

**Project Manual
For**

CITY OF WARWICK

STORMWATER MANAGEMENT IMPROVEMENTS

OAKLAND BEACH

SUBURBAN PARKWAY and STRAND AVENUE

WARWICK, RI

JULY 2016

**CROSSMAN ENGINEERING
151 CENTERVILLE ROAD
WARWICK, RHODE ISLAND**

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SECTION 000000
PROCUREMENT AND
CONTRACTING REQUIREMENTS

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CITY OF WARWICK
STORMWATER MANAGEMENT IMPROVEMENTS
OAKLAND BEACH
SUBURBAN PARKWAY AND STRAND AVENUE
WARWICK, RI

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BID FORM: Part 1

SUBMIT ALL THREE (3) PARTS OF THE BID FORM WITH BID

“Stormwater Management Improvements”

**Oakland Beach
Suburban Parkway and Strand Avenue
Warwick, RHODE ISLAND**

Proposal of _____ (hereinafter called “Bidder”)

Business Address: _____

Business Phone No. _____

Business Fax No. _____

Business Email: _____

() a corporation, organized and existing under the laws of the State of _____

() a joint venture

() a partnership

() an individual doing business as _____

To the City of Warwick (hereinafter called the Owner)

The Undersigned, having familiarized himself with local conditions affecting the cost of the work, and with the Drawings which included Specifications and Addenda, if any, as prepared by City of Warwick hereby proposes to furnish all labor, materials equipment and services required for this Project: Stormwater Management Improvements.

Bidder acknowledges receipt of the following addenda, if any:

No. _____ Dated _____
No. _____ Dated _____

Contract Time:

The Bidder offers to perform the work in accordance with the timeline specified below:

- Start of construction: TBD
- Substantial completion: TBD
- Final completion: TBD

The Final Completion date for Work shall be within 60 calendar days of the Purchase Order from the Division of Purchases.

Liquidated Damages:

The successful bidder awarded a contract pursuant to this solicitation shall be liable for and pay the State, as liquidated damages and not as a penalty, the following amount for each calendar day of delay beyond the date for substantial completion, as determined in the sole discretion of the State: **\$0.00**

The Undersigned has not entered into any collusion with any other person in respect to the proposal. The penalty from making false statements in offers is prescribed in 18 USC 1001.

Signed

Typed or Printed and Title

Date

BID FORM: Part 2

PROPOSED SUBCONTRACTORS

THE BIDDER SHALL STATE THE NAMES OF ALL THE SUBCONTRACTORS THAT HE/SHE PROPOSES TO USE:

1) Proposed Subcontractor: _____

Business Address: _____

Description of Work: _____

2) Proposed Subcontractor: _____

Business Address: _____

Description of Work: _____

3) Proposed Subcontractor: _____

Business Address: _____

Description of Work: _____

(Attach Sheet of additional Subcontractors)

This is to certify that all names of the above-mentioned subcontractors are submitted with full knowledge and consent of the respective parties.

The Bidder warrants that none of the proposed subcontractors have any conflict of interest with respect to this Contract.

BIDDER: _____

BY: _____

(SIGNATURE AND TITLE)

BID FORM: Part 3

EXPERIENCE SHEET

This "Experience Sheet" will be completed by each Bidder. Any Bid submitted without a fully completed "Experience Sheet" may be rejected by the owner. **If additional space is needed then at add sheets.**

- 1. Have you ever failed to complete any work awarded to you? If so, please explain.

- 2. Do you have any outstanding contract or warranty work with the City/Schools of Warwick or any other towns/schools? If so, please explain.

3. All similar to this projects that your company completed within the last three (3) years:

TYPE OF WORK	CONTRACT AMOUNT	DATE COMPLETED	NAME & ADDRESS OF OWNER/REFERENCE
-----------------	--------------------	-------------------	--------------------------------------

4. Supervisor: The contractor shall submit with the bid proposal the Qualifications of full time, on-site construction supervisor. The successful Bidder shall have an on-site construction supervisor with at least ten (10) years experience in the construction of similar projects. The use of a specific construction supervisor will be only upon approval of the City of Warwick DPW. It should be noted that failure to provide the stated agreed upon construction supervisor throughout all aspects of the project may be grounds for bid rejection, not accepting work in-place or contract termination. The substitution of the construction supervisor, without written approval of the City of Warwick DPW, may be grounds for termination.

PROPOSAL FORM**SUBMIT ALL PARTS OF THE PROPOSAL FORM WITH BID****THE CONTRACTOR AGREES TO ACCEPT THE FOLLOWING RESTRICTIONS ON PRICES FOR THE SPECIFIC ITEMS LISTED BELOW.**

Item 1 EARTH EXCAVATION: Earth Excavation shall include excavation of material, including the separation and stockpiling of soil suitable for reuse, such as; loam, sub soil, common borrow, and gravel borrow. Soil unsuitable for reuse or not required for reuse shall be stockpiled and removed and disposed of offsite.

Item 5 MODIFY CATCH BASIN INLET (CURB INLET TO GRATE INLET): Modify Catch Basin Inlet (Curb Inlet to Grate Inlet) shall include modifying the structure/closing the curb inlet, removing and disposing the manhole frame and cover, installing a catch basin frame and grate (R.I. Standard 6.3.0), and adjusting the structure to grade.

Item 6 CONVERT CATCH BASIN (CURB INLET) TO MANHOLE: Convert Catch Basin (Curb Inlet) to Manhole shall include modifying the structure/closing the curb inlet and adjusting the structure to grade.

Item 14 GRAVEL BORROW FROM SUITABLE ONSITE EXCAVATED MATERIAL: Gravel Borrow from Suitable Onsite Excavated Material shall include screening material, placement of gravel borrow, and compaction. Gravel Borrow from Suitable Onsite Excavated Material shall meet specifications outlined in Section 310000 EARTHWORK.

Item 16 COMMON BORROW FROM SUITABLE ONSITE EXCAVATED MATERIAL: Common Borrow from Suitable Onsite Excavated Material shall include screening material, placement of common borrow, and compaction. Common Borrow from Suitable Onsite Excavated Material shall meet specifications outlined in Section 310000 EARTHWORK.

Item 24 4" LOAM FROM SUITABLE ONSITE EXCAVATED MATERIAL: Loam from Suitable Onsite Excavated Material shall include screening material, placement of loam, and compaction. Loam from Suitable Onsite Excavated Material shall meet specifications outlined in Section 329000 SOIL PREPARATION.

Item 44 SITE PREPARATION: The lump sum amount for mobilization/site preparation shall not exceed 4% of the total contract price for Items 1 through 44.

Alternate Bid Item 49 BITUMINOUS BERM: Bituminous Berm shall include Bituminous Concrete Berm Class I-1 and any additional gravel borrow material required for installation.

SCHEDULE OF VALUES

The Bidder agrees to perform all the construction work described in the CONTRACT DOCUMENTS, for the Total Base Bid price. BIDS shall include sales tax and all other applicable taxes and fees.

The Proposal shall include completion of the Schedule of Values by the Bidder. The quantities of work shown in the Schedule of Values are approximate only and are subject to increase or decrease and all quantities of work, whether increased or decreased, are to be performed at the unit prices stated in the Schedule of Values for the work described. If a specific item or task is not listed in the Schedule of Values, the cost for that item or task must be included in the items listed.

NOTE: The contractor is responsible for all costs associated with testing required per the CONTRACT DOCUMENTS. The cost for all testing shall be included in the Items listed in the Schedule of Values.

SCHEDULE OF VALUES (BASE BID)

Item No.	Approx. Quantity	Unit Measure	Items w/Unit Bid Prices Written in Words	Unit Bid \$ Price	Amount \$ Bid
1	2,300	C.Y.	Earth Excavation		
At				Per C.Y.	
2	160	L.F.	Remove and Dispose Pipe		
At				Per L.F.	
3	6,765	S.Y.	Trimming and Fine Grading		
At				Per S.Y.	
4	2,130	C.Y.	Dispose Remaining Excavated Material Offsite		
At				Per C.Y.	
5	4	EA	Modify Catch Basin Inlet (Curb Inlet to Grate Inlet)		
At				Per EA	
6	7	EA	Convert Catch Basin (Curb Inlet) to Manhole		
At				Per EA	
7	6	EA	Doghouse Manhole		
At				Per EA	
8	9	EA	Frame and Grate (R.I. Std 6.3.0)		
At				Per EA	
9	4	EA	Adjust Manhole Cover to Grade		
At				Per EA	
10	3	EA	Remove and Dispose Manhole Frame and Cover		
At				Per EA	
11	63	L.F.	6" RCP Drain Pipe		
At				Per L.F.	
12	4	EA	6" RCP Flared End Section		
At				Per EA	

SCHEDULE OF VALUES (BASE BID)

Item No.	Approx. Quantity	Unit Measure	Items w/ Unit Bid Prices Written in Words	Unit Bid \$ Price	Amount \$ Bid
13	2	EA	15" RCP Flared End Section		
At	_____		Per EA.	_____	_____
14	90	C.Y.	Gravel Borrow from Suitable Onsite Excavated Material		
At	_____		Per C.Y.	_____	At _____
15	19	C.Y.	Gravel Borrow from Offsite		
At	_____		Per C.Y.	_____	At _____
16	170	C.Y.	Common Borrow from Suitable Onsite Excavated Material		
At	_____		Per C.Y.	_____	At _____
17	0	C.Y.	Common Borrow from Offsite		
At	_____		Per C.Y.	_____	_____
18	163	C.Y.	2-2 1/2" Crushed Stone		
At	_____		Per C.Y.	_____	_____
19	82	C.Y.	Pea Stone		
At	_____		Per C.Y.	_____	_____
20	2,072	S.Y.	Filter Fabric		
At	_____		Per S.Y.	_____	_____
21	15	MGAL	Water for Dust Control		
At	_____		Per MGAL	_____	_____
22	1,377	S.Y.	Bioretention Seed Mix		
At	_____		Per S.Y.	_____	_____
23	2,171	S.Y.	Endophyte Seed Mix		
At	_____		Per S.Y.	_____	_____
24	2,838	S.Y.	Loam Borrow from Suitable Onsite Excavated Material		
At	_____		Per S.Y.	_____	_____

SCHEDULE OF VALUES (BASE BID)

Item No.	Approx. Quantity	Unit Measure	Items w/ Unit Bid Prices Written in Words	Unit Bid \$ Price	Amount \$ Bid
25	710	S.Y.	Loam Borrow from Offsite		
At	_____			Per S.Y. _____	_____
26	1,631	S.Y.	Mulch		
At	_____			Per S.Y. _____	_____
27	442	C.Y.	Bioretention Soil		
At	_____			Per C.Y. _____	_____
28	104	EACH	Clethra alnifolia, White Summer Sweet		
At	_____			Per L.F. _____	_____
29	63	EACH	Cornus sericea, Bailey's Red Twig Dogwood		
At	_____			Per EACH _____	_____
30	12	EACH	Ilex glabra 'Compacta', Compact Inkberry		
At	_____			Per EACH _____	_____
31	20	EACH	Ilex verticillata 'Sparkleberry' Female, Winterberry		
At	_____			Per EACH _____	_____
32	4	EACH	Ilex verticillata 'Sparkleberry' Male, Winterberry		
At	_____			Per EACH _____	_____
33	28	EACH	Salix discolor, Pussy Willow		
At	_____			Per EACH _____	_____
34	7	EACH	Vaccinium corymbosum, Highbush Blueberry		
At	_____			Per EACH _____	_____

SCHEDULE OF VALUES (BASE BID)

Item No.	Approx. Quantity	Unit Measure	Items w/ Unit Bid Prices Written in Words	Unit Bid \$ Price	Amount \$ Bid
35	47	EACH	Viburnum dentatum, Arrowwood Viburnum		
At				Per EACH	
36	35	EACH	Andropogon gerardii, Big Blue Stem		
At				Per EACH	
37	166	EACH	Dennstaedtia punctilobula, Hay Scented Fern		
At				Per EACH	
38	153	EACH	Eupatorium maculatum, Joe-Pye Weed		
At				Per EACH	
39	169	EACH	Hemerocallis fulva, Daylilies		
At				Per EACH	
40	57	EACH	Rudbeckia hirta, Black Eyed Susan		
At				Per EACH	
41	48	EACH	Schizachyrium scoparium, Bluestem		
At				Per EACH	
42	25	EACH	Solidago sempervirens, Seaside Goldenrod		
At				Per EACH	
43	13	EACH	Solidago virgaurea, Goldenrod		
At				Per EACH	

44	1	L.S.	Site Preparation		
At				Per L.S.	

TOTAL OF BASE BID/CONTRACT SUM (ITEMS 1 THROUGH 44): \$ _____
(Figures)

TOTAL BASE BID/CONTRACT SUM WRITTEN IN WORDS: _____ Dollars
(Written)

Note: The City may select none or any combination of the alternatives listed here.

SCHEDULE OF VALUES (ALTERNATE BID ITEM)

Item No.	Approx. Quantity	Unit Measure	Items w/ Unit Bid Prices Written in Words	Unit Bid \$ Price	Amount \$ Bid
45	2,729	S.Y.	Remove and Dispose Existing Pavement (Alternate Bid Item)		
At				Per S.Y.	
46	3,295	L.F.	Remove and Dispose Existing Concrete Curb (Alternate Bid Item)		
At				Per L.F.	
47	3,696	L.F.	Sawcut and Match Pavement (Alternate Bid Item)		
At				Per L.F.	
48	42	TON	1 1/2" HMA Bituminous Surface Course (Alternate Bid Item)		
At				Per TON	
49	3,656	L.F.	Bituminous Berm (R.I. Std 7.5.1) (Alternate Bid Item)		
At				Per L.F.	
50	24	S.Y.	R-3 Rip Rap (Alternate Bid Item)		
At				Per S.Y.	
51	24	S.Y.	FS-2 Bedding (Alternate Bid Item)		
At				Per S.Y.	
52	44	L.F.	Straw Wattle (Alternate Bid Item)		
At				Per L.F.	

Note: The City may select none or any combination of the alternatives listed here.

53	19	EA	Silt Sack (Alternate Bid Item)	At _____	Per EA _____
54	500	L.F.	Haybales or Silt Fence (if required) (Alternate Bid Item)	At _____	Per L.F. _____
55	464	L.F.	Tree Protection Device (R.I. Std 51.1.1) (Alternate Bid Item)	At _____	Per L.F. _____
56	72	EA	Fluorescent Traffic Cones (Alternate Bid Item)	At _____	Per EA _____
57	18	S.F.	Temporary Construction Signs (Alternate Bid Item)	At _____	Per S.F. _____
58	1	L.S.	Traffic Protection (Alternate Bid Item)	At _____	Per L.S. _____

TOTAL ALTERNATE BID (ITEMS 45 THROUGH 58): \$ _____
(Figures)

TOTAL ALTERNATE BID WRITTEN IN WORDS:

(Written) Dollars

Contractor selection shall be based on the Total of any combination of the Subtotal Bid Prices or the Total Base Bid Price and/or Total Alternate bid Price per the discretion of the City of Warwick. Only one contractor will be selected for the project. The Total Base Bid Price is the sum of the unit prices noted in the Schedule of Values, (items 1 through 44) and represents the Total Contract Bid for the performance and installation, complete in place and accepted by the City, of all work necessary to complete all work. The Total Alternate Bid Price is the sum of the Unit Prices noted in the Schedule of Values (items 45 through 58). If a specific item or task is not listed in the Schedule of Values, the cost for that item or task must be included in the items listed.

The Bidder understands that the quantities of work shown in the Schedule of Values are approximate only and are subject to increase or decrease and agrees that all quantities of work, whether increased or decreased, are to be performed at the unit prices stated in the Schedule of Values for the work described.

The Bidder understands that the Authority reserves the right to reject any or all bids and to waive any informalities in the bidding in accordance with RIGL 37 132.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of 30 calendar days after the scheduled closing time for receiving bids.

The undersigned hereby declares that in regard to all conditions affecting the work to be done and the labor and materials required, this bid (proposal) is based on his investigations and findings, and Crossman Engineering and the Authority and their officers, agents and employees shall not in any manner be held responsible for the accuracy of, or be bound by any estimates, borings, indications of borings or soils or rock, water or underground conditions relative to the proposed work, indicated in this or in the other contract documents; that no warranty or representation has been made by Crossman Engineering, The Authority or their officers, agents and employees as to subsurface soil or rock conditions; groundwater; or other underground and similar conditions; nor has any representation or warranty been so made that the estimated quantities to be used for comparison of bids will even approximate the actual quantities of materials and work which the Contractor may be required to furnish or perform.

SAFETY AND HEALTH REGULATIONS: These construction documents, and the joint and several phases of construction hereby contemplated are to be governed, at all times, by applicable provisions of the Federal Law(s) including but not limited to the latest amendments of the following:

- (1) Williams Steiger Occupations Safety and Health Act of 1970, Public Law 91 596.
- (2) Part 1910 Occupational Safety and Health Standards, Chapter XVII of Title 29, Code of Federal Regulations.
- (3) Part 1518 Safety and Health Requirements for Construction, Chapter XIII of Title 29, Code of Federal Regulations.
- (4) Executive Law 11246 as amended by Executive Order 11376 and as supplemented in DOL regulations (41 CFR Part 60).
- (5) Copeland Anti Kick Back Act (18 U.S.C. 874) as supplemented in DOL regulations (29 CFR Part 3).
- (6) Davis Bacon Act (40 U.S.C. 276 (a) to (a) 7) as supplemented in DOL regulations (29 CFR Part 5).
- (7) Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 330) as supplemented by DOL regulations (29 CFR Part 5).
- (8) Clean Air Act of 1970, as amended, P.L. 91 604.

In the event of any inconsistencies between the above laws and regulations and the provisions of these documents, the laws and regulations shall prevail.

Respectfully submitted,

*

By: _____

Title: _____

Business Address: _____

Seal, if bid is by Corporation

* Note: Insert Bidder's name. If a Corporation, fill in the following: "A corporation" organized under the laws of _____ composed of officers as follows:

_____ President

_____ Vice President

_____ Secretary

_____ Treasurer

At a duly authorized meeting of the Board of Directors of the

_____ held on _____
(Name of Corporation) (Date)

at which all the Directors were present or waived notice, it was voted that

_____ is _____
(Name) (Officer)

of this company and he hereby is authorized to execute bidding documents, contracts and bonds in the name and behalf of said company and affix its corporate seal thereto, and such execution of any contract obligation in this company's name on its behalf by such:

(Officer)

shall be valid and binding upon this company.

A true copy

ATTEST: _____
(Clerk)

Place of Business: _____

I hereby certify that I am the Clerk of the _____
_____, that _____

is the duly elected _____ of said Company, and that the above vote has not been amended or rescinded and remains in full force and effect as of the date of this contract.

(Corporate Seal)

SECTION 000500

AGREEMENT FORM

AIA Document A101-2007 Standard Form of Agreement Between Owner and Contractor, and as amended, forms the basis of Contract between the Owner and the Contractor, and is included, following this page, as an integral part of the Bid Documents. Provisions which are not so amended or supplemented remain in full force and effect.

END OF SECTION 000500

DRAFT AIA[®] Document A101[™] - 2007

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the « » day of « » in the year « »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

«City of Warwick»
«3275 Post Road
Warwick, RI 02886»

and the Contractor:
(Name, legal status, address and other information)

« »
« »
« »
« »

for the following Project:
(Name, location and detailed description)

«Stormwater Management Improvements Oakland Beach»
«Suburban Parkway and Strand Avenue
Warwick, Rhode Island»

The Engineer/Architect:
(Name, legal status, address and other information)

« Crossman Engineering »
«151 Centerville Road
Warwick, RI 02886 »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201[™]-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Modified Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Bid Form, Proposal Form, Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

« Under this Contract Agreement the Contractor shall commence the Work on the dates delineated in the **BID FORM** which is here-in considered to be part of the Agreement as if written and attached in full.

It shall also be noted that any section of this document that requires information to specify specifics of the Project that refer to the Bid For, shall be denoted "refer to the Bid Form" which represents "Reference the Bid Form for this Information, as if written and attached in full, here-in" »

If, prior to the commencement of the Work, the Owner requires time to file mortgages, liens and other security interests, the Owner's time requirement shall be as follows:

« »

§ 3.2 The Contract Time shall be measured from the date of commencement and shall be delineated in the Bid Form (refer to the Bid Form) and shall be adjusted in the Bid Form for all changes in time related to the project during the

bidding process. Final Documents shall be executed here-in Section 3.2 once the date of project commencement has been established and will there after be adjusted here-in (Section 3.2) as may be required during the Project.

§ 3.3 The Contractor shall achieve Substantial Completion and Final Completion of the entire Work not later than the dates delineated in the Bid Form (refer to the Bid Form), or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

« »

Portion of Work	Substantial Completion Date
	TBD

Portion of Work	Final Completion Date
	TBD

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion or Final Completion on time or for bonus payments for early completion of the Work.)

« Provisions for Liquidated Damages, and/or Schedules pertaining to Actual Damages, and Bonus/Incentive Payments shall be defined in the Bid Form as they apply to the Project except for those outlined in Section 3.5.1 of this Document. »

§ 3.4 The Contractor acknowledges and recognizes that the Owner is entitled to full and beneficial use of the facility by as Delineated in the Bid Form (refer to the Bid Form).

§ 3.5 If the Contractor fails to achieve Substantial and/or Final Completion of the Work on or before the date delineated in the Bid Form (refer to the Bid Form), the Owner reserves the right to collect "Actual Damages". Damages are delineated in the Bid Form.

§ 3.6 The Owner may deduct liquidated damages described in the aforesaid from any unpaid amounts then or thereafter due the Contractor under this Agreement. Any liquidated damages not so deducted from any unpaid amounts due to the Contractor shall be payable to the Owner upon the demand of the Owner to the Contractor and/or its surety

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be « » (\$ « »).

§ 4.2 The Contract Sum may include alternates, which are described in the Contract Documents, including but not limited to drawings, specifications (Project Manuals) and in the Bid Form (refer to the Bid Form) and may be accepted by the Owner in writing.

The Contractor shall furnish the Owner with no less than fourteen (14) days' prior written notice unless noted otherwise in the Contract Documents and/or Bid Form of the date upon which any of the alternates set forth in this Section 4.2 must be accepted by the Owner in order with exceptions (to the order of award) as delineated in the Bid Form (refer to the Bid Form) for the Contractor to perform the Work covered by such alternates for the price set forth in this Section 4.2 and without any adjustment to a milestone date or in the Contract Time.

(State the numbers or other identification of accepted alternates. If decisions on other alternates re to be made by the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

« »

§ 4.3 Unit prices:

§ 4.3.1 The Contract Sum may include unit prices, [delineated and documented in the Proposal Form (REF PROPOSAL FORM)] which may be set forth in the Contract Documents. Such unit prices are considered complete and included (i) all materials, equipment, labor, delivery, installation, overhead, and profit and (ii) any other costs or expenses in connection with, or incidental to, the performance of that portion of the Work to which such unit prices apply.

§ 4.3.2 All work awarded on the basis of Unit Costs shall take into consideration the incidental work to complete that work including but not limited to the actual work, demolition and precision cutting and patching to accommodate the work, the infrastructure and related dependent components/systems required for complete operation, and all housekeeping and building protection required to perform the work with out disruption to existing work and finishes.

Additionally all work shall be performed in accordance with all conditions otherwise set forth in the Contract Documents and in the absence of such detail within the Contract Documents and/or references, all work shall be performed in the strictest compliance with the standards of the trade, or industry for the Work being performed.

§ 4.3.3 Unit Prices are delineated in the Proposal Form (refer to the Proposal Form) and will be reviewed as part of the overall Bid Review Process to assure fair and competitive costing of each item:.

§ 4.4 Allowances included in the Contract Sum, if any, refer to the Bid Form for the delineation of all allowances.

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment, including all supporting documentation submitted to the Owner and the Architect by the Contractor and Certificates for Payment issued by the Owner and the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents. All payment requests and supporting documentation shall be submitted both digitally (digitally may require submission in MS Excel Format, Adobe PDF and/or both and may require posting via the Internet to a Digital Format) as directed by the Owner and in hard copy.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 Provided that an Application for Payment is approved by the Architect and the Owner and all required supporting documents are approved, the Owner shall make payment of the certified amount to the Contractor .

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ~~«Five»~~ percent (~~«5.00»~~ %) for resident contractors and subcontractors and ~~«eight»~~ percent (~~«8.00»~~ %) for nonresident contractors and subcontractors (R.I. Gen. Law 44-1-6 Additional Collection Powers – Non resident Contractors). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of Modified AIA Document A201™-2007, General Conditions of the Contract for Construction;

- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of «Five» percent («5.00» %) for resident contractors and subcontractors and «eight» percent («8.00» %) for nonresident contractors and subcontractors (R.I. Gen. Law 44-1-6 Additional Collection Powers – Non resident Contractors);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of Modified AIA Document A201–2007.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of Modified AIA Document A201–2007.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

« The Owner shall have the option, but not the obligation, to reduce the retainage requirements of this Agreement or release any portion of retainage prior to the date specified in the Contract Documents. Any reduction or release of retainage, or portion thereof, however, shall not be a waiver of (i) any of the Owner's rights to retainage in connection with other payments to the Contractor; or (ii) any other right or remedy that the Owner has under the Contract Documents at law or in equity.

Additionally, when retainage is released for a specific Trade and/or Company, that reduction shall be applied to that firm. In the event the firm that the Owner has authorized a reduction of retainage for is in dispute with the Contractor, the Contractor has the obligation to inform the Owner in writing that there is an active dispute and the Contractor does not intend on releasing that retainage as approved by the Owner prior to the final approval of an individual request for payment in which that reduction in retainage is being approved. At that time the Owner shall retain the right not to release retainage to Contractor for that firm. Additionally, the Contractor's failure to notify the Owner of the intention not to release retainage to an individual firm shall be cause for the Owner to withhold payment, or adjust payment by the amount of the retainage authorized for release and delays in the payment process under these circumstances shall not be considered as a late payment. »

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of Modified AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

Arbitration pursuant to Section 15.4 of AIA Document A201-2007

Litigation in a court of competent jurisdiction

Other (Specify)

« In accordance with the Rhode Island "State Purchases Act," R.I. Gen. Laws § 37-2-1, et seq. and the Procurement Regulations; the Rhode Island "Public Works Arbitration Act," R.I. Gen. Laws § 37-16-1, et seq.; the Rhode Island "Administrative Procedures Act" R.I. Gen. Laws § 45-35-1, et seq.; and or the Rhode Island "Prompt Payment Act," R.I. Gen. Laws § 42-11.1-1, et seq.; and other statutes, rules, or regulation as may be adopted by the State of Rhode Island or the City of Warwick during the term of this agreement. »

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of Modified AIA Document A201-2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of Modified AIA Document A201-2007.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of Modified AIA Document A201-2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall be governed by applicable provisions of RI Gen. Laws Section 42-11.1 et seq. "Prompt Payment by Department of Administration".

The provisions noted here-in do not absolve the Contractor from provisions of the Contract documents in regards, to withholding, for cause, retainage, non resident retainage, and other provisions of the Contract pertaining to payment procedures and withholding.

§ 8.3 The Owner's representative:
(Name, address and other information)

« »
« »
« »
« »
« »
« »

§ 8.4 The Contractor's representative:
(Name, address and other information)

« »
« »
« »
« »
« »
« »

§ 8.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

« The Contractor represents and warrants the following to the Owner (in addition to any other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Agreement, which representations and warranties shall survive the execution and delivery of the Agreement, any termination of this Agreement, and the final completion of the Work:

- .1 that it and its Subcontractors are financially solvent, able to pay all debts as they mature, and possessed of sufficient working capital to complete the Work and perform all obligations hereunder;
- .2 that it is able to furnish the plant, tools, materials, supplies, equipment, and labor required to complete the Work and perform its obligations hereunder;
- .3 that it is authorized to do business in the State of Rhode Island and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over it and over the Work and the Project;
- .4 that its execution of this Agreement and its performance thereof is within its duly authorized powers;
- .5 that its duly authorized representative has visited the site of the Project, familiarized itself with the local and special conditions under which the Work is to be performed, and correlated its observations with the requirements of the Contract Documents; and
- .6 that the Contractor and Sub-Contractors have all required licensing required to perform the Work they are engaged in, by the State of Rhode Island in accordance with all applicable rules, laws and regulations. It is the Contractors responsibility to assure that all sub-contractors are properly licensed by the State and if there is a belief that there are reciprocity programs in place they need to be confirmed. Delays in work due to issues related to licensing are not subject to consideration for changes regarding the completion date for the project.
- .7 that it possesses a high level of experience and expertise in the business administration, construction, and superintendence of projects of the size, complexity, and nature of this particular Project, and it will perform the Work with care, skill, and diligence of such a contractor.

Any Applications for Payment or Change Orders must be signed by the Project Manager and a duly authorized representative of the Architect, the Contractor, and the City of Warwick. »

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed Modified AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor.

§ 9.1.2 The General Conditions are Modified AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 9.1.3 The Supplementary and other Conditions of the Contract are those contained in Exhibit A "Project Manual" dated July 2016. § 9.1.4 The Specifications:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

« Refer to Exhibit A "Project Manual" date July 2016 »

§ 9.1.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

« Site Plans for Stormwater Management Improvements Oakland Beach, Suburban Parkway and Strand Avenue, Warwick, RI, Sheets 1-11, prepared by Crossman Engineering, dated March 2016»

§ 9.1.6 The Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

- 1 Modified AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

« »

- 2 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. Modified AIA Document A201-2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

«Will be executed in Final Executed Contract

- Exhibit A** Project Manual dated
- Exhibit B** Drawings dated
- Exhibit C** Addenda
- Exhibit D** Bid Form
- Exhibit E** Contractor's Performance and Payment Bond
- Exhibit F** Contractor's Required Insurance Including Liability and Property and Builder's Risk
- Exhibit G** Contractor's Equal Employment Opportunity and Affirmative Action Program
- Exhibit H** Contractor's Safety Policy
- Exhibit I** Project Scope Review Meeting Minutes as if attached and written in full
- Exhibit J** Table of Contents for all Bid and Drawing sections including Addendum as if attached and written in full

»

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of Modified AIA Document A201-2007.

This Agreement is entered into as of the day and year first written above; provided, however that a Purchase Order has been issued by the "Owner."

OWNER (Signature)

« »

(Printed name and title)

CONTRACTOR (Signature)

« »

(Printed name and title)

SECTION 000700**GENERAL CONDITIONS**

1.01 RELATED DOCUMENTS

- A. Drawings and General Provisions of Contract, including General and Supplementary Conditions and Section 010000 General Requirements, apply to this Section.

1.02 SUMMARY

- A. Document includes:
 - 1. General Conditions
- B. Related Documents:
 - 1. Section 000500, Agreement Form.
 - 2. Section 000800, Supplementary Conditions.

1.03 GENERAL CONDITIONS

- A. AIA Document A201–2007 General Conditions of the Contract for Construction, as amended and included here, forms the basis of Contract between the Owner and Contractor, and is included, following this page, as an integral part of the Bid documents. Provisions which are not so amended or supplemented remain in full force and effect. The Bidder hereby acknowledges that it has reviewed AIA Document A201, as amended, and hereby accepts that form except as to the items noted therein to be completed upon Award.

Any reference to AIA Document A201, whereby the word “Engineer” appears, “Engineer” shall in fact mean the Owner’s Representative who is Crossman Engineering.

The Contractor shall note that Section 000800, entitled “Supplementary Conditions” has additionally modified AIA Document 201 – General Conditions of the Contract for Construction and hereby accepts those conditions.

END OF SECTION 000700

DRAFT AIA® Document A201™ - 2007

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

« Stormwater Management Improvements Oakland Beach »

« Suburban Parkway and Strand Avenue »

Warwick, Rhode Island

THE OWNER:

(Name, legal status and address)

« City of Warwick »

« 3275 Post Road »

Warwick, RI 02886 »

THE ARCHITECT:

(Name, legal status and address)

« Crossman Engineering » « »

« 151 Centerville Road »

Warwick, RI 02886 »

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ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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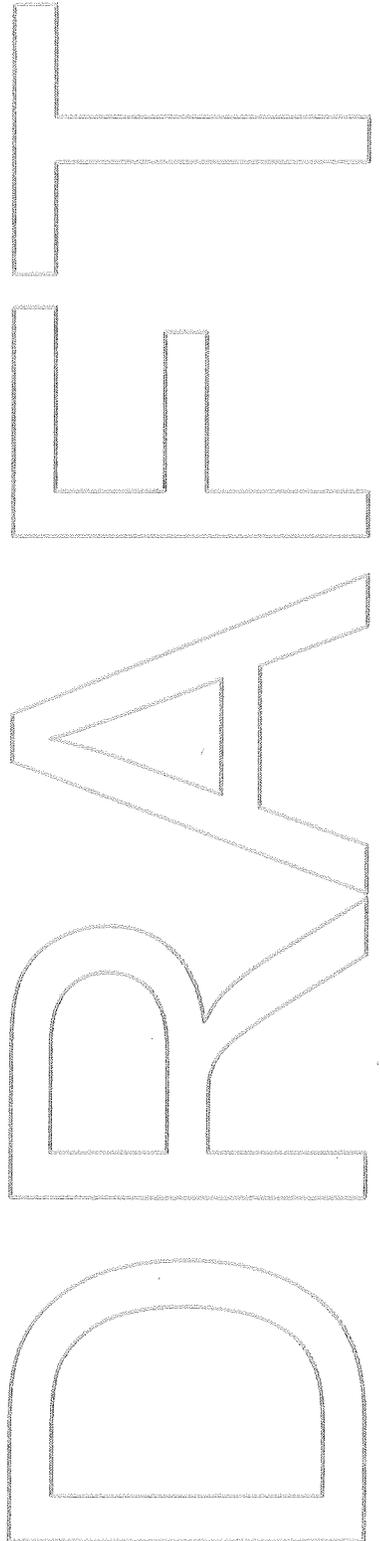
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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. The Contract Documents include the advertisement or Invitation to Bid, Instructions to Bidders, sample forms, Bid Form, Proposal Form, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

Should conflicts or discrepancies arise between Supplementary General Conditions, General Conditions, Drawings, and/or Specifications or within any of the Contract Documents themselves, these documents should be considered as a whole and shall be interpreted as a whole in resolving any conflicts or discrepancy. The Work shall be done by the method of highest quality requiring the most substantial and comprehensive performance of the Work consistent with the intent and requirements of these documents.

Upon discovery of conflict in any of the Contract Documents, the Contractor shall provide written notification in accordance with the General Conditions and then proceed as specifically directed by the Architect.

The Contract Documents executed or identified in accordance with Section 1.5.1 shall prevail in case of an inconsistency with subsequent versions made through manipulatable electronic operations involving electronic production, storage, and transfer systems.

§ 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations for a fully completed and operational project system; assembly, component for the intended use by the Owner. The Work may constitute the whole or a part of the Project.

§ 1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

§ 1.1.5 THE CONSTRUCTION DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams; also referred to as part of the Construction Documents.

§ 1.1.7 THE PROJECT MANUAL

The Project Manual is a volume assembled for the Work, which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

§ 1.1.7 THE CONSTRUCTION SPECIFICATIONS

The Specifications are that portion of the Contract Documents, found in the Project Manual, consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services; also referred to as being part of the Construction Documents.

§ 1.1.8 ADDENDUM

A change to the Contract Documents issued by the Architect with the Owner's approval prior to the execution of the Agreement and specifically listed in the Agreement.

§ 1.1.9 ALTERNATE

A variation in Contract requirements on which a separate price is to be received by the Owner as a part of the bid. If the Alternate is accepted in writing by the Owner, the variation is then a part of the Contract and the amount of money quoted to be added or deducted from the Base Bid is taken into account in determining the Contract Sum.

§ 1.1.10 BASE BID

This is a unit price project. A Schedule of Values is provided in the Proposal Form with items of work and quantities. The base bid/contract sum is the sum of all items of work including all allowances but prior to any Alternates being accepted.

§ 1.1.11 SUBSTANTIAL COMPLETION

Is the date set forth in the Contract, when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. (See Section 9.8 for additional requirements for authorization of Substantial Completion).

§ 1.1.12 FINAL COMPLETION

The date the Contract has been fully performed, all the Work has been completed and a final Certificate for Payment approved by the Owner has been issued by the Architect.

§ 1.1.13 NOT-IN-CONTRACT - N.I.C.

Work not included in the Contract, however the Contractor shall be responsible to work with the Architect and Owner to assure coordination and pre-requisite work required for the responsible party required to provide the work not part of this Contract Agreement.

§ 1.1.14 OR APPROVED EQUAL / EQUAL TO

Shall mean products by manufacturers other than those specified in the Contract Documents which the Contractor may submit for substitution and prove to be equal in quality and performance to those specified in the Contract Documents and which may be incorporated in the Work after review and written acceptance by both the Architect and the Owner.

§ 1.1.15 KNOWLEDGE

The terms "knowledge," "recognize," and "discover," their respective derivatives, and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows (or should know), recognizes (or should recognize), and discovers (or should discover) in exercising the care, skill, and diligence required by the Contract Documents. Analogously, the expression "reasonably inferable" and similar terms in the Contract Documents shall be interpreted to mean reasonably inferable by a Contractor familiar with the Project and exercising the care, skill, and diligence required of the Contractor by the Contract Documents.

§ 1.1.16 PRIME CONTRACTOR

The use of the term Prime Contractor refers to who is responsible for the construction of the Project. The Prime Contractor is also referred to as the "Contractor"

§ 1.1.17 MANDATORY SUBCONTRACTOR

The use of the term Mandatory Subcontractor refers to Subcontractors that the Contractor shall engage in their work as part of their Base Bid.

Where Mandatory Subcontractors and/or proprietary equipment is specified to be used in the Project, the Prime Contractor shall procure, prepare and develop submittals, prepare and develop shop drawings, confirm all

requirements of the product or services have been cost and ultimately supply and install the equipment, labor, shipping and all appurtenant materials and systems as required for a complete and operational system.

The requirement to utilize Mandatory Sub-Contractors and or Proprietary Equipment and systems does not relieve the Prime Contractor from any Contractual requirements and other obligations under this agreement.

§ 1.1.18 INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.19 AS BUILT DOCUMENTS

Drawings and Specifications that document the actual built conditions, products, and equipment of the project. Produced by the Contractor during construction, and approved by the Architect and their subconsultant's. These Drawings and Specifications are NOT handwritten redlined marked up drawings of the Construction Documents, with inserted sketches indicating changes or additions, but a clean set of documents indicating actual built conditions, products, and equipment, for the Owners use after construction. Submitted Digitally in CAD and PDF and in Hard copy.

§ 1.1.20 INITIAL DECISION MAKER

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Work shall consist of all items specifically included in the Contract Documents as well as all additional, incidental, and appurtenant items of work which are reasonably inferable from that which is specified in order to complete the Work in accordance with the Contract Documents. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results based on the Contract Documents, Knowledge as a professional Contractor and/or Materials Person, Suppliers, and in accordance with supporting data provided by the manufactures, codes, Recognized Trade Organization and other resources available.

Any differences between the requirements of the Drawings and the Specifications or any differences noted within the Drawings themselves or within the Specifications themselves have been referred to the Owner and the Architect by the Contractor prior to the submission of bids and have been clarified by Addendum issued to all bidders. All Work mentioned or indicated in the Contract Documents shall be performed by the Contractor as part of this Contract unless it is specifically indicated in the Contract Documents that such Work is to be done by others.

Should the Drawings or Specifications disagree in themselves or with each other, the Contractor shall provide the better quality or greater quantity of Work unless otherwise directed by written addendum to the Contract at no costs and additional time charged to the Owner including additional General Conditions that may be required.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade. The Contractor shall be responsible to ensure that all Subcontractors communicate exclusions in their individual bids to the Contractor and such exclusions are covered and incorporated in the Base Bid of the Project by the Contractor.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4 Execution of the Contract by the Contractor is a representation that said Contract Documents are full and complete, and are sufficient to have enabled the Contractor to determine the cost of the Work therein to enter into

the Contract and that the Contract Documents are sufficient to enable the Contractor and the Contractor Sub-Contractors to construct the Work outlined therein, and otherwise to fulfill all its obligations hereunder, including, but not limited to, Contractor's obligation to construct the Work for an amount not in excess of the Contract Sum on or before the date(s) of Substantial Completion established in the Agreement. The Contractor further acknowledges and declares that it has visited and examined the site (s), examined all physical, legal, and other conditions affecting the Work, and is fully familiar with all of the conditions thereon and thereunder affecting the same. In connection therewith, the Contractor specifically represents and warrants to the Owner that it has, by careful examination, satisfied itself as to: (1) the nature, location, and character of the Project and the site, including, without limitation, the surface and subsurface conditions of the site and all structures and obstructions thereon and thereunder, both natural and man-made, and all surface and subsurface water conditions of the site and surrounding area; (2) the nature, location, and character of the general area in which the Project is located, including without limitation, its climactic conditions, available labor supply and labor costs, and available equipment supply and equipment costs; (3) the quality and quantity of all materials, supplies, tools, equipment, labor and professional services necessary to complete the Work in the manner and within the cost and time frame required by the Contract Documents; and (4) the Contractor has fully reviewed and included in the base bid all Supplementary Conditions associated with the Work Scope; and (5) has familiarized themselves with products and systems that may have been specified as propriety systems, and (6) acknowledges that there may be portions of the design that are performance based and that the Contractor has to engage design and engineering services for and these costs are part of the Base Bid submitted. In connection with the foregoing, and having carefully examined all Contract Documents, as aforesaid, and having visited the site, the Contractor acknowledges and declares that it has no knowledge of any discrepancies, omissions, ambiguities, or conflicts in said Contract Documents and that if the Contractor or Subcontractors becomes aware of any such discrepancies, omissions, ambiguities or conflicts, they will promptly notify the Owner and the Architect of such fact in writing.

Further, the Contractor recognizes the extra degree of care required to implement construction and related activities at the site which will remain fully operational with existing occupancy use and have continuous public and employee access during all construction phases including but not limited to site construction, demolition, utility work, building construction and final site construction. As such circumstances with respect to safety, including but not limited to the protection of pedestrians, the protection of employees, the protection of the general public, the protection of students, the protection of vehicles, the protection of other Owner Assets have all been considered in the development of the Base Bid including but not limited to cleanliness of the site, graphics, protective barriers, health and other laws, and *protection of existing utilities*, existing communication and data systems, building finishes, and property. In arriving at the Contract Sum and the Contract Time, the Contractor has, as an experienced and prudent contractor, exercised its best judgment and expertise to include the impact of such circumstances upon the Contract Sum and the Contract Time.

The Contract Documents include all items necessary for the proper execution and completion of the Work by the Contractor. The Work shall consist of all items specifically included in the Contract Documents as well as all additional, incidental, and appurtenant items of work which are reasonably inferable from that which is specified in order to complete the Work in accordance with the Contract Documents. The Contract Documents are complementary, and what is required by any one Contract Document shall be binding as if required by all. Any differences between the requirements of the Drawings and the Specifications or any differences noted within the Drawings themselves or within the Specifications themselves have been referred to the Owner and the Architect by the Contractor prior to the submission of bids and have been clarified by Addendum issued to all bidders.

If any such differences or conflicts were not called to the Owner's and the Architect's attention prior to the submission of bids, the Architect shall decide which of the conflicting requirements will govern based upon the most stringent of the requirements, and, subject to the approval of the Owner, the Contractor shall perform the Work at no additional cost and/or time to the Owner in accordance with the Architect's decision. Work not covered in the Contract Documents will not be required unless it is consistent therewith and is reasonably inferable therefrom as being necessary to produce the intended results.

§ 1.2.5 The Contractor shall provide the Subcontractors with complete sets of the Contract Documents (Drawings, Specifications including General Conditions and Addendum) at the time of bidding and post contract award.

§ 1.2.6 All indications or notations which apply to one of a number of similar situations, materials, or processes shall be deemed to apply to all such situations, materials, or processes wherever they appear in the Work, except where a contrary result is clearly indicated by the Contract Documents.

§ 1.2.7 Where codes, standards, requirements, and publications of public and private bodies referred to in the Specifications, references shall be understood to be to the latest revision prior to the date of receiving bids, except where otherwise indicated.

§ 1.2.8 Where no explicit quality or standards for materials or workmanship are established for the Work, such Work is to be of excellent quality for the intended use and consistent with the quality of the surrounding Work and of the construction of the Project generally. Materials to be used shall be approved by the Architect and Owner prior to installation and such approval shall be in writing.

§ 1.2.9 All manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in strict accordance with the manufacturer's written or printed directions and instructions unless otherwise indicated in the Contract Documents. All manufacturers written and/or printed directions and instructions are considered to be part of the Contract Documents including but not limited to Drawings and Specifications as if attached and written in full unless otherwise noted.

§ 1.2.10 Where the term "By Others" is used in the drawings and/or specifications and/or in manufacturers data including but not limited to shop drawings, and additional submittals provided by the Contractor, the Contractor is responsible to assure that the work required under the heading "By Others" and any and all required resources including but not limited to miscellaneous and appurtenant materials, labor, shipping, handling, housekeeping and other requirements to execute the work is captured in the Base Bid.

Where work is to be provided by the Owner the reference "By Owner" will be used. Where the work is to be provided by the Owner that work shall be supported by the Contractor who will completely support the Work to assure that the site, building and utilities can accommodate the work to be performed by the Owner at no additional cost and every effort shall be made to accommodate the Owner's activities including developing time in the Project Schedule that will allow for the Owners Own Workforce, Owners Subcontractors, Owners Statewide Resources including but not limited to inmate labor, The Contractor and The Contractors Subcontractors the ability to work in harmony between all to properly perform the task unless otherwise specified.

For work that has been clearly identified as "By Owner" in the Base Contract documents and addendums the Contractor shall make provisions to assist the Owners Team as noted above however additional compensation for housekeeping, dumpsters, sanitary requirements will be made in accordance with unit prices provided in the Bid Form (REF BID FORM). For Work that has not been identified in the Bid Documents and Addendum determined to be done post the Contract Award "By Owner" consideration of additional compensation shall be made for the Contractor as may be required for additional work efforts by them on a case by case basis and without cause for adjustments in project duration.

§ 1.3 CAPITALIZATION

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 INTERPRETATION

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors of their respective Instruments of Service, including the Drawings and Specifications. The Owner shall have all common law, statutory and other reserved rights, including copyrights to the Instruments of Service including Drawings and Specifications, as provided for in the agreement between the Architect and Owner. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service.

Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner's reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work and the development of As Built documents. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner.

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

§ 1.7 CONFIDENTIALITY

The Contractor warrants and represents that the Contractor shall not knowingly or negligently communicate or disclose at any time to any person or entity any information in connection with the Work or the Project, except (i) with prior written consent of the Owner, (ii) information that was in the public domain prior to the date of this Agreement, (iii) information that becomes part of the public domain (documents posted for bidding purposes on sites requiring enrollment which are password restricted shall not be considered public domain) by publication or otherwise not due to any unauthorized act or omission of the Contractor, or (iv) as may be required to perform the Work or by any applicable law.

The Contractor shall review and hereby acknowledges other sections of the Agreement regarding Document Distribution and Additional Security requirements associated with this Contract Agreement.

ARTICLE 2 OWNER

§ 2.1 GENERAL

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 The Contractor is advised that funding sources for the Project may be diverse and variable and such arrangements may result in payments to the Contractor by multiple sources (i.e. Grants). As such the Owner may request that the schedule of values be broken down in such a manner that the details take into consideration work that may be paid for thought an alternate funding source. This break out may require that all disciplines included in the work break out from the main project, separate values to assure tracking and disbursements from the appropriate accounts. The terms of payment shall remain the same as prescribed in the Contract Documents. The Owner will identify these requirements at the start of the project. Illustrative examples where break outs may be required may be for Alternates and Equipment.

§ 2.2.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities, unless otherwise noted and/or otherwise approved in writing.

§ 2.2.3 The Owner through the Architect shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished, but shall exercise proper precautions relating to the safe performance of the Work. The furnishing of these surveys and the legal description of the site shall not relieve the Contractor from its duties under the Contract Documents, including Section 1.2 in its entirety. Unless otherwise specifically noted in the Contract Documents:

- .1 Neither the Owner nor the Architect shall be required to furnish the Contractor with any information concerning subsurface characteristics or conditions of the areas where the Work is to be performed.
- .2 When the Owner or Architect has made investigations of subsurface characteristics or conditions of the area where the Work is to be performed, such investigations, if any were made solely for the purpose of the Owner's study and Architect's/Engineering Design and have been provided to the Contractor to assist in their review of the potential project conditions they may encounter. As such these Documents have been provided as complementary; as such the Contractor shall be responsible to assure that they (The Contractor) have performed appropriate studies and/or evaluation to protect their interests in preparing the Base Bid.
- .3 Subsurface investigations nor the records thereof are a part of the Contract between the Owner and the Contractor. To the extent such investigations or the records thereof are made available to the Contractor by the Owner or Architect, such information is furnished solely for the convenience of the Contractor.
- .4 Neither Owner nor Architect assume any responsibility whatsoever in respect to the sufficiency or accuracy of the investigations thus made, the records thereof, or of the interpretations set forth therein or made by the Owner or the Architect in its use thereof, and there is no warranty or guaranty, either expressed or implied, that the conditions indicated by such investigations or records thereof are representative of those existing throughout the areas where the Work is to be performed, or any part thereof, or that unforeseen developments may not occur, or that materials other than or in proportions different from those indicated may not be encountered.
- .5 The Contractor shall undertake such further investigations and studies as may be necessary or useful to determine the building's characteristics and conditions.
- .6 In connection with the foregoing, the Contractor shall be solely responsible for locating (and shall locate prior to performing any Work) all utility lines such as but not limited to, telephone company lines, on site Fiber-Optic and other similar data/communication lines, cables, sewer lines, utility tunnels, and chases steam lines, water lines, gas lines, electrical lines, including without limitation, all buried pipelines, conduits, structures supporting or containing the systems, and shall perform the Work in such a manner so as to avoid damaging any such systems and service to facilities served by the systems.
- .7 The Contractor shall not be entitled to time extensions and/or additional fees in the base contract related to discovery of human remains. The Owner will work with the Contractor to assure timely determination and removal of such remains.
- .8 The Contractor is solely responsible for means, methods, procedures, timeliness, through out the duration of the project and all associated costs associated with the work. This work shall include but not be limited to dewatering, shoring, slope protection, dust control and etc. as it relates to the activities of the Project Scope. Additionally, the Contractor shall provide protection of abutting properties and property features as required to execute work as part of the base cost of the project

§ 2.2.4 The Owner shall furnish information or services required of the Owner by the Contract Documents. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work after receiving the Contractor's written request for such information or services.

§ 2.2.5 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one (1) hard copy and two (2) digital copies (one in PDF format and one in CAD format) of the Contract Documents for purposes of making reproductions and producing As Built Documents pursuant to Section 1.5.2. Drawings, Specifications, clarifications, and the like shall be provided to the Contractor by the Owner through the Architect throughout the project in the quantity of one (1) hard copy and two (2) digital copies (one in PDF format and one in CAD format) or as applicable depending on the information being provided or as otherwise may be agreed to in writing after the time of bid award.

Any quantities of drawings and specifications in addition to those provided above shall be printed at the expense of the Contractor at the Printing Facility authorized by the Owner and Architect. Approval shall be requested for additional prints and must be authorized by the Owner and Architect in writing for said sets and any and all fees associated with this printing process are strictly between the Contractor and the Printing Firm at which the drawings and specifications are on file with.

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or fails to carry out Work in accordance with the Contract Documents, or fails or refuses to provide a sufficient amount of properly supervised and coordinated labor, materials, or equipment so as to be able to complete the Work within the Contract Time or fails to remove and discharge (within ten (10) days) any lien filed upon the Owner's property by anyone claiming by, through, or under the Contractor, or disregards the instructions of the Architect or the Owner when based on the requirements of the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, or fails within such seven (7) calendar day period to eliminate (or diligently commence to eliminate) the cause of any stop work order issued under Section 2.3.1 herein, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within sixty (60) days.

§ 2.5 OWNER'S RIGHT TO CARRY OUT THE WORK

§ 2.5.1 The rights stated in this Section 2.5 and elsewhere in the Contract Documents are cumulative and not in limitation of any rights of the Owner (i) granted in the Contract Documents, (ii) at law, or (iii) in equity.

§ 2.5.2 In no event shall the Owner have control over, charge of, or any responsibility for construction means, methods, techniques, sequences, or procedures or for safety precautions and programs in connection with the Work, notwithstanding any of the rights and authority granted the Owner in the Contract Documents.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, as required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor

shall promptly report to the Architect and Owner, in writing any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect and Owner may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

While the Contractor shall not be liable to the Owner or the Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Documents, the Contractor shall be liable for damage to the extent it reasonably should have, but failed to, discover such an error, inconsistency, or omission. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Architect and Owner, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of costs attributable to such correction.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as damages would have been avoided if the Contractor had performed such obligations.

§ 3.2.5 Should the Specifications and Drawings fail to particularly describe the material or kind of goods to be used in any place, then it shall be the duty of the Contractor to make inquiry of the Owner and the Architect as to what is best-suited. The material that would customarily and reasonably be used in this place to produce first quality finished Work, consistent with the project details and finishes shall be considered as part of the Contract Documents and Base Bid.

§ 3.2.6 Lack of indications in the Specifications of items obviously needed to properly perform the work of the project, such as but not limited to attachments, bolts, hangers, other fastening devices, flashing systems, wiring and associated infrastructure to make systems functional and the like, shall not relieve the Contractor from furnishing and installing these items as part of the base bid. The Contractor shall be responsible to provide systems and assemblies in accordance with any and all applicable manufactures requirements, Federal, State and/or Local Code and/or regulations in affect.

§ 3.2.7 Unless otherwise provided in the Contract Documents, the Contractor shall establish and maintain bench marks and other grades, lines, and levels necessary for the Work, report errors or inconsistencies to the Owner and Architect before commencing Work, and review the placement of the building (s) and permanent facilities on site with the Owner and Architect after all lines are staked out and certified by a registered surveyor before foundations are started.

§ 3.2.8 Contractor shall provide full access to the site including the building, full time (24x7x365) for the Owner, Architect and Governmental Inspectors.

§ 3.2.9 Any Encroachments made by the Contractor or it's Subcontractors (of any tier) on adjacent properties due to construction as revealed by the improvement survey, except for encroachments arising from errors or omissions not reasonably discoverable by the Contractor in the Contract Documents, shall be the sole responsibility of the Contractor and the Contractor shall correct such encroachments within thirty (30) days of the improvement survey (or as soon thereafter as reasonably possible) at the Contactor's sole cost and expense, either by removal of the encroachment (and subsequent reconstruction on the Project site) or agreement with the adjacent property owner (s) in form and substance satisfactory to the Owner in its sole discretion allowing the encroachment to remain.

§ 3.2.10 Should an inconsistency (or discrepancy) be found in the Contract Documents not clarified by addendum, the better quality or greater quantity of work shall be provided in accordance with the Architect's interpretation.

§ 3.2.11 The Contractor has the responsibility to ensure that **ALL** material suppliers and Subcontractors, their agents, and employees adhere to Contract Documents, and that they order materials on time, taking into account the current market and delivery conditions and that they provide materials on time. The Contractor shall coordinate its Work with that of all others on the Project including deliveries, storage, installations, and construction utilities. The Contractor shall be responsible for the space requirements, locations, and routing of its equipment. In areas and locations where the proper and most effective space requirements, locations, and routing cannot be made as indicated, the Contractor shall meet with all others involved, before installation, to plan the most effective and efficient method of overall installation.

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors. This obligation shall also extend to the presence on the Site of Suppliers of materials or equipment, their employees, contractors, and agents engaged in the Work.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall adequately staff the Project both on site and at the administrative offices based on the project requirements including but not limited to general conditions, the scope of work, the site conditions, the close-out documents and the schedule to complete the Work as prescribed. The Owner and Architects Project team (staff size) is independent of the Contractors Team; as such the Contractor shall take into consideration the limitations of staffing provided by the Owner/Architect.

§ 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work or a fully complete and operational facility, building, assembly, component, system, as maybe indicated in the Contract Documents or to provide all documentation of the Work as indicated in the Contact Documents.

§ 3.4.2 Except in the case of minor changes in the Work authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive. If the Contractor desires to submit an alternate product or method in lieu of what has been specified or shown in the Contract Documents, the following provisions apply:

- .1 The Contractor must submit to the Architect and the Owner (i) a full explanation of the proposed substitution and submittal of all supporting data, including technical information, catalogue cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation of the substitution; (ii) a written explanation of the reasons the substitution is advantageous and necessary, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum, in the event the

substitution is acceptable; (iv) the adjustment, if any, in the time of completion of the Contract and the construction schedule in the event the substitution is acceptable; and (v) an affidavit stating that (a) the proposed substitution conforms to and meets all the requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Contractor accepts the warranty and correction obligations in connection with the proposed substitution as if originally specified by the Architect. Proposals for substitutions shall be submitted in triplicate to the Architect in sufficient time to allow the Architect no less than twenty (20) working days for review. No substitutions will be considered or allowed without the Contractor's submittal of complete substantiating data and information stated hereinbefore.

- .2 Substitutions and alternates may be rejected without explanation and will be considered only under one or more of the following conditions: (i) the proposal is required for compliance with interpretation of code requirements or insurance regulations existing; (ii) specified products are unavailable through no fault of the Contractor; (iii) subsequent information discloses the inability of specified products to perform properly or to fit in the designated space; (iv) the manufacturer/fabricator refuses to certify or guarantee the performance of the specified product as required; and (v) when in the judgment of the Owner or the Architect, a substitution would be substantially in the Owner's best interests, in terms of cost, time, or other considerations.
- .3 Whether or not any proposed substitution is accepted by the Owner or the Architect, the Contractor shall reimburse the Owner for any fees charged by the Architect or other consultants for evaluating each proposed substitute.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

- .1 The Contractor shall also be responsible for labor peace on the Project and shall at all times make its best efforts and judgment as an experienced contractor to adopt and implement policies and practices designed to avoid work stoppages, slowdowns, disputes, or strikes where reasonably possible and practical under the circumstances and shall at all times maintain Project-wide labor harmony. The Contractor shall be liable to the Owner for all damages suffered by the Owner occurring as a result of Work stoppages, slowdowns, disputes, or strikes.
- .2 No disputes between labor organizations and the Contractor or the Subcontractors, or the Suppliers shall be permitted to occur or to be manifested on the Project.
- .3 It is understood that subcontracts and/or material or supply contracts will be awarded and labor will be employed on the Project herein described without discrimination as to whether employees of any Contractor, Subcontractor, or the supplier of the Project are members or non-members of any labor organization, and the Contractor bids with that understanding.
- .4 The Contractor agrees not to participate in or willingly accede to any cessation of Work which may occur as a result of a labor dispute.
- .5 The Contractor shall continue with the prompt and diligent performance of the Work notwithstanding the occurrence of any labor dispute at the site of construction.
- .6 The Contractor shall not be excused from performance of its Work, nor shall Contractor be granted an extension of time for performance of its Work on account of a delay caused by any illegal activity of any labor organization directed against the Contractor, the Project, or any other Subcontractor working at the site.
- .7 The Contractor shall at all times supply a sufficient number of skilled workers to perform the Work covered by this Agreement with promptness and diligence. Should any workers performing Work covered by this Agreement engage in a strike or other Work stoppage or cease to Work due to picketing or a labor dispute of any kind, the Owner may, at its option and without prejudice to any other remedies it may have, after forty-eight (48) hours written notice to the Contractor, provide any such labor an deduct the cost thereof from any monies then due or thereafter to become due to the Contractor.
- .8 Should the Contractor fail or refuse to provide performance as required under the subcontract, the Owner may, at its option, terminate the use of the Contractor for the Work under this Agreement and shall have the right to take possession of the materials, tools, equipment, and supplies of the Contractor and to finish the Contractor's Work with its own employees or those of other Subcontractors. Should the Owner exercise its option to do so under this Section, the Owner shall provide the Contractor with forty-eight (48) hours written notice of the Owner's intent to do so. In

the event the Owner exercises this option, the Contractor shall not be entitled to any further payments for Work performed under the subcontract, and shall remain liable for any excess costs or damages the Owner shall incur as a result. If the costs, damages or other expenses which the Owner incurs exceeds the balance due the Contractor for the Work performed, the Contractor shall pay the difference to the Owner.

- .9 In the event a labor dispute between the Contractor, the Subcontractors, the Prime Contractor, the Prime Contractor's Subcontractors, and any labor organization occurs during the performance of the Contractor's or Subcontractor's Work which results in picketing at the site, the Contractor and/or the Subcontractors shall establish and utilize "reserved gate" system at the site, and the Contractor shall cooperate with the Subcontractor in the establishment, use and monitoring of the "reserved gate" system, including the determination of the location of the "reserved gate" entrances to be established. The costs of the establishment and monitoring of the "reserved gate" system shall be the Contractor's and the Subcontractor's responsibility.
- .10 In the event a labor dispute at the site between the Contractor and a labor organization or between a labor organization and any other Subcontractor results in picketing at the site, and a "reserved gate" system is established at the site, the Contractor agrees that it will take all action necessary to ensure that it, its employees, and its suppliers will utilize the entrances to the site which have been designated for their use pursuant to the "reserved gate" system.
- .11 In the event a "reserved gate" is established at the project, and the Contractor and its Subcontractor is entitled to use such gate, the Contractor and its Subcontractor shall continue the performance of the Work required by this subcontract promptly, without delay, and without regard to the existence of picketing at the site of construction.

§ 3.5 WARRANTY

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 The Contractor agrees to assign to the Owner at the time of final completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties.

§ 3.5.3 The Contractor shall guarantee all Work, including, but not limited to, materials, systems, equipment, and workmanship for a period of not less than **two (2) years** after the date of Final Completion or by the terms of any special guarantee required by the Contract Documents. Systems and materials that have warranty periods of greater than **two (2) years** or are specified for periods greater than **two (2) years** shall remain in effect for the prescribed or otherwise designated period. The Contractor shall, upon written notice from the Owner, promptly correct defective Work or Work not in accordance with the Contract Documents.

§ 3.5.4 The Contractor or Subcontractors liable for the warranty shall assume all costs associated with extensions of manufacturers' warranties from the Date of Final Completion to end of the warranty period.

§ 3.5.5 The Contractor shall be responsible for determining that all materials furnished for the Work meet all requirements of the Contract Documents. The Architect may require the Contractor to produce reasonable evidence that a material meets such requirements, such as certified reports of past tests by qualified testing laboratories, reports of studies by qualified experts, or other evidence which, in the opinion of the Architect, would lead to a reasonable certainty that any material used or proposed to be used in the Work meets the requirements of the Contract Documents. All such data shall be furnished at the Contractor's expense. This Section shall not require the Contractor to pay for the periodic testing of different batches of the same material, unless such testing is specifically required by the Contract Documents to be performed at the Contractor's expense.

§ 3.5.6 If the Contractor proposes to use a material which, while suitable for the intended use, deviates in any way from the detailed requirements of the Contract Documents, the Contractor shall inform the Architect in writing of the nature of such deviations at the time the material is submitted for approval.

§ 3.5.7 In informing the Architect of deviations or substitutions, the Contractor shall provide, upon request, evidence leading to a reasonable certainty that the proposed substitution or deviation will provide a quality of result at least equal to that otherwise attainable. If, in the opinion of the Architect, the evidence presented by the Contractor does not provide a sufficient basis for such reasonable certainty, the Architect may reject such substitution or deviation without further investigation.

§ 3.5.8 Any additional cost, or any loss or damage arising from the substitution of any material or any method for those originally specified shall be borne by the Contractor, notwithstanding approval or acceptance of such substitution by the Owner or the Architect unless such substitution was made at the written request or direction of the Owner or the Architect.

§ 3.5.9 The warranty provided in this Section 3.5 shall be in addition to and not in limitation of any other warranty required by the Contract Documents or otherwise prescribed by law, however shall NOT be less than a period of two (2) years regardless of references to One (1) year warranties that may be delineated elsewhere in the Project Manuals.

§ 3.5.10 The Contractor shall procure and deliver to the Architect, no later than the date claimed by the Contractor as the Date of Final Completion, all special warranties required by the Contract Documents. Delivery by the Contractor shall constitute the Contractor's guarantee to the Owner that the warranty will be performed in accordance with its terms and conditions.

§ 3.6 TAXES

The Owner is exempt from payment of sales tax for materials directly incorporated into the Work of this Project. As such the General Contractor and Sub-Contractors will be provided with a tax exemption certificates at the start of Work for the purchase of materials incorporated on the project which shall be used in strict accordance with all applicable laws relating to the use of tax exempt purchases.

§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. Except as set forth in Section 2.2.2, the Contractor shall secure, pay for, and, as soon as practicable, furnish the Owner with copies or certificates of all permits and fees, licenses, and inspections necessary for the proper execution and completion of the Work, including, without limitation, all building permits, utility fees (i.e. gas, water, sewer, electric (temporary or permanent)), telephone, data, other communications, fire apparatus and equipment, local fire inspection, state and local curb and road opening permits, and elevators. All connection charges, assessments, or inspection fees as may be imposed by any municipal agency or utility company are included in the Contract Sum and shall be the Contractor's responsibility as part of the Base Bid. The Contractor shall pay for as part of the base fee all costs associated with the use of the building elevators, that may be posed by the elevator manufacturer, installation contractor, union, and etc., and provide applicable operators in the event the elevators are not fully functioning at the time of the Work as may be required by the Contractor to complete work, and Owner to commence building occupancy.

Permit fees paid to the Rhode Island State Building Commissioners Office are waived and shall not be carried in the cost of the Project by the Bidder. Any and all local permit and application fees, other surcharges and miscellaneous fees shall be carried as part of the Base Bid by the Bidder

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.5 **Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than seven (7) days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons.

§ 3.7.6 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 ALLOWANCES

§ 3.8.1 The Contractor shall include in the Base Bid/Contract Sum all allowances stated in the Contract Documents, refer to the Bid Form all allowances. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection, unless such entity is a Mandatory Subcontractor.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, as may be applicable, less any and all applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Base Bid/Contract Sum and are not part of the value of the allowances as defined in the Bid Form ; and
- .3 Whenever costs are more than or less than allowances, the Base Bid/Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner in sufficient time to avoid delay in the Work. The Contractor shall clearly provide direction and capture the Work required by Allowances, in the Project Schedule.

§ 3.9 SUPERINTENDENT

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14

days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply within the 14 day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, within seven (7) days after being awarded the Contract and the issuance of a Purchase Order by the Division of Purchases, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

The schedule shall indicate the proposed starting and completion dates for the various subdivisions of the work as well as the totality of the work. The schedule shall be updated with each application for payment, with the latest edition submitted to the Architect and Owner with the Contractor's Applications for Payment. Each schedule shall contain a comparison of actual progress with the estimate progress for such point in time stated in the original schedule. If any schedule submitted sets forth a date for Substantial Completion of the Work or any phase of the Work beyond the Date(s) of Substantial Completion established in the Agreement (as the same may be extended as provided in the Contract Documents), the Contractor shall submit to the Architect and the Owner for their review and approval a narrative description of the means and methods which the Contractor intends to employ to expedite the progress of the work to ensure timely completion of the various phases of the work as well as the totality of the Work. To ensure timely completion, the Contractor shall take all necessary action including, without limitation, increasing the number of personnel and labor on the project and implementing overtime and double shifts to meet the project milestones and final completion. In that event, the Contractor shall not be entitled to any adjustment in the Contract Sum or the schedule. The updated monthly schedule is required as part of the payment application procedure. No Application for Payment will be approved without the monthly schedule update, unless otherwise approved in writing by the Owner and the Architect. (The schedule shall be submitted on paper printed in color, in Adobe Acrobat PDF format (with color) and digitally in the native scheduling program format as may be requested by the Architect and Owner. Software keys or passwords required to open the native scheduling software documents shall be provided with the submission of the digital files). Additionally, a focused schedule meeting shall be held each every two (2) weeks or more frequently as may be required to review the overall schedule at which issues impacting schedule shall be evaluated and addressed. The scheduling meetings will be held separate from the weekly Project Meetings, unless otherwise approved in writing.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly and within twenty-one (21) days after being awarded the Contract and the issuance of a Purchase Order by the Division of Purchases; thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. Contractor to schedule within the submittal schedule, twenty-one (21) days from the time the Architect receives in his office the submittal, except for colors, for review and return to Contractor. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The Construction schedule shall be in a detailed Gantt format satisfactory to the Owner and the Architect that shall also (i) provide a graphic representation of all activities and events that will occur during performance of the Work; (ii) identify each phase of construction and occupancy; (iii) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (herein after referred to as "Milestone Dates"). Upon review and acceptance by the Owner and the Architect of the Milestone Dates, the construction schedule shall be deemed part of the Contract Documents and attached to the

Agreement as an Exhibit. If not accepted, the construction schedule shall be promptly revised by the Contractor in accordance with the recommendations of the Owner and the Architect and resubmitted for acceptance. The Contractor shall monitor the progress of the Work for conformance with the requirements of the construction schedule and shall promptly advise the Owner of any delays or potential delays. The accepted construction schedule shall be updated to reflect actual conditions (sometimes referred to in the Supplementary Conditions as "progress reports") as set forth in Section 3.10.1 or if requested by either the Owner or the Architect. In the event any progress report indicates any delays, the Contractor shall propose an affirmative plan to correct the delay, including overtime and/or additional labor, if necessary. In no event shall any progress report constitute an adjustment in the Contract Time, and Milestone Date, or the Contract Sum unless any such adjustment is agreed to by the Owner and authorized pursuant to a Change Order.

§ 3.10.5 In the event the Owner and Architect determines that performance of the Work, as of a Milestone Date, has not progressed or reached the level of completion required by the Contract Documents, the Owner shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, without limitation, (i) working additional shifts or overtime, and (ii) other similar measures (hereinafter referred to collectively as "Extraordinary Measures"). Such Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion required by the Contract Documents. The Owner's right to require Extraordinary Measures is solely for the purpose of ensuring the Contractor's compliance with the construction schedule.

- .1 The Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by the Owner under or pursuant to this Section 3.10.5.
- .2 The Owner may exercise the rights furnished to the Owner under or pursuant to this Section 3.10.5 as frequently as the Owner deems necessary to ensure that the Contractor's performance of the Work with comply will any Milestone Date or completion date set forth in the Contract Documents.

§ 3.10.6 The Owner shall have the right to direct a postponement or rescheduling of any date or time for the performance of any part of the Work that may interfere with the operation of the Owner's premises or an tenants or invitees thereof. The Contractor shall, upon the Owner's request, reschedule any portion of the Work affecting operation of the premises during hours when the premises are not in operation. Any postponement, rescheduling, or performance of the Work under this Section 3.10.6 may be grounds for and extension of the Contract Time, if permitted under Section 8.3.1, and an equitable adjustment in the Contract Sum if (i) the performance of the Work was properly scheduled by the Contractor in compliance with the requirements of the Contract Documents, and (ii) such rescheduling or postponement is required for the convenience of the Owner.

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

§ 3.11.1 The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect at the time of Substantial Completion for review and use in the Architect's approval of the Contractor's As Built Document.

§ 3.11.2 At the Date of Substantial Completion and as a condition precedent to final payment, the Contractor shall furnish the following documents to the Architect for submittal to the Owner: As Built Drawings showing the field changes and selections (all changes and selections to be approved by the Owner and the Architect in advance) affecting the general construction, audio visual, electrical, and all other work, and indicating the Work-as-actually installed. The Contractor shall maintain at the job site one set of the Architect's Drawings and indicate thereon each field change as it occurs. As Drawings shall include digital versions using CAD, these drawings are to be submitted monthly as a condition of payment unless otherwise approved in writing on a month to month basis. Refer to the Project Manual, Close-Out Procedures for additional requirements for As Built Documents.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

§ 3.12.6 By approved and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for work that is based on performance specifications in the Contract Documents and/or for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed Rhode Island design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor

shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.13 USE OF SITE

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 Only materials and equipment that are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction materials and equipment stored at the Project site from all possible weather conditions, theft, damage, and all other adversity is solely the responsibility of the Contractor. The Contractor shall ensure that the Work, at all times, is performed in a manner that affords reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed, to the fullest extent reasonably possible, in such a manner that the public areas adjacent to the site of the Work shall be free from all debris, building materials, and equipment likely to cause hazardous conditions.

§ 3.13.3 The Contractor shall maintain and forward to the Architect and Owner a current list of personnel to be contacted in the event of an emergency for an emergency response action if required. The parties named on this list shall have the authority to make decisions regarding/affecting the project and fiscal matters within the Contractor's organization. A minimum of Three (3) parties are to be listed. In the event of an emergency, the Architect and/or Owner shall attempt to contact the appropriate parties in the order presented on the lists. In the event no one can be reached by the Architect and/or Owner, they (the Owner) are hereby authorized by the Contractor's acceptance of this Contract to secure the services required to abate and/or secure the difficulty being faced and all reasonable expenses shall be paid for by the Contractor when presented with such cost.

Additionally, the Architect and/or Owner are authorized to expend funds in the manner delineated in the previous paragraph in the event that, in their opinion the Emergency Response Time presented to them as a result of oral communication with the Contractor's Representative is longer than desirable and that further delay may result in serious harm and/or damage to person or property.

§ 3.13.4 Without limitation of any other provision of the Contract Documents, the Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of (i) any areas and buildings adjacent to the site of the Work and (ii) the Building in the event of partial occupancy, as more specifically described in Section 9.9. Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrances, and parking areas other than those that may be designated by the Owner.

- .1 Without limitations of any other provision of the Contract Documents, the Contractor shall use its best efforts to comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building, as amended from time to time. The Contractor shall immediately notify the Owner in writing if during the performance of the Work, the Contractor finds compliance of any portion of such rules and regulations to be impracticable, setting forth the problems of such compliance and shall suggest alternatives through which the same results intended by such portions of the rules and regulations can be achieved. The Owner may, in the Owner's sole discretion, adopt such suggestions, develop new alternatives, or require compliance with the existing requirements of the rules and regulations.
- .2 The Contractor shall also comply with all insurance requirements and collective bargaining agreements applicable to the use and occupancy of the Project site and Building.

§ 3.14 CUTTING AND PATCHING

§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor

except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

§ 3.15 CLEANING UP

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project. Furthermore the Supplementary Instructions has additional requirements to assist in the overall objective of turning the facility over to the owner without indoor environmental issues that are systemic from construction activities. The Contractor shall assure that the costs for the program objectives are in the Base Bid.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 ACCESS TO WORK

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located and at all times 24x7x365.

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.18.3 The Contractor's indemnity obligations under this Section 3.18 shall also specifically include, without limitation, all fines, penalties, damages, liability, costs, expenses (including, without limitation, reasonable attorney's fees), and punitive damages (if any) arising out of, or in connection with, any (i) violation of or failure to comply with any law, statute, ordinance, rules, regulation, code, or requirement of a public authority that bears upon the performance of the Work by the Contractor, a Subcontractor, or any person or entity for whom either is responsible, (ii) means, methods, procedures, techniques, or sequence of execution or performance of the Work, and (iii) failure to secure and pay for permits, fees, approvals, licenses, and inspections as required under the Contract Documents, or any violation of any permit or other approval of a public authority applicable to the Work, by the Contractor, a Subcontractor, or any person or entity for whom either is responsible.

ARTICLE 4 ARCHITECT

§ 4.1 GENERAL

§ 4.1.1 The Owner shall retain an architect lawfully licensed in Rhode Island to practice architecture or an entity lawfully and authorized specifically for practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 4.2 ADMINISTRATION OF THE CONTRACT

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the two-year period for correction of Work described in Section 12.2. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract. Notwithstanding anything to the contrary in this Section, the Owner shall not be responsible for any actions or authority of the Architect unless any such actions of authority are approved in writing by the Owner.

§ 4.2.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of Contractor's operations (1) to become familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to guard the Owner against defects and deficiencies in the Work, and (3) to determine if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, unless the Architect has included specifications, designs, or requirements governing the construction means, methods, techniques, sequences, or safety precautions in the Contract Documents and except as provided in Section 3.3.1. Notwithstanding the above, the Architect shall be responsible for promptly notifying the Owner of the failure of the Contractor, the Subcontractors, or any other persons performing any of the Work, use proper construction means, methods, techniques, sequences, procedures, safety precautions and programs, but only to the extent the Architect becomes aware of, or should, exercising due professional diligence, be aware of same. The Architect shall also promptly notify the Owner in writing of the failure of any of the foregoing parties to carry out the Work in accordance with the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts provided all required releases of liens, progress Record Drawings, and other required data is submitted with Application for Payment.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. All Change Orders, Construction Change Directives, and Field Directives shall require the approval of the Owner in writing to be binding on the Owner. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.5.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fifteen (15) calendar days after written request is made for them.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Owner and the Architect shall have the final decision on all matters relating to the aesthetic effect of the building.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon, or ten (10) days, or otherwise with reasonable promptness in order to assure the progress of the work. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information within fifteen (15) days.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, but no more than five (5) calendar days for key subcontractor/mandatory contractor and/or trade contractors, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner and/or Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.2.5 It is understood that in the event of a conflict between the Owner and the Architect regarding the selection of Subcontractors, the Owner's decision in selection of the Subcontractors shall govern.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the

Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall provide a complete set of contract documents, including all drawings, specifications, general conditions, and addendum, to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

- .1 The Owner's own forces may include, but shall not be limited to, union and non-union contractors, installers, materials persons, vendors, in-house staff (facilities management, custodial, technology, etc.), and/or labor provided by the Rhode Island Department of Corrections, which includes inmates under the supervision of the Department of Corrections.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

§ 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14. The Owner reserves the right to secure the services of the Contractor for cutting and patching operations that may be required by the Owner.

§ 6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the cost will be allocated among those responsible. For Work that has been clearly identified as "By Owner" in the Base Contract documents and addendums the Contractor shall make provisions to assist the Owners Team however additional compensation for housekeeping, dumpsters, sanitary requirements will be made in accordance with unit prices provided in the Bid Form. For Work that has not been identified in the Bid Documents and Addendum determined to be done post the Contract Award "By Owner" consideration of additional compensation shall be made for the Contractor as may be required for additional work efforts by them on a case by case basis and without cause for adjustments in project duration.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work. Except as permitted in Sections 7.3 and 9.7.2, a change in the Contract Sum or Contract Time shall be accomplished only by Change Order. Accordingly, neither course of conduct or dealings between the parties nor express or implied acceptance of alterations or additions to the Work, and no claim that the Owner has been unjustly enriched by any alteration of or addition to the Work, whether or not there is, in fact, and unjust enrichment to the Work, shall be the basis of any claim to an increase in any amount due under the Contract Documents or a change in any time period provided for in the Contract Documents.

§ 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument prepared by the Contractor with Architect concurrence and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Section 7.3.3.

§ 7.2.3 Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum, the construction schedule, and any and all claims as of the date of the Change Order.

- .1 Upon request of the Owner or the Architect, the Contractor shall, without cost to the Owner, submit to the Architect, in such form as the Architect may require, an accurate written estimate of the cost of any proposed extra Work or change. The estimate shall indicate the quantity and unit cost of each item of materials and the number of hours of work and hourly rate for each class of labor, as well as the description and amounts of all other costs chargeable under the terms of this Article. Unit labor costs for the installation of each item of materials shall be shown if required by the Architect. The Contractor shall promptly revise and resubmit each estimate if the Architect determines that it is not in compliance with the requirements of this Section or that it contains errors of fact or mathematical errors. If required by the Architect, in order to establish the exact cost of new Work added or of previously required Work omitted, the Contractor shall obtain and furnish to the Architect and Owner bona fide proposals from recognized Suppliers for furnishing any material included in such Work. Such estimates shall be furnished promptly so as to occasion no delay in the Work and shall be furnished at the Contractor's expense. The Contractor shall state in the estimate any extension of time required for the completion of the Work if the change or extra work is ordered.

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.7.

§ 7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment if any in the Base Bid/Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect or Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed, and not in dispute, under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.3.11 In Sections 7.3.3 and 7.3.7, the allowance for overhead and profit combined, included in the total costs to the Owner, shall be based on the following schedule:

- .1 For the Contractor, for any work performed by his own forces, 12% of the cost;
- .2 For each Sub-Contractor involved, work performed by his own forces, 12% of the cost;
- .3 For the Contractor, for work performed by his sub-contractor, 8% of the amount due the sub-contractor.
- .4 Cost to which overhead and profit is to be applied shall be determined in accordance with Section 7.3.11.
- .5 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials, and subcontracts. Labor and materials shall be intermixed in the manner prescribed above. Where the costs of items are subcontracts, they shall be itemized also. In

no case will a change over fifty dollars and 00/100 (\$50.00) (total cost of Change Order, not line items within the change order) be approved without such itemization.

§ 7.3.12 Cost, as referred to throughout this Section 7, shall be limited to the following: cost of materials, including cost of delivery; cost of labor, including Social Security, old age, and unemployment insurance and fringe benefits required by agreement or custom; workers' or workmen's compensation insurance; and rental value of tools, equipment, and machinery.

§ 7.3.13 Overhead, as referred to within this Section 7, shall include the following: bond premiums, insurance premiums, supervision, superintendence, wages of time-keepers, watchmen and clerks, small tools, incidentals, general office expense, and all other reasonable expenses required to perform the Work.

§ 7.3.14 The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be in the amount of the actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in any change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.15 Subsequent to the approval of a Change Order, whether involving a change in Contract Sum, Contract Time, or both, no additional claim related to that matter will be considered by the Owner. A change incorporated into a Change Order is therefore all inclusive, and includes such factors as project impact, schedule "ripple" effect or other items which may pertain to such change.

§ 7.4 MINOR CHANGES IN THE WORK

The Architect has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 PROGRESS AND COMPLETION

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by the Contract Documents or a notice to proceed given by the Owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 Extension of time provided for the completion of the Work shall be the Contractor's sole remedy for delay (except for the Contractor's right to terminate the Contract pursuant to the provisions of Article 14 hereof), unless the same shall have been caused by acts constituting intentional interference by the Owner with the Contractor's performance of the Work and where to the extent that such acts of the Owner continue after Contractor's notice to the Owner of such interference. The Owner's exercise of any of its rights under the Contract, regardless of the extent or number of such Changes, or the Owner's exercise of any of its remedies of suspension of the Work, or requirement of correction or re-execution of any defective Work, shall not under any circumstances be construed as intentional interference with Contractor's performance of the Work.

The Contractor hereby agrees that the Contractor shall have no claim for damages of any kind against the Owner or the Architect, except as approved by the Owner and the Architect pursuant to written change order procedure, because of any delay in the commencement or prosecution of the Work hereunder, or any delay or suspension of any portion of the Work, whether the delay is caused by the Owner, the Architect, or others. The Contractor acknowledges that the Contractor's sole remedy for any such delay and/or suspension will be an extension of time as provided in this Section 8.3.

Any claim for an extension of time shall be made in writing to the Owner not more than three (3) calendar days after the commencement of the delay; otherwise it is waived. The Contractor shall provide an estimate of the probable effect of such delay on the progress of the Work.

Neither the Owner nor the Architect shall be obligated or liable to the Contractor for, and the Contractor expressly waives any damage claims against the Owner and the Architect on account of, any indirect or direct damages, costs, or expenses of any nature which the Contractor, its Subcontractors or Sub-subcontractors, or any other person may incur as a result of any delays, hindrances, disruptions, changes in sequence, or the like arising from or out of any act or omission of the Owner, the Architect or its agents, employees, consultants, independent contractors, or any other representatives. It is understood and agreed that the Contractor's sole and exclusive remedy in any such event shall be an extension of the Contract Time as determined in accordance with the provisions of the Contract Documents.

In the event of changes in the Work, any consideration by the Owner for a time extension shall be made no later than the date the Change Order is prepared in relation to the date of notification of said claim as aforesaid.

§ 8.3.4 The Owner may seek recovery for actual damages suffered or incurred due to delays of the Contractor. Any such damages shall include, but is not be limited to, the following:

- .1 scheduled Substantial Completion dates for any portion of the Work;
- .2 scheduled occupancy dates for any portion of the Work;
- .3 scheduled Substantial Completion dates for the entire Work; and
- .4 scheduled occupancy dates for the entire Work;

The dates referenced herein (REF BID FORM) shall be subject to adjustment as provided in the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 CONTRACT SUM

The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.2 SCHEDULE OF VALUES

§ 9.2.1 Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 9.2.2 Before the first Application for Payment, the Contractor shall submit [Hard and Digital Copies (M.S.Excel) and may be required to post via the internet to a Project Management Website] to the Owner and the Architect a detailed schedule of values (AIA Document G703) allocated to various portions of the Work, which in the aggregate equals the total Contract Sum divided so as to facilitate payments to the Subcontractors supported by such evidence of correctness as the Architect may direct or as required by the Owner. This schedule, when approved by the Architect and the Owner, shall be used to monitor the progress of the Work and serve as a basis for Certificates For Payment. All items with entered values will be transferred by the Contractor to the "Application and Certificate For Payment," and shall included the latest approved Change Orders and Construction Change Directives. Change Order values and Construction Change Directive values shall be broken down to show the various subcontracts. The Application for Payment shall be on a form as provided by the Contractor (AIA Format) and approved by the Architect and Owner and the Owner's lender if applicable. Each item shall show its total scheduled value, value of previous applications, value of the application, percentage completed, value completed, and value yet to be completed. All blanks and columns must be filled in, including every percentage complete figure. Furthermore, the Contractor shall provide all coordination drawings completed before the first application and a comprehensive report on the status and pending timeline for remaining coordination drawings required for the Project.

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten (10) business days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment (Digital Format in M.S. Excel format clearly marked "pencil Copy") for operations completed in accordance with the schedule of values. Once the pencil copy is approved, the application shall be notarized, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and reflecting retainage if provided for in the Contract Documents. The Final Approved Requisition and supporting data shall be submitted digitally in Adobe PDF format and in hard copy as instructed by the Owner. Any allowances included in the Application for Payment shall be separately itemized with supporting data attached. The Application for Payment shall be accompanied by a certification by an officer of the Contractor to the effect that:

There are no known mechanics', materials men or laborers' or claims or any other liens or claims, legal or equitable, contractual, statutory, or constitutional, outstanding or known to exist at the date of this Application; all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current Application and there is no known basis for the filing of any mechanics', materials men, or laborers' lien or claim or any other lien or claim, legal or equitable, contractual, statutory, or constitutional, on the Work; and waivers and releases from all Subcontractors, laborers, and materials men for work done and materials furnished have been obtained in such form as to constitute an effective waiver and release all such liens and claims under the laws of the State of Rhode Island and shall be delivered to the Architect together with the Contractor's waiver and release of liens and claims at the time of submission of the Application for Payment.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.2 Each Application for Payment shall be accompanied by the following, all in form and substance satisfactory to the Owner: (i) a current Contractor's lien waiver and duly executed and acknowledged sworn statement showing all Subcontractors and material suppliers with whom the Contractor has entered into subcontracts, the amount of each such subcontract, the amount requested for any Subcontractor and material

supplier in the requested progress payment, and the amount to be paid to the Contractor from such progress payment, together with similar sworn statements from all such Subcontractors and material suppliers; (ii) duly executed waivers of mechanics' and material suppliers' liens from all Subcontractors and, when appropriate, from material suppliers and lower tier Subcontractor establishing payment or satisfaction of payment of all amounts requested by the Contractor on behalf of such entities or persons in any previous Application for Payment; and (iii) all information and materials required to comply with the requirements of the Contract Documents or reasonably requested by the Owner or the Architect. If required by the Owner's title insurer, if any, the Contractor shall execute a personal gap undertaking in form and substance satisfactory to such title insurer.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, in writing, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;

- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.
- .8 Consistent Failure to comply with the Section entitled "Zero Punch List Item Objectives" in Section 00800 entitled "Supplementary Conditions."

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall review the recommendation of the Architect and make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than three days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Notwithstanding anything in this Section 9.6.2 to the contrary, the Owner may elect, in the Owner's sole discretion, to make any payment requested by the Contractor on behalf of a Subcontractor of any tier jointly payable to the Contractor and such Subcontractor. The Contractor and such Subcontractor shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. In no event shall any joint payment be construed to create any (i) contract between the Owner and a Subcontractor of any tier, (ii) obligations from the Owner to such Subcontractor, or (iii) rights in such Subcontractor against the Owner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence, including lien releases, from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within three days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require

money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Payments under this Article 9 and any other provisions under these General Conditions and Contract Documents shall be made pursuant to and in accordance with G.L. 1956 § 42-11.1-1, et seq.

§ 9.7 FAILURE OF PAYMENT

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 SUBSTANTIAL COMPLETION

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof (which the Owner agrees to accept separately) is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The Work will not be considered suitable for Substantial Completion review until all Project systems included in the Work are operational as designed and scheduled, all designated or required governmental inspections and certifications have been made and posted, designated instruction of the Owner's personnel in the operation of system has been completed, and all final finishes within the Contract are in place. In general, the only remaining Work shall be minor in nature, so that the Owner or Owner's tenants' could occupy the building on that date and the completion of the Work by the Contractor would not materially interfere or hamper the Owner's or the Owner's tenants (or those claiming by, through or under the Owner) normal business operations. As a further condition of Substantial Completion acceptance, the Contractor shall certify that all remaining Work will be completed within thirty (30) consecutive calendar days or as agreed upon following the Date of Substantial Completion.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. The remaining work shall be minor in nature and not interfere with the Owners Operations in mobilization of furniture, equipment and Owner provided systems and testing for the startup of the facility, and furthermore, shall not be cause for failure to continue with Contract obligations such as but not limited to housekeeping and other activities which will co-exist during this period of time. Work required by the Contractor to connect or otherwise make systems functional for the Owner provided systems shall be noted in the lists as a separate category of items to be completed, corrected and/or adjusted. Portions of the facility shall be turned over in a manner that is mutually agreed to by the Owner, Architect and Contractor and such phased turnover shall be reviewed and approved in the early stages of the project.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct in a congruous and organized approach such item (s) upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

Any adjustment shall be a multiple of two hundred percent (200%) of the value of any Work that is incomplete or not in accordance with the requirements of the Contract Documents and shall be treated as individual items and not a collective list of incomplete work and base value of work shall be predicated on the Work being completed through "The Owner" as may be required to complete the Project.

§ 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement satisfactory to the Owner that the insurance will cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner and the Owner's lender, and (6) evidence of compliance with all requirements of the Contract Documents, notices, certificates, affidavits, other requirements to complete obligations under the Contract Documents, including but not limited to (a) complete and full instruction of the Owner's representatives in the operation of mechanical, electrical, plumbing, and other systems; (b) delivery of keys to the Owner with keying schedule; master, sub-master, and special keys as may be applicable; (c) delivery to the Architect of the Contractor's General Warranty (as described in Article 3.5.) and each written warranty and assignment thereof prepared in duplicate, certificates of inspections, and bonds for the

Architect's review and delivery to the Owner; (d) delivery to the Architect of printed or typewritten operating, servicing, maintenance, and cleaning instructions for all Work; parts lists and special tools for mechanical and electrical Work, in approved form; (e) delivery to the Architect of specified Project Record Documents; and (f) delivery to Owner of a Final Waiver of Liens (AIA Document G706 or other form satisfactory to the Owner), covering all Work including that of all Subcontractors, vendors, labor, material and services, executed by an authorized officer and duly notarized. In addition to the foregoing, all other submissions required by other articles and paragraphs of the Specifications including final construction schedule shall be submitted to the Architect before approval of final payment. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

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

§ 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss. The Contractor shall provide all facilities with appropriate postings and safety equipment associated with the Occupational Safety and Health Administration (OSHA) and shall otherwise follow all procedures required by OSHA including, but not limited to, providing and posting all required posters and notices and shall otherwise be responsible for all other mandatory safety laws. The Contractor shall also comply with its own Safety Procedures and Manual, which shall be submitted prior to the execution of the Work.

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including but not limited to posting danger signs; barriers; fences;

gate;, provisions for fire protection; notification of public safety officials as to changes in site access, fire alarms; other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities. The Contractor shall also be responsible at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor with quality standards that apply to the repairs being made.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. When use or storage of explosives or other hazardous materials or equipment or unusual construction methods are necessary, the Contractor shall give the Owner and the Architect reasonable advance notice and provide all required permits, required surveys of neighboring properties and safety plans for the execution of the Work.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 When all or a portion of the Work is suspended for any reason, the Contractor shall securely fasten down all coverings and protect the Work, as necessary, from injury by any cause.

§ 10.2.9 INJURY OR DAMAGE TO PERSON OR PROPERTY

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter. The Contractor shall promptly report in writing within 24 hours to the Owner and the Architect all accidents arising out of or in connection with the Work that causes death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner and the Architect.

§ 10.3 HAZARDOUS MATERIALS

§ 10.3.1 Except as may be Contracted under this scope of Work, where in the event the Contractor encounters any substance or material which is potentially a Hazardous Material or Hazardous Substance, as those terms are hereinafter defined, alone or in combination with other materials, and such encounter is such as to create a risk of a release of such Hazardous Material or Hazardous Substance or if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a concealed or undisclosed Hazardous Material or Hazardous Substance, encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing. For purposes of this document, the terms "Hazardous Material" or "Hazardous Substance" shall be deemed to mean any substance or material regulated pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, et seq. and 40 C.F.R. § 302.1, et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251, et seq. and 40 C.F.R. § 116.1, et seq.), the Hazardous Materials Transportation Act (42 U.S.C. § 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq., and 40 C.F.R. Parts 260-261), regulations relating to asbestos, lead based paint, polychlorinated

biphenyl (PCB), petroleum products, flammable explosives, radioactive materials, infectious substances or raw materials which include hazardous constituents and including all such materials.

§ 10.3.2 The Owner shall obtain the services of a licensed laboratory to verify the presence or absence of potentially Hazardous Material or Hazardous Substance reported by the Contractor and, in the event such potentially Hazardous Material or Hazardous Substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such potentially Hazardous Material or Hazardous Substance or who are to perform the task of removal or safe containment of such potentially Hazardous Material or Hazardous Substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the potentially Hazardous Material or Hazardous Substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up, which adjustments shall be accomplished as provided in Article 7. The term "rendered harmless" shall be interpreted to mean that (i) a plan has been developed for the management of the Hazardous Material or Hazardous Substance and such plan has been implemented; (ii) that the Hazardous Material or Hazardous Substance has been removed from the site of the Project; and (iii) that the Hazardous Material or Hazardous Substance is not hazardous because it is in levels which are less than any applicable exposure standards set forth in OSHA regulations or in the direct exposure criteria for residential properties established by the State of Rhode Island. In no event, however, shall the Owner have any responsibility for any substance or material that is brought to the Project site by the Contractor, any Subcontractor, any material supplier, or any entity for which any of them is responsible. The Contractor agrees not to use any fill or other materials to be incorporated into the Work that are hazardous, toxic, or made up of any items that are hazardous or toxic.

§ 10.3.3 The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.4 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.5 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

§ 10.4 EMERGENCIES

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the State of Rhode Island such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;

- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations which coverage shall be maintained for no less than three (3) years after completion of the work;
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.
- .9 The Owner shall be named as an additional insured under any of the aforesaid policies, where applicable; and
- .10 If the General Liability coverages are provided by a General Liability Policy on the claim's made basis, the policy date or Retroactive Date shall predate the Contract; the termination date of the policy or applicable extended reporting period shall be no earlier than the termination date of coverages required to be maintained after final payment, certified in accordance with Section 9.1.2.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.1.5 The Contractor shall, without in any way altering the Contractor's liability under the Contract or applicable law, obtain, pay for and maintain insurance for the coverages and amounts of coverage not less than those set forth below in the Schedule of Insurance Coverages and shall provide to the Owner certificates issued by insurance companies satisfactory to the Owner to evidence such coverage before any work commences at the job site. Such certificates shall provide that there shall be no termination, non-renewal, modification or expiration of such coverage without thirty (30) days' prior written notice to the Owner. In the event of any failure by the Contractor to comply with the provisions of this Section, the Owner may, at its option, on notice to the Contractor, suspend the Contract for cause until there is full compliance with this Section and/or terminate the Contract for cause. Alternatively, the Owner may purchase such insurance at the Contractor's expense, provided that the Owner shall have no obligation to do so and if the Owner shall do so. The Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages. The Contractor shall provide to the Owner a certified copy of any and all applicable insurance policies upon request of the Owner.

§ 11.1.6 In the event the Contractor fails to obtain the required certificates of insurance from the Subcontractor and a Claim is made or suffered, the Contractor shall indemnify, defend, and hold harmless the Owner, the Architect and the shareholders, officers, directors, agents and employees of any of the above-mentioned parties from any and all claims for which the required insurance would have provided coverage. This indemnity obligation is in addition to any other indemnity obligation provided in the Contract.

§ 11.1.7 To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Owner, the Architect and the directors, officers, shareholders, employees, and agents of any of the above-mentioned parties (the "Indemnified Parties") from and against any and all loss, cost, expense, damage, injury, liability, claim, demand, penalty or cause of action (including attorney fees), directly or indirectly arising out of, resulting from or related to (in whole or in part), (1) the Work performed hereunder; (2) the Contract; or (3) the act or omission of the Contractor, a Subcontractor, or any individual, partnership, joint venture or corporation (a) directly or indirectly employed by the Contractor or a Subcontractor or (b) for whose acts or omissions the Contractor or a Subcontractor may be liable (excluding property damage to the Work itself, covered by the Owner's all-risk builders risk insurance purchased by the Contractor, subject to the Contractor's liability for any deductible amounts thereunder). The obligations of the Contractor under this indemnification shall apply to all matters except those arising solely from the wanton and willful negligence or the malicious acts or omissions of the Owner. Further, the obligations of the Contractor under this indemnification shall not extend to the liability of the Architect, its agents or employees, arising out of (1) the preparation or approval of maps, Drawings, opinions, reports, surveys, Change Orders, designs or Specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, its agents, or employees provided such giving or failure to give is the primary cause of the injury or damage. The Contractor shall promptly advise the Owner in writing of any action, administrative or legal proceeding, or investigation as to which this indemnification may apply, and the Contractor, at the Contractor's expense, shall assume on behalf of the Owner and conduct with due diligence and in good faith the defense thereof with counsel satisfactory to the Owner; provided that the Owner shall have the right to be represented therein by advisory counsel of its own selection and at its own expense; and provided further, that if the defendants in any such action include both the Contractor and the Owner and the Owner shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Contractor, the Owner shall have the right to select separate counsel to participate in the defense of such action on its own behalf at the Contractor's expense. In the event of failure by the Contractor to fully perform in accordance with this indemnification Section, the Owner, at its option, and without relieving the Contractor of its obligations hereunder, may so perform, but all costs and expenses so incurred by the Owner in that event shall be reimbursed by the Contractor to the Owner, together with interest on the same from the date any such expense was paid by the Owner, until reimbursed by the Contractor, at the rate of interest provided to be paid on judgments, by the law of jurisdiction to which the interpretation of the Contract is subject. The obligations of the Contractor under this Section shall survive the expiration of the Agreement.

§ 11.1.8 In claims against any of the Indemnified Parties by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts or omissions they may be liable, the indemnifications obligation under this Section shall be limited by a limitation on the amount or type of damages, compensations or benefits payable by or for the Contractor or a Subcontractor under workers' or workmen's compensation acts, disability benefits acts, or other employee benefit acts.

§ 11.1.9 Schedule of Insurance Coverages, unless otherwise provided in the Contract Documents, the following shall apply.

- .1 Workers' Compensation Insurance. Coverage complying with the law of the State of Rhode Island in which the Contractor's Work is to be performed and Employer's Liability insurance with a limit of \$1,000,000 each accident, including occupational disease coverage with a limit of \$1,000,000 per annum including:
 - (i) If watercraft is used by the Contractor in connection with performance of any Contractor's Work, USL&H and Maritime endorsements, plus an endorsement to treat claims "In Rem" as a claim against the employer will be attached to policy.
- .2 Comprehensive Automobile Liability Insurance. \$1,000,000 combined single limit of liability for bodily injuries, death and property damage resulting from any one occurrence, including all owned, hired, and non-owned vehicles.

- .3 Comprehensive General Liability Insurance. \$2,000,000 combined single limit of liability for bodily injuries, death and property damage, and personal injury resulting from any one occurrence, including the following coverages:
- (i) Premises and Operations (including collapse, explosion, and underground);
 - (ii) Completed operation for three (3) years after completion of the Work;
 - (iii) Broad Form Comprehensive General Liability Endorsement to include Blanket Contractual Liability (specifically covering, but not limited to, the contractual obligations assumed by the Contractor under Article 11). Personal Injury (with employment and contractual exclusions deleted), and Broad Form Property Damage coverage;
 - (iv) Independent Contractors;
 - (v) Products operations;
 - (vi) Cross Liability endorsement; and
 - (vii) Contractual Liability.
- .3.1 The aforesaid coverages shall be as follows:
- (i) Bodily injury \$2,000,000 each person, \$2,000,000 each occurrence, \$2,000,000 annual aggregate; and
 - (ii) Property damage \$1,000,000 each occurrence, \$2,000,000 annual aggregate
- .3.2 Contractual Liability;
- (i) Bodily Injury \$2,000,000 each occurrence; and
 - (ii) Property damage \$1,000,000 each occurrence, \$1,000,000 annual aggregate.
- .4 Umbrella (Excess) Liability Insurance. Umbrella Liability with limits of not less than \$10,000,000 to be excess of the applicable provisions of Article 11. Such occurrence shall be at least as broad as the primary coverages noted in Article 11, with any excess umbrella layers written on a strict following form basis over the primary umbrella. All such policies shall be endorsed to provide defense coverage obligations.
- .5 Broad Form Boiler and Machinery Insurance. Broad form boiler and machinery insurance covering all air conditioning equipment, boilers and other pressure vessels or systems, whether fired or unfired, with a minimum limit of liability in the amount of \$1,000,000 for each occurrence.
- .6 With respect to the Contractor's operations, the Contractor shall purchase, maintain and pay for all-risk Contractor's equipment floater on all machinery, tools, equipment, and other similar property in an amount at least equal to their fair market value and any deductible shall be for the account of Contractor. This insurance coverage shall be the sole and complete means of recovery for any loss covered by such insurance.
- .7 All insurance hereunder (Article 11) shall be on an "occurrence basis." Notwithstanding with respect to any of the insurance policies provided by the Contractor pursuant to the Contract which are "claims made" policies, in the event at any time any such policies are canceled or not renewed. The Contractor shall provide a substitute insurance policy(ies) with terms and conditions in an amount which complies with the terms of the Contract and which provides for retroactive coverage to the date of cancellation or nonrenewal to fill any gaps in coverage which may exist due to the cancellation or nonrenewal of the prior "claims made" policy(ies). With respect to all "claims made" policies which are renewed, the Contractor shall provide coverage retroactive to the date of commencement of the "Work" in said renewed policy. All said substitute or renewed "claims made" policies shall be maintained in full force and effect for a minimum of (1) three (3) years from the date of completion of the Work or (2) as otherwise required by the Contract Documents. A certificate evidencing continuation of such policies shall be submitted with the final application for Payment as required by Section 9.10.2. Nothing herein shall affect the continuing effect of the indemnity clauses in the Contract.
- .8 Hazardous Waste, Contractors Pollution Liability Insurance covering the Contractor and Owner against claims for bodily injury, property damage and cleanup costs at limits of one million dollars (\$1,000,000) per occurrence and aggregate or five percent (5%) of the contract value which ever is greater, for remediation work at the Project will be required. Coverage is to include both sudden accidental and gradual releases of hazardous waste with the State of Rhode Island an "additional insured." Insurance includes premises/operations, contractual, products, completed operations and broad form property damage liability. A deductible will be allowed, however it may not exceed twenty five thousand dollars (\$25,000) without the prior written approval of the Owner. In the event of a claim the Contractor shall be responsible for the costs of the deductible.

§ 11.2 OWNER'S LIABILITY INSURANCE

§ 11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 11.2.2 The Contractor shall furnish the Owner, through the Architect, an insurance certificate providing Owner's Protective Liability extended to include the interests of the Architect, and to protect the Owner and Architect from any liability which might be incurred against them as a result of any operation of the Contractor or his Subcontractors or their employees. Such insurance shall be written for the same limits as the Contractor's Liability Insurance and shall include the same coverage.

§ 11.3 PROPERTY INSURANCE

(where the words "as fiduciary" is noted in this entire Section 11.3, delete same and substitute "in good faith")

§ 11.3.1 The Contractor shall purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof. THE VALUE OF INSURANCE is Five Hundred Thousand Dollars and No Cents (\$500,000) shall be carried. Such insurance shall be in a company or companies against which the Owner has no reasonable objection. This insurance shall include the interest of the Owner, the Contractor, Subcontractors, and Sub-subcontractors in the Work and shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss or damage including, without duplication of coverage, theft, vandalism, and malicious mischief. If not covered under all risk insurance or otherwise provided in the contract Documents, the Contractor shall effect and maintain similar property insurance on portions of the Work stored off the site or in transit when such portions of them are to be included in an Application for Payment under Section 9.3.2.

§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss. The form of policy for this coverage shall be Completed Value.

§ 11.3.1.2 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.3 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.3.1.4 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.3 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.3 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.3 WAIVERS OF SUBROGATION

If permitted by the Owner's and the Contractor's insurance companies, without penalties, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any,

and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent of actual recovery of any insurance proceeds under any property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Contractor as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.4 A loss insured under the Owner's property insurance shall be adjusted by the Contractor as fiduciary and made payable to the Contractor as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.6. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.5 If required in writing by a party in interest, the Contractor as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Contractor's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Contractor shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Contractor terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.6 The Contractor as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Contractor's exercise of this power; if such objection is made, the dispute shall be resolved as provided in Article 15. The Contractor, as fiduciary, shall, in the case of arbitration, make settlement with insurers in accordance with directions of the arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

§ 11.4.1 The Contractor shall furnish a Performance Bond and Labor and Material Payment Bond meeting all statutory requirements of the State of Rhode Island, in form and substance satisfactory to the Owner and, without limitation, complying with all statutory requirements of the State of Rhode Island, including, but not limited to, G.L. 1956 § 37-12 "Contractor's Bonds" and the following specific requirements.

- .1 Except as otherwise required by statute, the form and substance of such bonds shall be satisfactory to the Owner in the Owner's sole judgment.
- .2 Bonds shall be executed by a responsible surety licensed in Rhode Island, with a Best's rating of no less than A/XII, and shall remain in effect for a period not less than two (2) years following the date of Substantial Completion or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever time period is longer.
- .3 The Performance Bond and the Labor and Material Payment Bond shall each be in an amount equal to the Contract Sum and all subsequent increases except those arising out of direct reimbursements for items such as, but not limited to, testing fees.
- .4 The Contractor shall require the attorney in fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of his power of attorney indicating the monetary limit of such power.
- .5 Every Bond under this Section 11.5.1 must display the Surety's Bond Number. A rider including the following provisions shall be attached to each Bond:
 - (i) The Surety hereby agrees that it consents to and waives notice of any addition, alteration, omission, change, or other modification of the Contract Documents. Any addition, alteration, change, extension of time, or other modification of the Contract Documents, or a forbearance on

the part of either the Owner or the Contractor to the other, shall not release the Surety of its obligations hereunder, and notice to the Surety of such matters is hereby waived.

- (ii) The surety agrees that it is obligated under the bonds to any successor, grantee, or assignee of the Owner.

§ 11.4.2 The Contractor shall keep the Surety informed of the progress of the Work, and, where necessary, obtain the Surety's consent to, or waiver of, (i) notice of changes in the Work; (ii) request for reduction or release of retention; (iii) request for final payment; and (iv) any other item required by the Surety. The Owner shall be notified by the Contractor, in writing, of all communications with the Surety. The Owner may, in the Owner's sole discretion, inform the surety of the progress of the Work and obtain consents as necessary to protect the Owner's rights, interest, privileges, and benefits under and pursuant to any bond issued in connection with the Work.

§ 11.4.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.5 PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE

§ 11.5.1 Optionally, the Owner may require the Contractor to purchase and maintain Project Management Protective Liability insurance from the Contractor's usual sources as primary coverage for the Owner's, Contractor's and Architect's vicarious liability for construction operations under the Contract. Unless otherwise required by the Contract Documents, the Owner shall reimburse the Contractor by increasing the Contract Sum to pay the cost of purchasing and maintaining such optional insurance coverage, and the Contractor shall not be responsible for purchasing any other liability insurance on behalf of the Owner. The minimum limits of liability purchased with such coverage shall be equal to the aggregate of the limits required for Contractor's Liability Insurance under Sections 11.1.1.2 through 11.1.1.5.

§ 11.5.2 To the extent damages are covered by Project Management Protective Liability insurance, the Owner, Contractor and Architect waive all rights against each other for damages, except such rights as they may have to the proceeds of such insurance. The policy shall provide for such waivers of subrogation by endorsement or otherwise.

§ 11.5.3 The Owner shall require the Contractor to include the Owner, Architect or other persons or entities as additional insureds on the Contractor's Liability Insurance coverage under Section 11.1.

§ 11.6 General Requirements

§ 11.6.1 All insurance coverage procured by the Contractor shall be provided by insurance companies having policy holder ratings no lower than "A" and financial ratings not lower than "XII" in the *Best's Insurance Guide*, latest edition in effect as of the date of the Contract, and subsequently in effect at the time of renewal of any policies required by the Contract Documents.

§ 11.6.2 If the Owner or the Contractor is damaged by the failure of the other party to purchase or maintain insurance required under Article 11, then the party who failed to purchase or maintain the insurance shall bear all reasonable costs (including attorneys' fees and court and settlement expenses) properly attributable thereto.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense. The Contractor shall bear the cost of any cost, loss, or damages resulting from such failure or defect.

§ 12.2.1.1 Field Reports/Actions

The Contractor acknowledges that action items outlined in field reports prepared by the Project Architects and Engineers that call out or otherwise identify deficiencies in construction and/or other project requirements shall be corrected as noted. Field reports delineating issues shall be considered part of the project document path and if the Contractor disagrees with the noted reported deficiency, the Contractor shall promptly document such disagreement for review by the Architect and Owner.

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within two years after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the two-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4. If prior to the date of Substantial Completion, the Contractor, a Subcontractor, or anyone for whom either is responsible uses or damages any portion of the Work, including, without limitation, mechanical, electrical, plumbing, and other building systems, machinery, equipment, or other mechanical device the Contractor shall cause such item to be restored to a "like new" condition at no expense to the Owner.

§ 12.2.2.2 The two-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work.

§ 12.2.2.3 The two-year period for correction of Work shall be extended by corrective Work performed by the Contractor pursuant to this Section 12.2. The obligations under Section 12.2 shall cover any repairs and replacement to any part of the Work or other property that is damaged by the defective Work.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the two-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 GOVERNING LAW

The Contract shall be governed by the laws of the State of Rhode Island.

§ 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract. Any assignment without such prior written consent shall be void. The Owner may, however, assign the Contract without the Contractor's consent to any other party or entity without thereby releasing Owner from its responsibilities under the Contract unless the Contractor shall consent in writing to the Owner being so released from responsibility (the Contractor's Consent shall not be unreasonably withheld, delayed, or conditioned).

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 13.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 13.4 RIGHTS AND REMEDIES

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

§ 13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

§ 13.5 TESTS AND INSPECTIONS

§ 13.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 INTEREST

Payments due and unpaid under the contract shall be governed by applicable provisions of Rhode Island General Laws Section 42-11.1 et. Seq. "Prompt Payment by Department of Administration"

In no event shall any interest be due and payable by the Owner to the Contractor, any Subcontractor, or any other party on any of the sums properly retained by the Owner pursuant to any of the terms or provisions of any of the Contract Documents.

§ 13.7 LIMITATION OF LIABILITY

The Owner shall be liable, if ever, only to the extent of its interest in the Project; and no officer, director, partner, agent, consultant or employee of the Owner shall ever be personally or individually liable with respect to this Contract or the Work. Each Subcontract shall include the foregoing limitation, which shall be effective if the Owner ever succeeds to the Contractor's rights and obligations under a Subcontract.

§ 13.8 DEFENSE OF SUITS

§ 13.8.1 The Contractor shall be responsible for, shall defend and pay all costs, attorneys' fees, and liabilities both direct and indirect as a result of suits arising out of this Contract.

§ 13.8.2 Neither final acceptance nor occupation of the premises by the Owner shall relieve the Contractor of responsibility for all claims for labor, materials, and equipment arising out of this Contract.

§ 13.8.3 The Contractor shall indemnify and hold harmless the Owner and the Architect and their agents and employees from and against all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting from the performance of the Work.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work

under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 Notwithstanding the provisions hereof, the Owner shall not be responsible for damages for loss of anticipated profits on Work not performed on account of any termination described in Sections 14.1.1 and 14.1.2.

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.3.3 The Owner shall have the right at any time, on not less than two (2) business days' notice to the Contractor, to terminate this contract without cause and/or for the Owner's convenience. Upon receipt of such notice of termination, the Contractor shall immediately discontinue the Work and remove its equipment and employees from the site. In the event of termination under this Section, the Contractor shall have the right, as its sole and exclusive remedy, to recover from the Owner payment for Work executed and costs incurred up to the date of termination including reasonable overhead and profit on that portion of the Work performed prior to termination (less any payments made to the Contractor by the Owner) but not for future loss of overhead or profit; provided, however, that in no event shall the amount recovered by the Contractor from the Owner exceed a greater percentage of the Contract Sum than the percentage of Work completed through the date of termination. In addition, without

terminating this Contract as a whole, the Owner may, for convenience, terminate a portion of this Contract (by reducing, in such manner as the Owner deems appropriate, the scope of the Work to be performed by the Contractor), in which event such termination of a portion of this Contract shall be treated as a reduction in the scope of the Work.

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination.

§ 14.4.4 Upon such termination, the Contractor shall recover as its sole remedy payment for Work properly performed in connection with the terminated portion of the Work prior to the effective date of termination and for items properly and timely fabricated off the Project site, delivered and stored in accordance with the Owner's instructions. The Contractor hereby waives and forfeits all other claims for payment and damages, including, without limitation, anticipated profits. The Owner shall be credited for (i) payments previously made to the Contractor for the terminated portion of the Work, (ii) claims that the Owner has against the Contractor under the Contract, and (iii) the value of the materials, supplies, equipment, or other items that are to be disposed of by the Contractor that are part of the Contract Sum.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 15.1.2 NOTICE OF CLAIMS

Time Limits on Claims. Claims by either party must be initiated within five (5) business days after occurrence of the event giving rise to such Claim or within twenty-one (21) calendar days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be initiated by written notice to the Architect and the other party.

§ 15.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents, except as directed by the Owner or as provided in Section 9.7 and Article 14.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

§ 15.1.4.1 If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. Refer to Section 15.1.2 for claims not related to Section 10.4.

§ 15.1.4.2 If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault,

(3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with this Section.

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.5.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

§ 15.1.5.3 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding five (5) business days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 15.1.5.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 15.2 RESOLUTION OF CLAIMS AND DISPUTES

§ 15.2.1 Decision of Architect. Claims, including those alleging an error or omission by the Architect but excluding those arising under Sections 10.3 through 10.5, shall be referred initially to the Architect for decision. An initial decision by the Architect shall be required as a condition precedent to mediation, arbitration or litigation of all Claims between the Contractor and Owner arising prior to the date final payment is due, unless thirty (30) calendar days have passed after the Claim has been referred to the Architect with no decision having been rendered by the Architect. The Architect will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Architect will review Claims and within ten (10) business days of the receipt of the Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Architect is unable to resolve the Claim if the Architect lacks sufficient information to evaluate the merits of the Claim or if the Architect concludes that, in the Architect's sole discretion, it would be inappropriate for the Architect to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Architect may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in rendering a decision. The Architect may request the Owner to authorize retention of such persons at the Owner's expense. All Change Orders, Construction Change Directives, and Field Directives shall require the approval of Owner in writing to be binding on the Owner.

§ 15.2.4 If the Architect requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten (10) business days after receipt of such request, and shall either provide a response on the requested supporting data, advise the Architect when the response or supporting data will be furnished or advise the Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Architect will either reject or approve the Claim in whole or in part.

§ 15.2.5. The Architect will approve or reject Claims by written decision, which shall state the reasons therefore and which shall notify the parties of any change in the Contract Sum or Contract Time or both. The approval or rejection of a Claim by the Architect shall be final and binding on the parties but subject to mediation and/or arbitration as prescribed in the Agreement.

§ 15.2.6 When a written decision of the Architect states that (1) the decision is final but subject to mediation and arbitration and (2) a demand for arbitration of a Claim covered by such decision must be made within thirty (30) calendar days after the date on which the party making the demand receives the final written decision, then failure to demand arbitration within said thirty (30) calendar days' period shall result in the Architect's decision becoming final and binding upon the Owner and Contractor. If the Architect renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence, but shall not supersede arbitration proceedings unless the decision is acceptable to all parties concerned.

§ 15.2.7 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the Claim by the Architect, by mediation or by arbitration.

§ 15.3 MEDIATION

§ 15.3.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Sections 9.10.4 and 9.10.5 shall, after initial decision by the Architect or thirty (30) calendar days after submission of the Claim to the Architect, be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to the Contract and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) calendar days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 15.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. In no event shall any mediator in connection with a Claim be permitted to serve as an arbitrator for that, or any other, Claim that is not resolved pursuant to mediation.

§ 15.4 ARBITRATION

Any references to arbitration in these General Conditions or the Contract Documents shall mean and incorporate by reference the Public Works Arbitration Act pursuant to G.L. 1956 § 37-16-1, et seq.

SECTION 000800**SUPPLEMENTARY CONDITIONS****PART 1 – GENERAL**

The following supplements further modify the AIA Documents A201-2007, General Conditions of the Contract for Construction. Where a portion of the General Conditions is modified or deleted by these Supplementary Conditions, the unaltered portions of the General Conditions shall remain in effect.

PART 2 – ARTICLES**ARTICLE 13...MISCELLANEOUS PROVISIONS**

Add the following Paragraph 13.10 to Article 13

13.10 Equal Opportunity**13.10.1 The Contractor shall maintain policies of employment as follows:**

§ 13.10.1.1 The Contract and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual preference, or national origins. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, sexual preference, or national origin.

Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

§ 13.10.1.2 The Contractor and the Contractor's Subcontractors shall in all solicitations or advertisements for employees placed by them or on their behalf; state that all qualified applicants will receive considerations for employment without regard to race, religion, color, sex, sexual, or national origin.

§ 13.10.1.3 The Contractor shall be a signatory to the requirements of the Rhode Island Equal Employment Office.

13.12 SHUTDOWNS

While every effort should be made to minimize disruptions to communications, data, mechanical and/or electrical shutdowns affecting the existing operations and facilities at the Work Site with the work, the following criteria has been established in the event shutdowns are required to carry

out the work scope of the project and/or in the event of emergency conditions.

The Contractor shall make provisions to assure that closure and/or disruption to roadways, driveways, sidewalks and other site access is minimized and scheduled well in advance if partial closure is required.

Partial closure will be requested in writing by the contractor and approved in writing by the Owner. The Contractor shall assure that traffic flow is maximized during peak hours of operation and at roadways affecting not only access to the site but the community as well. When traffic on these roadways is disrupted, the Contractor shall provide Police protection to assure public safety and movement of traffic as part of the base bid costs.

Additionally, these conditions shall be used in regards to dealing with Public Ways such as streets and sidewalks and adjacent businesses as they may be affected by the project. It is the Contractors responsibility to provide and pay for all permits, temporary facilities, police protection, and details required to carry out the project scope. Plans shall be prepared by the Contractor and submitted to the Engineer and Owner for review and then submitted to the appropriate authorities such as but not limited to State, State and Local Police, State and Local Public Works, Local Fire Departments and other agencies having jurisdiction.

Furthermore the Contractor shall work with the Owner in maintaining the integrity of all systems at the Work Site. Coordinate and minimize any and all shutdowns of building systems as follows:

1. Assure that the Owner is provided with proper notice when making shutdowns and pay any fees as may be required.

The Contractor shall clearly define through the submittal process (before an exposure to disruptions in services can be triggered) complete and comprehensive protocols and procedures which will establish the notification procedure and specific details for permanent and/or temporary conditions to be implemented by the Contractor. The submittals shall be provided to the Owner and Engineer for the Owners approval and at minimum defines a procedure for the following:

001-Pre-notification Scheduled shutdowns (a minimum of not less than three (3) calendar days notification for disruptions and shut downs) shall be provided through the regular submittal process for all trades. All costs associated with these activities are considered part of the Base Bid and Base Project Schedule. Illustrative examples include, but are not limited to:

Power
Data
Communications
Fire Protection
Emergency Egress as may be required
Roadways

Driveways
Parking

The protocol submitted to the Owner and Engineer shall establish the Contractor's written notification procedure and the Contractor's plans on making either permanent work around solutions and/or temporary solutions to assure that the facility and/or facilities continue with productive and a safe business operations as usual, unless otherwise approved in writing by the Owner.

002-It is understood that certain circumstances and conditions sometimes require disruptions and shut downs that were planned for, however may not have had the precise timing pre-planned, schedule acceleration has impacted the timing, extraordinary circumstances dictate that the work be performed out of sequence to allow the Project to continue. These disruptions/shut downs shall be permitted with proper notification and in accordance the protocols established by the Contractor as approved by the Owner provided notification is provided within three (3) days of the scheduled work. All costs associated with these activities are considered part of the Base Bid and Base Project Schedule. Illustrative examples include, but are not limited to:

- Power
- Data
- Communications
- Fire Protection
- Emergency Egress as may be required
- Roadways
- Driveways
- Parking

The Owner reserves the right to reject and/or request modification to these disruptions/shut down requests, if it is determined that the request cannot be carried out in a manner that protects the interest of the Owner. In the event the request is rejected and/or otherwise modified the Contractor shall not be compensated for additional costs and/or provided additional time for the Project provided the modification and timing is for just cause.

003-A protocol for Emergency and/or Accidental Shutdowns that require an Immediate Response Action shall be established for the Project.

The Contractor shall clearly provide details as to how they intent to minimize and/or otherwise correct or make alternate provisions to minimize the impact of the disruption to the Owner for issues pertaining to items including, but not limited to:

- Power
- Data
- Communications
- Fire Protection
- Emergency Egress as may be required
- Roadways
- Driveways

Parking

The costs for Emergency and/or Accidental disruptions and/or shut downs shall be the Contractor's.

004-The Contractor acknowledges that any and all cost borne by the Owner and Engineer due to shutdowns of system due to poor planning by the Contractor shall be paid for by the Contractor and shall be appropriately deducted by a deductive change order affecting the next payment requisition.

005-Additionally, the Contractor shall not be eligible for time extensions due to rejections of a shutdown, rejected for failure to comply with this section or due to poor planning by the Contractor.

006-Perform any duties required by Owner when making a shutdown.

007-Provide appropriate fire watch during shutdowns which may affect fire safety operations.

008-Duration of shutdowns shall be kept to a minimum.

009-All systems shall be returned to normal operating conditions at end of work day, unless otherwise planned and provided for and approved by the Owner in writing.

13.13 ZERO PUNCH LIST ITEM OBJECTIVES

The Contractor shall promptly correct, conditions pointed out as being deficient at the time of the discovery and notification of such conditions and shall not defer the correction of work to the punch list or close-out phases of the project. Upon notification of deficient Work the Contractor shall take action to correct the existing Work and not continue with new/additional Work in the manner that has been identified as being deficient. Deviation from this project approach shall be grounds for a Stop Work Order on the Project and the Owner and Engineer will not be responsible for delays and /or additional costs due to the Stop Work Order.

All punch list and deficient work shall be performed by workmen skilled in the trade of the item damaged or improperly installed and in no cases shall repair work be performed by anyone other than the original installing Contractor without the written approval of the Owner and/or Engineer unless said Contractor is determined incompetent to continue such work at which time the Contractor will submit an alternative Contractor to the Owner in writing for approval at no additional costs to the Owner.

13.14 ADDITIONAL CONTRACT DOCUMENTS

Additional Consultant Reports included are to be considered part of the Contract Documents as Reference Materials. Consultant reports are complementary. They are as follows:

I. None other than those included in the Drawings and Project Manual.

13.15 QUANTITY OF DRAWINGS AND SPECIFICATIONS DUE THE CONTRACTOR

The Contractor shall be provided one (1) hard copy and two (2) digital copies of complete sets of drawings and specifications by the Owner at the time of the Contract execution. Drawings and Specifications shall be on file at a printing firm chosen by the Owner at which the Contractor can order and print additional drawings and specifications as needed at the Contractors expense.

Any and all fees associated with this printing process are strictly between the Contractor and Printing Firm. Care shall be taken to references for the security protocol related to this document set.

13.16 ENERGY REBATES

When dealing with the utilities and other vendors in which the Owner is eligible for Energy Rebates or other forms of rebates, credits, discounts and etc., the Contractor shall assure that all applications are filled out and executed in a manner that rebate checks, credits and or/other forms of reimbursement are paid directly to the Engineer with no exception unless otherwise noted and/or approved in writing.

13.17 LIQUIDATED DAMAGES

Damages are defined and delineated in the Bid Form.

Add the following Paragraph 13.18 to Article 13.

13.18 SPECIAL WARRANTIES, WARRANTY RESPONSE TIME SERVICE CONTRACTS

The Contractor shall provide and pay for all the requirements outlined in this section (13.18) as part of the Project Base Bid.

Service Contracts will be captured in the Project Schedule of Values. The costs associated with the Service Contract Work will not be subject to Retainage and will be billed quarterly for the duration of the Service Contract period, unless otherwise approved in writing by the Owner.

Warranty Provisions:

As prescribed in Paragraph 12.2.2.1 of AIA Document A201 as amended by the Contract Agreement, the Contractor shall provide minimum of a two (2) year warranty period on all systems, equipment, materials and workmanship incorporated in the project. Systems, equipment, materials and workmanship that has been prescribed as having warranties for periods greater than two (2) years by the individual specification sections shall be carried at the warranty period prescribed by that individual reference provided a minimum of two (2) years is provided in all aspects of the warranty/guarantee provisions.

Additionally, as prescribed in 12.2.2.2 of AIA Document A201 as amended by the Contract

Agreement, the two (2) year period for correction of work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of Work.

Furthermore as provided in 12.2.2.3 of AIA Document A201 as amended by the Contract Agreement states upon completion of any Work under or pursuant to paragraph 12.2 that two (2) year correction period in connection with the Work requiring correction shall be renewed and recommence. The obligations under paragraph 12.2 shall cover any repairs and replacement to any part of the Work or other property that is damaged by the defective Work and Work impacted by such corrective action.

The Contractor is hereby notified that no warranty period of less than two (2) years is acceptable on the project and any and all contradictions to this two (2) year period in the individual specification sections shall be considered edited to read two (2) years in the event those specification sections indicate otherwise with the exception of those items that provide warranty/guarantee periods that are prescribed for a period of greater than two (2) years. Those periods shall remain for the period that has been prescribed as greater than two (2) years as published and established in the Contract Documents.

13.20 AIR QUALITY PROGRAM

It is the Owners goal on this project to be proactive in providing the adjacent areas with an environmentally friendly campus.

As it is a known fact, many short and long-term Air Quality (AQ) issues with demolition are a result of poor construction practices, the Contractor shall submit to the Owner and Engineer an AQ Management Plan prior to the start of construction. This plan shall address procedures and programs to be carried out during **ALL phases** of construction beginning on day one and continued through the punch list and final completion phases of Work. All costs associated with the development of the AQ Management Plan, implementing the plan, performing, and supervising the work necessary to meet the objective of the AQ Management Plan, and services required to enforce and monitor the program shall be part of the Base Bid provided by the Contractor.

The following areas and procedures have been identified and shall be incorporated in the plan, in addition to those items that have been identified in throughout the technical sections of the agreement and those areas otherwise customarily established in an AQ Management Plan for demolition and the United States Environmental Protection Agency (EPA).

General Concerns during demolition are illustrated below and shall be addressed as part of the Air Quality Program:

- Overall cleanliness of the job site and frequent housekeeping of all areas to eliminate dust and other debris in the environment during the Work.
- Promptly and thoroughly clean spills of materials that can be absorbed into the substrate.

Document areas, of such spills in the record drawings.

- Properly dispose of food throughout the construction process at all times. Do not allow food or beverages to accumulate at any time and under no circumstances shall food and drink be permitted to be disposed of in walls and other building cavities.

13.21 NOISE CONTROL

- The Contractor shall provide methods, means, and facilities to minimize noise produced by the Construction/Demolition operations.
- The Contractor is permitted to work on site during the hours specified in Section 010000 of this Project Manual, unless local ordinances or other regulations otherwise prohibit work during these hours, or unless otherwise authorized by the Owner. It is the Contractor's responsibility to ensure that it is working within the hours permitted by the local and state laws and regulations. The Contractor is fully responsible for obtaining and paying all permit fees to work on weekends and holidays as may be required by local or state authorities and the payment of any fees associated with work outside the ordinances for weekday work.
- All requests to Work outside the specified hours shall be submitted to the Engineer and Owner in writing a minimum of one (1) calendar week (168 hours) in advance. The Engineer and Owner reserves the right to reject such requests and rejection of request does not entitle the Contractor to an extension of Contract time and/or additional funds, unless those dates were clearly scheduled in the original Project Schedule.

Work required and/or directed outside the hours and conditions prescribed above to meet the scheduled project deadlines are subject to all the conditions prescribed within this section.

13.22 DUST CONTROL

- The Contractor shall execute the Work by methods to minimize raising dust from demolition operations on a continuous basis and provide effective dust control on a continuous and as needed basis as Work progresses. This is a critical requirement and shall be appropriately budgeted for as enforcement of this requirement is essential.
- The Contractor shall provide positive means to control air-borne dust from dispersing into the atmosphere.
- The Contractor shall fully comply with all applicable sections of the latest version of the Clean Air Act as enforced by the Environmental Protection Agency, The Rhode Island Department of Environmental Management, the Rhode Island Department of Health, OSHA, and any other agencies involved in its enforcement. Additionally the Contractor shall fully comply with rules, regulations, laws, and standards governed at the state and local level that are related to the Clean Air Act and/or are otherwise extensions of the enforcement of the Clean Air Act. These acts are considered to be part of this Contract as

if written in full and attached herein. The Contractor is responsible for and shall plan accordingly for any and all costs associated with the enforcement of these requirements.

13.23 PEST CONTROL

NA

13.24 NOTICE OF TECHNOLOGY USE FOR DOCUMENTS

Contractors are here-in notified that the Project Team utilizes E-Mail and computer software to process RFI's, Payment Requisitions, Submittals and other critical project documents. As such the Contractor shall be prepared to utilize these methods of posting various documents through E-Mail and computer software such as but not limited to Microsoft Office, Adobe Acrobat, and AutoDesk AutoCAD.

13.26 PRICE ADJUSTMENTS FOR LIQUID ASPHALT AND DIESEL FUEL

NA

13.29 FIELD REPORTS/ACTIONS

The Contractor acknowledges that action items outlined in field reports prepared by the Project Engineers that call out or otherwise identify deficiencies in construction and/or other project requirements shall be corrected as noted. Field reports delineating issues shall be considered part of the project document path and if the Contractor disagrees with the noted reported deficiency, the Contractor shall promptly document such disagreement for review by the Engineer and Owner.

13.30 LOADING

Do not load any part of the work involved in this Contract, during construction, with a load greater than it is calculated to carry with safety. Should any accidents or damage occur through any violation of this requirement, the Contractor shall be held responsible under his Contract and Bond. When, in the opinion of the Engineer, portions of the structure appear to be overloaded, it shall be the Contractor's responsibility to prove otherwise, or the Contractor shall follow the instructions of the Engineer in connection with reduction of the loads.

END OF SECTION 000800

SECTION 000900

ADDENDA AND MODIFICATIONS

ADDENDUM NO. 1, (Date) _____

RE: Stormwater Management Improvements- Oakland Beach
Warwick, RI 02886

FROM:

This addendum forms a part of the Contract Documents and modifies the original Bidding Documents dated _____ [and Addendum No. 1, dated _____ (use with second addendum)] as noted below. Acknowledge receipt of this Addendum in the space provided on the Bid Form. Failure to do so may subject the Bidder to disqualification.

This Addendum consists of pages(s) and the attached drawing(s), Sheet _____.

CHANGES TO PRIOR ADDENDA:

1. _____

CHANGES TO BIDDING REQUIREMENTS:

2. _____

CHANGES TO THE CONDITIONS OF THE CONTRACT:

3. _____

CHANGES TO SPECIFICATIONS:

4. _____

CHANGES TO DRAWINGS:

5. _____

END OF SECTION 000900