

SECTION 00 52 13

CITY OF CENTRAL FALLS FORM OF CONTRACT

THIS AGREEMENT made this seventh (7) day of April. In the year Two Thousand and Seventeen between Martone Service Company, Inc., a business corporation organized and existing under the laws of the State of Rhode Island hereinafter called the "Contractor" and the City of Central Falls, Central Falls, Rhode Island, a body corporate and politic, created under the laws of the State of Rhode Island hereinafter called the "City".

WITNESSETH, that the Contractor and the Authority for the consideration stated herein mutually agree as follows:

ARTICLE 1. STATEMENT OF WORK. The Contractor shall furnish all labor (@ **Davis Bacon prevailing wage rates**), materials, equipment and services necessary to complete all work required for **City Hall Exterior Painting & Associated Repair Work**. Total work scope is contained within the bid package and the Contractor's quote.

ARTICLE 2. THE CONTRACT PRICE. The City shall pay the Contractor for the performance of the contract, in current funds, the sum of Two hundred twenty thousand, eight hundred and eighty seven dollars and zero cents (\$220,887.00)

ARTICLE 3. METHOD OF PAYMENT. The contract price, as stated in ARTICLE 2, shall be paid monthly. Payment will be made within forty five (45) days after receipt of a properly completed AIA Application and Certification for Payment.

ARTICLE 4. TIME OF PERFORMANCE. Work under this Contract will commence upon receipt of the Notice To Proceed. From the date of the Notice To Proceed, the Contract completion for the Basic and Alternate 1 work shall be sixty (60) calendar days and an additional thirty (30) calendar days for each Alternate 2 & 3.

ARTICLE 5. ARBITRATION. Any disputes that arise under this agreement shall be resolved by final and binding arbitration pursuant to the Construction Rule of the American Arbitration Association. Each party expressly waives any right to adjudicate any dispute in any other court or forum. Any arbitration shall be held in Rhode Island within 20 miles of the Town of South Kingstown, Rhode Island

The parties agree to submit to the jurisdiction of Rhode Island Courts to compel arbitration or to

confirm an arbitration award. The parties agree to accept service of process in accordance with the Rules of the American Arbitration Association.

ARTICLE 6. CONTRACT DOCUMENTS. The Contract shall consist of the following component parts:

- a. This instrument, including Part II, Terms and Conditions.
- b. The Contractor's bid package
- c. The Contractor's Bid dated November 28, 2016
- d. Other matters that may pertain.
 - a. This project is assisted by a State Preservation Grant from the Rhode Island Historical Preservation and Heritage Commission (RIHPHC). The property possesses architectural and historical significance recognized by RIHPHC. All work must be done in conformance with The Secretary of the Interior's Standards for Rehabilitation and all work performed will be subject to review and approval of a representative of the RIHPHC.

THIS INSTRUMENT, together with the other documents enumerated in Article 6 which said other documents are fully a part of the Contract as if hereto attached or herein repeated form this Contract, constitutes the entire agreement between the parties and shall not be modified except in writing signed by both parties to the agreement. In the event that any provisions in any component part, the provision of the component part first enumerated in Article 6 shall govern, except as otherwise specifically agreed to in writing. The various provisions in Amendments shall be construed in the order of preference of the component part of the contract which each modifies.

WITNESS WHEREOF IN, the parties hereto have executed this Agreement on the day and year first above written.

Witness:

By: [Signature]

The City Of Central Falls

By: [Signature]
Authorizing Representative

580 Broad Street
Central Falls, RI 02863

Witness:

By: [Signature]

Martone Service Company, Inc.

By: [Signature]
Michael R. Martone
Title: President

Reviewed per F.S.A.

[Signature]
Leonard Morganis
Administration & Finance Officer

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City Solicitor

Approved as to form and correctness

PART II - TERMS AND CONDITIONS

1. Termination of Contract for Cause. If, by, through, or as a result of any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this Contract, or if the Contractor shall breach or otherwise violate any of the covenants, agreements, stipulations, terms, or conditions of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five days before the effective date of such termination.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Contract by the Contractor, or any violation of any of the covenants, agreements, stipulations, terms, or conditions of the Contract by the Contractor, or any failure by the Contractor to fulfill in a timely and proper manner, his obligations under the Contract. The City may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the City from the Contractor is determined.

2. Termination of Contract Without Cause. The City shall have the right to terminate this Contract without cause by giving the Contractor a five (5) day written notice thereof. Should this contract be terminated without cause, the Contractor shall be entitled to

compensation for all services rendered through and including the date when notice of said termination was given.

- 3. Indemnification of Owner.** The Contractor shall indemnify and hold harmless the Owner against any and all suits or claims arising out of the Contractor's performance of its duties under this Contract, regardless of who makes the claim or whether it is based on the alleged negligence of the Contractor. The Contractor shall defend all such actions at its own expense, including attorney's fees, and shall satisfy any judgment rendered against the Owner in any such action.
- 4. Changes.** The City may, from time to time, request changes in the scope of services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the City and the Contractor, shall be incorporated in written amendments to this Contract in the form of Change Orders.
- 5. Personnel:**

- a. The Contractor represents that he has, or shall secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.
- b. All the services required hereunder shall be performed by the Contractor or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.
- c. No person who is serving a sentence in a penal or correctional institution shall be employed on work under this Contract.

6. Equal Employment Opportunity. During the performance of this Contract, the Contractor agrees as follows:

- a. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.
- b. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex or national origin.
- c. The Contractor shall cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

- 7. Discrimination Because of Certain Labor Matters.** No person employed on the work covered by this Contract shall be discharged or in anyway discriminated against because he has filed any complaint or instituted or caused to be instituted any proceedings or has testified or is about to testify in any proceeding under or related to the labor standards applicable hereunder to his employer.
- 8. Compliance with Local Laws.** The Contractor shall comply with all applicable laws, ordinances, and codes of the State and local governments, and shall commit no trespass on any public or private property in performing any of the work embraced by this Contract.
- 9. Subcontracting.** The Contractor shall be as fully responsible to the City for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him. The Contractor shall insert in each subcontract appropriate provisions requiring compliance with the labor standards provisions of the Contract.
- 10. Assignability.** The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the City: Provided, however, that claims for money due or to become due the Contractor from the City under this Contract may be assigned to a bank, trust company, or financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.
- 11. Conflict of Interest.**
- a. The conflict of interest provisions are applicable to this Contract; and, in addition to any other applicable conflict of interest requirement, the City and the Contractor and employees are bound by all of the pertinent conflicts of interest provisions of all Local and State laws and regulations.
 - b. No employee, officer, or agent of the Contractor or the Authority shall participate directly or indirectly in the selection or in the award or administration if a conflict, real or apparent, would be involved. Such a conflict would arise when a financial or other interest in a firm selected for the award is held by:

- 1.) An employee, officer, or agent of the City or Contractor involved in making the award;
- 2.) His or her immediate family;
- 3.) His/her partner; or
- 4.) An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

c. In addition, neither the Authority nor the Contractor or any subcontractor may not enter into any contract, subcontract, or arrangement in connection with the project to which this Contract pertains in which any of the following classes of people has an interest, direct or indirect, during his or her tenure or for one year thereafter:

- 1.) Any present or former member or officer of the governing body of the City, or any member of the officer's immediate family.
- 2.) Any employee of the City who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner.
- 3.) Any public official, member of the local governing body, or State or local legislator, or any member of such individual's immediate family, who exercises functions or responsibilities with respect to the project to which this Contract pertains or the City.

d. The City may not hire an employee in connection with the project to which this Contract pertains if the prospective employee is an immediate family member of any person belonging to one of the following classes:

- 1.) Any present or former member or officer of the governing body of the City.
- 2.) Any employee of the City who formulates policy or who influences decisions with respect to the project to which this Contract pertains.

3.) Any public official, member of the local governing body, or State or local legislator, who exercises functions or responsibilities with respect to the project to which this Contract pertains or the City.

e. The prohibition referred to in section d above shall remain in effect throughout the class member's tenure and for one year thereafter.

f. For purposes of this section entitled "Conflict of interest", the term "immediate family member" means husband, wife, father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

12. Interest of Certain Federal Officials. No member of or Delegate to the Congress of the United States, and no Council Representative, shall be admitted to any share or part of this Contract or to any benefit to arise herefrom.

13. Examination and Retention of Contractor's Records.

a. The Authority or Comptroller of the State of Rhode Island, or any of their duly authorized representatives shall, until 3 years after final payment under this Contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this Contract for the purpose of making audit, examination, excerpts and transcriptions.

b. The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract", as used in this clause, excludes purchase orders not exceeding \$10,000.

c. The periods of access and examination in paragraphs (a) and (b) above for records relating to (1) appeals, (2) litigation or settlement of claims arising from the City or Comptroller or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims or exceptions.

14. Warranty of Title. The Contractor warrants good title to all materials, supplies, and equipment incorporated in the work and agrees to deliver the premises together with all

improvements thereon or any material delivered under this Contract free from any claims, liens or charges, and agrees further that neither it nor any other person, firm or corporation shall have any right to a lien upon the premises or anything appurtenant thereto.

15. Insurance. The Contractor is required to obtain an endorsement to the comprehensive general liability policy to include owner's and contractor's protective liability coverage to protect the City from any claims arising from the contractor's operations. Before beginning work, the Contractor and each subcontractor shall furnish the City with Certificates of Insurance showing that the following insurance is in force and will insure all operations under the Contract. All insurance shall be carried with companies, which are financially responsible and authorized to do business in the State of Rhode Island.

a.. Workers' Compensation in accordance with Rhode Island Workers' Compensation Laws for all employees engaged under this Contract

b. Commercial General Liability, which is comprehensive general liability insurance with bodily injury and property damage. The minimum amount of required coverage is \$1,000,000 per occurrence. The policy shall cover all operations of the contractor in connection with the project including the use of all equipment, hoists, and vehicles on the project site.

c. Automobile Liability on owned, non-owned and hired motor vehicles used on or in connection with the site(s) for a combined single limit for bodily injury and property damage of not less than \$1,000,000 per occurrence.

END OF SECTION