SECTION 6. ENVIRONMENTAL

6.1 Environmental Approvals

6.1.1 Contractor's Responsibility to Obtain Environmental Approvals

The Contractor, in coordination with RIDOT, shall obtain all Environmental Approvals necessary for the Project, including without limitation, Authorization to Discharge under the Rhode Island Pollutant Discharge Elimination System ("RIPDES") General Permit for Stormwater Discharge Associated with Construction Activity, R.I.G.L. 46-12 (for discharge of storm water), and state, federal and local approvals (as required) for the handling, management, loading/unloading, sampling and analysis for disposal characterization, and proper transportation and disposal of contaminated media.

It is the Contractor's responsibility to know, understand, and abide by all state, local and/or federal regulations and common practices to the extent that they may be applicable to the Contractor's work as set forth in the contract documents. The Contractor shall be responsible to determine all relevant and applicable regulations that pertain to the project and obtain all permits and approvals associated those regulations. In the event of a conflict, the most stringent regulations will govern work. The following regulations, documents and/or publications are made part of this contract by reference herein and may not reflect all environmental rules, regulations and laws that may be applicable to the project:

- RIDEM Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases;
- RIDEM Rules and Regulations for Hazardous Waste Management;
- RIDEM Rules and Regulations for Composting Facilities and Solid Waste Management Facilities (the Solid Waste Regulations);
- Oil Pollution Control Regulations (RIDEM and US EPA 40 CFR 112);
- "Hazardous Waste Operations and Emergency Response," Federal Occupational Safety and Health Act (OSHA), 29 CFR 1910.120;
- "General Regulations for Hazardous Waste Management," EPA, 40 CFR 260;
- "Regulations for Identifying Hazardous Waste, Hazardous Waste Generators and Hazardous Waste Transporters", EPA, 40 CFR 261, 262 and 263;
- U.S. Department of Transportation (U.S. DOT) Title 49 Code of Federal Regulations (CFR);
- Safety and Health Regulations Promulgated by the U.S. Department of Labor OSHA, 29 CFR 1910 – Occupational Safety and Health Standards, and 29 CFR 1920 – Safety and Health Regulations for Construction;
- U.S.EPA Standard Operating Safety Guidelines – Office of Emergency and Remedial Response – Hazardous Response Support Division; and
- U.S. EPA Medical Monitoring Program Guidelines.

The Contractor shall supply and utilize all necessary equipment and materials to properly manage, handle and dispose of contaminated media in accordance with the applicable state, federal and local laws, rules and regulations. The Contractor shall also prepare a Site Specific Health and Safety Plan (HASP) for the project and supply personnel with proper personal protective equipment.

Except where Environmental Approvals are required solely because of RIDOT-Directed Changes, the cost of obtaining all Environmental Approvals to be obtained by the Contractor shall be borne by the Contractor as part of the Price.

Contractor shall be responsible for any and all costs, including any liability, penalties, expenses, damages or delays resulting from any failure to obtain or maintain any Environmental Approval.

6.1.2 Coordination between Contractor, RIDOT and Regulatory Agencies

RIDOT will be designated as the applicants for all Environmental Approvals. All applications for Environmental Approvals to be obtained by Contractor shall be prepared by Contractor. Through its authorized representative, RIDOT will review the applications, sign as the applicant and submit the application to the Regulatory Agency with jurisdiction.

The Contractor is encouraged to establish a working relationship with RIDOT and the Regulatory Agencies.

Contractor is not authorized to negotiate with Regulatory Agencies on behalf of RIDOT.

The Contractor shall provide fully executed copies of all Environmental Approvals to RIDOT prior to commencement of any work authorized under such Approvals.

6.1.3 Duty of Compliance

The Contractor is responsible at all times for complying with (a) all applicable Environmental Laws; (b) all conditions and schedules in any Environmental Approvals, whether obtained by RIDOT or Contractor; and (c) all obligations of this Contract with respect to environmental matters. Contractor shall be responsible for any and all costs, liability, penalties, expenses, damages, including economic, property, natural resource and personal injury, or delays resulting from any non-compliance with Environmental Approvals.

6.2 Contaminated Media (CM)

6.2.1 CM Investigation and Planning

Contaminated media (CM) is considered contaminated soil, groundwater, sediment, wastes, and other material encountered during the Project that are regulated by the Rhode Island Department of Environmental Management (RIDEM) or other state, local or federal agency.

RIDOT does not make any representations or warranties with respect to the presence, nature or extent of any CM in the project area.

In the event any CM is identified the Contractor is subject to the reporting requirements set forth in the RIDEM Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases (the Remediation Regulations). In addition to notification, additional investigation and/or remediation in accordance with the Remediation Regulations shall be required. The term “Environmental Approvals” includes but is not limited to all notifications, permits, approvals, plans, and authorizations to construct the project as described in the Bid Documents and to properly control, assess, remediate and dispose of CM that may be encountered during the project.

6.2.2 Management of CM

Remediation Regulations sets forth the requirements for investigation of the Site and development of remediation and soil management plans. CM management is subject to regulation under the RIDEM Remediation Regulations at a minimum. All CM encountered during the Project shall be managed in accordance with applicable Environmental Laws, Environmental Approvals, the Contract Documents, RIDEM Standards and the CM Management Plan and other plans prepared under this Section.

6.2.2.1 Contractor's Optional Investigation Workplan

If the Contractor desires, the Contractor may conduct, with the prior approval of RIDOT, additional investigations, surveys, testing and analyses as necessary to develop and implement suitable plans for timely performance of all environmental avoidance, mitigation and protection measures. Site Investigation Workplans involving CM and locations subject to the Remediation Regulations are required to be submitted to, and approved by, the RIDEM before implementation. In some instance public notice may also be required. Workplans shall be submitted to RIDOT for review and approval before submission to the RIDEM or other state, local or federal agency. Investigations and workplans shall be consistent with all applicable Environmental Laws. Qualified and licensed professionals shall prepare the Workplan as may be required.

In addition to all regulatory RIDEM Regulatory Requirements, workplans shall also contain, at a minimum:

- Contractor's plan and schedule for characterization of all areas of the Site and Project activities where CM may reasonably be expected to be encountered;
- Sampling and Analysis Plan describing sampling locations and methods; media to be sampled; laboratory analyses, methods and quantification limits;

- Investigation schedule;
- Site security measures;
- Location and layout of work zones, storage areas, and decontamination areas;
- Management of investigation derived waste (IDW) in accordance with the RIDEM IDW policy; and
- QA/QC Plan procedures.

6.2.2.2 CM Management Plan

The Contractor shall prepare a Contaminated Media Management Plan (the "CMMP") that provides RIDOT with a uniform, cost-effective, time-sensitive and environmentally sound methodology for the management of CM. The CMMP shall be sufficient in scope to support Project design and construction requirements and to optimize compliance with applicable Environmental Laws. The CMMP shall be consistent with the RIDEM Remediation Regulations and all applicable Environmental Laws, including, without limitation, those listed in Section 6.1. Qualified and licensed professionals shall prepare the CMMP as applicable.

In addition to the requirements of the Remediation Regulations and any other state, federal or local laws and regulations, the CMMP shall also incorporate the following goals and objectives:

a) Minimize the generation of CM requiring off-site management. Establish a cost-effective waste management hierarchy for the beneficial reuse, recycling, or treatment of contaminated media requiring off-site management; maximize the reuse of excavated soils within the limit of work if allowed by RIDEM;
b) Establish cost-effective environmental compliance with all environmental laws, including those listed in Section 6.1, and RIDEM's Remediation Regulations with the goal being receipt of a Letter of Compliance (LOC) from the RIDEM under the Remediation Regulations, and any other closure documentation from other state, local or federal environmental regulations;
c) Provide effective control of additional costs required for CM characterization through construction-driven, time-sensitive, on-site field environmental characterization methodologies suitable to support response actions; and
d) Provide effective control of costs associated with off-site management of contaminated media by maximizing the recycling or beneficial reuse of material.
e) The Contractor shall have CM analyzed by a qualified test facility as required.

The cost of preparing and implementing the CMMP is included in the Price.

6.2.2.3 Schedule for Submittal of Workplan and CMMP

Within ten (10) days after Award, Contractor shall submit a schedule that sets forth the time frames for completion of the Workplan and the CMMP.

6.2.3 Discovery and Management of Contaminated Media

Upon discovery of unexpected contaminated or potentially CM beyond the Project ROW, the Contractor shall immediately stop work and notify RIDOT so proper assessment and response actions in accordance with state, federal and local law can be completed. Contractor shall undertake all actions required by state, local and federal environmental laws and regulations, including, but not necessarily limited to, those listed in Section 6.1 above, and in coordination with RIDOT, to achieve the objective of regulatory Site closure. All Response Actions shall be implemented under the direction of qualified and licensed professionals engaged by Contractor.

During construction of the Project, Contractor shall undertake all reasonable steps consistent with the CMMP and applicable environmental laws and regulations, including design modifications and/or revisions to construction techniques, to avoid excavation or dewatering in areas with CM. Contractor shall afford RIDOT the opportunity to inspect sites containing CM before any action is taken that would inhibit RIDOT's ability to ascertain the nature and extent of the CM.

6.2.3.1 Qualifications and Protection of Personnel Responsible for Handling CM

The Contractor shall have a qualified environmental professional (licensed as applicable) available to the Project at all times who is responsible for the proper management, transportation and disposal of CM. No environmental investigation shall be conducted outside the limit of work without specific written authorization of RIDOT, and RIDEM as applicable.

All Contractor personnel handling hazardous and harmful materials shall be trained, experienced, certified and enrolled in a medical surveillance program typically required for workers handling CM including, but not limited to, OSHA HazWoper and OSHA corresponding industry standards as listed in Section 6.1. The Contractor shall ensure that all certifications, licenses, authorizations and Environmental Approvals are current and valid through the duration of this Contract.

The Contractor shall make all workers on-Site aware of any potential CM to which they may be exposed, shall limit exposure to CM and provide all necessary equipment to protect them from exposure. The Contractor shall maintain records of all incidents and notify RIDOT and appropriate state authorities in a timely manner.

6.2.3.2 Compensation for CM Management, Transportation and Disposal

Compensation for CM Management, Transportation, and Disposal shall not be allowed unless the Contractor demonstrates to RIDOT s satisfaction that the costs incurred in management of CM were (a) consistent with the goals and objectives of the CMMP and any state, federal or local environmental laws or regulations; (b) could not have been avoided by reasonable design modifications or construction techniques; and (c) managed utilizing the most cost-effective approach allowed by regulation as applicable to the CM

being managed. Upon such demonstration, the Contractor shall be entitled to compensation in accordance with the RIDOT Standard Specifications for Extra Work and Differing Site Conditions.

Notwithstanding any other provision of this Contract to the contrary, no compensation for CM Management shall be allowed for costs that arise out of or are related to management of materials containing CM at concentrations below those requiring reporting or special handling/disposal under environmental laws and regulations; any such cost shall be included within the Price.

6.2.3.3 CM Spills or Other Releases Caused by Contractor

Any releases or spills of CM including reporting, assessment, containment and remediation expenses that result from (a) release(s) attributable to the negligence, willful misconduct, or breach of contract of the Contractor or of any of its officers, agents, employees, subcontractors, and visitors; or (b) release(s) elsewhere by the Contractor or any of its officers, employees, agents, or subcontractors regardless of the cause of the release of CM, shall not be included in the Price and shall not be recoverable.

6.2.4 Environmental Approvals Relating to CM Management

It is the responsibility of the Contractor to obtain all Environmental Approvals relating to CM Management, Transportation and Disposal including federal and state surface water and groundwater treatment and discharge permits and permits for recycling or reuse. The Contractor shall provide RIDOT with complete documentation, plans, applications and other filings required by state, federal or local Environmental Agencies necessary to support any application for approval (including, but not limited to plans, details and supporting documentation). Contractor shall be solely responsible for compliance with such Environmental Approvals and applicable Environmental Laws, including those governing the preparation of waste profiles, waste manifests and bills of lading as described in Section 6.1. RIDOT assumes no responsibility for time, costs, or fees associated with regulatory agency review and approval.

RIDOT will be considered the generator of CM from the Project except as specified in the following sentence. The Contractor shall be considered the generator of any CM requiring off-Site disposal which results from (a) release(s) attributable to the negligence, willful misconduct, or breach of contract of Contractor or any of its officers, employees, agents, subcontractors, or visitors; or (b) release(s) elsewhere by Contractor regardless of the cause of the Release.

6.2.5 Materials Brought to the Site by Contractor

The Contractor shall be solely responsible for (a) compliance with all Laws applicable to all materials (hazardous and non-hazardous) brought onto the Site by it or any of its agents, officers, employees, visitors, and subcontractors; (b) use, containment, storage, management, transport and disposal of all CM in accordance with this Contract and all

applicable Environmental Laws and Environmental Approvals; and (c) payment of all penalties, expenses, costs, damages (including to natural resources, property or persons), and liability arising out of or related to such CM.