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**CONTRACT FORMS**

**Woonasquatucket River Greenway**

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PROVIDENCE, RHODE ISLAND

**List of Forms**

1. AGREEMENT

Misc. Agreement Forms:

(TO BE SUBMITTED PRIOR to CONTRACT SIGNING)

2. CONTRACT BOND FOR COMPLETE PERFORMANCE AND FULL PAYMENT
3. LABOR AND MATERIAL PAYMENT BOND

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**CONSTRUCTION AGREEMENT**  
**Woonasquatucket River Greenway Improvement Construction**

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PROVIDENCE, RHODE ISLAND

**CONSTRUCTION AGREEMENT BETWEEN THE CITY OF PROVIDENCE, THE CITY OF PROVIDENCE DEPARTMENT OF PLANNING AND DEVELOPMENT, AND THE PROVIDENCE PUBLIC BUILDINGS AUTHORITY,  
AND  
MANAFORT BROTHERS  
INCORPORATED**

**WOONASQUATUCKET RIVER GREENWAY IMPROVEMENT CONSTRUCTION**

This Construction Agreement ("Agreement") is made this 11th day of **October**, 2023 by and between the City of Providence, City of Providence Department of Planning and Development (DPD) and the Providence Public Buildings Authority (PPBA) (collectively "Owner") and **Manafort Brothers Incorporated, 414 New Britain Ave, Plainville CT 06062** ("Contractor") (jointly, "Parties").

**Project:** R.I. Federal Aid Project No. STP-WRGW-001 and R.I. Contract No. 2018-EC-001 are for the Woonasquatucket River Greenway project. The work to be performed under this Contract includes, but is not limited to, all labor, material and equipment necessary to construct shared use path, sidewalk, and roadway improvements on Kinsley Avenue, Promenade Street, and Providence Place between Eagle Street and Park Street; and also at the intersection of Francis Street at Finance Way in the City of Providence, RI. Included in the work is the installation of bituminous shared use path, new concrete sidewalk, curb ramps, and detectable warning systems; the resurfacing of the area roadways; the construction of a slip lane at the intersection of Promenade Street and Bath Street; removal and disposal of existing signs and installation of new signs; installation of pavement markings; the installation of new traffic signals and existing traffic signal modifications; the installation of green infrastructure; the installation of new decorative lighting poles; the installation of a fence and a gate; landscaping improvements; the installation of a kayak launch and pocket parks and all other incidentals necessary to execute the work complete in place and accepted within the limits of this contract to the satisfaction of the Engineer.

**Project Address:** Kinsley Avenue, Promenade Street, and Providence Place between Eagle Street and Park Street; and also at Francis Street at Finance Way.

Contractor agrees to complete the work identified in this Agreement and in the Contract Documents, ("Project"). With regard to the Project, Owner and Contractor agree:

**1. CONTRACT DOCUMENTS**

- 1.1. This Agreement, the scope of work, invitation for bids, and any other documents referenced in or attached to this agreement are collectively referred to as the "contract documents," and include:
- 1.2. Contract Documents prepared by the Department of Planning and Development and issued by Owner as part of the Request for Bids – Woonasquatucket River Greenway awarded in October 2023;
  - 1.2.1. Bid submitted by Contractor dated July 3, 2023;
  - 1.2.2. Contract Documents, Woonasquatucket River Greenway Improvement Construction, prepared by Department of Planning and Development, dated May 2023;

1.2.3. Plan of Woonasquatucket River Greenway, Kinsley Avenue, Providence Place & Promenade Street (Eagle Street to Park Street), City of Providence, RI Contract No. 2022-CE-062, prepared by McMahon Associates, Inc. and Horsley Witten Group, Inc., dated May 2023;

- 1.3 Each of the Contract Documents forms part of and is fully incorporated in this Agreement.
- 1.4 To the extent any of the Contract Documents that form part of and are incorporated in this Agreement differ or contradict the terms of this Agreement, the terms of this Agreement shall control.

## 2. SCOPE OF WORK AND AGREEMENT PRICE

- 2.1 Contractor, having examined the Contract Documents and Project Site, agrees to be bound by the Contract Documents.
- 2.2 Contractor agrees to furnish all required Project Management, labor, materials, equipment, competent supervision, tools, safety measures, transportation costs, proof of insurance, performance bond and payment bond (as directed by Owner) and any and all other appurtenant items necessary for complete performance of the Contract Work in a good and workmanlike manner.
- 2.3 The Contract Work shall conform to all applicable laws, regulations and/or ordinances of any and all governmental agencies including Quasi and having jurisdiction over the Contract Work. All required standards required by the Utility Providers shall be strictly complied with unless otherwise confirmed in writing by the Engineer and Owner.
- 2.4 Contractor agrees to perform the necessary construction, project installation and oversight work set forth in the Scope of Work.
- 2.5 Contractor agrees to perform the Contract Work strictly in accordance with the Contract Documents, task order and subject to the final approval of Owner for the Agreement Price (\$10,263,463.00). Owner and Contractor may amend the Agreement Price (\$10,263,463.00) only by a written Change Order executed by both Parties. Contractor shall not charge overtime or travel time to Owner unless Owner first approves such charges in writing.
- 2.6 Contractor is responsible for the cleanup and removal of all debris associated with the Contract Work to assure the safety and protection of all persons and property associated with the Project.
- 2.7 If the progress schedule cannot be met due to business interruption and circumstances beyond the control of Contractor, the Owner and Contractor shall discuss and document the cause of such delay and present to the Owner to review and discuss reasonable means to complete the work to avoid further delay. No overtime work will be conducted without an agreed upon Change Order.
- 2.8 From Time to Time the Contractor may be given advanced notice of special events taking place within the Project Limit Lines that will require special attention to work around and/or otherwise provide detailed cleanup, minimize road openings and sidewalk closures as well other applicable tasks that may be required. These events will be required to be captured in the Project Schedule and worked around as necessary to accommodate the events and assure that efforts are made to accommodate the events. Potential events in and around the project area, based on past years, include but are not limited to:
- Waterfire
  - Events at the Dunkin' Donut Center
  - Events at the Convention Center

- Events at the Veterans Memorial Theater
- Events on Federal Hill

2.9 Contractor is employed as an independent contractor to perform the Contract Work and is responsible to provide all tools, equipment and incidentals required to complete the Work.

2.10 Contractor has examined the Project Site and has acquainted themselves with local conditions, including readable availability of a project management Team, labor, subcontractors, equipment and materials.

2.11 Based on the Contractors examination of the Project Site, the Contractor accepts all open and obvious conditions at the Project Site visible upon reasonable inspection as of the date of this Agreement. No allowances will be made after the date of this Agreement for any oversight, error or omission by Contractor in assessing the Project Site with respect to the Scope of Work to be performed and the Agreement Price for conditions falling within these parameters.

### 3. PERFORMANCE AND WARRANTY

3.1 Time is of the essence.

3.2 Contractor shall cooperate with Owner in scheduling and performing the Contract Work to avoid conflict, delay in or interference with any separate work of the Owner or other engineers or contractors. Performance requirements may be included in task order, to be agreed to by the City and Contractor.

3.3 At Owner's request, Contractor shall promptly provide Owner with proof of the ordering of all materials, equipment and supplies required for complete performance of the Contract Work.

3.4 Upon execution of this Agreement, Contractor shall promptly provide the Owner with a schedule of work to be performed, which shall be considered a living schedule and update a minimum of every two weeks. Failure to submit an update may result in rescinding work and/or withholding of payment. The schedule must be agreed upon between the Owner and Contractor before execution of the work.

3.5 Contractor shall use only new material for the Contract Work. Contractor shall remove and replace promptly, at Contractor's own expense, all defective or nonconforming work or materials. Contractor shall promptly report to Owner, in writing, any errors, inconsistencies or omissions relating to the Contract Work and any errors, inconsistencies or omissions in the Drawings and Specifications. Contractor may use salvaged materials with the approval of the Owner provided environmental test reports are provided to assure they are not contaminated. Test reports shall be provided in advance of materials being brought to the site. No excavated material from this project shall be reused.

3.6 Contractor shall complete each aspect of the Contract Work in strict accordance with the standards set forth in this Agreement and the other Contract Documents. Notice to proceed will be issued upon the Contractor's furnishing of insurance, bond, and execution of this Agreement. Contractor shall begin the work no earlier than October 11, 2023, no later than October 31, 2023, and must substantially complete work by October 11, 2024 and fully complete work by November 15, 2024 unless otherwise stipulated in the task order. The Completion Date may be changed only by a written Change Order signed by the Contractor and Owner. Contractor's failure to perform and timely complete each aspect of the Contract Work, excluding delays caused by Owner or third party persons who are not under Contractor's control, in strict accordance with the Contract Documents, or delay of any work by other engineers, contractors or Owner caused by Contractor, constitutes a material breach of this Agreement, and Contractor shall be responsible for all additional costs incurred by Owner or other engineers or contractors, including overhead, profit, attorneys' fees and litigation expenses resulting from any such breach.

3.7 If Contractor, by its own fault or omission, fails to diligently pursue completion of the Contract Work, overtime work may be required by Contractor without additional compensation from Owner.

3.8 In certain situations, Contractor may be required by Owner to work overtime and, if Contractor is not in default under the Agreement, Contractor shall be paid additional compensation as agreed to in writing prior to performance of the overtime work. Owner must approve in advance and in writing all overtime work for which Contractor seeks additional compensation and such overtime work will be addressed in a Change Order.

The Contractor shall provide Schedule of Rates for all Labor and Equipment as part of the Bid for the project. This rate table will be used for adjustments in costs in the event they are required.

The rate Schedule will be reviewed during Bid Review process for fairness and will be part of the review for the De-Scope Meeting.

3.9 Contractor agrees to keep Owner informed both verbally and in writing as to the progress of the Contract Work and shall perform the Contract Work faithfully and in such order as necessary to keep the overall Project on schedule and to avoid any delay in completion of the Project. Failure to updated project schedule may result in rescinding work and/or withholding of payment.

3.10 Contractor shall provide safe and proper facilities for inspection at all times during performance of the Contract Work including preparing and maintaining a **Safety Plan to be submitted prior to the start of Work.**

3.11 Contractor warrants that the Contract Work shall (i) be free of defects in material and workmanship for a period of Two (2) years except where prescribed to be for a longer period; (ii) comply with the Drawings and the Specifications or as otherwise agreed to by the Parties; (iii) be performed in safe and workmanlike manner by trained, qualified, and efficient workers, in strict conformity with construction best practices; and (iv) be constructed of new materials of the most suitable grade for the application, and furnish satisfactory evidence to Owner of the type and quality of materials so furnished and used. In the event that the Contract Work fails to meet any of the aforementioned warranties, Contractor shall have the right to cure any nonconforming or defective Work and may replace the defective Contract Work, or reimburse Owner for the Contract Work at the invoice or market price, within thirty (30) days after discovery of the breach of warranty. Contractor shall also, at its cost, remove all material, equipment, and Contract Work which does not comply with the Drawings or meet the Specifications, or is otherwise defective, whether incorporated in the Project or not, and shall re-execute the Contract Work and correct any other work damaged thereby. If Contractor does not remove nonconforming or defective Contract Work promptly, Owner may do so and restore such nonconforming Contract Work at Contractor's expense.

3.12 Contractor shall reimburse Owner for all reasonable costs and expenditures made in the settlement of any claim against Owner relating to nonconforming or defective Contract Work.

3.13 Neither acceptance of the Contract Work nor payment of some or all of the Agreement Price shall relieve Contractor of responsibility for faulty materials, equipment or workmanship. Contractor shall remedy, as soon as possible, defects appearing within two (2) years from the date of final payment, or within such longer period of time as provided by any manufacturer's warranty, and correct resulting damage to other work at no cost to Owner.

#### 4. ASSIGNMENT

4.1 Contractor shall not assign or sublet the whole or any part of this Agreement or any funds accrued or to accrue under this Agreement without the prior written consent of Owner; any

assignment or sublet without prior written consent of Owner shall be voidable at the election of Owner. Owner retains the right to refuse any and all assignments or subletting in Owner's sole and absolute discretion. Any attempt to assign this Agreement in whole or in part without Owner's prior written consent constitutes a material breach of this Agreement.

## **5. CHANGES AND DELAYS**

- 5.1 Contractor shall not deviate from the Contract Documents except on written order of Owner, received by Contractor before beginning any deviation.
- 5.2 Owner may make written changes in the Contract Documents which may add to or deduct from the Contract Work without invalidating this Agreement. All work outside the scope of the Contract Work to which Contractor is directed to perform by Owner or Owner's authorized representative without an agreement as to the price for the work shall be preserved and resolved through the dispute resolution clause in Section 14 of this Agreement.
- 5.3 Unless a written Construction Change Directive has been issued to Contractor by Owner directing that certain work be performed prior to agreement on extra compensation and/or time or in the event of a dispute as to whether the work is within the original Scope of Work, no extra compensation for extra work, materials or any time extension shall be allowed unless a written Change Order has been signed by Owner, nor shall Contractor proceed with extra work without a written Change Order signed by Owner. Compensation for any work added by a Change Order shall be in accordance with unit prices, applicable add/alternate prices, a lump sum price, or with the prior approval of Owner, shall be performed on a time and material basis with a detailed account of labor and material costs associated with the work.
- 5.4 Recovery by Contractor for delays caused by Owner shall be limited to time extensions only as set forth in an executed Change Order. Contractor shall not be entitled to damages or compensation for any losses on account of delay from any cause whatsoever, including, but not limited to, any act, neglect, omission, default or failure of performance by Owner or separate contractors, failure to obtain required materials, delay in obtaining permits, or other conditions. Notwithstanding the above, the Owner at its sole option may consider an "equitable adjustment" for any claim by the Contractor for any delay caused by the Owner pursuant to this paragraph. It is understood that the Contractor has no claim for delay pursuant to this paragraph unless specifically agreed upon by the Owner at the Owner's sole discretion and any claim for delay shall be presented to the Owner in detail format itemizing the dollar amount of delay with necessary backup for the Owner's consideration.
- 5.5 If materials are not delivered promptly, Owner may expedite or substitute delivery of material to be supplied by Contractor and back charge Contractor for any costs incurred.

## **6. PROTECTION OF THE WORK AND EMPLOYEES; SUPERVISION AT THE PROJECT SITE**

- 6.1 Until the Contract Work is complete, Contractor shall effectively secure and protect the Contract Work and shall repair and/or replace all loss or damage to the Contract Work caused by the Contractor or anyone for whom Contractor is responsible.
- 6.2 Following completion of the Contract Work, Contractor shall be bound by the warranty obligations of Contractor and its subcontractors and suppliers.
- 6.3 Contractor shall at all times supply a sufficient number of skilled workers to perform the Contract Work in a timely and efficient manner. In addition, Contractor shall assign a competent person who shall supervise the performance of the Contract Work, be present at the Project Site at all times when Contract Work is being performed, and act as Contractor's representative at the Project Site for the purposes of coordinating Contractor's activities with those of the Owner and others at the Project Site.

## 7. BREACH AND REMEDIES

- 7.1 Contractor shall be deemed to be in material breach of this Agreement if Contractor: (i) fails to perform the Contract Work in strict accordance with the Contract Documents or task order; (ii) fails to provide competent supervision or a sufficient number of properly skilled workers; (iii) fails to supply sufficient material or equipment of proper quality; (iv) fails to correct nonconforming or defective work promptly; (v) fails to perform any terms of this Agreement; (vi) is unable to meet its debts or fails to pay promptly for labor, material or other obligations; (vii) becomes financially insecure; (viii) disregards any law, including, without limitation, the Environmental Laws (as defined in Section 8.5), rules, regulations or ordinances applicable to the Contract Work; (ix) by negligent act or omission causes delay or interference with Owner or separate contractors; (x) assigns this Agreement for any reason without the prior written consent of Owner; or (xi) performs or fails to perform any act the commission or omission of which is defined elsewhere in the Contract Documents as a material breach of this Agreement or which would constitute a material breach at common law.
- 7.2 In the event of Contractor's breach, Owner shall have the following remedies in addition to any other remedies available at law or in equity:
- 7.2.1 Upon five (5) days' written notice to Contractor, Owner may declare Contractor in breach of this Agreement subject to the Contractor's right to cure, and after such time, the Owner may (i) terminate the Agreement; (ii) after termination, employ one or more other contractors to complete the Contract Work; (iii) complete the Contract Work with its own forces; or (iv) employ some combination of the foregoing to complete the Contract Work. Upon Contractor's breach, Contractor shall assign all material, equipment, tools, services, and supplies, and all of Contractor's agreements and supply contracts to Owner for the purpose of assisting Owner's completion of the Contract Work by any of the foregoing means. Equipment and tools left on the Project Site subject to a security or rental agreement shall be returned to Contractor. Equipment or tools owned outright by Contractor left on the Project Site may be assigned to Owner upon the termination of this Agreement resulting from Contractor's breach of the Contract Documents for use to complete the Project.
- 7.2.2 Contractor shall remain liable to Owner for all costs incurred by Contractor in completing the Contract Work caused by Contractor's breach of the terms of this Agreement.
- 7.3 If Contractor breaches this Agreement, Contractor shall not be entitled to any further payments for Contract Work not completed until the Contract Work has been completed and accepted by Owner and all above-described expenses have been paid by Contractor to Owner. Contractor shall be liable to Owner for all costs of completion of the Contract Work that exceed the balance due under this Agreement, and Contractor shall promptly pay all valid amounts owed to Owner upon demand.
- 7.4 The Owner will be in breach of this Agreement and in default if any of the following events occur:
- 7.4.1 Owner fails or refuses to pay on time (generally within 60 days of acceptance of Payment Application) any monies due under the Contract Documents;
- 7.4.2 Owner fails or refuses to perform any obligation required under the Contract Documents;
- 7.4.3 Owner makes any assignment for the benefit of creditors or files any petition under any bankruptcy or debtor-relief law.

## 8. INDEMNITY

- 8.1 To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless Owner, its respective employees, agents, officers, directors and representatives (collectively, the "Indemnified Parties") from, for, of, and against any and all claims, damages, losses, liabilities, demands, costs and expenses, including but not limited to attorneys' fees and litigation expenses arising out of or resulting from, in whole or in part, the performance of the Contract Work, or which are caused, in whole or in part, by any negligent act or omission of the Contractor, or by any of Contractor's subcontractors or suppliers, or anyone directly or indirectly employed by them.
- 8.2 To the fullest extent permitted by law, Owner shall indemnify and hold harmless Contractor and its agents, officers, directors and employees from, for, of, and against any and all claims, damages, losses, liabilities, demands, costs and expenses, including but not limited to attorneys' fees and litigation expenses attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property which are caused, in whole, by any negligent act or omission of Owner, or any of Owner's separate contractors, or anyone directly or indirectly employed by them.
- 8.3 Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.

## 9. INSURANCE

- 9.1 Contractor shall purchase and maintain the following insurance for limits in amounts no less than set forth below:
- 9.1.1 GENERAL LIABILITY INSURANCE – PROPERTY DAMAGE AND BODILY INJURY: One Million Dollars (\$1,000,000) per Occurrence; Two Million Dollars (\$2,000,000) Aggregate Limit.
- 9.1.2 OWNED, HIRED AND NON-OWNED AUTOMOBILE LIABILITY INSURANCE: for Bodily Injury, Wrongful Death and Property Damage; One Million Dollars (\$1,000,000) per Occurrence; Two Million Dollars (\$2,000,000) Aggregate.
- 9.1.3 WORKERS COMPENSATION AND OCCUPATIONAL DISEASE: including Employer's Liability-Statutory Limit, such Employer's Liability limits for bodily injury by accident or disease to not be less than Five Hundred Thousand Dollars (\$500,000) each accident, Five Hundred Thousand Dollars (\$500,000) each employee and Five Hundred Thousand Dollars (\$500,000) policy limit.
- 9.1.4 UMBRELLA LIABILITY INSURANCE: Five Million Dollars (\$5,000,000) per Occurrence; Five Million Dollars (\$5,000,000) Aggregate.
- 9.1.5 POLLUTION LIABILITY INSURANCE: Two Million Dollars (\$2,000,000) policy limit.
- 9.2 All required insurance coverages listed above shall be written on an occurrence-basis, and shall be maintained continuously, without interruption, from the date of commencement of this Agreement until the completion of the Contract Work or the date of final payment for the Contract Work, whichever occurs later.
- 9.3 Certificates of insurance acceptable to Owner shall be submitted to Owner before commencement of the Contract Work. The certificates of insurance and the insurance policies required above shall include a provision stating that the insurance coverage under each policy shall not be cancelled or otherwise allowed to expire until at least thirty (30) days' advance notice has been given directly to Owner by the insurance company or companies.



9.4 The insurance policies required for general liability coverages, owned, hired and non-owned automobile liability coverage shall include Owner (City of Providence and the Providence Public Building Authority) as an additional insured and shall provide that these insurance coverages are primary and non-contributory in the event any additional insured is insured for the same coverages under another insurance policy or policies. Contractor shall provide copies of the endorsements from the carrier showing that these entities have been added as additional insured.

9.5 Nothing in the provisions of this Section shall modify, alter or otherwise affect the indemnity obligations of Contractor under Section 8 of this Agreement.

## 10. SAFETY

10.1 At its own expense and at all times, Contractor shall take all necessary precautions to protect persons and property at or adjacent to the Project Site from damage, loss, or injury resulting from performance of the Contract Work by the Contractor, its employees, subcontractors and others for whom Contractor is responsible.

10.2 If any accident occurs, person is injured, or property is damaged at or near the Project Site resulting from the performance of the Contract Work by Contractor, its employees, subcontractors or others for whom Contractor is responsible, Contractor shall immediately notify Owner both verbally and in writing.

10.3 Contractor shall maintain a safety program that complies with all applicable laws and shall comply with all specific safety requirements promulgated by any applicable governmental authority and the City of Providence, including without limitation, the requirements of the Occupational Safety and Health Act ("OSHA"). Copies of the program shall be furnished to the Owner upon request.

10.4 The Contractor shall submit a Life and Safety Plan prior to the execution of the Work including the Contractors COVID-19 Plan.

## 11. COMPLIANCE WITH LAWS

11.1 Contractor shall comply with all applicable federal, state, and local laws, codes, regulations and ordinances, including, but not limited to, the Fair Labor Standards Act, OSHA, workers compensation, social security, employment and wage and hour laws.

11.2 Contractor shall not discriminate in the employment or advancement of any employee or applicant because of race, national origin, sex, color, age, religion, creed, physical handicap, Veteran's status or any protected class.

11.3 Contractor shall maintain all records and accounts for the employment of labor and the furnishing of materials and supplies in accordance with proper accounting and record keeping procedures and with all federal, state, and local laws, codes, regulations and ordinances. Copies of such records shall be provided to Owner upon request.

## 12. PAYMENTS

12.1 For the satisfactory performance and timely completion of the Contract Work, Owner shall pay Contractor the Agreement Price, subject to additions and deductions as herein provided. Payment will be less the aggregate of previous payments.

12.2 As a condition precedent to Contractor's right to payment, Contractor shall submit to Owner pay applications in AIA format in MS Excel Format not locked based on an Owner Approved Schedule of Values containing the following, and no pay applications will be accepted or processed for payment without the following:

- 12.2.1 Project Site name and address;
  - 12.2.2 Date of the Contract Work;
  - 12.2.3 CIP Number and Name
  - 12.2.4 Milestone of Project Completion or line item percent complete in Schedule of Values.
  - 12.2.5 RIDOT DBE Utilization form
  - 12.2.6 Apprenticeship utilization reports
  - 12.2.7 Certified Payrolls
  - 12.2.8 Partial Lien Releases
  - 12.2.9 Cost Loaded Progress Schedule
  - 12.2.10 Digital Progress Photos (Labeled)
  - 12.2.11 Real time Punch List Items Addressed
- 12.3 Pencil pay applications shall be submitted digitally (unlocked MS Excel Format) to Owner on a thirty (30) day billing cycle, by. Owner shall have fourteen (14) days from receipt of a properly documented pay application to approve and certify the pay application. Owner shall review each line item independently and base payment approval on each line item. In no case shall a disputed line item constitute a rejection of an entire pay application. In the case of a disputed line item(s), payment shall be made for all other line items and disputed line item(s) shall be settled in accordance with Section 14. Owner shall generally issue payment within 60 days after the pay application is approved and certified.
- 12.4 Payment shall not be considered approval or acceptance of Contract Work or materials that do not comply with the Contract Documents.
- 12.5 Retainage in the amount of 5% will be withheld by the Owner until final completion and acceptance of the project. If the Contractor is from out of state, the 5% retainage shall be increased to 8% (3% for sales tax pursuant to RIGL 44-1-6).
- 12.6 If labor, materials or other charges relating to the Contract Work are not being paid by Contractor when due, Owner may take all steps necessary to ensure such payments are made, including paying Contractor's bills directly, and charge such payments to Contractor.
- 12.7 Owner may reduce or delay payment to Contractor for any and all of the following reasons: (i) unsatisfactory job progress; (ii) defective work or materials not remedied; (iii) disputed work; (iv) failure of Contractor to comply with the provisions of this Agreement; (v) legitimate and non-frivolous third party claims filed or reasonable evidence that a legitimate and non-frivolous claim will be filed; (vi) failure of Contractor to make timely payments for labor, equipment and materials; (vii) damage to Owner or a separate contractor; (viii) reasonable evidence that the Agreement cannot be completed for the unpaid balance of the Agreement Price, (ix) failure to submit apprenticeship utilization reports, DBE utilization reports or updated construction schedule, or (x) punch lists not being addressed as project proceed (Real Time).
- 12.8 If Contractor's materialmen, suppliers, or subcontractors file a lien or other claim, or attempt to exercise any right or remedy against Owner, Owner's interest in the Project Site, or the Project Site, Contractor shall immediately remove the lien or other claim, by payment, bond, or otherwise. If Contractor fails to act on the notice of lien or claim as outlined above within

thirty (30) days, the Owner may, in addition to its right to declare a material breach of this Agreement and exercise all rights and remedies, take whatever acts are necessary to remove the lien or resolve such claims and charge Contractor for the costs incurred.

12.9 Final payment to Contractor is conditioned upon and subject to the approval of the Contract Work by Owner. As a condition of final payment, Contractor shall provide to Owner "as built" drawings of the finished Project and all warranties, operating instructions and manuals and an agreement to hold Owner harmless from all claims, all in forms acceptable to Owner. Contractor also shall provide to Owner a lien waiver for labor and materials furnished by Contractor, its subcontractors and suppliers and from all lower tier subcontractors and suppliers who have served preliminary lien notices on Owner or Contractor. The Contractor shall provide consent of the Surety Company as well.

Acceptance of final payment shall act as a waiver and release of any and all claims by Contractor, except unknown claims for personal injury or property damage caused by Owner.

12.10 Final payment by the Owner shall in no way relieve the Contractor for liability for its obligations to repair or replace faulty or defective Contract Work discovered after final payment. All such defenses Contractor may have to such claims are preserved.

### **13. RIGHTS AND REMEDIES**

13.1 Duties and obligations imposed by this Agreement and rights and remedies available hereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available at law or in equity.

### **14. DISPUTES**

14.1 Disputes to be resolved in accordance with the Rhode Island General Law Title 37, Chapter 37-16.

14.2 All claims, disputes, and other matters in question arising out of or relating to this contract or the performance or interpretation thereof shall be submitted to arbitration. Arbitration shall be commenced by a demand in writing made by one party to the contract upon the other within a reasonable time after the dispute, claim, or other matter in question arose but in no event after payment in full of the contract price has been made and accepted. The written demand shall contain a statement of the question to be arbitrated and a detailed statement of each item or matter in dispute and the name of the arbitrator appointed by that party. The other party to the contract within ten (10) days of the receipt of the written demand shall appoint an arbitrator and give notice in writing thereof to the party who commenced arbitration. The two (2) arbitrators appointed by the parties shall within ten (10) days of the date of the appointment of the second arbitrator select a third arbitrator who shall be designated as chairperson and who immediately shall give written notice to the parties of his or her appointment. The third arbitrator shall select a time, date, and place for hearing and give each party five (5) days' notice in writing thereof. The date for hearing shall not be more than fifteen (15) days after the date of appointment of the third arbitrator. The award shall be made promptly by the arbitrators and, unless otherwise agreed by the parties or specified by law, no later than thirty (30) days from the date of closing the hearing, or, if oral hearings have been waived, from the date of the transmittal of the final statements and proofs to the arbitrators. The award shall be in writing and shall be signed by a majority of the arbitrators. It shall be executed in the manner required by law. The arbitrator shall provide a written explanation of the reasoning for the award. In the event the party of whom arbitration is demanded shall fail to appoint his or her arbitrator within the time specified or the two (2) arbitrators appointed by the parties are unable to agree on an appointment of the third arbitrator within the time specified, either party may petition the presiding justice of the superior court to appoint a single arbitrator who shall hear the parties and make an award as provided herein. The petitioner shall give five (5) days' notice in writing to the other party before filing his or her petition.

**15. GOVERNING LAW**

15.1 This Agreement shall be governed by and construed under the laws of the State of Rhode Island, without regard to its conflicts of law principles.

**16. ALL CHANGES TO AGREEMENT SHALL BE IN WRITING**

16.1 This Agreement shall not be changed except by written agreement of Owner and Contractor.

**17. LEGAL EFFECT**

17.1 In the event any provision contained herein is found to be legally unenforceable, all other provisions of this Agreement shall remain in full force and effect as if the unenforceable provision was never made a part of this Agreement.

**18. INTERPRETATION**

18.1 This Agreement is the result of negotiations between the parties and, accordingly, shall not be construed for or against either party regardless of which party drafted this Agreement or any portion thereof.

**19. NO PARTNERSHIP**

19.1 Nothing contained herein shall, or shall be deemed to, create any relationship between the Parties other than that of Owner and Contractor.

**20. FURTHER DOCUMENTS**

20.1 The Parties shall execute and deliver all such documents and perform all such acts as reasonably requested by the other party from time to time, to carry out the matters contemplated by this Agreement.

**21. RECORD KEEPING, AUDIT AND INSPECTION**

21.1 Contractor shall retain all books and records pertaining to the provision of the Contract Work for a period of no less than five (5) years after completion of all Contract Work or the termination of this Agreement, whichever occurs earlier and shall, during such time, shall permit Owner and its designated representative(s) to audit, inspect and make copies of all such books and records so maintained by Contractor. Any such audit and inspection shall take place during normal business hours upon reasonable prior notice to Contractor. The right to audit and inspect shall survive the termination of the Agreement.

**22. NOTICE**

21.1 All notices to either party pursuant to this Agreement shall be in writing and signed by a duly authorized representative of the party giving such notice and shall be served either in person, by overnight delivery service or by certified mail, return receipt requested, to the respective address for each party given in the Agreement.

**23. AUTHORITY**

21.1 The individuals executing this Agreement on behalf of the parties represent they are duly authorized to sign on behalf of the parties and bind the Parties hereto.

**24. COUNTERPARTS**

21.1 This Agreement may be signed in counterparts.

**25. NOTICES**

25.1 No notice, consent, approval or other communication given in connection herewith shall be validly given, made, delivered or served unless in writing and delivered by hand, email, or by registered/certified United States mail to Owner or Contractor, as the case may be. Correspondence shall be delivered to the respective mailing and/or email addresses set forth below, or to such other addresses as either party may from time to time designate in writing and deliver to the other party. Notices, consents, approval or communications shall be deemed given or received 24 hours after deposit in the mail, or immediately if hand-delivered or sent by email transmission. All written correspondence shall be followed by a telephone call within 24 hours of sending to confirm that it was received by the other party.

If to Owner:

Jess Lance  
Director of Special Projects Department of  
Planning and Development 444 Westminster  
Street  
Providence, RI 02903  
Phone: 401-680-8400  
[jlance@providenceri.gov](mailto:jlance@providenceri.gov)

Girard Visconti  
SAVAGE LAW PARTNERS, LLP  
564 South Water Street, Providence, RI 02903  
Phone: 401-238-8500  
[gvisconti@savagelawpartners.com](mailto:gvisconti@savagelawpartners.com)

If to Contractor:

Peter Calcagni  
Manafort Brothers Incorporated  
PO Box 99, Plainville, CT 06062  
Phone: 401-265-3871  
[pcalcagni@manafort.com](mailto:pcalcagni@manafort.com)

**26. EXHIBITS**


This Exhibit List is hereto attached to that certain Construction Agreement between the City of Providence/Providence Building Authority and the Contractor, Manafort Brothers Incorporated, for the Project known as Woonasquatucket River Greenway Improvement Construction:

EXHIBIT A	Request for Proposals dated May 22, 2023
EXHIBIT A-1	Contractor's Proposal dated July 3, 2023
EXHIBIT B	Contractor's Insurance
EXHIBIT C	Contractor's Performance and Payment Bonds (Statutory Form)
EXHIBIT D	Contractor's Schedule of Values, if applicable
EXHIBIT E	Contractor's Safety Program
EXHIBIT F	Contractor's Equal Opportunity and Affirmative Action Plan
EXHIBIT G	List of Drawings
EXHIBIT H	List of Specifications
EXHIBIT I	Full and Partial Releases
EXHIBIT J	RIGL (Prevailing Wages) Sections 37-13-5, 6, 7 & 9
EXHIBIT K	Application for Payment, AIA G702
EXHIBIT L	Project Schedule

[SIGNATURES APPEAR ON FOLLOWING PAGES]

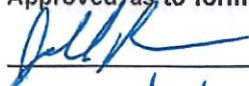
NOW, THEREFORE, the Parties execute this Agreement on the day and date listed in the Preamble.

**City of Providence Department and Planning and Development:**

  
\_\_\_\_\_  
Joseph I. Mulligan III Director  
10.26.2023


Date

**Approved, as to form and correctness:**

  
\_\_\_\_\_  
10/18/23

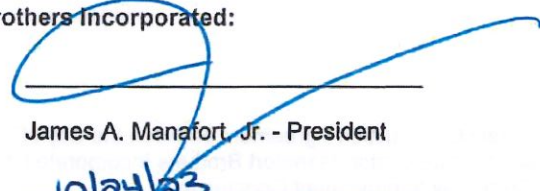
Date

**Providence Public Building Authority:**

  
\_\_\_\_\_  
Ron Crosson, Chairman  
November 6, 2023

Date

**Manafort Brothers Incorporated:**

  
\_\_\_\_\_  
James A. Manafort, Jr. - President  
10/24/23

Date



**CONSTRUCTION AGREEMENT**  
**Between**  
**CITY OF PROVIDENCE**  
**And**  
**Manafort Brothers Incorporated**  
**For**

**Project: Woonasquatucket River Greenway Improvement Construction**  
**Dated: October 11, 2023**

**INDEX**

- 1. Request for Proposal – Exhibit A**
- 2. Contractor’s Proposal – Exhibit B**
- 3. Project Schedule – Exhibit C**
- 4. Safety Plan – Exhibit D**
- 5. Partial Release of Lien – Exhibit E**
- 6. Final Release of Lien – Exhibit F**
- 7. Contractor’s Insurance – Exhibit G**



**MUNICIPAL CONTRACT ADDENDUM**  
**RHODE ISLAND DEPARTMENT OF LABOR AND TRAINING**  
**PREVAILING WAGE REQUIREMENTS**  
**(37-13-1 ET SEQ.)**

The prevailing wage requirements are generally set forth in RJGL 37-13-1 et seq. These requirements refer to the prevailing rate of pay for regular, holiday, and overtime wages to be paid to each craftsmen, mechanic, teamster, laborer, or other type of worker performing work on public works projects when state or municipal funds exceed one thousand dollars (\$1,000).

All Prevailing Wage Contractors and Subcontractors are required to:

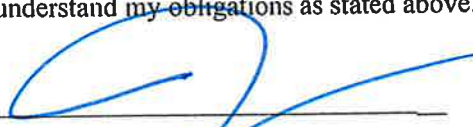
1. Submit to the Awarding Authority a list of the contractor's subcontractors for any part or all of the prevailing wage work in accordance with RIGL § 37-13-4;
2. Pay all prevailing wage employees at least once per week and in accordance with RIGL §37-13-7;
3. Post the prevailing wage rate scale and the Department of Labor and Training's prevailing wage poster in a prominent and easily accessible place on the work site in accordance with RIGL §37-13-11; posters may be downloaded at <https://dlt.ri.gov/requiredposters/> or obtained from the Department of Labor and Training, Center General Complex, 1511 Pontiac Avenue, Cranston, Rhode Island;
4. Access the Department of Labor and Training website, at <https://dlt.ri.gov> on or before July 1<sup>st</sup> of each year, until such time as the contract is completed, to ascertain the current prevailing wage rates and the amount of payment or contributions for each covered prevailing wage employee and make any necessary adjustments to the covered employee's prevailing wage rates effective July 1<sup>st</sup> of each year in compliance with RIGL §37-13-8;
5. Attach a copy of this CONTRACT ADDENDUM and its attachments as a binding obligation to any and all contracts between the contractor and any subcontractors and their assignees for prevailing wage work performed pursuant to this contract;
6. Provide for the payment of overtime for prevailing wage employees who work in excess of eight (8) hours in any one day or forty (40) hours in any one week as provided by RIGL §37-13-10;

7. Maintain accurate prevailing wage employee payroll records on a Rhode Island Certified Weekly Payroll form available for download at <https://dlt.ri.gov/wrs/prevailingwage/> as required by RIGL §37-13-13, and make those records available to the Department of Labor and Training upon request;
8. Furnish the fully executed RI Certified Weekly Payroll Form to the awarding authority on a monthly basis for all work completed in the preceding month.
9. For general or primary contracts one million dollars (\$1,000,000) or more, shall maintain on the work site a fully executed RI Certified Prevailing Wage Daily Log listing the contractor's employees employed each day on the public works site; the RI Certified Prevailing Wage Daily Log shall be available for inspection on the public works site at all times; this rule shall not apply to road, highway, or bridge public works projects. Where applicable, furnish both the Rhode Island Certified Prevailing Wage Daily Log together with the Rhode Island Weekly Certified Payroll to the awarding authority.
10. Any violation of RIGL 37-13-13 of Certified Weekly Payroll Forms and Daily Logs will result in the department imposing a penalty on the contractor of a minimum of one hundred dollars (\$100) for each calendar day of noncompliance.
11. Assure that all covered prevailing wage employees on construction projects with a total project cost of one hundred thousand dollars (\$100,000) or more has a OSHA ten (10) hour construction safety certification in compliance with RIGL § 37-23-1;
12. Assure that all prevailing wage employees who perform work which requires a Rhode Island trade license possess the appropriate Rhode Island trade license in compliance with Rhode Island law; and
13. Comply with all applicable provisions of RIGL §37-13-1, et. seq;

Any questions or concerns regarding this CONTRACT ADDENDUM should be addressed to the contractor or subcontractor's attorney. Additional Prevailing Wage information may be obtained from the Department of Labor and Training at <https://dlt.ri.gov/wrs/prevailingwage/>.


**CERTIFICATION**

I hereby certify that I have reviewed this CONTRACT ADDENDUM and understand my obligations as stated above.

By: 

Title: James A. Manafort, Jr., President

Subscribed and sworn before me this 24<sup>th</sup> day of Oct, 2023

  
Notary Public  
My commission expires: n/a



**FINAL RELEASE**

WHEREAS, the undersigned Contractor supplied labor, materials, equipment and/or services to the **Providence Public Building Authority** and the **City of Providence**, relative to improvements made to the property owned by **Providence Public Building Authority** and/or the **City of Providence**, which project was located at the street address of

\_\_\_\_\_

NOW, THEREFORE, the undersigned for and in consideration of the final payment in the amount of \$ \_\_\_\_\_, (for monies due Contractor through and including month/day/year) contingent upon the receipt of said payment, does hereby unconditionally and irrevocably waives and releases any and all actions, claims, demands, liens or other claims whatsoever against the **Providence Public Building Authority** and the **City of Providence**, the Project or the property whether arising at law, in equity or under the Mechanic's Lien law in the State of Rhode Island, which Contractor has or may have against the **Providence Public Building Authority** and the **City of Providence** or the property on account of labor, materials, equipment and/or services furnished for use at the project as of the date of the execution of this document.

The undersigned warrants that all costs for labor, materials, equipment and/or services incurred by Contractor or its employees, consultants, subcontractors, sub-subcontractors, suppliers and all tiers have been paid or will be paid out of these proceeds by the undersigned. The Contractor warrants that no obligations, legal, equitable, or otherwise will be owed to any person arising out of or from Contractor's work on the project that will not be satisfied out of the full and final payment set forth above for all work, labor, materials, equipment and/or services

performed by or furnished to Contractor on the project up to and inclusive of the date this document is executed.

Contractor agrees to indemnify, defend and hold harmless the **Providence Public Building Authority** and the **City of Providence** from any claim, lien, damage, cost or expense brought by any employee, agent or consultant of Contractor, any subcontractor or lower tier subcontractor, and any material supplier relating to any labor, material and/or equipment furnished, supplied or performed for, or on behalf of the Contractor or the project to which payment was made to Contractor for the work performed.

\_\_\_\_\_

By:

\_\_\_\_\_  
(Name and Title)

STATE OF RHODE ISLAND

COUNTY OF .....

Subscribed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

**PARTIAL RELEASE**

WHEREAS, the undersigned Contractor supplied labor, materials, equipment and/or services to the **Providence Public Building Authority** and the **City of Providence**, relative to improvements made to the property owned by **Providence Public Building Authority** and/or the **City of Providence**, which project was located at the street address of

\_\_\_\_\_

NOW, THEREFORE, the undersigned for and in consideration of payment in the amount of \$ \_\_\_\_\_, (for monies due Contractor through and including month/day/year) contingent upon the receipt of said payment, does hereby unconditionally and irrevocably waives and releases any and all actions, claims, demands, liens, damages, or any and all claims whatsoever against the **Providence Public Building Authority** and the **City of Providence**, the Project or the property whether arising at law, in equity or under the Mechanic's Lien law in the State of Rhode Island, which Contractor has or may have against the **Providence Public Building Authority** and the **City of Providence** or the property on account of labor, materials, equipment and/or services furnished for use at the project as of the date of the execution of this document. This Release does not release any pending change orders or retainage due or to become due to Contractor nor does this Release release any of the following items:.....

The undersigned warrants that all costs for labor, materials, equipment and/or services incurred by Contractor or its employees, consultants, subcontractors, sub-subcontractors, suppliers and all tiers have been paid or will be paid out of these proceeds by the undersigned. The Contractor warrants that no obligations, legal, equitable, or otherwise will be owed to any person arising out of or from Contractor's work on the project that will not be satisfied by the

payment set forth above for all work, labor, materials, equipment and/or services performed by or furnished to Contractor on the project up to and inclusive of the date this document is executed.

Contractor agrees to indemnify, defend and hold harmless the **Providence Public Building Authority** and the **City of Providence** from any claim, lien, damage, cost or expense brought by any employee, agent or consultant of Contractor, any subcontractor or lower tier subcontractor, and any material supplier relating to any labor, material and/or equipment furnished, supplied or performed for, or on behalf of the Contractor or the project to which payment was made to Contractor for the work performed.

By:

\_\_\_\_\_

(Name and Title)

STATE OF RHODE ISLAND

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me on this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_

NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_