

ATTACHMENT – 5

WMATA INSURANCE
MINIMUM INSURANCE LIMITS

DRAFT EXHIBIT B
Construction of New Elevator at Pentagon City Metrorail Station

I. MINIMUM REQUIRED INSURANCE: MINIMUM LIMITS OF INSURANCE

INSURANCE TYPE	LIMITS	BASIS
Workers' Compensation	Statutory	
Employers' Liability	\$500,000	Each Accident
	\$500,000	Disease Policy Limit
	\$500,000	Disease Each Employee
Commercial General Liability	\$3,000,000	Each Occurrence Limit
	\$6,000,000	General Aggregate Limit
	\$3,000,000	Products-Completed Operations Limit
Business Auto Liability	\$1,000,000	Combined Single Limit
Railroad Protective Liability Insurance (RRP)	\$2,000,000	Each Occurrence Limit
	\$6,000,000	Aggregate Limit
Professional Liability	\$2,000,000	Each Claim
Pollution Liability	\$1,000,000	Each Claim

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

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

III. COVERAGE-SPECIFIC REQUIREMENTS

A. Commercial General Liability

- 1. Commercial General Liability (CGL) shall be written on ISO Occurrence Form CG0001 (12/04) or its equivalent. Equivalency determination shall be made in WMATA's sole and unreviewable discretion.
- 2. Required minimum limits of coverage may be achieved through a combination of the aforementioned CGL coverage form and an Umbrella/Excess Liability coverage form(s), provided that the Umbrella/Excess Liability coverage form(s) provides the same or broader coverage than the prescribed CGL coverage form.
- 3. Policy shall be endorsed with Additional Insured Endorsement(s) in compliance with the "Additional Insured" Section below.
- 4. Policy shall be endorsed with a Waiver of Subrogation Endorsement(s) in compliance with the "Waiver of Subrogation" section below.
- 5. The definition of "Insured Contract" shall be modified to provide coverage for contractual liability for any contracts involving construction or demolition operations that are within 50 feet of a railroad. Evidence of this modification shall be provided to WMATA along with all other required documents.
- 6. Explosion, Collapse and Underground (XCU) activities shall be included.

7. Defense Costs (Allocated Loss Adjustment Expense) must be included and outside of the policy limits for all primary liability and Umbrella/Excess Liability policies.

B. Business Auto Liability

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

C. Railroad Protective Liability

1. Railroad Protective Liability Insurance (RRP) is required for any work within 50 feet of WMATA railroad tracks or work within WMATA rail stations.
 - i. The RRP policy must be on a policy form and with an insurance company that is acceptable to WMATA.
 - ii. WMATA shall be the Named Insured.
 - iii. The original RRP policy shall be sent to WMATA at following address:

Washington Metropolitan Area Transit Authority
Office of Insurance, Room 8F
600 Fifth Street, NW
Washington, DC 20001
2. **WMATA Blanket RRP Program Option.** WMATA may offer to waive the requirement for the Permittee to procure RRP if i) the work qualifies for coverage under WMATA's blanket RRP program, and ii) Permittee prepays the RRP premium, which shall be determined by the rate schedule promulgated by the insurer in effect as of the effective date of this Permit. Permittee shall be advised of and pay the applicable premium.

D. Professional Liability Insurance

Permittee, any subcontractor of any tier, or any supplier providing design services or the services of a professional engineer, including, but not limited to stamping,

sealing, or certifying blueprints or other related documents, are required to maintain Professional Liability Insurance as follows:

- i. Actual coverage or tail coverage must be purchased and maintained at least up to the statute of repose.
- ii. Coverage can be written on an "occurrence" or "claims-made" basis.
- iii. Coverage can be written on "non-admitted" paper.

E. Pollution Liability Insurance

Permittee, any subcontractor of any tier, or any supplier performing work that may in any way involve contact with, exposure to or release of hazardous materials including but not limited to construction, soil testing and demolition, is required to maintain Pollution Liability insurance as follows:

- i. Coverage can be written on an "occurrence" or "claims-made" basis.
- ii. Coverage can be written on "non-admitted" paper.
- iii. Policy shall be endorsed with Additional Insured Endorsement(s) in compliance with the "Additional Insured" section below.

IV. ADDITIONAL INSURED

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

V. WAIVER OF SUBROGATION.

- A. Permittee and subcontractors of every tier are required to have all insurance policies except Professional Liability endorsed to waive the respective insurance company's rights of recovery against WMATA and the WMATA Board of Directors.
- B. Waiver shall be provided on an endorsement that is acceptable to WMATA.

VI. CERTIFICATE OF INSURANCE (COI)

- A. Permittee shall provide WMATA an ACORD Certificate of Insurance (COI) and copies of all required endorsements as evidence that the insurance requirements of this Section have been satisfied. Certificates of Insurance shall reference Permit PCN XXX in the "Description of Operations" box and be sent to WMATA. The Certificate Holder box should read:

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

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

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