase 1 Project Costs is as follows:

Use	Total Cost
Preliminary Design:	\$51.2m
Right of Way:	\$96.0m
Design Build Contract:	\$515.3m
Project / Construction Management:	\$52.1m
GARVEE Debt Service Reserve & Fees:	\$75.3m
Contingency, Management Reserve and Stipends:	\$62.3m
Project Funding Contingency:	\$49.9m
Total:	\$902.1m

The breakdown of the total Project Funds is as follows:

Source	Total Funds
Total Federal Discretionary Funds:	\$113.7m
Total Federal Formula Program Funds:	\$140.9m
Total GARVEE Bond Proceeds:	\$249.6m
Total Local Funds:	\$354.9m
Total:	\$859.1m

Federal Formula Program Funds applied to Debt Service:	\$43.0m
Total:	\$902.1m

Sources of the Federal Discretionary Funds described in the table above are:

- Section 1302 National Corridor Infrastructure Improvement Program (2005)
- Section 1702.1547 High Priority Project Funds (2005)
- Section 129 Consolidated Appropriations Act, P.L. 1100161 (2008)
- Public Lands Highway Discretionary Program (2010)

3. Description of Proposed Contracting Requirements

LLHP contract provisions have not previously been applied to FHWA funded projects due to its prohibition on Federal-aid highway projects. The scope of this SEP-14 pilot would be to assess the impact of utilizing LLHP contract provisions on full and open competition for Federal-aid projects. The pilot program will be used to compare and contrast the impact of LLHP contract provisions on competition for FHWA funded contracts against the long term benefit of creating a local workforce of skilled and qualified workers available to fill the employment needs for future transportation projects. Ultimately the goal is to evaluate whether utilization of LLHP contract provisions creates a competitive environment that result in the District receiving lower cost bids that are delivered with a reliable local labor force.

The SEP-14 pilot will consist of the following:

- DDOT will collect data during the bidding process and throughout the project to evaluate the impacts to the competitiveness of the contracting, including total project cost;
- Contract provisions will require a good faith effort to meet the goals established for LLHP, as described in Section 3.1;
- The impact on the local labor pool will be evaluated to determine whether there was an increase in the workforce of skilled and qualified workers available to fill the employment needs for future transportation projects; and
- Preliminary, Interim and Final Reports will be submitted to FHWA to record findings and lessons learned. See Section 6 for Details

3.1 Specific Contract Provisions

Since 1983, the District of Columbia has had a long standing robust local hiring program in place for locally funded projects. This local hiring program, hereinafter referred to as the “First Source Provisions”, encourage the employment of local and economically disadvantaged individuals on locally-funded projects, and the District considers that such initiatives provide ladders of opportunity to individuals who otherwise may be excluded from jobs in the construction industry. The First Source Provisions have been applied on a number of major capital projects within the District, including the Nationals Ballpark and the Marriott Marquis. Through the use of the First Source Provisions, the local labor pool of skilled craft workers has increased. With an estimated total project cost of in excess of \$900 million, the Project will be the largest transportation project undertaken by DDOT to date and will offer the unique opportunity to provide additional training and employment opportunities to create a local workforce of skilled and qualified workers available to fill the employment needs for future transportation projects which will likely result in lower project costs on transportation projects for years to come.

DDOT proposes to refer to the First Source Provisions as a guide to assist in informing the LLHP contract provisions set forth in the Request for Proposals (RFP) for the Project. Proposers will be required to submit a statement as part of their Technical Proposal confirming that they will exercise good faith efforts in their attempts to meet the LLHP contract provisions described herein. The LLHP contract provisions goal is similar to that of the First Source Provisions, in that for any contract more than Three Hundred Thousand dollars (\$300,000), the following shall apply:

- At least 51% of all new jobs created on the Project (new hires) are to be performed by residents of the District of Columbia; and

- For all training and apprenticeship positions identified, at least 51 % of the participants are residents of the District of Columbia.

For the purpose of this contract provision, “new hire” is defined as an individual who has never worked for the organization or has been separated by the organization for more than 90 consecutive days.

DDOT will monitor the contractor’s performance under the contract. DDOT believes that the LLHP contract goal provisions described does not conflict with the EEO requirements of 23 CFR - Appendix A to Subpart A of Part 230 – Special Provisions Specific Equal Employment Opportunity Responsibilities that will be included in the Request for Proposals (RFP). Additionally, DDOT will encourage the contractor to work with DDOT’s Office of Civil Rights to develop programs to use their best efforts to ensure that the U.S. Department of Labor’s goals for female and minority employment are met on the Project.

4. Measurement

DDOT will track and analyze data and the success of the contractor in achieving the established goals to evaluate quantitatively, the effects of using local hiring preferences on competitive bidding and improve utilization of the local labor pool.

The effectiveness of the LLHP contract provisions on the competitive bidding for this project will be measured quantitatively by analyzing the Project cost compared to market costs. The unit costs for major bid items in the winning bid, as compared to projects of similar scope and size will indicate the relative cost of the project and indicate the effects of the contracting requirements on competitive bidding. Comparative bid prices compared to projects of similar scope and size would indicate that the provisions had no negative impact on the competitiveness of the project. The level of competition and whether the provisions did result in leveling of the playing field in labor availability is measured by how the bid prices compare to the market and how close the bids prices are. Projects of similar scope and budget, such as the 11th Street design build project with a total project cost of \$365 million, will be used as a baseline, and will be identified in the Initial Report for both the number of bids and the competitiveness of the bids. Utilization of the local labor pool will include:

- The total number of jobs to be created by the project (on all tiers);
- Demographics and geographical information of total new hires, including veterans;
- The type of jobs or job categories;
- Length of employment;
- The total training hours;
- The total number of DC residents hired by job category; and
- Terminations.

DDOT has shortlisted four qualified design build teams to respond to the RFP. Measurement of the number of bidders will therefore not be an effective benchmark in evaluating the LLHP contract provisions. Should a bidder drop out prior to submitting a Technical and Price Proposal, DDOT considers that competition will be maintained with the remaining three bidders, and the measures of cost described above, remain effective.

4.1 Describe and Quantify How the Proposed Contract Requirement Will Protect the Effective and Efficiency Use of Federal Funding for the Project

DDOT believes that the utilization of LLHP contract provisions will protect the effectiveness and efficiency of Federal funding for the Project in the following manner:

- 1) The intent of this experiment is to assess the degree to which the effectiveness and efficiency of the Federal funding may have been improved by the value that has been created with a stronger and more capable local workforce that was provided on this project and future projects.
- 2) The utilization of the local labor pool will be quantitatively measured using the demographic and hiring data to demonstrate the benefits of the contract provisions on the increase in available skilled and qualified local workers.
- 3) The proposed contract language is consistent with 23 CFR Part 230 regarding equal employment opportunities on Federal-aid projects. The contractor will be required to document its good faith efforts to ensure that minorities, women and disadvantaged individuals are afforded a level playing field for eligible candidates to compete for employment opportunities on Federal aid projects. The equal employment opportunity clause will be included as a standard contract clause in the RFP.
- 4) The proposed contract language is consistent with 23 CFR Part 230 Appendix B to Subpart A Training Special Provisions to provide training opportunities to minorities, women and disadvantaged individuals for apprenticeship and training opportunities. This contract clause will be included as a standard contract clause in the RFP.
- 5) All bidders will be notified of their equal employment opportunity responsibilities under Executive Order 11246 through the inclusion of Form FHWA 1273 Required Contract Provisions Federal-Aid Construction Contracts, which must be physically incorporated in all design-build Federal-aid contracts, in all subcontracts and in lower tiered subcontracts, excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder will be responsible for compliance of all subcontractors, lower tier subcontractors or service providers.

4.2 Protecting the Integrity of the Competitive Bidding Process for the South Capitol Street Corridor

The proposed experimental contract technique would protect the integrity of the competitive bidding process in connection with the Project in the following manner:

- 1) The procurement process will comply with all Federal and local procurement regulations through engaging a transparent bidding process for design-build projects;
- 2) All bidders will be held to the same standard as a matter of response to the bid solicitation; and
- 3) All bidders will be required to submit an initial Employment Plan outlining a strategy to meet local hiring requirements as part of its response to the bid solicitation.

5. Litigation

The District of Columbia currently has a local hiring requirement under Mayor's Order 83-265, D.C. Law 5-93, and D.C. Law 14-24. The law was recently updated in the District of Columbia Workforce Intermediary Establishment and Reform of First Source Amendment Act of 2011, which establishes local hiring requirements for all District-funded projects. The law is administered by the District Department of Employment Services (DOES), the local state employment agency. The First Source requirements

apply to any District project and typically require that 51% of all new hires be District residents for projects of contract value between \$300,000 and \$5 million. Additional requirements apply for contracts greater than \$5 million. The First Source requirements have been applied on a number of major capital projects, including the Nationals Ballpark, the Marriott Marquis. A legal challenge to the constitutionality of the First Source law was filed in July, 2014. The litigation is still pending. However, the District continues to impose the requirements of the First Source law on ongoing projects as well as new projects during the pendency of the litigation.

6. Reporting

Reports will be made on the progress and success of the implementation of the LLHP contract provisions on the Project as measured by the data and will include an assessment of the working relationship between the District, and all persons or entities supplying labor to the Project. DDOT will be responsible for collecting all relevant data and submitting reports.

An **Initial Report** will be submitted to the FHWA within 6 months after initial Notice to Proceed is given to the contractor. The Initial Report will include an assessment of the impacts the provisions had on the bidding process, and any observations or lessons learned from the procurement and award of the contract.

Interim Reports will be submitted to the FHWA approximately one year after the Initial Report, and every year thereafter until the date of substantial completion of the Project. The Interim Reports will assess the success to date of meeting the goals established for the LLHP, provide data collected to date, assess the effectiveness of training and outreach programs, and seek to identify any means of improving the effectiveness of the program.

A **Final Report** will be submitted to the FHWA within 6 months of the date of substantial completion of the Project. The Final Report will compile data collected to assess the effectiveness of the LLHP contract provisions and will provide lessons learned and recommendations for implementation on subsequent projects. The Report will include bid price data compared to other similar projects including concrete, asphalt, and other major bid items.




U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **ACTION:** Local Labor Hiring Preference under
Special Experimental Project No. 14 (SEP-14)

Date: September 28, 2015

From: 
Thomas D. Everett
Director, Office of Program Administration

In Reply Refer To:
HIPA-30

To: Christopher Lawson
Division Administrator

This memorandum is in response to the September 9 email sent by Joshua Cunningham of your office, which transmitted the District of Columbia Department of Transportation (DDOT) revised SEP-14 workplan/application (dated September 8, 2015) for utilization of a Local Labor Hiring Provision (LLHP) on the South Capitol Street Corridor Project, Phase 1. The email also transmitted a comment resolution matrix showing the resolution and disposition of each FHWA comment from the review of the July 14, 2015 version of the DDOT SEP-14 workplan.

DDOT would include the following contract provisions in its Request for Proposals:

- Proposers will be required to submit a statement as part of their Technical Proposal confirming that they will exercise good faith efforts in their attempts to meet the LLHP contract provisions;
- At least 51 percent of all new jobs created on the Project (new hires) are to be performed by residents of the District of Columbia; and
- For all training and apprenticeship positions identified, at least 51 percent of the participants are residents of the District of Columbia.

Note: For the purpose of these contract provisions, "new hire" is defined as an individual who has never worked for the organization or has been separated by the organization for more than 90 consecutive days.

The workplan is approved. If you have any questions, please contact the following:
Gerald Yakowenko at Gerald.Yakowenko@dot.gov or (202)366-1562, or John Huyer at John.Huyer@dot.gov or (651)291-6111

SCHEDULE A

Collective Bargaining Agreements

[see attached]