

**WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY  
REAL ESTATE PERMIT**

**CITY OF ROCKVILLE SIGN**

**THIS REAL ESTATE PERMIT** (hereinafter "**Permit**") is made and entered into as of the date executed below (hereinafter "**Effective Date**") by the **WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY** ,(hereinafter "**WMATA**"), an interstate compact agency organized pursuant to Public Law 89-774, 80 Stat. 1324; Maryland Acts of General Assembly, Chapter 869-1965; Virginia Acts of Assembly, Chapter 2-1966; and Resolution of D.C. Board of Commissioners adopted November 15, 1966, with principal offices at 300 Seventh Street, SW, Washington, DC 20024 and **THE MAYOR AND COUNCIL OF THE CITY OF ROCKVILLE, MARYLAND** with principal offices at 111 Maryland Avenue, Rockville, MD 20850 ,(hereinafter "**Permittee**"). Permittee and WMATA are sometimes referred to herein jointly as the "**Parties**" or individually as a "**Party**."

**WITNESSETH:**

**RECITAL 1:** Permittee is installing vinyl window decals on the overhead pedestrian bridge that spans Rockville Pike (355) and WMATA's Rockville Station bus access roadway ("roadway") in Rockville, Maryland (hereinafter "**Project**" or "**Project Work**").

**RECITAL 2:** Permittee requested permission from WMATA to install signage on the pedestrian bridge by crane from WMATA's roadway, (hereinafter "**Permitted Premises**"), as shown on **Exhibit A**, attached hereto and made a part hereof, and will be performing Project Work within WMATA's Zone of Influence as defined in WMATA's *Adjacent Construction Project Manual* (hereinafter the "**ACPM**") as further described in **Section 5.2** below.

**RECITAL 3:** WMATA agreed to allow Permittee and its contractor(s), subcontractor(s) and consultant(s) (hereinafter "**Contractor**" and collectively with the Permittee, the "**Permitted Parties**" or individually a "**Permitted Party**") the right and privilege to enter upon and use the Permitted Premises to perform the work described in **Section 3** below upon the terms and conditions specifically set forth in this Permit.

**NOW, THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00) and the mutual covenants and conditions contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**1. WMATA Staff**

All references in this Permit to the assigned WMATA Construction Engineer or Construction Manager refer to:

Construction Engineer:                      Thomas Proctor                      202-897-6665 C

Construction Manager:                      Habib Habibullah                      202-680-2992 C

**2. Description of Permitted Premises.**

The Permitted Premises are located on the overhead pedestrian bridge at the Rockville Metrorail Station as shown on Exhibit A.

**3. Use of Permitted Premises.**

In the event the terms and conditions of this **Section 3** conflict with any terms and conditions of **Section 5** herein, the terms and conditions of **Section 3** shall control. In accordance with the terms and conditions of this Permit, WMATA grants unto Permitted Parties the right to access only the Permitted Premises and undertake only the Project Work that is listed in Section 3 herein for the following purposes and under the following conditions:

Permittee's Project Work is to install signage on the pedestrian bridge by crane from WMATA's roadway.

**3.1. Pre-Construction Project Work**

**3.1.1.** Permittee has received WMATA approval of the materials for vinyl window decals to be installed on the pedestrian bride for an initial test period to end June 19, 2025.

**3.1.1.** Permittee will contact Habib Habibullah three (3) business days in advance of the initial installation Project Work to advise WMATA of closure of the roadway which must be during the hours listed in Section 5.9 herein.

**3.1.2.** Permittee will put up safety barricades to close the roadway during the installation Project Work and remove the barricades when complete.

**3.2. Project Construction Work**

**3.2.1.** Permittee will install temporary vinyl window decals on the outside of the Rockville Pedestrian Bridge during the week of May 19, 2025. The decals will be installed on a trial basis to determine if the materials are visible and viable for the Permit.

**3.2.2.** Permittee will perform all installation Project Work with City employees using a City owned-bucket truck placed on the bus roadway on WMATA property near the Rockville Pedestrian Bridge.

**3.2.3.** If applicable, Permittee will submit materials of any new signs to be installed beyond the June 19, 2025 test period to Mr. Thomas Proctor at [tdproctor@wmata.com](mailto:tdproctor@wmata.com) for review by no later than June 7, 2025. WMATA will review the materials and respond in thirty (30) calendar days.

**3.2.4.** Permittee will install all decals (letters) permanently once materials are approved by WMATA for the term of this Permit in accordance with Section 3.2.4 below. The decals will read "Rockville Town Center"

**3.2.4.** Permittee, after approval by WMATA, will install new vinyl window decals during the summer of 2025. Permittee will contact Habib Habibullah fifteen (15) business days in advance of sign installation Project Work to advise of the date of closure of the roadway which must be during the hours listed in Section 5.9 herein.

**3.2.5.** Permittee shall also follow the notice rules in 3.2.2. above when it plans to clean, repair or replace the vinyl window decals during the Permit term.

**3.2.6.** Permittee shall pay all costs to install, maintain, clean and repair the vinyl window decals throughout the Permit Term.

### **3.3. Post Construction Project Work**

**3.3.1.** Permittee will remove all vinyl window decals and restore the Permitted Premises upon expiration of the Permit.

## **4. Permitted Access.**

This Permit allows Permitted Parties and others acting on behalf of Permitted Parties to enter onto the Permitted Premises in accordance with the terms and conditions contained herein and for no other purpose.

## **5. Conditions on Use.**

**5.1.** This Permit may only be exercised by Permitted Parties in accordance with Permittee's construction plans as accepted by WMATA (hereinafter "**Accepted Plans**").

**5.2.** All work shall be planned and performed in accordance with the requirements of WMATA's *Adjacent Construction Project Manual, Rev.6*, or as further revised from time to time by WMATA's Office of Joint Development and Adjacent Construction (hereinafter "**JDAC**"). If certain requirements listed as terms and conditions in this Permit differ from those in the ACPM, Permittee shall immediately contact the assigned WMATA Construction Engineer in writing for written clarification. The ACPM may be found at: <https://www.wmata.com/about/business/adjacent-construction/index.cfm>

**5.3.** No changes may be made to the Accepted Plans without the prior written approval of the assigned WMATA Construction Engineer.

**5.4.** WMATA's review and acceptance of the Accepted Plans is solely for WMATA's own purposes and benefit, does not constitute review or approval for any other purpose or for Permitted Parties' or any third party's benefit, and may not be relied on for any such other purpose or benefit. WMATA accepts no liability and waives none of its rights under this Permit solely by reason of its acceptance of any drawings or specifications, including the Accepted Plans.

**5.5.** Permitted Parties shall contact WMATA's Construction Manager of JDAC, as defined in **Section 1** herein, to schedule a pre-construction and pre-activity meeting. This request shall be made at least ten (10) business days prior to any planned start of work on the Permitted Premises. At this meeting, Construction Manager will designate WMATA's Construction Inspection Facilitator and provide Permitted Parties with the requisite contact information for the Construction Inspection Facilitator.

- 5.6.** Upon written approval from WMATA, Permitted Parties may conduct the necessary exploration or tests to determine the location of WMATA's existing facilities.
- 5.7.** Swinging a crane and suspended loads over WMATA property or facilities is strictly prohibited except with WMATA's written approval.
- 5.8.** Access to WMATA Right-of-Way and Facilities.
- 5.8.1.** Deleted
- 5.8.2.** Deleted
- 5.8.3.** Permittee acknowledges that WMATA's operational needs take precedence and have priority over any third-party request to access WMATA's Right-of-Way or other facilities. WMATA reserves the unconditional right to reschedule Permittee's access rights, as previously approved in writing, without recourse by Permittee or any liability to WMATA.
- 5.9.** All work within WMATA tracks or within twenty-five (25) feet of WMATA's tracks that require the utilization of cranes and other heavy equipment that might potentially foul the tracks must be done during a work window within WMATA's non-revenue hours. Currently the effective work windows after reflecting WMATA operations requirements, power outage and work zone set-up times are approximately:
- 5.9.1.** Sunday Night – Thursday Night 12:00 a.m. – 4:30 a.m.
- 5.9.2.** Friday Night – Saturday Night 1:00 a.m. – 6:30 a.m.
- This work window is subject to change by WMATA, at its sole discretion, to reflect WMATA's operating requirements.).
- 5.10.** Deleted
- 5.11.** Deleted
- 5.12.** Deleted
- 5.13.** Deleted
- 5.14.** Temporary sidewalks or pedestrian ways which will be in use more than ten (10) calendar days shall be constructed of four (4) inch-thick Portland cement concrete or four (4) inches of asphaltic concrete placed and finished by a machine.
- 5.15.** All utilities and structures must be located by Permitted Parties in advance of Project Work by using WMATA's As-Built Drawings and by Miss Utility and a private utility locating company. WMATA property must be protected from any damage. Permitted Parties are hereby informed that WMATA's As-Built Drawings may not reflect current site conditions and WMATA will not be responsible for any damage caused by such

inaccuracies. Any excavation in the vicinity of any WMATA or any power company power feeders to the Metrorail system or other underground utilities within the Permitted Premises shall be approved in advance by WMATA and through hand excavation or another WMATA approved method, **and if required, with a WMATA escort present.**

- 5.16. Permitted Parties accept the Permitted Premises and adjacent areas in an “as is” condition, including any possible concrete over-pours, sheeting and shoring which remain in place, inaccurate location of utilities or portions of the facilities and similar conditions. It shall be Permitted Parties’ responsibility to verify the actual location of existing facilities, structures, and utilities on the Permitted Premises and Permitted Parties shall perform a pre-construction survey and provide WMATA with a copy. Permitted Parties agree that the existence of any unknown or inaccurately portrayed facility will not be the subject of a claim against WMATA.
- 5.17. Flammable liquids shall not be stored within twenty-five (25) feet horizontally or vertically, regardless of topographic or man-made barriers, of WMATA underground facilities, except in the tanks of automobiles. If a flammable liquid storage container of any kind is to be installed between twenty-five (25) and one hundred (100) feet of WMATA underground facilities, protective encasement of the storage container will be required in accordance with NFPA STD 130. Existing underground tanks located within one hundred (100) feet of WMATA facilities and scheduled to be abandoned are to be disposed of in accordance with Appendix C of NFPA STD 130.
- 5.18. WMATA reserves the right to inspect the Permitted Premises at any time. Additionally, WMATA reserves the right to inspect, at reasonable times, the Project and Permittee’s activities for conformance with the Accepted Plans and safety requirements to ensure that WMATA’s interests and operations are not impeded at any time. WMATA’s designated representative(s) shall have full access to the Permitted Premises and the Project for the purpose of determining the safety of the work and the impact on WMATA operations, and such person(s) shall have the absolute authority to stop all work if, in WMATA’s sole opinion, work is being done in a manner that is unsafe for WMATA operations, the work is not in full compliance with the Accepted Plans, or is interfering with efficient WMATA operations.
- 5.19. Permitted Parties shall maintain “as-built” records during construction of the improvements under this Permit. Construction impacts to the Permitted Premises shall be documented in the as-built records in accordance with the ACPM and upon completion of construction, Permitted Parties shall provide WMATA with “as-built” records as follows:
  - 5.19.1. As-built files in PDF (portable document format) and DWG (AutoCAD) format in accordance with the requirements of WMATA’s *Adjacent Construction Project Manual* and shall be uploaded in Project Procore Contractor Folder.
  - 5.19.2. Overlay of as-built documentation onto WMATA’s as-built file(s) and engineering sections in WMATA’s contract plans which are impacted by proposed modifications are to be updated.

**5.20.** Permittee shall not be released from this Permit until:

**5.20.1.** WMATA issues a final written notice accepting the restored Permitted Premises and acknowledging no damage to WMATA property.

**5.20.2.** All financial obligations to WMATA have been paid.

**5.21.** Smoking is prohibited on WMATA property at all times.

**6. Permit Term.**

This Permit commences on the Effective Date which is the date executed by WMATA below and terminates on April 30, 2028 (hereinafter "**Term**") unless terminated as provided in **Sections 10** or **11** below.

**7. Extension Option.**

The Parties may mutually agree in writing to extend the Term of this Permit. Permittee shall request an extension of the Term in writing no later than thirty (30) calendar days prior to the expiration of the Term. WMATA's decision to grant or not grant an extension shall be in WMATA's sole and absolute discretion.

**8. Payment by Permittee.** Deleted in its Entirety

**9. Assignment.**

This Permit is not assignable or transferable by Permittee in any way. The rights, privileges, duties and obligations extended to or assumed by Permittee are personal to Permittee, its officers, employees, agents and contractors only.

**10. Suspension/Termination.**

**10.1.** WMATA may suspend this Permit, in whole or in part, at its sole option and discretion at any time, if any condition created by Permitted Parties on or about the Permitted Premises threatens the safety or security of the Permitted Premises, any WMATA operation or function, or the public, or is in violation of any applicable laws, rules, regulations, policies, instructions or directions, whether federal, state or local, relating to this Permit and/or any Permitted Party's work hereunder. If Permitted Parties do not correct the condition which serves as the basis for WMATA's suspension decision within ten (10) calendar days following receipt of written notice of such condition from WMATA, then WMATA may terminate this Permit, in whole or in part, by notice to Permittee without any further opportunity to cure such condition.

**10.2.** This Permit may be terminated or revoked by WMATA, in whole or in part, at its sole option and discretion, at any time, if deemed necessary by WMATA for purposes of safety, security, operational necessity or any overriding public requirement.

**10.3.** This Permit may be terminated at any time by Permittee by providing ten (10) calendar days prior written notice to WMATA. All obligations and liabilities of Permittee shall survive the termination of this Permit.

- 10.4. Upon termination or earlier revocation of this Permit, all Permitted Parties shall remove their equipment and restore the Permitted Premises in accordance with **Section 15** below. All obligations and liabilities of Permitted Parties under this Permit shall survive the termination of this Permit pursuant to this **Section 10** or the expiration of the Permit pursuant to **Sections 6** and **7** above, as applicable.
11. **Default/Termination.**  
Permittee shall be deemed to be in default of this Permit if any Permitted Party shall fail to observe or perform any of the provisions, covenants, conditions, or agreements contained herein and such failure shall continue for a period of ten (10) calendar days after written notice is given by WMATA (hereinafter “**Event of Default**”). If an Event of Default shall have occurred and be continuing, WMATA, at its option, may at once, or at any time thereafter, terminate this Permit by written notice to Permittee, whereupon this Permit shall end and all rights of Permitted Parties hereunder, but not their liabilities, shall expire and terminate. Upon such termination by WMATA, and without in any way limiting the remedies available to WMATA at law, in equity, or under the terms of this Permit, Permittee shall at once remove all Permitted Parties, their persons and equipment from the Permitted Premises, and restore the Permitted Premises in accordance with **Section 15** below. WMATA may enter into or repossess the Permitted Premises either by force, by summary proceeding or otherwise. WMATA shall have no liability by reason of any such re-entry, repossession, or removal. Nothing in this **Section 11** shall be deemed to limit in any way WMATA's independent right under **Section 10** above to suspend or terminate this Permit.
12. **Conduct of Work.**  
In the conduct of work undertaken herein, Permitted Parties shall require all parties working on the Permitted Premises to exercise all normal and reasonable safety precautions. Permitted Parties shall maintain the Permitted Premises in a clean and presentable manner.
13. **Employee and Public Safety.**  
Permittee acknowledges that WMATA is in the business of providing public transportation and that employee and public safety are paramount. Barricades, fences, signs, lanterns, and other suitable devices necessary for employee and public safety shall be provided and adequately maintained by Permitted Parties at their sole cost and expense.
14. **Security.**  
Permitted Parties shall maintain the security of the Permitted Premises to the satisfaction of WMATA during the entire period of use and occupancy under this Permit.
15. **Restoration.**  
Upon completion of all activities or the expiration or termination of this Permit, whichever occurs first, Permitted Parties shall remove all of its equipment and restore the Permitted Premises to its previous condition, or in accordance with the Accepted Plans specifications, and to WMATA's satisfaction.
16. **Responsibility for Licenses and Permits.**  
Permitted Parties shall be responsible for obtaining any necessary licenses and permits for the work authorized under this Permit, including transportation and disposal of materials.

**17. Compliance with Orders and Directions of WMATA.**

With respect to all work authorized under this Permit, Permitted Parties shall at all times conform with and abide by the reasonable orders and directions of WMATA officials or their duly authorized representatives, regardless of whether such orders and directions are oral or written.

**18. Non-Interference with WMATA Activities.**

Pursuant to the terms of this Permit, Permitted Parties may only use the Permitted Premises in such manner and at such times as not to interfere with the use, construction, maintenance, repair and operations of WMATA. Without limiting the foregoing, Permitted Parties must comply with any "maintenance of traffic" plan required by WMATA and/or the applicable state Department of Transportation.

**19. Damage to WMATA Property.**

Permittee shall be responsible for, and must make good at its own expense, all damage to WMATA property caused in whole or in part by the acts or omissions of any Permitted Party and others acting on behalf of a Permitted Party in carrying out the work/activities/operations authorized under this Permit. Permittee shall ensure that such repair or replacement is done within fifteen (15) business days of Permittee's receipt of notice from WMATA except in the case of an emergency as determined by WMATA in its sole discretion, in which event Permittee's obligation of repair or replacement shall be immediate upon receipt of notice from WMATA.

**20. Utility Charges.**

Permitted Parties, at their sole cost and expense, shall pay all charges for any utilities used on the Permitted Premises during occupancy thereof when and as the same shall become due and payable. Permitted Parties are prohibited, without the prior written consent of WMATA, in its sole discretion, from making any connection to any utility line serving WMATA operations.

**21. Indemnification.**

**21.1.** Permittee shall, and Permittee shall contractually require all other Permitted Parties to, indemnify, defend and hold harmless WMATA, its directors, officers, employees and agents from any and all claims, actions, proceedings, liabilities, losses, demands, damages, obligations, penalties, costs, charges and expenses, including, but not limited to, reasonable attorney's fees, of whatsoever kind and nature for injury, including personal injury or death of any person or persons, including employees of Permittee or any other Permitted Party, and for loss or damage to any property, occurring in connection with, or in any way arising out of the use, occupancy and performance of the work authorized by this Permit or related to this Permit or the Project, and/or any acts in connection with activities to be performed under this Permit resulting in whole or in part from the acts, errors or omissions of Permittee or any other Permitted Party, or any employee, agent or representative of Permittee or any other Permitted Party. Nothing in the preceding sentence shall be deemed to relieve Permittee from ultimate liability for any obligation of Permittee under this Permit.

**21.2.** Permittee shall, and Permittee shall contractually require all other Permitted Parties to, indemnify, defend and hold harmless WMATA, its directors, officers, employees

and agents from all claims, actions, proceedings, liabilities, losses, demands, damages, penalties, costs, charges, remedial costs, environmental claims, fees or other expenses including attorney's fees, related to, arising from or attributable to any effluent or other hazardous waste or substance, toxic waste or substance, contaminant, pollutant, petroleum or petroleum-based product, asbestos, residue, contaminated soil or other similar material discharged from, removed from, or introduced on, about or under the Permitted Premises by Permitted Parties or anyone acting on their behalf.

**21.3.** If any claim, demand, action or proceeding relating to the indemnification required by this **Section 21** is brought against WMATA, then upon written notice from WMATA to Permittee, Permittee shall, at Permittee's expense, resist or defend such action or proceeding by counsel approved by WMATA in writing, such approval not to be unreasonably withheld, but no approval of counsel shall be required where the cause of action is resisted or defended by counsel of any insurance carrier obligated to resist or defend the same. WMATA reserves the right to use its own counsel under this indemnity at Permittee's sole cost and expense. Permittee shall be jointly and severally liable with any Contractor directly responsible for any claim, demand, action, proceeding, liability, loss, damage, obligation, penalty, cost, charge or expense arising under this Permit, and nothing in this Permit shall be deemed to relieve Permittee from ultimate liability for any obligation of Permittee under this Permit.

**21.4.** Permittee understands and agrees that it is Permittee's and all other Permitted Parties' responsibility to provide indemnification to WMATA pursuant to this **Section 21**. The provision of insurance, while anticipated to provide a funding source for this indemnification, is in addition to any indemnification requirements and the failure of insurance to fully fund any indemnification shall not relieve Permittee and other Permitted Parties of any obligation assumed under this indemnification.

**22. Insurance.**

The Insurance requirements for this Permit are defined in **Exhibit B**, attached hereto and made a part hereof. Permittee may meet these requirements by submitting a letter of self-insurance.

**23. Non-Liability of WMATA.**

WMATA shall have no liability for any injury or property damage whatsoever. Neither the grant of this Permit, nor any provision thereof, shall impose upon WMATA any new or additional duty or liability or enlarge any existing duty or liability of WMATA. Nothing in this Permit shall be deemed to waive WMATA's immunity as a sovereign entity.

**24. No Impairment of WMATA's Title.**

This Permit constitutes a mere license, and nothing in this Permit and no action or inaction by WMATA shall be construed to mean that WMATA has granted Permittee or any other person or entity any legal or equitable estate in the Permitted Premises, or any right, power, or permission to do any act or make any agreement which may create, give rise to, or be the foundation for any right, title, interest, lien, charge, or other encumbrance upon the estate of WMATA in the Permitted Premises. In amplification and not in limitation of the foregoing, Permittee shall not allow any portion of the Permitted Premises to be used by

any persons or entities in such manner as would likely impair WMATA's title or interest in the Permitted Premises or would result in a claim of adverse use, adverse possession, prescription, dedication or other similar claims with respect to the Permitted Premises or any part thereof.

**25. Compliance with All Laws, Rules and Regulations.**

Permitted Parties shall comply with all applicable laws, rules and regulations, policies, instructions and directives, whether federal, state or local, relating to this Permit and Permitted Parties' work hereunder. Should any Permitted Party's work involve use of, or create materials considered to be hazardous or toxic substances or waste which require special handling, Permittee shall ensure that disposal is made in accordance with applicable environmental laws and regulations including, but not limited to the *Resource Conservation Recovery Act* and the *Toxic Substances Control Act* and where required, shall include preparation and filing of reports and travel manifest documents. WMATA shall be provided with copies of all such reports and documents.

**26. Notices.**

Notices given in connection with this Permit shall be in writing and shall be sent by: (a) registered or certified mail, return receipt requested; (b) hand delivery; (c) a nationally recognized overnight courier service for next business day delivery; or (d) any telecommunications device capable of creating a written record of such notice and its receipt. Notices and other communications shall be deemed to have been given on the date of actual receipt. Refusal to accept delivery or inability to make delivery because the intended recipient has not provided a correct or current address shall constitute receipt as of the time of attempted delivery.

If to WMATA

Vice President  
Office of Real Estate and Development  
WMATA  
300 Seventh Street, SW, 3rd Floor  
Washington, DC 20024

If to Permittee

Jeff Mihelich  
City of Rockville  
111 Maryland Avenue  
Rockville, MD 20850

On-Site Contact

James Woods (240) 314-8521

**27. Officials Not To Benefit.**

**27.1.** No member (i.e., Representative or Senator) of, or delegate to Congress, or any similar official, or resident commissioner, or any member of such person's family, shall be admitted to any share or part of this Permit, or to any benefit that may arise therefrom; but this provision shall not apply if this Permit is made with a corporation or other entity with which such official or family member has only a de minimis, in WMATA's sole opinion, contractual or ownership interest. Permittee warrants, represents and agrees that as of the date of this Permit, no person described in this **Section 27**, nor any entity with which such person is affiliated, has any such interest in any Permitted Party. Permittee shall forthwith deliver written notice to WMATA of any breach of the foregoing warranty representation and agreement and shall make reasonable inquiries from time to time to determine whether any such breach has occurred.

- 27.2.** No member, officer, or employee of WMATA or of a local public body during his/her tenure or one year thereafter shall have any interest, direct or indirect, in this Permit.
- 28. Gratuities.**  
In connection with this Permit, or any amendments or modifications thereto, the giving of, or offering to give, gratuities in the form of entertainment, gifts or otherwise by a Permitted Party or any agent, representative, or other person deemed to be acting on behalf of a Permitted Party, or any contractor, subcontractor or supplier furnishing material to or performing work under this Permit, to any director, officer or employee of WMATA, or to any director, officer, employee of any of WMATA's agents, consultants or representatives, with an intent to secure an agreement or favorable treatment or the making of any determinations with respect to performance under this Permit is expressly forbidden. The terms of this **Section 28** shall be broadly construed and strictly enforced in the event of violation hereto.
- 29. Governing Law.**  
This Permit shall be governed by the laws of the jurisdiction in which the Permitted Premises is located, however, to the extent that said jurisdiction's law(s) conflict(s) with the WMATA Compact (Public Law 89-774, 80 Stat 1324, as amended), WMATA shall be governed by the WMATA Compact.
- 30. Counterparts.**  
The Parties hereto agree that this Permit may be executed in one or more identical counterparts, each of which shall be deemed to be an original thereof, and shall be enforceable against each of the Parties hereto.
- 31. Authority.**  
The Parties represent and warrant that they have the power and authority to enter into and perform their obligations under this Permit. Additionally, the signatories to this Permit represent and warrant that they have the legal authority to bind and commit the Party they represent.
- 32. Entire Agreement.**  
This Permit constitutes the entire agreement between the Parties. The Parties acknowledge that no representations or warranties have been made except as set forth herein. This Permit shall not be modified or amended in any manner except by an instrument in writing executed by the Parties as an amendment to this Permit. The recitals set forth above and attached Exhibit(s) are incorporated herein by this reference and have the same force and effect as if fully hereinafter set forth.

**SIGNATURES ON NEXT PAGE**

**IN WITNESS WHEREOF**, the Parties have caused this Permit to be made and entered into as of the date and year first written below.

**WASHINGTON METROPOLITAN AREA  
TRANSIT AUTHORITY**

By: \_\_\_\_\_  
Joel E. Blockowicz, Sr., Director  
Real Estate Asset Management

**PERMITTEE**

By: \_\_\_\_\_  
Jeff Mihelich  
City Manager

Approved as to form

\_\_\_\_\_  
Robert Dawson,  
City Attorney

**EXHIBIT A ROCKVILLE SIGN PERMIT**  
**Signage location above WMATA Bus Roadway, facing South**



## Signage location above WMATA Bus Roadway, facing North



**EXHIBIT B  
INSURANCE**

**City of Rockville Sign - Rockville Metro Station Pedestrian Bridge**

**I. MINIMUM REQUIRED INSURANCE: MINIMUM LIMITS OF INSURANCE**

<b>INSURANCE TYPE</b>	<b>LIMITS</b>	<b>BASIS</b>
<b>Workers' Compensation</b>	Statutory	
<b>Employers' Liability</b>	\$500,000	Each Accident
	\$500,000	Disease Policy Limit
	\$500,000	Disease Each Employee
<b>Commercial General Liability</b>		
	\$2,000,000	Each Occurrence Limit
	\$6,000,000	General Aggregate Limit
	\$2,000,000	Products-Completed Operations Limit
<b>Business Auto Liability</b>		
	\$4,000,000	Combined Single Limit

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

- 1) Contractor is required to maintain the insurance outlined in this Exhibit A during the entire period of performance under this contract. Notice to Proceed (NTP) will not be issued until all required insurance has been accepted by WMATA.
- 2) The prescribed insurance coverage and limits of insurance are minimum required coverages and limits. Contractor is encouraged, at its sole cost and expense, to purchase any additional insurance coverages and or limits of insurance that Contractor deems prudent and necessary to manage risk in the completion of this contract.
- 3) Upon written request from WMATA, contractor shall provide copies of any requested insurance policies, including applicable endorsements, within five (5) business days of such request.
- 4) 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.
- 5) Insurance companies must be acceptable to WMATA and must have an A. M. Best rating of at least A- VII.

- 6) Unless otherwise noted, "Claims-Made" insurance policies are not acceptable.
- 7) Any insurance policy utilizing a Self-Insured Retention (SIR) requires written approval from WMATA.
- 8) Contractor must incorporate these Minimum Insurance Requirements into contract requirements of all subcontractors of every tier; however, Contractor, at its sole peril, may amend these Minimum Insurance Requirements for its subcontractors, but doing so does not relieve Contractor from its respective liability to WMATA.
- 9) Compliance with these Minimum Insurance Requirements does not relieve Contractor from Contractor's respective liability to WMATA, even if that liability exceeds the Minimum Insurance Requirements.

## **COVERAGE-SPECIFIC REQUIREMENTS**

### **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, and sidetrack agreements. Evidence of this modification shall be provided to WMATA along with all other required documents.
- 6) Defense Costs (Allocated Loss Adjustment Expense) must be included and outside of the policy limits for all primary liability and Umbrella/Excess Liability policies.

### **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 providing coverage for the Contractor's legal liability arising out of pollution conditions at the designated non-owned disposal site.

#### **IV. OTHER**

##### **Additional Insured**

- 1) Contractor 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.
- 2) Coverage provided to Additional Insured shall be primary and non-contributory to any other insurance available to the Additional Insured, including coverage afforded to the WMATA as an additional insured by subcontractors, and from other third parties.
- 3) Coverage provided to any Additional Insured shall be for claims arising out of both ongoing operations and products and completed operations hazard.
- 4) 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 contract scope of work takes place.
- 5) 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.

##### **Waiver of Subrogation**

Contractor 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.

- 1) Waiver shall be provided on an endorsement that is acceptable to WMATA.

##### **Certificate of Insurance (COI)**

Contractor 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 be sent to WMATA. The Certificate Holder box should read:

**Washington Metropolitan Area Transit Authority  
P.O. Box 23298  
Washington, DC 20026-3298**

Additionally:

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