

ROOSEVELT ISLAND OPERATING CORPORATION

STANDARD FORM CONTRACT FOR CONSTRUCTION

DATE OF CONTRACT: XXXXX

1. CONTRACT NO.: XXXXXXX

2. PROJECT NAME: XXXXXXX

3. CONTRACTOR: Entity Name

4. ROOSEVELT ISLAND OPERATING CORPORATION
426 MAIN STREET
ROOSEVELT ISLAND, NEW YORK 10044

ATTENTION: NAME/TITLE
Tel. xxx.xxx.xxxx
Email:

5. HEREBY REQUESTS YOU

Entity Name
Address 1
Address 2
Attn: Contact/Title
Tel. xxx.xxx.xxxx Fax xx.xxx.xxxx
E-mail:

6. TO PROVIDE the Work described in Schedule B1 attached hereto and in the Drawings and Specifications and any other documents listed in Schedule B1, in accordance with Schedules A, A1, B2, and C, attached hereto. All of the attached Exhibits and Schedules and the Drawings, Specifications and other documents listed or otherwise referenced therein are hereby expressly made a part of this Contract as fully as if set forth at length herein. Schedule A contains standard provisions required by law to be incorporated into all agreements entered into by the State of New York public entities, and pertains to the extent applicable, to this Contract.

7. YOU shall commence the Work on or before xxx x, 20xx, achieve Substantial Completion of the Work on or before xxxx xx, 20xx and achieve Final Completion of the Work no later than xxxx days after Substantial Completion. If the Contractor fails to achieve Substantial Completion and Final Completion of the Work on or before the dates set forth herein, which dates are subject to extension only as provided in Schedule A, Section 6, the Contractor shall be liable to RIOC for liquidated damages in the amount of \$xxxxxxx for each calendar day of delay in achieving Substantial Completion of the Work and \$xxxxxxx for each calendar day of delay in achieving Final Completion of the Work. The Contractor agrees that such liquidated damages are a reasonable estimate of the amount of the damages that would be suffered by RIOC upon such delay.

8. YOUR COMPENSATION for the above Work shall not exceed xxxxxxxxxxxxxxxxxxxx dollars (\$xxx,xxx,xx.00) (hereinafter referred to as the "Contract Sum"), as further specified in Schedule B2

attached hereto. The Contract Sum is either a fixed price, or a not-to-exceed price based on hourly rates and/or unit prices, as stated in Schedule B2. The Contract Sum shall include all costs necessary to perform the Work described in Schedule B1 of this Contract. All invoices shall be submitted in accordance with Schedule A1, attached hereto.

9. YOU may refer any questions related to this Contract to RIOC XXXXXX Department, at xxx.xxx.xxxx.

10. Upon the submission of proper monthly invoices to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) and the Finance Department, in conformity with Schedule A1 attached hereto, RIOC shall make monthly payments to the Contractor in accordance with Schedule B2 within 30 days. Acceptance of the final monthly payment by the Contractor shall release RIOC from any and all claims for payment for work performed pursuant to this Contract. This Contract shall be deemed executory only to the extent of money available to RIOC for the performance of the terms hereof and no liability on account thereof shall be incurred by RIOC beyond moneys available for the purpose thereof.

11. YOU SHALL execute and return three copies of this Contract to RIOC. RIOC shall provide you with a copy of the fully executed Contract, which will constitute your authorization to proceed with the Work described herein.

AGREED TO AND ACCEPTED THIS _____ DAY OF _____ 202__.

ENTITY NAME

By: _____
Title: _____

ROOSEVELT ISLAND OPERATING CORPORATION

By: Benjamin A. Jones
President/Chief Executive Officer

Attachments:

Schedule A: General Conditions
Schedule A1: Supplemental General Conditions
Schedule B1: Description of Work and Additional Terms
Schedule B2: Contract Sum Breakdown and Retainage
Schedule C: Definitions under Article 3 of Veterans' Law and Article 15-A of Executive Law

SCHEDULE A

GENERAL CONDITIONS

SECTION 1- DEFINITIONS

Whenever used in this Contract:

1. The term "RIOC" means Roosevelt Island Operating Corporation.
2. The term "Assistant Vice President of Engineering and Capital Projects & Planning" means RIOC's Assistant Vice President of Engineering and Capital Projects & Planning.
3. The term "Architect/Engineer" means the Architect or Engineer (if any) engaged by RIOC or Contractor to design the Project and provide construction phase services in connection with the Project.
4. The term "Change Order" means a written order signed by RIOC as described in Section 3.
5. The term Contractor shall mean **Name of Company**.
6. The term "Contract" means and includes:
 - a. Standard Form Contract for Construction;
 - b. General Conditions - Schedule A;
 - c. Supplemental General Conditions – Schedule A1;
 - d. Description of Work and Additional Terms - Schedule B1;
 - e. Contract Sum Breakdown and Retainage - Schedule B2;
 - f. Definitions under Articles 3 of the New York State Veterans' Law and New York State Executive Law Article 15-A Regulations - Schedule C.
7. The term "Contract Sum" means the fixed price or not-to-exceed price payable to the Contractor for the Work as provided in paragraph 8 of the Standard Form Contract for Construction and Schedule B2, subject to adjustment only by Change Order as provided in Section 3 hereof.
8. The term "Contract Time" means the time for completion of the Work as set forth in paragraph 7 of the Standard Form Contract for Construction, subject to extension only by Change Order as provided in Sections 3 and 7 hereof.
9. The term "Final Completion" means RIOC's issuance of the Certificate of Final Completion set forth in Section 4 of Schedule A-1 of this Contract following the Contractor's completion and/or correction of all items of the Work.
10. The term "Indemnitees" means the persons identified as such in Section 13 hereof.
11. The term "Substantial Completion" means completion to the point that the Work can be used and/or occupied for its intended purposes, as solely determined by RIOC, and all approvals required for such use and/or occupancy have been received.

12. The term "Work" means the work specified and the obligations imposed upon the Contractor under this Contract.
13. The term "Extra Work" means additional work performed and/or additional material furnished beyond the original scope of the contract, and which is duly authorized and necessary for proper completion of the project, but not covered by an item in the contract, and for which, there is no means of payment, direct or indirect, provided in the contract. Such Extra Work is performed at duly negotiated prices in a Change Order.

SECTION 2 - CONFLICTING TERMS

In the event of a conflict between the terms of the Contract (including any and all attachments hereto and amendments thereof) and the terms of this Schedule A, the specific terms of this Contract shall control.

SECTION 3 - CHANGE ORDERS

Changes or Extra Work, beyond the Work specified under the Contract, or extensions of the Contract Time, may be authorized only by a written Change Order issued and signed by the President/Chief Executive Officer of RIOC or RIOC's Chief Financial Officer and co-signed by the Contractor. The written Change Order shall specify: (a) the change in the Work, (b) the amount of adjustment of the Contract Sum, if applicable, and/or (c) any extension of the Contract Time.

The Contractor acknowledges that it has had ample opportunity to visit and inspect the site where the Work is to be performed and to review the drawings, specifications and all other documentation comprising the Contract. No Change Order shall be issued with respect to existing conditions at the site of the Work, except as provided in the following paragraph of this Section 3.

If conditions are encountered at the site of the Work which are (a) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Schedule B1 and the Drawings and Specifications, or (b) unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided in the Contract, then notice thereof by the Contractor shall be given to RIOC promptly before conditions are disturbed and in no event later than five (5) business days after first observance of the condition. Adjustments to the Contract Sum because of conditions discovered pursuant to this paragraph, shall be made in accordance with the procedures set forth in Schedule B2. Parties will cooperate regarding any extension required of the Contract Time. Any disputes shall be resolved by the arbitration provision set forth in Section 27 of this Schedule A.

SECTION 4 - ORDER TO PROCEED

Delivery to the Contractor of a fully executed copy of this Contract shall constitute authorization to proceed with the Work, unless a different commencement date is otherwise provided. If otherwise provided, RIOC will issue an order to proceed in writing which will set forth the date upon which the Work is to commence. All orders to proceed are subject to the Contractor's compliance with the insurance requirements of Section 14 hereof.

SECTION 5 - PERFORMANCE

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by President/Chief Executive Officer of RIOC or their designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Contractor shall supervise, direct and perform the Work, using the Contractor's best skill and attention. The Contractor shall be fully responsible for and have control over and charge of construction means, methods, techniques, sequences and procedures and safety precautions and programs in connection with the Work and for coordinating all portions of the Work. The Contractor shall be fully responsible for the safety of all persons engaged in the performance of the Work and the public as well as all property that may be affected by the Work.

The Contractor shall secure and pay for all permits necessary for proper execution and completion of the Work, except for a building permit.

The Contractor shall keep RIOC informed of the progress and quality of the Work. The Contractor shall attend progress meetings as required by RIOC.

The Contractor shall perform the Work in accordance with all applicable federal, state and local laws, ordinances, codes, rules, regulations, lawful orders and standards.

The Contractor shall keep the area in which it is performing the Work free from accumulation of waste materials or rubbish caused by the Contractor's operations. At the completion of the Work, the Contractor shall remove from the site waste materials, rubbish, tools, construction equipment, machinery and surplus materials and shall leave the Work site broom clean.

SECTION 6 - PROGRESS AND COMPLETION

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by President/Chief Executive Officer of RIOC or their designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

By executing the Contract, the Contractor confirms that the Contract Time is a reasonable period for performing the Work and includes normally anticipatable adverse weather. The Contractor shall proceed expeditiously with adequate work force and shall complete the Work within the Contract Time. It is hereby understood and mutually agreed by and between RIOC and the Contractor that completion of the Work within the Contract Time is an essential condition of the Contract. In any instance in which additional time is allowed for the completion of any Work, the new time of completion established by said extension shall be of the essence.

SECTION 7 – DELAYS, EXTENSIONS OF TIME AND SUSPENSIONS

If the sole cause of critical path delay to the Contractor's Work is an act of RIOC or of another contractor employed by RIOC, changes ordered by RIOC in the Work, labor disputes, fires, delay authorized by RIOC, and/or other causes beyond the Contractor's control, then the Contract Time shall be extended by Change Order for such reasonable time as RIOC may determine. The Contractor shall not be entitled to

any extension of the Contract Time unless claim therefor is presented to RIOC as provided in Section 27.

Extension of the Contract Time as provided in this Section 7 shall be the Contractor's sole and exclusive remedy and compensation for delays, disruptions and hindrances of any kind. The Contractor agrees that it will make no claim against RIOC for increased compensation (other than extension of the Contract Time) or damages on account of any delay, disruption or hindrance due to any cause.

The President/Chief Executive Officer of RIOC, or their designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into questions the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the President/Chief Executive Officer of RIOC, or their designee, issues a written notice authorizing a resumption of performance under the Contract.

SECTION 8 - COMPTROLLER'S APPROVAL

In accordance with Section 2879-a of the Public Authorities Law, if this contract exceeds \$1,000,000, and is not competitively bid, it may be subject to the Comptroller's approval.

SECTION 9 - TERMINATION

RIOC may terminate the Contract prospectively upon five (5) business days' written notice, for convenience or for any other reason whatsoever. In the event that the Contract is terminated, for default or cause, prior to any such termination RIOC shall give the Contractor written notice of the breach and five (5) business days to cure the breach (a "Cure Period"). Notwithstanding the foregoing, if RIOC in its sole discretion determines that a Cure Period would be futile, RIOC may terminate for default or cause without granting a Cure Period. However, if RIOC grants a Cure Period it is solely within RIOC's discretion to determine whether the breach has been cured. Additionally, RIOC may, upon determining that the Contractor's performance hereunder will endanger the public health or safety, terminate the Contract immediately. Upon termination for any reason, Contractor shall deliver all Records as defined in Sections 15 and 16 of this Schedule A within five (5) business days of termination.

Moreover, RIOC reserves the right to terminate this Contract in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, RIOC shall be entitled to exercise its right of termination by providing written notice to the Contractor in accordance with the terms of the Contract.

In addition, upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate RIOC officials or staff, the Contract may be terminated by President/Chief Executive Officer of RIOC, or their designee, at the Contractor's expense where the Contractor is determined to the President/Chief Executive Officer of RIOC, or their designee, to be non-responsible. In such event, the President/Chief Executive Officer of RIOC, or their designee, may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the Contractor certifies and affirms that all disclosures made in

accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, RIOC may terminate the agreement by providing written notification to the Contractor in accordance with the terms hereof.

SECTION 10 - PAYMENTS

Payments will be made only upon the receipt by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) and the Finance Department, of a proper invoice submitted by the Contractor and that has been approved by the Assistant Vice President of Engineering and Capital Projects & Planning (or his/ her designee), in accordance with Schedule A1 and Schedule B2. The receipt of final payment electronically or the deposit of final payment by paper check by the Contractor shall constitute a waiver of any claims for payment for services rendered arising from this Contract by the Contractor against RIOC.

Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by RIOC's President, in his or her sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary RIOC procedures and practices. The Contractor shall comply with RIOC's procedures to authorize electronic payments. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with RIOC's electronic payment procedures, except where the RIOC President has expressly authorized payment by paper check as set forth above.

All payments for Work will be subject to the inspection, determination, and approval of Work by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee). RIOC may withhold payment, in whole or in part, to the extent reasonably necessary to protect RIOC from loss for which the Contractor is responsible, including loss because of: defective Work not remedied; third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to RIOC is provided by the Contractor; failure of the Contractor to make payments properly to subcontractors for labor, materials or equipment; reasonable evidence that the Work cannot be completed for the Contract Sum; damage to RIOC or another contractor; reasonable evidence that the Work cannot 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 failure to carry out the Work in accordance with the Contract.

SECTION 11 - SET-OFF RIGHTS

RIOC shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, RIOC's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract, or any other contract with RIOC up to any amounts due and owing to RIOC with regard to this contract, any other contract with RIOC, plus any amounts due and owing to RIOC for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties.

SECTION 12 - EXECUTORY CLAUSE

In accordance with Section 41 of the State Finance Law, RIOC shall have no liability under this Contract to the Contractor or to anyone else beyond funds appropriated and available for this Contract.

SECTION 13 - INDEMNIFICATION

To the fullest extent permitted by law, and in addition to any liability or obligation of the Contractor to RIOC that may exist under the Contract or by statute or otherwise, the Contractor hereby agrees to hold harmless, indemnify and defend Roosevelt Island Operating Corporation (RIOC), the New York State Urban Development Corporation d/b/a Empire State Development, the Division of Housing and Community Renewal, the State of New York, the City of New York, and any others listed in Schedule B1 and in each and every case, their directors, officers, employees, agents, consultants or contractors (hereinafter, collectively referred to as “Indemnitees”), from and against any damages, costs, claims or liabilities which Indemnitees may sustain as a result of any and all liabilities, losses, damages, interests, judgments, liens, costs and expenses (including without limitation, reasonable counsel fees and disbursements) claims, demands, suits, actions, or proceedings which may be made or brought against Indemnitees in any way arising out of or relating to the Contract or the Work, including without limitation, the negligent acts or omissions, willful misconduct or unauthorized acts of the Contractor in the performance of the Work hereunder or of any subcontractor or other entity hired, obtained, or employed by the Contractor to provide Work in connection with the Contract. However, the Contractor shall not be obligated to hold harmless, indemnify and defend an Indemnitee to the extent of the Indemnitee's comparative negligence or willful misconduct. As a condition of the foregoing obligation, RIOC shall give the Contractor prompt notice of any claim for which indemnification is sought and shall cooperate with the Contractor in connection therewith. The Contractor shall have the right to control the defense or settlement of such claim, in its discretion, with counsel of its own choosing.

Indemnitees’ directors, officers, and employees shall not be personally or individually liable to Contractor, and shall be held harmless, for any actions, losses, damages, claims, liabilities, costs or expenses (including without limitation, reasonable counsel fees and disbursements) in any way arising out of or relating to the Contract or the Work performed pursuant to it.

The Contractor agrees that this Section 13 of the General Conditions shall survive the expiration or termination of the Contract and is so noted in the insurance.

SECTION 14 – INSURANCE

The Contractor shall insure and carry the following insurance and agrees that the following insurance shall survive the expiration or termination of the Contract:

Commercial General Liability Insurance, written on ISO Form CG 00 01 or its equivalent and with no modification to the contractual liability coverage provided therein, shall be provided on an occurrence basis and limits shall not be less than:

- \$5,000,000 per occurrence
- \$5,000,000 general aggregate which must apply on a per location / per project basis
- \$5,000,000 products/completed operations aggregate

Automobile Liability Insurance with a combined single limit of not less than \$1,000,000. Coverage must apply to the Proposer’s owned, hired, and non-owned vehicles

Workers’ Compensation, Employer’s Liability, and Disability Benefits shall not be less than statutory limits, including United States Longshore and Harbor Workers Act coverage as applicable to the operations of the Proposer.

As applicable if any work is to be done from watercraft:

Comprehensive Marine Liability Insurance must be maintained at a limit of not less than \$1,000,000 per occurrence and include the following coverage:

- Protection and indemnity
- General liability

Installation floater covering all risks of physical loss or damage to the work, materials, supplies, and equipment to be incorporated into the work, whether on-site, off-site, or in transit

- The policy shall be written on a completed value basis, with limits equal to the total value of the project
- Fire, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, and other perils typically covered under an 'all-risk' policy.

Builder's Risk:

The Contractor shall procure and maintain, at its own expense, Builder's Risk Insurance covering all risks of physical loss or damage to the Work, materials, supplies, and equipment to be incorporated into the Work, whether on-site, off-site, or in transit. The policy shall be written on a completed value basis, with limits equal to the total value of the project, including labor, materials, and overhead.

The policy shall include coverage for and not limited to:

1. Fire, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, and other perils typically covered under an 'all-risk' policy.
2. Soft costs, including but not limited to legal fees, interest on loans, and architectural or engineering expenses, arising from delays caused by a covered loss.
3. Testing and commissioning of equipment or systems, if applicable.
4. Debris removal and expediting expenses.

The policy shall name RIOC, Contractor, and all Subcontractors of any tier as insureds, as their interests may appear. A waiver of subrogation shall apply in favor of all insured parties. The insurance shall remain in effect until final acceptance of the Work by the Owner or until the property is occupied or put to its intended use, whichever occurs first.

The Contractor shall provide RIOC with a Certificate of Insurance evidencing the required coverage prior to the commencement of the Work. The policy shall include a provision that it cannot be canceled, materially altered, or allowed to expire without at least thirty (30) days' prior written notice to the Owner.

Certificates of Insurance for aforementioned coverages shall be provided to RIOC prior to the commencement of Work under the Contract and bear notations evidencing a minimum of 10 day cancellation notice to RIOC. The Contractor's Insurance policies shall name Roosevelt Island Operating Corporation, the New York State Urban Development Corporation d/b/a Empire State Development, the Division of Housing and Community Renewal, the State of New York, the City of New York and any others listed in Schedule B1 as additional insureds. RIOC and the entities listed above must be included as additional insureds on a primary and non-contributory basis for all policies except workers compensation. Waiver of subrogation must be in favor of RIOC for all policies. Endorsements for Additional Insured, Primary & Non-Contributory, Waiver of Subrogation must be provided alongside the certificate of insurance.

The Contractor shall ensure that all Subcontractors carry appropriate insurance coverage for the entire contract term.

SECTION 15 - RECORDS AND ACCOUNTS

Contractor shall maintain accurate books, records, documents, accounts, maintenance manuals, warranties, blueprints, photographs, other materials and all evidence of the Work (hereinafter, collectively, "Records"). Contractor shall also maintain and provide accurate Records that provide an accounting of the specific Work performed in such form as to demonstrate the actual Work completed to perform this Contract; and shall furnish or make available such Records or other information as may be required to substantiate any report or invoice submitted to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) assigned to the contract, for payment, and will also provide a copy of each invoice to the Finance Department.

Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as RIOC, shall have access to the Records during normal business hours at an office available, at a mutually agreeable and reasonable venue within the State of New York, for the term specified above for the purposes of inspection, auditing and copying. RIOC shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law ("Freedom of Information Law or FOIL") provided that: (i) the Contractor shall timely inform an appropriate RIOC official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under FOIL is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, RIOC's right to discovery in any pending or future litigation.

As-Builts: Within fourteen (14) days after Substantial Completion, Contractor shall provide RIOC with the original design drawings which reflect any changes made to RIOC property pursuant to this Contract ("As-Built Drawings"), as set forth in Section 8 of Schedule A-1. Such As-Built Drawings shall be transmitted to RIOC's Assistant Vice President of Engineering and Capital Projects & Planning at Alvaro.Santamaria@rioc.ny.gov (or their designee).

SECTION 16 - OWNERSHIP OF MATERIALS

The Contractor shall provide all labor, materials and equipment necessary to perform and complete all Work. All machinery and/or replacement parts installed by the Contractor in the performance of Work pursuant to this Contract shall become and remain the exclusive property of RIOC.

Upon completion of the Work or upon termination of this Contract, all Records, products and materials, including software, collected and prepared pursuant to this Contract shall become the exclusive property of RIOC, shall be delivered to RIOC (preliminary, final or otherwise), within five (5) business days of termination and any and all rights of the Contractor to such materials shall immediately be extinguished. RIOC shall have the sole and exclusive right to utilize such materials in any way it chooses.

The Contractor agrees that it shall not use, publish, transfer or license any Work, without the prior written approval of the President/Chief Executive Officer of RIOC. The Contractor shall not use any material in any way which discloses the identity of RIOC without prior written approval from the President/Chief Executive Officer of RIOC.

SECTION 17 – ASSIGNMENT AND SUBCONTRACTING

The Contractor shall not assign, transfer, subcontract or otherwise dispose of its rights, privileges or responsibilities under the terms of this Contract, without RIOC's prior written consent, which shall be in RIOC's sole discretion. In the event there is no prior written consent from RIOC, such assignment, transfer, subcontract or other disposition shall be void.

SECTION 18 - CONFLICTS OF INTEREST

The Contractor represents that:

1. No officer, employee, agent or director of RIOC, shall participate in any decision relating to this Contract which affects his personal interest or the interests of any corporation, partnership, or association in which he is directly or indirectly interested; nor shall any officer, agent, director or employee of RIOC have any interest, direct or indirect, in this Contract.
2. The Contractor shall cause, for the benefit of RIOC, every contract with any subcontractor to include the representations contained in subsection (a) of this Section. The Contractor will take such action in enforcing such provisions as RIOC may direct, or, at its option, assign such rights as it may have to RIOC for enforcement by RIOC.

SECTION 19 - NON-COLLUSIVE BIDDING CERTIFICATION

If this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to RIOC a non-collusive bidding certification on Contractor's behalf.

SECTION 20 - AFFIRMATIVE ACTION AND NON-DISCRIMINATION AND NEW YORK STATE BUSINESS ENTERPRISES REQUIREMENTS

1. Minority and Women-Owned Enterprises (MWBES)

Pursuant to New York State Executive Law Article 15-A, RIOC recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned business enterprises and the employment of minority group members and women in the performance of RIOC contracts. The Contractor agrees to be bound by the provisions of Article 15-A and the M/WBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of the terms or provisions of this Contract conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

It is the policy of RIOC to comply with all federal, State and local law, policy, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, military status, disability, predisposing genetic characteristic, marital status or domestic violence victim status, prior criminal conviction and prior arrest, and to take affirmative action in working with contracting parties to ensure that qualified State certified Minority Business Enterprises, and qualified State certified Women-owned Business Enterprises (MBEs/WBEs),

Minority Group Members and women share in the economic opportunities generated by RIOC's participation in projects or initiatives, and/or the use of RIOC funds (from any source, including the United States of America).

RIOC is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("M/WBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction. The Contractor shall inform RIOC in writing of the individual designated as the Minority Business Enterprise Liaison responsible for administering the M/WBE and EEO programs.

For the purposes of this Contract, RIOC hereby establishes an overall goal of 30% for M/WBE participation, for New York State-certified minority-owned business enterprise ("MBE") participation and for New York State-certified women-owned business enterprise ("WBE") participation (collectively "M/WBE Contract Goals") based on the current availability of MBEs and WBEs.

The Contractor agrees to use good faith efforts (5 NYCRR Part 142.8) to achieve utilization of MBEs and WBEs equal to XX% of the total value of the Services under the Contract.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
One Commerce Plaza
Albany, NY 12245
Phone: (518) 474-7756 Fax: (518) 486-6416
<https://ny.newnycontracts.com>

The directory of minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Minority and Women's Business Development Division
Phone: (855) 373-4692
mwbecertification@esd.ny.gov

Copies of the directory are also available for inspection at RIOC's main office. A current listing of certified M/WBEs may also be obtained online at <https://ny.newnycontracts.com>.

The directory and any listing of certified M/WBEs should not be construed as an endorsement or recommendation of any particular firm and is for use only as a resource that lists the names of businesses that qualify as M/WBE's under the definition set forth in Schedule C.

In order to maximize participation of Certified M/WBE's as subcontractors and suppliers with respect to this Contract, the Contractor is required to make the following efforts:

- a. attend meetings scheduled by RIOC where bidders will be advised of general contract

requirements and M/WBE program;

- b. advertise, where appropriate, in general circulation media, trade association publications and small business media;
- c. notify small, minority and women contractor associations by written solicitation of specific subcontracts;
- d. send written notification to Certified M/WBEs that their interest in the Services is solicited;
- e. actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations;
- f. ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs;
- g. where feasible, divide the work into smaller portions to enhance participation by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation;
- h. document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals; and
- i. ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and, where appropriate, that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

The Contractor shall include a proposed list of subcontractors and suppliers to demonstrate that the goals of this section for participation of M/WBEs will be achieved on the form entitled "Vendor/Contractor's Utilization Form". RIOC will review the submitted utilization plan and advise the Contractor of RIOC's acceptance or issue a notice of deficiency within 30 days of receipt. If a notice of deficiency is issued, the Contractor agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to RIOC a written remedy in response to the notice of deficiency. If the written remedy that is submitted is found by RIOC to be inadequate despite good faith efforts having been made by the Contractor, RIOC shall notify the Contractor and may direct the Contractor to submit, within five (5) business days, a request for a partial or total waiver of M/WBE participation goals. Without limiting any other provisions contained in the Contract Documents, RIOC may disqualify a contractor as being non-responsive under the following circumstances:

- a. a contractor fails to timely submit a Vendor/Contractor's Utilization Form;
- b. a contractor fails to timely submit a written remedy to a notice of deficiency;
- c. a contractor fails to timely request a waiver; or
- d. RIOC determines that the contractor has failed to document good faith efforts. Such documents shall include, but not necessarily be limited to:

- i. Evidence of outreach to M/WBEs;
- ii. Any responses by M/WBEs to the Contractor's outreach;
- iii. Copies of advertisements for participation by M/WBEs in appropriate general circulation, trade, and minority or women-oriented publications;
- iv. The dates of attendance at a pre-bid, pre-award, or other meetings, if any, schedules by RIOC with M/WBEs; and
- v. Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for M/WBE participation.

The Contractor shall use good faith efforts to utilize any MBE or WBE identified on the Vendor/Contractor's Utilization Form during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to the award of the Contract may be made at any time during the term of the Contract to RIOC in writing, but must be made no later than prior to the submission of a request for final payment on the Contract. For guidance on how RIOC will determine a Contractor's "good faith efforts", refer to N.Y. Comp. Codes R. & Regs. Tit. 5, Ch. 1, Pt. 142.8. Joint ventures with Minority and Women-Owned Business Enterprises will be considered toward meeting the goals.

Commencing not more than 30 days after (i) execution of the Contract, or (ii) start of the services, the Contractor shall submit to the RIOC a Contractor's Quarterly or Monthly M/WBE Contractor Compliance & Payment Report of the workforce actually utilized on the project, itemized by ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by RIOC. Pursuant to Executive Order #162, the Contractor shall also submit a Workforce Utilization Report, and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such form as shall be required by RIOC on MONTHLY or QUARTERLY basis during the term of the Contract. Separate forms shall be completed by the Contractor and any Subcontractors. Contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the Contract. Completed forms should be emailed to Sarah.wang@rioc.ny.gov with a copy to Amy.Firestein@rioc.ny.gov.

Accuracy of the information contained in the reporting documentation (Vendor/Contractor Workforce Utilization Report and Contractor's Quarterly M/WBE Contractor Compliance & Payment Report) shall be certified to by an owner or officer of the Contractor.

In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that

neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract.

In the event RIOC determines a Contractor to be non-compliant with Article 15-A M/WBE requirements, RIOC will notify said Contractor in writing of the delinquency. The written notice will provide a specified time within which the Contractor may cure any delinquency, as outlined in section 142.12 of Title 5 of the New York Codes, Rules and Regulations. In addition, the notice may propose an action to correct the problem and also provide the contractor an opportunity to propose a suitable, alternative corrective action. In the event that the parties are unable to resolve the dispute, RIOC may refer the matter to the Division of Minority and Women's Business Development for resolution in accordance with section 142.12 of Title 5 of the New York Codes, Rules and Regulations.

RIOC and the Contractor recognize the necessity of correcting the effects of discrimination in public procurement and that the socio-economic benefits and enforcement of the non-discrimination provisions set forth herein are significant but will include items of loss whose amounts will be incapable or very difficult of accurate estimation. As such, in accordance with 5 NYCRR §142.13, the Contractor acknowledges that if it is found by RIOC to have willfully and intentionally failed to use good faith efforts (as defined in N.Y. Comp. Codes R. & Regs. Tit. 5, Ch. 1, Pt. 142.8) in order to comply with the M/WBE participation goals set forth in the Contract, such finding constitutes a material breach of contract and RIOC may withhold payment from the Contractor not as a penalty, but as liquidated damages. Such liquidated damages shall be calculated as ten percent (10%) of the difference between (1) all sums identified for payment to M/WBEs had the Contractor achieved the contractual M/WBE goals and (2) all sums actually paid to M/WBEs for work performed or materials supplied under the Contract. In the event a determination has been made which requires the payment of liquidated damages and such sums have not been withheld by RIOC, the Contractor shall pay such liquidated damages to RIOC within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day, the Contractor shall file a complaint with the Director of the Division of Minority and Women's Business Development in the Department of Economic Development (the "Director") pursuant to subdivision 8 of section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of RIOC.

2. Service-Disabled Veteran-Owned Business Act Requirements

Select one (delete or strike out the others): Option A – SVDOB participation goal is set (fill in the percentage below); or Option B – no SDVOB goal is set; or Option C – if the procurement is established as a set aside contract pursuant to 9 NYCRR § 252.2(j), do not set an SDVOB goal, but, instead use the language included in Option C.

OPTION A

Article 3 of the New York State Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into New York State's economy. RIOC recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-

disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of RIOC's contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

I. Contract Goals

- A. RIOC hereby establishes an overall goal of % for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: <https://ogs.ny.gov/veterans/>. Questions regarding compliance with SDVOB participation goals should be directed to RIOC's Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.

- B. Contractor must document "good faith efforts" to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause IV below).

II. SDVOB Utilization Plan

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid.

- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to RIOC.

- C. RIOC will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of RIOC's acceptance or issue a notice of deficiency within 20 days of receipt.

- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to RIOC a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by RIOC to be inadequate, RIOC shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by RIOC a request for a

partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

- E. RIOC may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
 - (a) If a Bidder fails to submit an SDVOB Utilization Plan;
 - (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - (c) If a Bidder fails to submit a request for waiver; or
 - (d) If RIOC determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, RIOC shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

III. Request for Waiver

- A. **Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at RIOC for guidance.**
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by RIOC at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, RIOC shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to RIOC, but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If RIOC, upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, RIOC may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to RIOC.

IV. Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.
- (3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by RIOC with certified SDVOBs whom RIOC determined were capable of fulfilling the SDVOB goals set in the Contract.
- (4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.
- (5) Other information deemed relevant to the waiver request.

V. Monthly SDVOB Contractor Compliance Report

In accordance with 9 NYCRR § 252.2(q), Contractor is required to report Monthly SDVOB Contractor Compliance to RIOC during the term of the Contract for the preceding month's activity, documenting progress made towards achieving the Contract SDVOB goals. This information must be submitted using form SDVOB 101 available on RIOC's website and should be completed by the Contractor and submitted to RIOC, by the **10th day of each month** during the term of the Contract, for the preceding month's activity to: Director of Procurement Amy Firestein at Amy.Firestein@rioc.ny.gov

VI. Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/veterans/>

OPTION B

Article 3 of the New York State Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. RIOC recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of RIOC's contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, RIOC conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>

Bidder/Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

OPTION C

Article 3 of the New York State Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. RIOC recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of RIOC's contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

RIOC established this procurement as a set aside contract pursuant to 9 NYCRR § 252.2(j). Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of other SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>

Bidder/Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

3. EEO Policy Statement

- a. The Contractor and subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or

termination and rates of pay or other forms of compensation.

- b. Prior to the award of the Contract, the Contractor shall submit an Equal Employment Opportunity ("EEO") Policy Statement to RIOC within the time frame established by RIOC.
- c. The Contractor's EEO Policy Statement shall contain, but not necessarily be limited to, and the Contractor, as a precondition to entering into a valid and binding Contract, shall, during the performance of the Contract, agree to the following:
 - i. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, sexual orientation, or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on Contract. Affirmative action pertains to recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
 - ii. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
 - iii. At the request of RIOC, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
 - iv. The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.
 - v. The Contractor will include the provisions of subdivisions (a) through (d) immediately above in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

4. Prohibition of Contracts With Entities That Support Discrimination

In accordance with Executive Order No. 177 Regarding Prohibiting Contracts with Entities that Support Discrimination (“EO 177”), the Contractor hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law. The Contractor further certifies that it submitted EO 177 Certification to RIOC prior to contract award.

5. Nondiscrimination in Employment in Northern Ireland: MacBride Fair Employment Principles

In accordance with Chapter 807 of the Laws of 1992 the Contractor certifies that if it or any individual or legal entity in which the Contractor holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the Contractor has business operations in Northern Ireland, such Contractor, shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

The Omnibus Procurement Act of 1992, requires that by signing this bid/proposal, Contractors certify that whenever the total bid amount is greater than \$1 million:

- a. The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to RIOC;
- b. The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- c. The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing of any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The contractor agrees to document these efforts and to provide said documentation to RIOC upon request;
- d. The Contractor acknowledges notice that New York State may seek to obtain offset credits from foreign countries as a result of this Contract and agrees to cooperate with the State in these efforts.

Failure to comply with all of the foregoing requirements found in this Section may result in a finding of non-responsiveness, non-responsibility or breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or

enforcement proceedings as allowed by the Contract and the law.

SECTION 21 - ENVIRONMENTAL PROTECTION

The Contractor certifies and warrants that all heavy duty vehicles, as defined in New York State Environmental Conservation Law (“ECL”) §19-0323, to be used under this Contract, will comply with the specifications and provisions of ECL §19-0323 and any regulations promulgated pursuant thereto, which requires the use of Best Available Retrofit Technology (“BART”) and Ultra Low Sulfur Diesel (“ULSD”), unless specifically waived by the New York State Department of Environmental Conservation (“DEC”). Qualifications for a waiver under this law will be the responsibility of the Contractor.

SECTION 22 - MATERIALS AND WORKMANSHIP WARRANTIES

The Contractor hereby agrees and guarantees that all Work furnished under the Contract will conform to the terms of this Contract, as to kind, quality, function, design and characteristics of materials and workmanship. The Contractor shall adhere to professional standards and shall reprocess at its expense, all work necessary to correct errors directly caused by malfunction of the Contractor’s machines or mistakes of Contractor’s Personnel. RIOC agrees to cooperate with the Contractor in the performance of the Work hereunder, including without limitation and upon prior consent of RIOC’s designated representative, providing consultant with reasonable and timely access to facilities, data, information, and RIOC personnel.

All manufacturer’s warranties for materials and equipment required under this Contract shall be promptly transmitted to RIOC following installation (or testing and commissioning, if applicable) of such materials and equipment. Contractor agrees that RIOC’s receipt of material and equipment warranties required under the Contract shall be an express condition precedent to the issuance of the Certificate of Final Completion and RIOC’s issuance of final payment to the Contractor.

The Contractor shall promptly correct Work rejected by RIOC, or deemed by RIOC to be defective or failing to conform to the requirements of the Contract. The Contractor shall bear all costs of correcting such Work, including, without limitation, additional testing and inspections.

The Contractor warrants that the Work will be of good quality and new unless otherwise required or permitted by the Contract, and that the Work will be free from defects not inherent in the quality required or permitted and will conform to the requirements of the Contract.

Implied warranties. If, within one (1) year after RIOC’s issuance of the Certificate of Final Completion, the Work is found to be not in accordance with the Contract requirements, the Contractor shall correct it promptly after receipt of written notice from RIOC.

Nothing contained herein shall be construed to establish a period of limitation with respect to other obligations the Contractor might have under the Contract. Establishment of the time period of one (1) year as provided above relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations.

If the Contractor fails to correct defective or non-conforming Work as required or fails to carry out Work

in accordance with the Contract, RIOCC, by written order, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract and fails within five (5) business days after receipt of written notice from RIOCC to commence and continue correction of such default or neglect with due diligence and promptness, RIOCC may, without prejudice to other remedies RIOCC may have, correct such deficiencies and the costs of correcting such deficiencies shall be deducted from payments to the Contractor. If the payments then or thereafter due the Contractor are not sufficient to cover such costs, the Contractor shall pay the difference to RIOCC.

Extended warranties. RIOCC reserves the right to require the Contractor to provide special or extended warranties from the product manufacturer for particular products or systems. These express warranties are enforceable and separate from the standard one-year, or implied, warranties.

SECTION 23 - PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS

The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by RIOCC. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of RIOCC.

In addition, when any portion of this Contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with the approval of RIOCC; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of RIOCC.

SECTION 24 - IRAN DIVESTMENT ACT

By entering into this Agreement, Contractor certifies in accordance with State Finance Law Section 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

The Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. The Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. The Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by RIOCC.

During the term of the Contract, should RIOCC receive information that a person (as defined in State Finance Law Section 165-a) is in violation of the above-referenced certifications, RIOCC will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the

determination of such violation, then RIOC shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

RIOC reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities List after contract award.

SECTION 25 - CONFIDENTIALITY

The Contractor agrees that all deliverables, developed in the course of providing the Work, are strictly confidential between the Contractor and RIOC, and except as specified herein the Contractor may not reveal or disclose such work product, without permission from RIOC, or unless ordered by a court of competent jurisdiction, governmental authority or administrative agency or required to be disclosed by law, subpoena, or similar process.

SECTION 26 - LABOR LAW

If this Contract involves the employment of laborers, workmen or mechanics under Articles 8 or 9 of the New York State Labor Law (the "Labor Law") or constitutes a building service contract covered by Article 9 thereof, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days set forth therein, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the New York State Labor Department ("NYSDOL"). Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the NYSDOL in accordance with the Labor Law. Contractor shall submit certified payrolls with each payment application. Where applicable by the Labor Law, see Schedule B2 of this Contract for the Prevailing Rate Case Number (PRC#) that has been assigned to this project.

All contractors and subcontractors submitting bids or performing construction work on public work projects or private projects covered by Article 8 of the Labor Law are required to register with the NYSDOL under Labor Law Section 220-i.

SECTION 27 - CLAIMS AND DISPUTE RESOLUTION

1. The Contractor shall proceed with the Work promptly as instructed or ordered by RIOC. The Contractor shall have no right to suspend all or any part of the Work or refuse to comply with any written instruction, direction or order of RIOC pending resolution of any dispute or for any other reason, provided that RIOC continues to make payments of undisputed amounts as provided in the Contract. Any such suspension or refusal will be a material breach of the Contract. The Contractor may preserve whatever right, if any, the Contractor may have to make claim with respect to any written instruction, order, direction, action or inaction of RIOC or others by giving notice as required by paragraph (b) of this Section 27 and by advising RIOC in writing, prior to proceeding with the Work in question, that the Contractor is proceeding under protest.
2. The Contractor must give written notice to RIOC of any claim by the Contractor for extension of

time, extra compensation, price increase or damages of any sort within five (5) business days after the Contractor first learns of the act, omission, occurrence or circumstance on which the claim is based. The purpose of this notice is to give RIOC prompt opportunity (a) to cancel or revise orders or directions, change plans, mitigate or remedy circumstances giving rise to the claim or to take other action that may be desirable; (b) to monitor and verify the facts and circumstances as they occur; and (c) to verify any costs and expenses claimed by the Contractor contemporaneously as they are incurred. Written notice is required whether or not RIOC is aware of the facts and circumstances that constitute the basis of the Contractor's claim, and no action, inaction, or conduct of RIOC or any other person will be regarded as a waiver of such notice requirement except only a statement to that effect signed by RIOC. Failure of the Contractor to give written notice as required shall be deemed conclusively to be a waiver and release of any claim, and such notice shall be a condition precedent to the Contractor's right to make any claim arising out of, under or in connection with the Contract or its performance of the Work. Notice pursuant to this paragraph (b) of Section 27 shall be addressed and sent to RIOC in accordance with Section 36 of these General Conditions. Notice of claim given to any person other than RIOC shall not constitute notice to RIOC.

It shall be within RIOC's sole discretion whether to submit to arbitration any dispute, claim or controversy arising out of, or relating to, the Contract or the breach, termination, enforcement, interpretation or validity thereof (including the determination whether work performed under the Contract is within the Scope of Work) and including the determination of the scope or applicability of this arbitration provision (collectively, referred to as "Claims"). If RIOC determines that a Claim shall be submitted to arbitration, such arbitration shall be before the American Arbitration Association ("AAA") in New York County (or another arbitration tribunal of RIOC's choosing) with the parties sharing equally in the costs of the arbitration process and each party bearing their own legal costs and expenses. Further, it shall be in RIOC's sole discretion whether the arbitration shall be before one or three arbitrators. Judgement on an arbitration award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of competent jurisdiction.

SECTION 28 - INTERNATIONAL BOYCOTTS

1. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law and the regulations of the Comptroller of the State of New York promulgated thereunder, where the Contract is for the construction, reconstruction, maintenance and/or repair of public work or for work performed or to be performed in an amount exceeding five thousand dollars, the Contractor hereby promises, asserts and represents that neither the Contractor nor any substantially owned or affiliated person, firm partnership or corporation has participated, is participating or shall participate in an international boycott in violation of the provisions, of the United States Export Administration Act of 1969, as amended, or the United States Export Administration Act of 1979, or the regulations of the United States Department of Commerce promulgated under either act.
2. RIOC awards this Contract in material reliance upon the promise and representation made by the Contractor in the foregoing paragraph. This Contract shall be rendered void by the State Comptroller if subsequent to the execution of this Contract, the Contractor or such owned or affiliated person, firm, partnership or corporation has been convicted of a violation of the above Acts or Regulations or has been found upon final determination of the United States Commerce Department or any other appropriate agency of the United States to have violated such Acts or Regulations.
3. The Contractor shall notify the State Comptroller of any such conviction or final determination of

violation in the manner prescribed by the Comptroller's regulations after such determination within five (5) days. The Contractor shall deliver a copy of the notice to RIOC.

SECTION 29 - GRAND JURY, INVESTIGATIONS, TESTIMONY

The Contractor agrees to comply with the provisions of Sections 2876 and 2877 of the Public Authorities Law, and any subsequent amendments. The provisions require that upon the refusal of a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state, any political subdivision thereof, or a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant questions concerning such transaction or contract,

1. such person, and any firm, partnership or corporation of which (s)he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or public benefit corporation or any official thereof for goods, work or services, for the period of five years after such refusal or until such disqualification shall be removed pursuant to Public Authorities Law Section 2877, and
2. any and all contracts with any public authority or public benefit corporation or official thereof, since the effective date of this law, by such person and by any firm, partnership, or corporation of which he or she is a member, partner, director or officer, may be canceled or terminated, but any monies owing by the public authority or public benefit corporation for goods delivered or work done prior to the cancellation or termination shall be paid.

SECTION 30 - ILLEGALITY

If this Contract contains any unlawful provision, the same shall be deemed of no effect and shall, upon the application of either party, be deemed stricken from this Contract without affecting the binding force of the remainder.

SECTION 31 - ENTIRE AGREEMENT

This Contract integrates all agreements, representations and warranties prior to the date hereof, whether oral or written, between the parties, and constitutes the entire Contract between the parties hereto.

SECTION 32 - GOVERNING LAW

This Contract shall be construed in accordance with the laws of the State of New York.

SECTION 33 - COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

SECTION 34 - MODIFICATIONS

This Contract shall not be modified except by amendment or Change Order in writing dated and signed by all parties hereto.

SECTION 35 - BINDING EFFECT

This Contract shall be binding upon, extend to, and inure to the benefit of the legal representatives, successors and valid assigns of the respective parties.

SECTION 36 - NOTICE

Except where otherwise provided, any written notice or communication required or permitted pursuant hereto by either party to the other party shall be in writing and either:

1. delivered by certified mail, postage prepaid, return receipt requested to the parties at their respective addresses set forth at page 1 of this Contract; or
2. provided by fax transmission and confirmed by regular mail, if to RIOC, at (212) 832-4582, and if to the Contractor, at the number supplied by the Contractor to RIOC; or
3. provided by email, if to RIOC, to Chief Financial Officer at Dhruvika.Amin@rioc.ny.gov with a copy to Deputy General Counsel at Lada.Stasko@rioc.ny.gov, and if to the Contractor, at the email address supplied by the Contractor to RIOC.

SECTION 37 - ALL LEGAL PROVISIONS DEEMED INCLUDED

It is the intent and understanding of the parties to this Contract that each and every provision of law required to be inserted in this Contract shall and is inserted herein, and if, through mistake or otherwise, any such provision is not inserted, or is not inserted in correct form, then this Contract shall forthwith upon the application of either party be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party hereunder.

SECTION 38 - COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

SCHEDULE A1

SUPPLEMENTAL GENERAL CONDITIONS

SECTION 1 - SCHEDULE OF VALUES

1. Submit a printed schedule on AIA Forms G702 and G703 – Application and Certification for Payment Continuation Sheet to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) for approval.
2. Forms filled out by hand will not be accepted.
3. Submit Schedule of Values within 15 days after Notice to Proceed, for approval by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee).
4. Format: Utilize the Table of Contents of the Specifications. Include mobilization and demobilization.
5. Include within each line item, a direct proportional amount of the Contractor's Overhead and profit.
6. Revise schedule to list approved Change Orders, with each Application of Payment.

SECTION 2 - PAYMENTS

On or about the 21st of each month the Contractor shall submit to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee), a pencil copy of payment application detailing work to be completed through the end of the month. The Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) shall within seven (7) days of receipt, review and return to Contractor, a mark-up of said payment application with a determination of percentages of work completed and materials stored to date that shall be paid. The Contractor must submit certified payrolls with each payment application to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) for approval prior to payment.

SECTION 3 - INSPECTIONS AND REJECTIONS

All Work and all construction, processes of manufacture and methods of construction involved in or related to the performance of the Work shall be at all times and places subject to the inspection of Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) , and the enumeration in these Specifications of particular portions of such Work, construction, processes of manufacture or methods of construction which will or may be inspected by the Director of Engineering, his/her designee, or the Architect/Engineer shall not be deemed to imply that only such Work, construction, processes of manufacture and methods of construction will or may be so inspected or that any element of the Work is not subject to inspection by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee). Assistant Vice President of Engineering and Capital Projects & Planning (or their designee)) shall be the judge of the quality and suitability of the Work, construction, processes of manufacture and methods of construction for the purposes for which they are used or to be used. Should they fail to meet the approval of the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee), they shall be forthwith reconstructed, made good, replaced or corrected, as the case may be, by the Contractor at its own expense. Rejected material shall be removed immediately from the site. The fact that the Architect/Engineer has approved the materials and workmanship shall not relieve the Contractor from its obligation to supply other material and workmanship when so ordered by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee).

The Contract Drawings do not show all of the details of the Work and are intended only to illustrate the

character and extent of the Work to be performed. Accordingly, they may be supplemented during the performance of the Work by the Architect/Engineer or by the Contractor subject to the approval of the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee), to the extent necessary to further illustrate the Work. An indication on the Contract Drawings of the existence, nature or location of any utilities, structures, obstructions, conditions or materials does not constitute a representation as to the conclusions to be drawn therefrom nor a representation that no others exist in addition to those shown, even in the same location; nor does the absence of any indication on said drawings of the existence, nature or location of any utilities, structures, obstructions, conditions or materials constitute a representation that none exist. After the Contract has been executed, the Contractor will be furnished three (3) copies of the Specifications and Contract Drawings without charge.

SECTION 4 - FINAL INSPECTION

When, in the opinion of the Contractor, the construction is completed and ready for final inspection, he shall so notify the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) in writing and the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) will conduct an inspection of said construction (including any portions with respect to which Certificates of Partial Completion have been issued) before issuing the Certificate of Final Completion. Before the Certificate of Final Completion will be issued, any defects or omissions noted during this inspection must be corrected by the Contractor.

SECTION 5 - CONSTRUCTION REQUIRED BY THE SPECIFICATIONS

The Specifications require the doing of all things necessary or proper for or incidental to the scope of the Work, as shown on the Contract Drawings in their present form. In addition, all things shown on the Contract Drawings even though not expressly mentioned in the Specifications, all things mentioned in the Specifications even though not shown on the Contract Drawings, and all things not specified either on the Contract Drawings or in the Specifications but involved in carrying out their intent and in the complete and proper execution of the Work are required by the Specifications; and the Contractor shall perform the same as though they were specifically delineated, described and mentioned. In case of a conflict between a requirement of the Contract Drawings and a requirement in Schedule B1, the requirement of Schedule B1 shall control. In case of a conflict between a requirement contained in the Specifications and a requirement of the Contract Drawings, Contractor shall notify the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) to resolve any conflict.

Some Sections of the Specifications make cross references to construction specified in other Sections of the Specifications, including cross references intended to avoid duplication by the bidders in quoting prices and to point out some of the necessity for coordination. Such cross references are not intended to be complete or all inclusive, and the Contractor shall ascertain for himself both the nature and the extent of all construction which may be related to that under each Section of the Specifications whether or not expressly referred to.

Some Sections of the Specifications contain a general description of the construction under such Sections. Such a general description is not intended to define the construction required by the Specifications and Contract Drawings. Accordingly, such description shall be construed as in aid of and supplemental to, but in no case limiting, impairing or decreasing, the requirements elsewhere set forth with respect to the construction to be performed.

The Contractor's compensation for all construction whatsoever referred to in the Specifications and

Contract Drawings in their present form, even though the need for certain items of such construction may be contingent upon future occurrences or determinations or upon other circumstances, shall be deemed to be included in the price(s) quoted by the Contractor in the Form of Contract unless the Specifications or Contract Drawings expressly state that compensation in addition to such price shall be payable for such items of construction. The express statement in some cases to the effect that certain construction shall be without additional cost to RIOC shall not impair the application of this paragraph in other cases. The distribution of various parts of the construction among the Divisions and Sections of the Specifications or among the Contract Drawings is not intended as a representation of the most effective or logical method of organizing, scheduling or subcontracting the construction, and the Contractor shall ascertain for itself how to do so unless otherwise expressly prescribed in this Contract.

SECTION 6 - AVAILABLE PROPERTY

Subject to the conditions elsewhere stated herein, those areas to be occupied by the permanent construction will be made available to the Contractor upon the commencement of his first operations at the construction site. RIOC has no obligation to make other areas available to the Contractor for staging, storage or otherwise. Any additional property which the Contractor desires for its operations shall be obtained by the Contractor at its own expense.

The Contractor will be permitted to use only so much of the areas made available to the Contractor as is necessary for the performance of the Contract, and the Contractor must at all times so conduct its operations as not to encroach upon or block the portions used by others. The Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) may at any time make joint or exclusive assignments of particular portions thereof, either to the Contractor or to others, and may take over and use for other purposes any portions which, in the opinion of Assistant Vice President of Engineering and Capital Projects & Planning (or their designee), are not required for the performance of the Contract.

The Contractor shall perform daily clean-up the areas made available to the Contractor so that they are free at all times of refuse, rubbish, scrap material or debris and so that the construction site presents a neat, orderly and workmanlike appearance.

SECTION 7 - SHOP DRAWINGS, CATALOG CUTS AND SAMPLES

The Contractor shall specifically prepare for this Contract all Shop Drawings which may be required in addition to the Contract Drawings or in addition to any other drawings which the Architect/Engineer may issue in supplementing the Contract Drawings. The specific requirements elsewhere set forth in the Specifications for furnishing Shop Drawings, Catalog Cuts and samples for any particular portion of the Contract shall not limit the obligation of the Contractor to furnish Shop Drawings, Catalog Cuts and samples for any other portion when so required by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) .

The Contractor shall submit – for review and approval by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) – a general "Submittal Schedule" listing the planned transmittal date and estimated number in each Specifications section category of Shop Drawings, Catalog Cuts, pages of calculations and samples within seven (7) calendar days after receipt by the Contractor of the acceptance of the Proposal. A more detailed schedule shall be submitted no less than five (5) calendar days prior to the actual date of any submittal. The “Submittal Schedule” shall follow the form (if any) provided by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) for this Contract.

After checking and verifying all field measurements and after complying with applicable procedures specified hereunder, the Contractor shall transmit submittals to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) for Architect/Engineer review and approval, in accordance with the approved schedule of Shop Drawing submissions, or for other action if so indicated by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee).

All submissions shall be identified as the Architect/Engineer may require. In general, submissions shall specifically reference Contract Drawing numbers or Specifications section numbers for which the item pertains. The data shown on the Shop Drawings shall be complete with respect to quantities, dimensions, conformance to the specified performance and design criteria, materials, test results and similar information to enable the Architect/Engineer to review each submittal as required.

The Contractor shall also submit all Catalog Cuts and samples to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) for Architect/Engineer review and approval pursuant to the approved submittal schedule, for conformance to the requirements of the Contract Drawings and Specifications. All Catalog Cuts and samples shall have been reviewed by the Contractor and shall be accompanied by a specific written indication that the Contractor has reviewed the submittal for conformance with the Contract Drawings and Specifications and shall be identified clearly as to material, supplier, manufacturer's procedures and pertinent data such as catalog numbers and the use for which intended.

Before submission of each Shop Drawing, Catalog Cut and sample, the Contractor shall have determined and verified all quantities, dimensions, conformance to the specified performance and design criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed and coordinated each Shop Drawing or Catalog Cut with other Shop Drawings and Catalog Cuts and with other requirements of the Work.

At the time of each submission, the Contractor shall give the Architect/Engineer specific written notice of each variation in any Shop Drawing, Catalog Cut and sample from the requirements of the Contract Drawings or Specifications and, in addition, shall cause a specific notation of each such variation to be made on each submittal to the Architect/Engineer, for review and approval of each such variation.

The Architect/Engineer's review and approval of Shop Drawings, Catalog Cuts or samples shall not relieve the Contractor from responsibility for any variation from the requirements of the Contract Drawings or Specifications unless the Contractor has in writing called the Architect/Engineer's attention to each such variation at the time of submission as required hereunder and the Architect/Engineer has given written approval of each by an express specific written notation thereof incorporated in or accompanying the Shop Drawing, Catalog Cut or sample approval. Approval of Shop Drawings, Catalog Cuts and samples which are inconsistent with the requirements of the Contract Drawings and Specifications shall not be deemed to waive or change such requirements or to relieve the Contractor of its obligations to perform such requirements unless the Architect/Engineer shall expressly and specifically state that he is waiving or changing such requirements, as stated above.

Where a Shop Drawing, Catalog Cut or sample is required, no related Work shall be performed prior to the Architect/Engineer's review and approval of the submission. Upon receipt of the submittal, the Architect/Engineer will review the Shop Drawing, Catalog Cut or sample for conformance to the design information and materials shown on the Contract Drawings and contained in the Specifications.

Approval by the Architect/Engineer shall not constitute a complete review or approval of the means, methods, techniques, sequences or procedures of construction, except where a specific means, method, technique, sequence or procedure of construction is specifically delineated in or required by the Contract Drawings or Specifications, and the approval shall not constitute a review and approval in regard to safety precautions or programs incident thereto. The review and approval of a separate item will not in itself indicate approval of the assembly in which the item functions. Any design shown on the Shop Drawings and prepared by the Contractor, its subcontractors, their detailers or their professional engineers is the complete responsibility of the Contractor. Within seven (7) working days after receipt of the Shop Drawing prints, the Architect/Engineer will approve or not approve the same or require corrections or additions to be made thereon. When a shop drawing is not approved or if additions or corrections are required, the Architect/Engineer will return within five (5) working days two of the copies submitted and the Contractor shall make the revisions, corrections or additions shown thereon to be made. The Contractor shall direct specific attention in writing to revisions other than the corrections called for by the Architect/Engineer on the previous submittal. Each drawing shall be corrected as required until the approval of the Architect/Engineer is obtained. After each resubmission, the Architect/Engineer shall have five (5) working days in which to approve revisions or corrections.

As soon as approval has been given no change will be permitted thereon unless approved in writing by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee).

Before final payment for the Work is made, the Contractor shall furnish to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) one set of approved Shop Drawings and Catalog Cuts, which have previously been prepared by the Contractor in accordance with requirements elsewhere specified in these Specifications.

SECTION 8 – AS-BUILT DRAWINGS

Additionally, before the Certificate of Final Completion is issued and before final payment is made, the Contractor shall submit one set of contract plans, all clearly revised, completed and brought up to date showing the permanent construction as actually made. These drawings shall each be marked "AS-BUILT DRAWING", dated and signed by the Contractor and be in the form of Mylar reproducibles, from which clear prints can be made, or with RIOC's written consent, in an electronic format or software program acceptable to RIOC. By signature, the Contractor is verifying that the drawings reflects the as-constructed condition.

SECTION 9 - SUBSTITUTION

Where a proprietary item or make is specified or mentioned herein or called for or mentioned on the Contract Drawings and the phrases "similar and equal to" or "approved equal" are used in connection therewith, the utilization of any other item or make will be deemed a substitution. Substitution for the proprietary item or make specifically named may be made only in accordance with the Section of the General Conditions entitled "Materials and Workmanship" and in accordance with the following.

Whenever materials or equipment are specified or described in the Contract Drawings or Specifications by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of another supplier or manufacturer may be accepted by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) if sufficient information and proof is submitted by the Contractor to permit the Assistant

Vice President of Engineering and Capital Projects & Planning (or their designee) to determine that the material or equipment proposed is equivalent or equal to that named and the Architect/Engineer approves the substitution.

The Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) may require the Contractor to furnish at the Contractor's expense a special performance guarantee or other assurance with respect to any approved substitution. Furthermore, the approval of any substitute proprietary item or make shall not in any way entitle the Contractor to additional compensation therefor.

Notwithstanding such approval, however, the Contractor assumes the risk that such approved substitute item or make is not equal to that shown or specified and if at any time the substitution shall appear not to be so equal the Contractor shall replace the substitution with that originally shown on the Contract Drawings or called for in the Specifications at its own cost and reimburse RIOC for any loss occurring on account of the substitution failing to be equal, notwithstanding that it had been previously approved for use by the Architect/Engineer.

SECTION 10 - COORDINATION

1. Coordinate scheduling, submittals, and work of the various sections of the Specifications to ensure efficient and orderly sequence of installation of interdependent construction elements, with provisions for accommodating items installed later.
2. Notify affected utility companies and comply with their requirements.
3. Verify that utility requirements and characteristics of new operating equipment are compatible with building utilities. Coordinate work of various sections having interdependent responsibilities for installing, connecting to, and placing in service, such equipment.
4. Coordinate space requirements, supports, and installation of mechanical and electrical work that are indicated diagrammatically on Drawings. Follow routing shown for pipes, ducts, and conduit as closely as practical; place runs parallel with lines of building. Utilize spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs.
5. In finished areas except as otherwise indicated, conceal pipes, ducts, and wiring within the construction. Coordinate locations of fixtures and outlets with finish elements.
6. Coordinate completion and clean-up of work of separate sections.
7. After RIOC's occupancy of premises, coordinate access to the site for correction of defective Work not in accordance with Contract Documents, to minimize disruption of RIOC's activities.
8. Submit coordination drawings to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) for review, signed off by all trades before the installation of any Work.

SECTION 11 - PROGRESS SCHEDULE

Schedule Requirements:

1. Within fifteen (15) calendar days after acceptance of the Contractor's Proposal, the Contractor shall,

at its own expense, prepare a detailed electronic progress schedule for the Director of Engineering's review (or review by their designee) and approval. The progress schedule shall show the dates for the commencement and completion of the items of Work of the Contract and all Contract Milestones. The Contractor shall revise and resubmit the progress schedule until approved by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee). The progress schedules/graphics required by this Contract shall be produced in a format acceptable to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee).

2. Progress schedules shall be sufficiently detailed to accurately depict all the Work (including any design, key submittals, procurement, and construction activities performed by the Contractor) and shall graphically represent the logical sequence and duration of activities, all in accordance with the requirements of the Contract. The information provided in progress schedules shall also include, but not be limited to, the interdependencies between the Contractors' activities and all other activities required for the successful completion of the Contract, e.g., those to be performed by utility companies or by other entities. All Milestone dates specified in the Contract shall be represented in the schedule by Milestone activities that are logically interrelated to the work that must be accomplished in order to achieve the Milestone.
3. Progress schedules shall be updated monthly and submitted to Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) for review and approval. The Contractor shall update the progress schedule showing for each such item of work of the Contract the actual start dates, physical percent complete, expected completion dates (for activities in progress), a brief narrative explaining how the planned completion will be achieved and the actual completion dates. No logic or duration changes shall be made therein without the written approval of the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee).
4. Approval of any progress schedule shall not relieve the Contractor of its obligation to complete the Work by the time(s) required in the Contract and in accordance with all other Contract provisions, even though the schedule approved may be inconsistent with such completion.
5. The submittal of progress schedules under this section shall not be deemed to be a substitute for the reporting requirements of the "Daily Progress Reports".

SECTION 12 - DAILY PROGRESS REPORTS

The Contractor shall furnish to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) at the end of each day Work is performed at the construction site, a Daily Progress Report showing for that day stating:

1. The location and type of construction performed.
2. The type of equipment used identifying each piece of equipment as owned by the Contractor or rented from others.
3. A statement of any unusual occurrence.
4. Weather conditions
5. The names and number of workers in each trade classification that were employed.

Such reports shall not be deemed to be a substitute for the notices, time slips, memoranda or other data required under provisions of the Contract relating to compensation for Extra Work.

SECTION 13 - HOURS OF WORK

Subject to all requirements stated elsewhere herein, the Work shall be performed between the hours of 8:00 AM and 4:30 PM Monday through Friday.

If Contractor shall require performing Work during hours other than those listed above, Contractor shall submit to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee), at least one week in advance, the proposed schedule of hours of Work for approval.

Contractor shall not perform Work at the construction site outside of these time periods or on a Federal or New York State legal holiday unless otherwise authorized in writing by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee). .

SECTION 14 - CONTRACTOR'S MEETINGS

The Contractor shall conduct job progress and coordination meetings with subcontractors in the Contractor's field office or on the job site every two weeks, or as frequently as job conditions require or the Architect/Engineer may request. The Architect/Engineer shall be notified and, at the Architect/Engineer's option, may attend these meetings. The Contractor shall prepare and distribute minutes to the Architect/Engineer and the subcontractors within forty-eight (48) hours of the day following the meetings. The Contractor shall attend separate job progress and coordination meetings with the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) every two weeks, or at times otherwise requested by Assistant Vice President of Engineering and Capital Projects & Planning (or their designee).

SECTION 15 - CONTRACTOR'S FIELD OFFICE AND REPRESENTATIVE

At a readily accessible point on or near the construction site, the Contractor shall maintain a field office provided with a telephone.

During the performance of any Work at the construction site, the Contractor shall have a representative thereat who shall be authorized by the Contractor to receive and put into effect promptly all orders, directions and instructions from the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) . The Contractor's representative shall be provided, at all times, with a conformed copy of this Contract and a set of the Contract Drawings.

If an oral instruction is given, Contractor shall promptly memorialize the instruction in writing to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee), and the instruction will stand only upon written confirmation by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee). For any orders regarding a change in the Work, Extra Work, repairs, replacements and the like, Contractor must follow the process for Change Orders set forth in Section 3 of Schedule A.

SECTION 16 - TEMPORARY STRUCTURES

Unless otherwise provided in this Contract, the Contractor shall determine the need for and shall design, furnish and construct all barricades, fences, staging, formwork, shoring, scaffolding and other temporary structures required in the performance of the Contract, whether or not of the type enumerated in the Specifications or on the Contract Drawings, including those which would be required by law or

regulation if this Contract were being performed for a private corporation. All such temporary structures shall be of adequate strength for the purposes for which they are constructed and shall be provided with graphics, warning signs and warning lights as required informing personnel and the public of the hazards being protected against, and the Contractor shall maintain them in satisfactory condition. The design and drawings for such structures are to be prepared by the Contractor, and when requested by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) they shall be submitted for review by the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) before being used. Neither such approval, however, nor any requirements of the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee), the Specifications or the Contract Drawings shall relieve the Contractor of responsibility for the design, construction and use of the temporary structures or from any obligations and risks imposed on the Contractor under this Contract, and any such approval or requirements shall be deemed merely to relate to minimum standards and not to indicate that the temporary structures are adequate or that they meet the Contractor's obligations under this Contract. The temporary structures shall be removed from the construction site following completion of the Work.

SECTION 17 - TEMPORARY SANITARY FACILITIES

The Contractor shall make arrangements for securing and shall pay all costs for temporary toilets, wash facilities and drinking water including toilet tissue, paper towels, paper cups and similar disposable materials for use by the Contractor, subcontractors or other persons over whom the Contractor has control. The Contractor shall comply with all applicable regulations and health codes. The Contractor shall install facilities where directed by RIOC, and remove from RIOC property when no longer required.

SECTION 18 - SAFETY PROVISIONS

In the performance of the Contract, the Contractor shall exercise every precaution to prevent injury to workers and the public or damage to property.

The Contractor shall, at its own expense, provide temporary structures (as provided above), place such watchmen, design and erect such barricades, fences and railings, give such warnings, display such lights, signals and signs, exercise such precaution against fire, adopt and enforce such rules and regulations, and take such other precautions as may be necessary, desirable or proper, or as may be directed.

All employees on the Work shall carry valid and current photo identification whenever they are working at the site. All employees on the Work shall be certified as having successfully completed the OSHA 10-hour construction safety and health course. Copies of each employee's identification and OSHA certification shall be submitted to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) for his record.

The Contractor shall conduct weekly Tool Box Talks on site. A copy of meeting agenda shall be signed by all attendees and submitted to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee).

The Contractor shall employ for Work of the Contract a competent person conforming to the requirements of the Code of Federal Regulations 29 CFR 1926.32(f) who shall be designated by the Contractor as authorized to perform the duties required by 29 CFR 1926 et seq. as applicable for Work of this Contract.

The Contractor shall obtain and submit to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) one copy of material safety data sheet (MSDS) conforming to the requirements of 29 CFR 1910.1200(g) for each hazardous chemical utilized for permanent and consumable materials employed for Work of this Contract.

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss, including but not limited to:

1. All employees on the Work, the public and other persons and entities who may be affected thereby;
2. All the Work, materials and equipment to be incorporated therein, whether in storage on or off the site; and
3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation or replacement in the course of construction.

The Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and the Contractor has removed all workers, material and equipment from the construction site, or the issuance of the Certificate of Final Completion, whichever shall occur last.

Until fire protection needs are supplied by permanent facilities under this Contract, the Contractor shall install and maintain temporary fire protection facilities. The Contractor shall comply with requirements of National Fire Protection Association NFPA 10 "Standard for Portable Fire Extinguishers" and NFPA 241 "Standard for Safeguarding Construction, Alteration and Demolition Operations". The Contractor shall employ only such workers as are physically fit and are free from contagious or communicable diseases. The Contractor shall use only machinery and equipment adapted to operate with the least possible noise, and shall so conduct its operations that annoyance to occupants of nearby property and the general public will be reduced to a minimum. The bringing of intoxicating substances onto the construction site and the use or consumption of intoxicating substances at the construction site is prohibited. It shall be the responsibility of the Contractor to insure that all employees of the Contractor and of all subcontractors, material men and any other persons under contract to or under the control of the Contractor shall comply with the provisions of this paragraph.

Before the Certificate of Final Completion of Work will be issued, the Contractor shall remove all surplus materials, false work, temporary fences and other temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from its operations and shall put the construction site in a neat, orderly condition. In the event the Contractor encounters at the construction site, material reasonably believed to be asbestos, polychlorinated biphenyl (PCB) or any other hazardous material, the Contractor shall immediately stop Work in the area affected and report the condition in writing to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) . Work in the affected area shall not thereafter be resumed by the Contractor except upon the issuance of a written order to that effect from the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee).

Within fifteen (15) days of the acceptance of its Proposal, the Contractor shall submit to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee), for review, the Contractor's Site Safety Program, which shall be specific for the construction site and include a

description of the Work to be performed, a hazard assessment of the Work to be performed and the means by which such hazards shall be mitigated. The Contractor's Site Safety Program shall comply with all applicable federal, state, municipal and local and departmental laws and shall include, among other things, the designation by the Contractor of a qualified individual to administer such Site Safety Program.

SECTION 19 - ACCIDENTS AND FIRST AID PROVISIONS

The Contractor shall promptly report in writing to RIOC all accidents whatsoever arising out of or in connection with the performance of the Contract, whether on or adjacent to the construction site, which result in death, injuries or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damage is caused, the accident shall be reported immediately by telephone and in writing to the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee)

The Contractor shall provide at the construction site such equipment and medical facilities as are necessary to supply first aid service, in case of accident, to any who may be injured in the progress of the Contract. The Contractor shall have standing arrangements for the removal and hospital treatment of any person who may be injured while engaged in the performance of the Contract.

If any claim is made by any third person against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the fact in writing to RIOC giving full details of the claim.

SCHEDULE B1

DESCRIPTION OF WORK AND ADDITIONAL TERMS

SECTION 1 - DESCRIPTION OF THE WORK

SECTION 2 - LIST OF DRAWINGS AND SPECIFICATIONS

SECTION 3 - SPECIAL INSTRUCTIONS AND REQUIREMENTS

SECTION 4 - BONDING REQUIREMENTS

Contractor must deliver to RIOC an original Payment & Performance Bond for the full value of work and a Labor and Materials Bond for an amount not less than one hundred percent (100%) of the materials payment (for payment to all persons furnishing materials in connection therewith) for not less than one hundred percent (100%) of the Contract amount. These bonds shall be issued by an "A" rated Surety Company and shall stipulate that they are for this Contract and that they will remain in effect for the duration of the Contract.

SECTION 5 – INDEMNITEES

The following are additional Indemnitees under Section 13 of Schedule A: [REDACTED].

SECTION 6 - ADDITIONAL INSUREDS

The following shall also be named as additional insureds on the Contractor's Commercial General Liability Insurance and Automobile Liability Insurance, in addition to those listed under Section 14 of Schedule A: [REDACTED].

SECTION 7 - KEY PERSONNEL

The Contractor shall assign the following key personnel to performance of the Work: [include name and title/position]. The Contractor shall not change its key personnel without RIOC's written consent, which may be granted or withheld in RIOC's sole discretion.

SECTION 8 – MILESTONES

[REDACTED]

SCHEDULE B2

SECTION 1 - CONTRACT SUM BREAKDOWN AND RETAINAGE

The Contract Sum is:

- a. a fixed price
- b. a not-to-exceed price

[Strike either (a) or (b).]

If the Contract Sum is a fixed price, payments shall be based on percentages of completion of the Work using the following schedule of values:

If the Contract Sum is a not-to-exceed price, payments shall be based on Work performed using the following hourly rates and/or unit prices:

Such not-to-exceed price represents the maximum sum payable to the Contractor for performance of the Work; provided, however, that this sum will be adjusted if actual unit quantities exceed the quantities stated in Schedule B1 (Description of Work).

Prevailing Rate Case Number (PRC#) [FILL IN THE NUMBER] has been assigned to this project. The rate schedule associated with this PRC# is incorporated herein and explicitly made part hereof. All wages paid under this Contract must be consistent with this PRC# schedule.

Certified Payroll: All contractors and subcontractors working on projects covered by Article 8 of the Labor Law must provide certified payroll records to the NYSDOL through the Certified Payroll portal at <https://dol.ny.gov/Electronic-Payroll>.

All hours billed must be supported by copies of actual timesheets signed by Contractor's employee, his or her respective supervisor, and approved by a RIOC project manager.

Retainage of [REDACTED] percent ([REDACTED]%) will be withheld from all payments until Substantial Completion of the Work. It is within RIOC's sole determination as to what constitutes Substantial Completion of the Work as well as what constitutes Reasonable Estimated Costs to correct or complete incorrect items of Work. When the Work has reached Substantial Completion to RIOC's satisfaction, RIOC shall pay the Contractor the retainage, if any, less two times the Reasonable Estimated Cost to correct or complete incorrect or incomplete items of Work. Final payment of such withheld sum shall be made upon correction or completion of such items and Final Completion of all Work.

There is no obligation whatsoever on the part of RIOC to pay any amounts beyond those stated above. The Contractor shall have no claim to any additional amounts except as expressly authorized by written Change Order executed by RIOC.

SECTION 2 - ADJUSTMENTS OF CONTRACT SUM

If any Work required by the Contract Drawings and Specifications in their present form shall be countermanded or reduced, the President/Chief Executive Officer of RIOC shall have full authority on behalf of both parties to make such adjustment by way of reduction in the Contract Sum as the President/Chief Executive Officer may in his or her sole discretion deem equitable and reasonable, and in making such adjustment, no allowance to the Contractor shall be made for anticipated profits.

SECTION 3 - COMPENSATION FOR EXTRA WORK

The President/Chief Executive Officer of RIOC (or their designee) shall have authority to agree in writing (via Change Order) with the Contractor on behalf of the RIOC upon lump sum or other compensation for Extra Work.

If the Change Order provides for an adjustment to the Contract Sum, the President/Chief Executive Officer of RIOC (or their designee) shall determine the method of such adjustment based on one of the following:

- 1) Mutual acceptance of a lump sum, or time & materials, with costs properly itemized and supported by sufficient substantiating information to permit evaluation as deemed appropriate by RIOC. Itemized support for Change Orders shall be submitted for Extra Work (whether performed by Contractor directly or through a subcontractor) as follows:
 - a. Materials shall be itemized;
 - b. Equipment shall be itemized;
 - c. Labor shall be per project-specific Prevailing Wage Schedule;
 - d. Overhead and Profit shall include all applicable bonds, insurances and taxes.
- 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.

Overhead and Profit combined, shall be determined as follows:

- 1) For any work performed by Contractor: ten percent (10%) of the cost;
- 2) For any work performed through a subcontractor: five percent (5%) of the cost to Contractor, and ten percent (10%) of the cost to the subcontractor;
- 3) Additional costs to which Overhead and Profit is to be applied shall be limited to the following:
 - a. Cost of materials, including applicable taxes and cost of delivery;
 - b. Rental value of equipment and machinery.

SECTION 4 - COMPENSATION FOR PREMIUM TIME

Where the Assistant Vice President of Engineering and Capital Projects & Planning (or their designee) directs that the Contractor perform Work at times other than those elsewhere specified in the Contract, and the Contractor directly or through a subcontractor is obligated by the provisions of its applicable collective bargaining agreement to pay premium time rates for such Work, then the Contractor shall be compensated for the cost differential between regular time rates and premium time rates at an amount equal to the total of the following:

1. For premium time rates paid by the Contractor to its own forces, an amount equal to the premium time portion of the salaries and wages which the employer is required to pay and actually pays to its employees pursuant to the terms of its applicable collective bargaining agreement for the overtime period or periods described above, plus a proper proportion, if any, computed upon the basis of premium time salaries and wages of (1) taxes actually paid by the employer pursuant to law, (2) vacation allowances, other fringe benefits and union dues and assessments which the employer actually pays pursuant to contractual obligations, and (3) increased premiums paid by the Contractor plus five per cent (5%) of such premium portion.
2. For premium time rates paid by a subcontractor, an amount equal to the premium time portion of the salaries and wages which the employer is required to pay and actually pays to its employees pursuant to the terms of its applicable collective bargaining agreement for the overtime period or periods described above, plus a proper proportion, if any, computed upon the basis of premium time salaries and wages of (1) taxes actually paid by the employer pursuant to law, (2) vacation allowances, other fringe benefits and union dues and assessments which the employer actually pays pursuant to contractual obligations, and (3) increased premiums paid by a subcontractor plus five per cent (5%) of such premium portion, plus two per cent (2%) of the foregoing cost.

SCHEDULE C

SECTION 1 - DEFINITIONS UNDER ARTICLE 15-A REGULATIONS

The following definitions set forth in Executive Law Article 15-A are provided to the Contractor for ease of reference only:

1. "Certified business" shall mean a business verified by New York State as a minority or women owned business enterprise pursuant to Section 314 of the Executive Law.
2. "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:
 - a. Black persons having origins in any of the Black African racial groups;
 - b. Hispanic persons of Mexico, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
 - c. Native American or Alaskan native persons having origins in any of the original peoples of North America;
 - d. Asian and Pacific Islander persons having origins in any of the Far East countries, Southeast Asia, the Indian subcontinent or the Pacific Islands.
3. "Minority-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:
 - a. at least fifty-one percent owned by one or more minority group members;
 - b. an enterprise in which such minority ownership is real, substantial and continuing;
 - c. an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;
 - d. an enterprise authorized to do business in this state and independently owned and operated;
 - e. an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a "personal net worth" (as defined in subdivision 19 of Section 310 of the Executive Law) that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and
 - f. an enterprise that is a "small business" pursuant to subdivision 20 of Section 310 of the Executive Law.
4. "Women-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:
 - a. at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;
 - b. an enterprise in which the ownership interest of such women is real, substantial and continuing;
 - c. an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;
 - d. an enterprise authorized to do business in New York State and independently owned and operated;
 - e. an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a "personal net worth" (as defined in subdivision 19 of Section

310 of the Executive Law) that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and

- f. an enterprise that is a “small business” pursuant to subdivision 20 of Section 310 of the Executive Law.

SECTION 2 - DEFINITIONS UNDER ARTICLE 3 REGULATIONS

The following definitions set forth in the Veterans’ Services regulations Chapter 13, Article 3, Section 40 are provided to the Contractor for ease of reference only:

“Certified service-disabled veteran-owned business enterprise” shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

1. at least fifty-one percent owned by one or more service-disabled veterans;
2. an enterprise in which such service-disabled veteran ownership is real, substantial, and continuing;
3. an enterprise in which such service-disabled veteran ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;
4. an enterprise authorized to do business in this state and is independently-owned and operated;
5. an enterprise that is a small business which has a significant business presence in the state, not dominant in its field and employs, based on its industry, a certain number of persons as determined by the director, but not to exceed three hundred, taking into consideration factors which include, but are not limited to, federal small business administration standards pursuant to 13 CFR part 121 and any amendments thereto; and
6. certified by the Office of General Services.