



City of New London

Department of Finance-Purchasing Agent

13 Masonic Street • New London, CT 06320 • Phone (860) 447-5215 • Fax (860) 447-5297

Invitation for Bids

Specifications and Proposal Documents Attached

Bid No.: 2017-14

Opening Date and Time: April 27, 2017 at 2:00 P.M.

Title: Fulton Park Storm Drainage Repairs

Special Instructions: There will be a **mandatory** pre-bid site visit at 10:00 A.M. on Wednesday, April 5, 2017. All interested parties are to meet at Fulton Park, located on the corner of Water Street and Crystal Avenue in New London, CT. Late arrivals (more than fifteen (15) minutes after the scheduled start time) will not be given credit for attendance at the meeting and will not be able to submit a bid for this project.

The following information must appear in the lower left hand corner of the envelope:

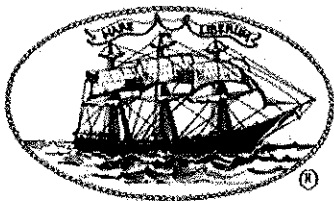
Sealed Bid No.: 2017-14

Not to be opened until April 27, 2017 at 2:00 P.M.

Return Bid to:

Alicia Smith, Purchasing Agent
City of New London
13 Masonic Street
New London, CT 06320

Bids shall not be accepted after the Opening Date and Time indicated above.



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PLEASE RETURN THIS FORM IMMEDIATELY

Acknowledgement: Receipt of Invitation for Bids

Bid No.: 2017-14

Fulton Park Storm Drainage

Please take a moment to acknowledge receipt of the attached documents. Your compliance with this request will help us to maintain proper follow-up procedures and will ensure that you receive any addendum that may be issued.

Date Issued: 03/27/2017

Date documents received: _____/_____/_____

Do you plan to submit a response? Yes _____ No _____

Print or type the following information:

Company Name: _____

Address: _____

Telephone: _____ Fax: _____

E-mail: _____

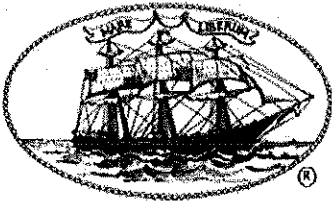
Received by: _____

Note: Faxed or e-mailed acknowledgements are requested.

Fax No.: (860)447-5297

E-mail: asmith@ci.new-london.ct.us

Fax this sheet only. A cover sheet is not required.



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Standard Invitation for Bids (IFB) and Contract Terms and Conditions

All Invitations for Bids issued by the City of New London (City) will bind Bidders to the terms and conditions listed below, unless specified otherwise in any individual Invitation for Bids.

Incorporated by reference into this contract are the provisions of Section 2-66 through 2-71 and Section 2-73 of the Code of Ordinances of the City of New London.

The contractor agrees to comply with the Code of Ordinances as they exist on the date of the contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.

Submission of Bids

1. Bids must be submitted on forms supplied by the City of New London. Telephone, facsimile or e-mail bids will not be accepted in response to an Invitation for Bids. An original and one (1) copy of the Proposal Form shall be returned to the Purchasing Agent.
2. The date and time bids are to be opened are given in each Invitation for Bids issued. Bids received after the specified date and time of the bid opening given in each Invitation for Bids will not be considered. Bid envelopes must clearly indicate the bid number as well as the date and time of the bid opening. The name and address of the bidder should appear in the upper left-hand corner of the envelope.
3. Incomplete proposal forms may result in the rejection of the bid. Amendments to bids received by the Purchasing Agent after the date and time specified for the bid opening shall not be considered. Bids shall be computer prepared, typewritten or handwritten in ink. Bids submitted in pencil shall be rejected. A person duly authorized to sign bids for the bidder shall sign all bids. Unsigned bids shall be rejected. The person signing the Proposal Form or their authorized designee must initial errors, alterations or corrections on both the original and copy of the Proposal Form to be returned. In the event an authorized designee initials a correction, there must be written authorization from the person signing the Proposal Form to the person initialing the erasure, alterations or corrections. Failure to do so shall result in rejection of the bid for those items erased, altered or corrected and not initialed.
4. Conditional bids are subject to rejection in whole or in part. A conditional bid is defined as one that limits, modifies, expands or supplements any of the terms and conditions and/or specifications of the Invitation for Bids.
5. Alternate bids will not be considered. An alternate bid is defined as one that is submitted in addition to the bidder's primary response to the Invitation for Bids.
6. Prices should be extended in decimal, not fraction, to be net and shall include delivery and transportation charges fully prepaid by the Contractor to the destination specified in the Invitation for Bids and subject only to cash discount.
7. Pursuant to Sections 12-412 and 12-412(1) of the Connecticut General Statutes, the City of New London is exempt from the payment of excise, transportation and sales taxes imposed by the Federal Government and/or the State. Such taxes must not be included in the bid prices.
8. In the event of a discrepancy between the unit price and the extension, the unit price shall govern.
9. By its submission the Bidder represents that the bid is not made in connection with any other Bidder submitting a bid for the same commodity or commodities and is in all respects fair and without collusion or fraud.

Standard Invitation for Bids (IFB) and Contract Terms and Conditions

10. All bids will be opened and read publicly and upon award are subject to public inspection.

Guaranty or Surety

11. Bid bonds, performance bonds, and labor and material bonds will be required as specified below. Guaranty or surety may be in the form of certified check. Bonds must meet the following requirements: Corporation – must be signed by an official of the corporation above their official title and the corporate seal must be affixed over the signature; Firm or Partnership - must be signed by all of the partners and indicate they are "doing business as"; Individual – must be signed by the owner and indicated as "Owner". The surety company executing the bond or countersigning must be licensed in Connecticut and an official of the surety company must sign the bond with the corporate seal affixed over the signature. Signatures of two (2) witnesses for both the principal and the surety must appear on the bond. Power of attorney for the official signing the bond for the surety company must be submitted with the bond.

Bid Bond – Ten percent (10%) due at time of bid for all contract services and public works/construction projects that exceed twenty thousand dollars (\$20,000.00)

Performance Bond – One hundred percent (100%) of contract price for projects that exceed fifty thousand dollars (\$50,000.00).

Labor and Material Payment Bonds – One hundred percent (100%) of contract price for projects that exceed fifty thousand dollars (\$50,000.00).

Award

12. Award of this contract will be made to the lowest responsible, qualified bidder and will be based on net cost and City specifications. The City of New London reserves the right to award this contract to other than the low bidder and to make multiple awards if deemed in the best interest of the City.
13. The contractor who is selected to perform this State project must comply with CONN. GEN. STAT. §§ 4a-60, 4a-60a, 4a-60g, and 46a-68b through 46a-68f, inclusive, as amended by June 2015 Special Session Public Act 15-5. An Affirmative Action Plan must be filed with and approved by the Commission on Human Rights and Opportunities prior to the commencement of construction.

State Law requires a minimum of twenty-five (25%) percent of the state-funded portion of the contract for award to subcontractors holding current certification from the Connecticut Department of Administrative Services ("DAS") under the provisions of CONN. GEN. STAT. § 4a-60g, as amended. (25% of the work with DAS certified Small and Minority owned businesses and 25% of that work with DAS certified Minority, Women and/or Disabled owned businesses.) The contractor must demonstrate good faith effort to meet the 25% set-aside goals.

For municipal public works contracts and quasi-public agency projects, the contractor must file a written or electronic non-discrimination certification with the Commission on Human Rights and Opportunities. Form can be found at http://www.ct.gov/opm/cwp/view.asp?a=2982&q=390928&opmNav_GID=1806.

14. The City of New London allows a fifteen percent (15%) local vendor preference. A New London based business will be considered the lowest responsible bidder if its bid is within fifteen percent (15%) of the low bid and it is willing to accept the award at the low bid price. Any bidder claiming to be a New London based business must provide documentation that all of its motor vehicles are registered in New London and that payment of all of its property and motor vehicle taxes are current.
15. The City of New London may reject any bidder in default of any prior contract or guilty of misrepresentation or any bidder with a member of its firm in default or guilty of misrepresentation.
16. The Purchasing Agent may correct inaccurate awards resulting from clerical or administrative errors.

Standard Invitation for Bids (IFB) and Contract Terms and Conditions (con't)

Other Requirements

17. The City has an employment preference goal that jobs be offered to local residents on public prevailing wage projects with thresholds great than \$100,000 for renovation and \$400,000 for new construction. For such projects, it is understood that contractors shall make a good faith effort to employ a participating workforce comprised of twenty-five (25%) local residents of New London County, CT, with residents of the City of New London, CT getting a priority representing fifty percent (50%) of said participation, which will include twenty-five percent (25%) female and minority.
18. The City has an employee training preference goal that apprenticeship opportunities be made available for state licensed trades on public prevailing wage projects with thresholds greater than \$100,000 for renovation and \$400,000 for new construction. For such projects, it is understood that contractors shall make a good faith effort to employ a minimum of ten percent (10%) of the workforce per state licensed trade as apprentices and, of this number; a minimum of fifty percent (50) shall be in the first year of apprenticeship training.

Contract

19. The existence of a contract shall be determined in accordance with the requirements set forth above.
20. The Contractor shall not assign or otherwise dispose its contract or its right, title or interest, or its power to execute such contract to any other person, firm or corporation without the prior written consent of the City of New London.
21. Failure of a Contractor to deliver commodities or perform services as specified will constitute authority for the City of New London to purchase these commodities or services on the open market. The contractor agrees to promptly reimburse the City of New London for excess cost of these purchases. The purchases will be deducted from the contracted quantities.
22. The Contractor agrees to hold the City of New London harmless from liability of any kind for the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention furnished or used in the performance of the Contract; Guarantee its products against defective material or workmanship; repair damages of any kind, for which it is responsible to the premises or equipment, to its own work or to the work of other contractors; obtain and pay for all licenses, permits, fees etc., and to give all notices and comply with all requirements of the City of New London, the State of Connecticut and the U.S. Government.
23. Insurance requirements generally apply to contract services, professional services and public works improvement/construction projects. The Contractor will carry commercial general liability insurance to protect the City of New London from loss. The following minimum limits shall be met:

Bodily Injury and Property Damage – One million dollars (\$1,000,000.00) each occurrence; two million dollars (\$2,000,000.00) aggregate

Products or Completed Operations - One million dollars (\$1,000,000.00) each occurrence; two million dollars (\$2,000,000.00) aggregate

Professional Liability (Errors and Omissions) Coverage appropriate to the contractor's operations – Two million dollars (\$2,000,000.00) each occurrence

Commercial Automobile Coverage including owned, non-owned, leased and hired vehicles (if used on City of New London property) – One million dollars (\$1,000,000.00) combined single limit for each accident.

Workers' Compensation Coverage - Will be in accordance with State of Connecticut requirements at the time of bid.

Any deductible or self-insured retention must be disclosed and any claim payments falling within the deductible shall be the responsibility of the contractor.

Standard Invitation for Bids (IFB) and Contract Terms and Conditions (con't)

The CITY requires that the aggregate limits be maintained by the CONTRACTOR as required. It is the responsibility of the CONTRACTOR or his representative to notify the CITY if ever or whenever claims reduce the General Aggregate below \$1,000,000.

The Contractor shall require all subcontractors to carry the same forms and minimum coverages that it is required to provide. Evidence of these coverages must be provided to the City of New London Purchasing Agent prior to the contractor or subcontractor coming onto the work site.

All insurance policies shall be endorsed to the City of New London, its officers and employees as additional insured, and shall not be reduced or cancelled without thirty (30) days prior written notice to the Purchasing Agent. In addition, the contractor's insurance shall be primary as respects the City of New London, and any other insurance maintained by the City of New London shall be excess and not contributing insurance with the contractor's insurance.

24. Notwithstanding any provision or language in this contract to the contrary, the Mayor may, without cause, terminate this contract upon approval by the City Council, whenever he/she determines that such termination is in the best interest of the City of New London. Any such termination shall be effected by delivery to the Contractor of a written notice of termination. The notice of termination shall be sent by registered mail to the Contractor address furnished to the City of New London for purposes of correspondence or by hand delivery. Upon receipt of such notice, the Contractor shall both Immediately discontinue all services affected (unless the notice directs otherwise) and deliver to the City of New London all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing its duties under this contract, whether completed or in progress. All such documents, information and materials shall become the property of the City of New London. In the event of such termination, the contractor shall be entitled to reasonable compensation as determined by the Mayor, however, no compensation for lost profits shall be allowed.

Delivery

25. All products and equipment delivered must be new unless otherwise stated in the proposal specifications.
26. All deliveries will be to the locations specified by the City of New London. The City of New London does not have a loading dock therefore all Contractors will be responsible for inside delivery without assistance from City of New London personnel.
27. Payment terms are net 45 days after receipt of goods or invoice, whichever is later, unless otherwise specified.
28. Charges against a Contractor shall be deducted from current obligations. Money paid to the City of New London shall be payable to the Treasurer, City of New London.

Saving Clause

29. The Contractor shall not be liable for losses or delays in the fulfillment of the terms of the contract due to wars, acts of public enemies, strikes, fires, floods, acts of God or any other acts not within the control of or reasonably prevented by the Contractor. The contractor will give written notice of the cause and probable duration of any such delay.

Advertising

30. Contractors may not reference sales to the City of New London for advertising and promotional purposes without prior approval of the City of New London.

Rights

31. The City of New London has sole and exclusive right and title to all printed material produced for the City of New London and the Contractor shall not copyright the printed matter produced under this contract.

Standard Invitation for Bids (IFB) and Contract Terms and Conditions (con't)

32. The Contractor assigns to the City of New London all rights, title and interests in and to all causes of action it may have under Section 4 of the Clayton Act, 15 USC 15, or under Chapter 624 of the Connecticut General Statutes. This assignment occurs when the contractor is awarded the contract.
33. The Contractor agrees that it is in compliance with all applicable federal, state and local regulations, including but not limited to Connecticut General Statutes Section 7-148i. The Contractor also agrees that it will hold the City of New London harmless and indemnify the City of New London from any action which may arise out of any act by the Contractor concerning lack of compliance with these laws and regulations. All purchases will be in compliance with Sections 22a-194 to 22a-194g of the Connecticut General Statutes related to product packaging.
34. This contract is subject to the provisions of Executive Order Number Three of Governor Thomas J. Meskill promulgated June 16, 1971, the provision of Executive Order Number Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973 and Section 16 of Public Act 91-58, nondiscrimination regarding sexual orientation, and the provisions of Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999 regarding Violence in the Workplace Prevention Policy.

Section II

CITY OF NEW LONDON, CT **PUBLIC WORKS DEPARTMENT**

GENERAL CONDITIONS AND SPECIFICATIONS

PROPOSED REPLACEMENT OF AN EXISTING STORM DRAIN PIPE

1.0 **INTRODUCTION**

- 1.1 The City of New London Public Works Department is requesting bids from qualified contractors in good standing for the proposed replacement of an existing storm drain pipe located within Fulton Park, located at the corner of Water Street and Crystal Avenue, in the City of New London.
- 1.2 Contractors are required to comply with the instructions contained within these General Conditions and Specifications and to provide information where requested.

2.0 **KEY EVENT DATES**

- 2.1 Request for Bids Advertised March 27, 2017
- 2.2 Mandatory Site Visit April 5, 2017, 10:00 a.m.
- 2.3 Questions Due by April 18, 2017, 2:00 p.m.
- 2.4 Bid Opening April 27, 2017, 2:00 p.m.
Purchasing Department, 13 Masonic Street

3.0 **BID FORMS AND SUBMISSION INSTRUCTIONS**

- 3.1 Ditto marks are not considered writing; shall not be used; and can be reason for non-acceptance of a bid.
- 3.2 All bids must be submitted in a sealed envelope, clearly marked "FULTON PARK" and received in the Purchasing Department office by the time of the bid opening defined in section 2.4 above. Bids, corrections and/or modifications received after the time City officials open the first bid, will not be accepted.
- 3.3 The bid form must be signed by an authorized agent of the submitting company.
- 3.4 All information submitted, must be in ink or typewritten. Mistakes may be crossed out and corrections inserted. The person signing the bid form must initial such corrections.
- 3.5 At the time of bid form submission, Contractors shall be presumed to have read, and be thoroughly familiar with all specifications in this document. Failure of any Contractor to receive or examine any form, instruction or document, shall not relieve any Contractor from obligations with respect to their bid.
- 3.6 The specifications listed are to be interpreted as meaning those acceptable to the City of New London. Substitutions that are "an approved equal," will be considered.
- 3.7 The completed bid package shall be in conformance with all other requirements as stated herein.

4.0 **MISCELLANEOUS**

- 4.1 The City of New London is exempt from Connecticut Sales and Use Taxes and Federal Excise Taxes. Contractors shall avail themselves of these exemptions.
- 4.2 The City of New London reserves the right to accept any, all or any part of bids, to waive any informalities, to take into account the residency and business location of bidders within the City of New London, and to award the bid deemed by the City of New London to be in its best interest. The lowest price shall not be the sole determining factor when awarding the contract for the proposed work.
- 4.3 The lump sum bid price(s) on the submitted bid form shall be held firm from the date of submission through December 31, 2017.
- 4.4 Completion shall be determined by the City of New London, through an authorized representative.
- 4.5 Successful Contractor shall obtain all permits, as necessary.
- 4.6 General questions concerning these General Conditions and Specifications shall be received by the date listed in section 2.3 above and directed to:

Alicia Smith
Purchasing Agent / Accountant
13 Masonic Street
New London, CT 06320
asmith@ci.new-london.ct.us
Phone: (860) 447-5215

5.0 **SPECIFICATIONS**

5.1 **General**

The Contractor shall furnish all labor, material and equipment to perform the work, except as noted herein. The Contractor will store any and all waste and/or debris in their container. The contents of the container shall be emptied, off site, at the end of each day's work. Failure to remove debris shall result in a \$50.00 per day/per occurrence reduction in payments to the Contractor.

5.2 **Plans**

Attached to these General Conditions and Specifications are a set of two (2) plans, entitled "General Location Map" and "Site Location Map". Please see attached plan set for additional information.

5.3 **Description**

The work shall consist of the removal and proper offsite disposal of an existing damaged 36" corrugated metal pipe (CMP) and the proposed replacement of the storm drainage culvert with a 36" corrugated polyethylene pipe (CPP). The upgraded replacement pipe shall be laid in the same location as the damaged pipe so that the existing pipe profile and horizontal location is maintained. The contractor shall provide proper pipe bedding and backfill material in accordance with published City standards. A detail has been provided on the attached plans.

Also, within the area of the proposed excavation for the pipe replacement, the existing concrete pavilion, concrete curbing and hard surfaces, such as asphalt and/or concrete shall be removed from the site and disposed of properly. All disturbed areas shall be restored with a 6" top layer of loam and the area shall be seeded.

5.3 Materials

CPP shall be Advance Drainage Systems N-12, or approved equal. Installation shall be in accordance with manufacturer's specifications. Submittal of shop drawings for approval shall be provided prior to installation.

All materials, including pipe bedding and backfill are subject to approval by the City prior to placement.

5.4 Seeding

5.4.1 Seed Mix: Proportioned by weight as follows:

- a. 70 percent Tall Fescue
- b. 20 percent Perennial Rye Grass
- c. 10 percent Kentucky Blue Grass

5.4.2 Seeding

Sow seed at a minimum rate of 6 lb/1000 sq. ft. over entire project area, or as directed by manufacturer. Protect seeded areas by spreading straw mulch.

5.4.3 Turf Maintenance

Maintain and establish turf by watering, fertilizing, weeding, mowing, trimming, replanting, and performing other operations as required to establish healthy, viable turf. Mow turf as soon as top growth is tall enough to cut. Repeat mowing to maintain nominal height.

5.4.4 Satisfactory Turf

Satisfactory Seeded Turf shall be accepted when a healthy, uniform, close stand of grass has been established, free of weeds and surface irregularities, with coverage exceeding 90 percent over any 10 sq. ft. and bare spots not exceeding 5 by 5 inches. Contractor shall use specified materials to reestablish turf that does not comply with requirements, and continue maintenance until turf is satisfactory as determined by an authorized representative of the City.

5.5 Maintenance and Protection of Existing Site Features

During construction, the Contractor shall maintain and protect from damage all existing site features that are specified to remain. These existing features are labeled upon the plans and include but are not limited to concrete walls, pedestrian bridge, concrete staircase, drainage structures and pipes, light poles, fencing, guardrails and curbing.

5.6 Maintenance and Protection of Traffic

The Contractor shall make every reasonable effort to not perform any work within the Water Street roadway. If during construction it should become necessary to perform excavation work within the Water Street roadway that could possibly temporarily disrupt traffic on Water Street, the Contractor shall obtain an Excavation Permit from the Public Works Department prior to excavation. Coordination with New London Police Department may also be required.

5.7 Maintenance and Protection of Pedestrian Traffic

The Contractor shall be responsible to provide and maintain protective measures for pedestrian safety around all excavations and construction activities. Protective measures shall be established prior to any construction activity and maintained throughout the duration of the project and are subject to the satisfaction of an authorized representative of the City.

END OF GENERAL CONDITIONS AND SPECIFICATIONS

BID FORMS

Your response should only include an original and one (1) copy (unless otherwise indicated in the specifications) of all documents after this page.

Do not use 3-ring binders!



City of New London

Department of Finance-Purchasing Agent
13 Masonic Street • New London, CT 06320 • Phone (860) 447-5215 • Fax (860) 447-5297

Bid Proposal Form Page 1 of 2

Bid No.: 2017-14	Bid Opening Date: April 27, 2017	Bid Opening Time: 2:00 P.M.	Bid Surety: 10%	Date Issued: March 27, 2017
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Project:

Fulton Park Storm Drainage Repairs

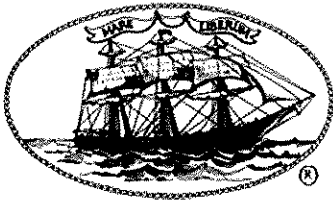
REQUEST FOR PROPOSALS: Pursuant to the provisions of Section 2-69 of the Code of Ordinances of the City of New London, sealed proposals will be received by the Purchasing Agent for the City of New London, at the address above for furnishing the commodities and/or services herein listed.

IMPORTANT: Both pages of this form must be completed, signed and returned by the proposer as part of the proposal package.

NOTE: Proposer means Individual/Sole Proprietor, Partnership or Corporation name.

Section 1 of 3 – Proposer Information

Complete Company Name (Trade Name, Doing Business As)				SSN or FEIN	
Company Address	Street	City	State	Zip Code	
Contact Name (Typed or Printed)		Telephone Number (Include Toll-Free Numbers)		FAX Number	
Written Signature of Person Authorized to Sign Proposals on Behalf of the Above Named Company ← SIGN HERE					Date Executed
Type or Print Name of Authorized Person			Title of Authorized Person		
Company's E-Mail Address			Company's Web Site		
Is Your Business a: <input type="checkbox"/> Proprietorship (Individual), <input type="checkbox"/> Partnership or <input type="checkbox"/> Corporation ? (Type of Corporation -)					
Is Your Business Currently a State of Connecticut Certified Small Business? <input type="checkbox"/> Yes (Attach Certificate Copy to Bid) <input type="checkbox"/> No					
If your business is a Partnership , you must attach the names and titles of all partners to this bid when returned.					
If your business is a Corporation , in which State are you incorporated?					
Is your business reportable to the IRS? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, a 1099/M2 will be mailed to you at year end.					
Remittance Information: In this box indicate the Remittance Address of your business if different from above.					



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Bid Proposal Form Page 2 of 2

Section 2 of 3 Important Information for Proposers

AFFIRMATION OF PROPOSER: The undersigned proposer affirms and declares:

1. That this proposal is executed and signed by said bidder with full knowledge and acceptance of the provisions of the Standard Proposal and Contract Terms and Conditions of current issue and in effect on the date of bid issue. These Standard Proposal and Contract Terms and Conditions are made a part of the contract.
2. That should any part of this proposal be accepted in writing by the City of New London within thirty (30) days from the date of proposal opening unless and earlier for acceptance is specified by the proposer the proposal schedule, said proposer will furnish and deliver the commodities and/or services for which this proposal is made, in the quantities and at the prices proposed, and in compliance with the provisions of the STANDARD PROPOSAL AND CONTRACT TERMS AND CONDITIONS, COMMODITY SPECIFICATIONS, PROPOSAL SCHEDULE AND SPECIAL PROPOSAL AND CONTRACT TERMS AND CONDITIONS. Should award of any part of this proposal be delayed beyond the period of thirty (30) days or an earlier date specified by the proposer in the proposal schedule, such award shall be conditioned on the proposer's acceptance.
3. Acceptance of the conditions set forth herein, agreement in strict accordance therewith, and will furnish and deliver the commodities and/or services to the City of New London at the prices bid therein.
4. Should the Purchasing Agent determine that the proposer has not completed Section 1 – Proposer Debarment and/or Suspension included as part of this document, then such determination may be just cause for disqualification from the evaluation of this proposal.

Section 3 of 3 – Proposer Debarment and/or Suspension

Has the bidder, any company officials, or any subcontractor to the bidder, any of its company officials received any notices of debarment and/or suspension from contracting with the State of Connecticut, the federal government, any other state within the United States, any of its territories or any governmental entity?

☐ Yes ☐ No

If the above signed bidder, any company official or any subcontractor to the bidder **has** received notice of debarment and/or suspension from contracting with the State of Connecticut, the federal government or any governmental entity, said notices must be attached to this document when submitting this bid.

Number of notices attached _____



City of New London

Department of Finance-Purchasing Agent

13 Masonic Street • New London, CT 06320 • Phone (860) 447-5215 • Fax (860) 447-5297

Alicia L. Smith
Purchasing Agent

(860)447-5215
Telephone Number

BID SCHEDULE Fulton Park Storm Drainage Repairs

IMPORTANT!
RETURN ORIGINAL AND ONE COPY

Bid No.: 2017-14

DELIVERY:

PAYMENT TERMS:

____ % ____ Days, Net ____ Days

Payment terms are **Net 45 days**. Any deviation may result in bid rejection.
Proposal prices shall include transportation charges FOB City of New London.

BIDDER NAME:

SSN or FEIN:

Page 1 of

Item No.	Description of Commodity and/or Services	Total Price
1)	Proposed replacement of an existing storm drain pipe	\$
	TOTAL BID PRICE (unit price, complete)	\$
	Total Written Price:	

The undersigned certifies that he/she has read and understood all of the provisions of the Specifications. Any exceptions to the Specifications are noted below and/or on a separate sheet of paper and made a part of this bid. The undersigned also certifies that this bid is being submitted without collusion with any individual or corporation and agrees, by virtue of submitting this bid, that if accepted by the City of New London, this forms a contractual obligation on the part of the bidder to provide the material as bid.

SIGNATURE: _____ BY: _____ DATE: _____
(Print Name & Title)

FOR: _____
(Bidder Name)

ADDRESS: _____

TOWN/CITY: _____ STATE: _____ ZIP: _____

TEL NO. _____ FAX NO: _____
(Area Code) (Area Code)

EMAIL: _____
(CHECK ONE)

No exceptions to the Specifications _____
Exceptions taken as noted below _____ or on separate sheet of paper _____

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we _____

as Principal, and _____
a corporation duly organized under the laws of the State of _____ as Surety are held and firmly
bound unto the **City of New London, 181 State Street, New London, CT 06320**, hereinafter called the "Owner" in the
sum of _____ Dollars (\$ _____), for the payment of which sum
well and truly to be made, the said Principal and Surety, bind ourselves, our heirs, executors, administrators, successors,
and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid dated _____ to

NOW THEREFORE, if the Owner shall accept the bid of the Principal and the Principal shall enter into a Contract with the
Owner in accordance with the terms of such bid and give such bond or bonds as may be specified in the bidding or
Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt
payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter
such Contract and give such bond or bonds, if the Principal shall pay to the Owner the difference not to exceed the
penalty hereof between the amount specified in said bid and such larger amount for which the Owner may in good faith
contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise
to remain in full force and effect.

Signed and sealed this _____ day of _____ 200.

(Principal) (Seal)

(Title)

(Witness)

(Surety) (Seal)

(Title)

(Witness)

Attorney-in-Fact, State of _____, Power-of-Attorney for person signing for Surety
Company must be attached to Bond.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the _____
_____, of the Corporation named as Principal in the within bond; that _____
_____ who signed the said bond on behalf of the Principal was then the _____
_____ of said corporation; that I know his signature, and his signature thereto is genuine; and
that said bond was duly signed, sealed, and attested to for and in behalf of said corporation by authority of this governing
body.

Affix
_____ Corporate
Seal

Title _____

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____, as
Principal

(hereinafter called Principal) and _____

as Surety, (hereinafter called Surety) are held and firmly bound unto _____

_____ as Obligee (hereinafter called Owner),
for the use and benefit of claimants as hereinbelow defined;

in the amount of _____
Dollars (\$ _____) for the payment whereof the Principal and Surety bind themselves,
their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these
presents.

WHEREAS, Principal has by written agreement dated _____ entered into a
Contract with the owner for _____

which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if the said Principal shall promptly pay
for all materials furnished and labor supplied or performed in the prosecution of the work included in and
under the aforesaid Contract, whether or not the material or labor enters into and becomes a component
part of the real asset, then this obligation shall be null and void otherwise it shall remain in full force and
effect.

PROVIDED, that any alterations which may be made in the terms of the Contract or in the work to be
done under it, or the giving by the Owner or any other forbearance on the part of either the Owner or the
Principal to the other shall not in any way release the Principal and the Surety or either or any of them,
their heirs, executors, administrators, successors or assigns from their liability hereunder, notice to the
Surety for any such alterations, extension or forbearance being hereby waived.

Any party, whether a subcontractor or otherwise, who furnished materials or supplies or performs labor or
services in the prosecution of the work under said Contract, and who is not paid therefore, may bring a
suit on this Bond in the name of the person suing, prosecute the same to a final judgment and have the
execution thereon for such sum as may be justly due.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this _____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these presents signed by its undersigned representative, pursuant to authority of its governing body.

Attest:

_____ By

(Corporate Principal)

(Business Address)
Affix

Corporate
Seal

Attest:

_____ By

(Business Address)

Affix
Corporate
Seal

Countersigned
by _____

Attorney-in-Fact, State of _____, Power-of- Attorney for person
signing for Surety Company must be attached to Bond.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____ as Principal, hereinafter
called Contractor, and _____ as Surety, hereinafter called
Surety, are held and firmly bound unto _____ as Oblige, hereinafter
called Owner, in the amount of _____
Dollars (\$ _____), for payment whereof Principal and
Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by
these presents.

WHEREAS, Contract has by written agreement dated _____ entered into a Contract
with Owner for _____

_____ which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if Contractor shall promptly and faithfully perform said
Contract, including such remedial work as may be required under the guaranty during the period of guaranty and shall
certify in writing that all wages paid under said Contract to any mechanic, laborer or workman were equal to the rates or
wages customary or then prevailing for the same trade or occupation in Connecticut, then this obligation shall be null and
void, otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed
Owner's obligations thereunder, the Surety may promptly remedy the default or shall promptly:

- (1) Complete the Contract in accordance with its terms and conditions, by another Contractor
acceptable to the Owner, said other Contractor to act as an agent for the Surety, or
- (2) Obtain a Bid or Bids for submission to the Owner for completing the Contract in accordance with its terms
and conditions, and upon determination by the Owner and Surety of the lowest responsible Bidder,
arrange for a Contract as work progresses (even though there should be a default or a succession of
defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to
pay the cost of completion less the balance of the contract price, but not exceeding, including, other costs
and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph
hereof. The terms "balance of the contract price", as used in this paragraph, shall mean the total amount
payable by the Owner to the Contractor under the Contract and any amendments thereto, less the
amount properly paid by the Owner to the Contractor.

Unless otherwise required by law, any suit under this Bond must be instituted before the expiration of one (1) year from
the date on which the guaranty period under the Contract expires.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Owner named
herein or the heirs, executors, administrators and successors of the Owner.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this _____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these presents signed by its undersigned representative, pursuant to authority of its governing body.

No extension of time or other modification of this Bid Bond shall be valid unless agreed in writing by the parties to this Bond.

Attest:

(Corporate Principal)

(Business Address)

Affix
Corporate
Seal

By

(Corporate Surety)

Attest:

(Business Address)

Affix
Corporate
Seal

By

Countersigned
by _____

Attorney-in-Fact, State of _____, Power-of- Attorney for person signing for
Surety Company must be attached to Bond.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____ certify that I am the _____
_____, of the Corporation named as Principal in the within bond; that _____
_____ who signed the said bond on behalf of the Principal was then the _____
_____ of said corporation; that I know his signature, and his signature thereto is genuine; and
that said bond was duly signed, sealed, and attested to for and in behalf of said corporation by authority of this governing
body.

Affix
Corporate
Seal

Title _____

NON COLLUSION AFFIDAVIT OF PRIME BIDDER

State of _____)
County of _____) ss.

_____, being first duly sworn,
deposes and say that:

- (1) He is _____ of _____ herein referred to as the "Bidder" that has submitted the attached bid;
- (2) He is fully informed respecting the preparation and content of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of New London, CT or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties of interest, including this affiant.
- (6) That no officer or employee or person whose salary is payable in whole or in part from the City of New London is directly or indirectly interested in this Bid, or in the supplies, materials, equipment, work or labor to which it relates, or in any of the profits thereof.

Signed _____

Title _____

Subscribed and sworn before me this

_____ day of _____ 20____

(Notary Public)

My Commission expires _____

NON COLLUSION AFFIDAVIT OF SUBCONTRACTOR

State of _____)
) ss.
County of _____)

_____, being first duly sworn,
deposes and says that:

- (1) He is _____ of _____ herein referred to as the "Subcontractor";
- (2) He is fully informed respecting the preparation and content of the Subcontractor's Proposal submitted by the Subcontractor to _____, the Contractor for certain work in connection with the _____ Contract pertaining to the Project in New London, Connecticut;
- (3) Such Subcontractor's Proposal is genuine and is not a collusive or sham Bid;
- (4) Neither the said Subcontractors nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in said Subcontractor's Proposal or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of New London, CT or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached Subcontractor's Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties of interest, including this affiant.
- (6) That no officer or employee or person whose salary is payable in whole or in part from the City of New London is directly or indirectly interested in this Bid, or in the supplies, materials, equipment, work or labor to which it relates, or in any of the profits thereof.

Signed _____

Title _____

Subscribed and sworn before me this

_____ day of _____ 20____

(Notary Public)

My Commission expires _____

Statement of Bidder's Qualifications

All items and questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The bidder may submit any additional information it desires.

1. Name of Bidder _____
2. Bidder's Tax Identification No. _____
3. Permanent main office address _____

4. When organized _____
5. If corporation, where incorporated _____
6. Number of years have you been engaged in the contracting business under your present firm or trade name _____
7. Contracts on hand: (Schedule these showing amount of each contract and the appropriate anticipated dates of completion) _____

8. General character of work performed by your company _____

9. Have you ever failed to complete any work awarded to you? If so, where and why? _____

10. Have you ever defaulted on a contract? If so, where and why? _____

11. List the more important projects recently completed by your company, stating the approximate cost for each, and the month and year completed (use a separate sheet if necessary) _____

12. List your major equipment available for this Contract _____

13. List your experience in work similar to this project _____

14. List the background and experience of the principal members of your organization, including officers ____

15. List the work to be done by Subcontractors and summarize the dollar value of each Subcontract

16. Credit available \$ _____

17. Give Bank reference _____

18. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner? _____

19. The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the Owner in verification of the recitals comprising this Statement of Bidder's Qualifications.

Dated _____ (Name of Bidder)

By _____

Title _____

State of _____)
County of _____) ss.

_____ being duly sworn deposes and says that (s)he is _____

_____ of _____

_____, and that the answers to the foregoing items and questions and all statements therein contained are true and correct.

Subscribed and sworn to before me this

_____ day of _____ 20

(Notary Public)

My Commission expires _____

AFFIRMATIVE ACTION POLICY STATEMENT
(must be submitted on your firm's letterhead)

It has always been the policy and will continue to be the strong commitment of _____ and all contractors and subcontractors who do business with this City to provide equal opportunities in employment to all qualified persons solely on the basis of job-related skills, ability and merit. _____ will continue to take Affirmative Action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, ancestry, mental disorder (present or past history thereof), age, physical disability (but not limited to blindness), marital status, mental retardation, and criminal record. Such action includes, but is not limited to, 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. _____, and its subcontractors will continue to make good faith efforts to comply with all federal and state laws and policies which speak to equal employment opportunity.

The principles of Affirmative Action are addressed in the 13th, 14th, and 15th Amendments of the United States Constitution, Civil Rights Act of 1866, 1870, 1871, Equal Pay Act of 1963, Title VI and VII of - the 1964 United States Civil Rights Act, Presidential Executive Orders 11246, amended by 11375, (nondiscrimination under federal contracts), Act I, Sections 1 and 20 of the Connecticut Constitution, Governor Grasso's Executive Order Number 11, Governor O'Neill's Executive Order Number 9, the Connecticut Fair Employment Practices Law (Sec. 46a-60-69) of the Connecticut General Statutes, Connecticut Code of Fair Practices (46a-70-81), Deprivation of Civil Rights (46a-58(a)(d)), Public Accommodations Law (46a-63-64), Discrimination against Criminal Offenders (46a-80), definition of Blind (46a-51(1)), definition of Physically Disabled (46a-51(15)), definition of Mentally Retarded (46a-51(13)), cooperation with the Commission on Human Rights and Opportunities (46 - 77), Sexual Harassment (46a-60(a)-8), Connecticut Credit Discrimination Law (36-436 through 439), Title I of the State and Local Fiscal Assistance Act of 1972.

This Affirmative Action Policy Statement re-affirms my personal commitment to the principles of Equal Employment Opportunity.

DATE

Signature of Authorized Signer

CERTIFICATION OF BIDDER REGARDING
EQUAL EMPLOYMENT OPPORTUNITY

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 Part II, Section 203(b), (30 FR 12319, 12935). The implementing rules and regulations provide that any bidder or prospective contractor, or any of its proposed subcontractors, shall state whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicated that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven (7) calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

Bidder's Name _____

Address and Zip Code _____

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

Yes () No () If answer is yes, identify the most recent contract.

2. Compliance reports were required to be filed in connection with such contract or subcontract

Yes () No () If answer is yes, identify the most recent contract.

3. Bidder has filed all compliance reports due under applicable instructions, including SF. 100.

Yes () No () Not Required ()

4. If answer to Item 3 is "No" please explain in detail on reverse side of this Certification.

Certification - The information above is true and complete to the best of my knowledge and belief. A willfully false statement is punishable by law (U.S. Code, Title 18, Section 1001).

Name and Title of Signer (Please Type)

Signature

Date

CERTIFICATION OF NON-SEGREGATED FACILITIES

This Bidder certifies that he does not maintain or provide his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Bidder certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any locations, under his control, where segregated facilities are maintained. The Bidder agrees that a breach of his certification will be a violation of the Equal Opportunity clause and any Contract resulting from acceptance of this Bid. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion or national origin, because of habit, local custom or otherwise. The Bidder agrees that (except where he has obtained identical certification from proposed Subcontractors for specific time periods) he will obtain identical certifications from proposed Subcontractors prior to the award of Subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have already submitted identical certifications for the specific time periods):

"Notice to prospective subcontractors of requirements for non-segregated facilities. A certification of non-segregated facilities must be submitted prior to the award of a subcontract exceeding the Equal Opportunity Clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e. quarterly, semi-annually, or annually).

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. Paragraph 1001.

Date: _____

By: _____

Official Address: _____

Title: _____

CONTRACT FOR SERVICES

THIS AGREEMENT made and entered into this ____ day of (*Month, Year*) by and between (*contractor legal name and address*), hereinafter called "**Contractor**" and the City of New London, 181 State Street, New London, CT 06320, hereinafter called "**City**."

WHEREAS, the City desires to enter into a contract for services to (*description of work*), and the Contractor represents itself as competent and qualified to accomplish the specific requirements of this contract to the satisfaction of the City, therefore this contract is entered into under the following terms and conditions:

1. The Contractor agrees to perform the services described below in the Contract Documents or in attachments if applicable. The terms and conditions as contained in this Contract for Services shall take precedence over any conflicting terms as may be attached hereto.
2. **Term of the Contract:** The start date for this Contract shall be (*date work starts*) and the completion date of this Contract shall be (*date*).
3. **Contract Price:** The City shall pay the Contractor for the performance of the Contract in current funds, for the total quantities of work performed for the price of (*written amount*) (*numeric amount*). A 5% retainage will be deducted from each payment invoice submitted by the contractor and the total retained will be released after one (1) full year from the date the project was completed and accepted by the City of New London.
4. **Contract Documents:** The Contract Documents consist of this Agreement, the Standard Bid and Contract Terms and Conditions, the Instructions to Bidders, the Contractor's bid as accepted by the City, the General and Special Conditions of the Work, the Technical Specifications, the drawings and all Addenda attached hereto.

The Contract Documents are complementary and what is called for by any one shall be as binding as if called for by all. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of any of the other Contract Documents, the provisions of the Agreement shall prevail.

Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the edition of the standard specification, manual, code or laws or regulations identified in the reference. In the event a particular edition is not identified, the reference shall mean the latest edition in effect at the time of receipt of the bid. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall change the duties and responsibilities of the City, the Contractor or any of their consultants, agents or employees from those set forth in the Contract Documents.

5. **Obligations And Liability Of The Contractor:** The Contractor shall do all the work and perform and furnish all the labor, services, materials, equipment, plant, machinery, apparatus, appliances, tools, supplies and all other things (except as otherwise expressly provided herein) necessary and as herein specified for the proper performance and completion of the Work in the manner and within the time hereinafter specified, in strict accordance with the Drawings, Specifications and other Contract Documents, in conformity with the directions and to the satisfaction of the City, and at the prices herein agreed upon therefor.

All parts of the Work and all fixtures, equipment, apparatus and other items indicated on the Drawings and not mentioned in the Specifications, or vice versa, and all work and material usual and necessary to make the Work complete in all its parts, including all incidental work necessary to make it complete and satisfactory and ready for use and operation, whether or not they are indicated on the Drawings or mentioned in the Specifications, shall be furnished and executed the same as if they were called for both by the Drawings and by the Specifications.

The Contractor shall coordinate his operations with those of any other contractors who may be employed on other work of the City, shall avoid interference therewith, and shall cooperate in the arrangements for storage of materials and equipment.

The Contractor shall conduct his work so as to interfere as little as possible with private business and public travel. Wherever and whenever necessary or required, he shall maintain fences, furnish watchmen, maintain lights, and take such other precaution as may be necessary to protect life and property.

The Contractor shall indemnify and save harmless the City and its officers, agents, servants and employees, from and against any and all claims, demands, suits, proceedings, liabilities, judgments, awards, losses, damages, costs and expenses, including attorneys' fees, on account of bodily injury, sickness, disease or death sustained by any person or persons or injury or damage to or destruction of any property, directly or indirectly arising out of, relating to or in connection with the Work, whether or not due to or claimed to be due in whole or in part to the active, passive or concurrent negligence or fault of the Contractor, his officers, agents, servants or employees, any of his subcontractors, the City or any of their respective officers, agents, servants or employees and/or any other person or persons, and whether or not such claims, demands, suits or proceedings are just, unjust, groundless, false or fraudulent; and the Contractor shall and does hereby assume and agrees to pay for the defense of all such claims, demands, suits and proceedings, provided, however, that the Contractor shall not be required to indemnify the City, its officers, agents, servants, or employees, against any such damages occasioned solely by acts or omissions of the owner other than supervisory acts or omissions of the City in the Work.

The Contractor shall have complete responsibility for the Work and the protection thereof, and for preventing injuries to persons and damage to the Work and property and utilities on or about the Work, until final completion and final acceptance thereof. He shall in no way be relieved of his responsibility by any right of the City to give permission or directions relating to any part of the Work, by any such permission or directions given, or by failure of the City to give such permission or directions. The Contractor shall bear all costs, expenses, losses and damages on account of the quantity or character of the Work or the nature of the land (including but not limited to subsurface conditions) in or under or on which the Work is done being different from that indicated or shown in the Contract Documents or from what was estimated or expected, or on account of the weather, elements, or other causes.

The Contractor shall conduct his operations so as not to damage existing structures or work installed either by him or by other contractors. In case of any such damage resulting from his operations, he shall repair and make good as new the damaged portions at his own expense with the consent of the damaged party. In the event that consent is not given, the Contractor shall continue liable for the damage caused.

The Contractor shall be as fully responsible to the City for the acts and omissions of his subcontractors, their officers, agents, servants and employees as he is for his own acts and omissions and those of his own officers, agents, servants and employees.

Should the Contractor sustain any loss, damage or delay through any act or omission of any other contractor or any subcontractor of any such other contractor, the Contractor shall have no claim against the City therefor, other than for an extension of time, but shall have recourse solely to such other contractor or subcontractor.

If any other contractor or any subcontractor of any such other contractor shall suffer or claim to have suffered loss, damage or delay by reason of the acts or omissions of the Contractor or of any of his subcontractors, the Contractor agrees to assume the defense against any such claim and to reimburse such other contractor or subcontractor for such loss or damage.

The Contractor agrees to and does hereby indemnify and save harmless the City from and against any and all claims by such other contractors or subcontractors alleging such loss, damage or delay and from and against any and all claims, demands, suits, proceedings, liabilities, judgments, awards, losses, damages, costs and expenses, including attorneys' fees, arising out of, relating to or resulting from such claims.

The Contractor shall promptly pay all federal, state and local taxes which may be assessed against him in connection with the Work or his operations under this Agreement and/or the other Contract Documents, including, but not limited to, taxes attributable to the purchase of material and equipment, to the performance of services, and the employment of persons in the prosecution of the Work.

6. Supervision Of Work: The Contractor shall be solely responsible for supervision of the Work, shall give the work the constant attention necessary to ensure the expeditious and orderly progress thereof, and shall cooperate with the City, its officers, agents or employees in every possible way.

At all times, the Contractor shall have as his agent on the Work a competent superintendent capable of reading and thoroughly understanding the Drawings and Specifications, with full authority to execute the directions of the Engineer without delay and to supply promptly such labor, services, materials, equipment, plant, apparatus, appliances, tools,

supplies and other items as may be required. Such superintendent shall not be removed from the Work without the prior written consent of the City. If, in the opinion of the City, the superintendent or any successor proves incompetent, the Contractor shall replace him with another person approved by the City; such approval, however, shall in no way relieve or diminish the Contractor's responsibility for supervision of the Work.

Whenever the Contractor or his agent or superintendent is not present on any part of the Work where it may be necessary to give directions or instructions with respect to such work, such directions or instructions may be given by the City to and shall be received and obeyed by the foreman or any other person in charge of the particular work involved.

7. Insurance: The Contractor shall procure and maintain insurance of the types specified below, and to the limits for this insurance specified in the Standard Bid and Contract Terms and Conditions and the City of New London Code of Ordinances, Article IV., Section 2-71. All insurance shall be obtained from companies satisfactory to the City.

Insurance shall be in such forms as will protect the Contractor from all claims and liability for damages for bodily and personal injury, including accidental death, and for property damage, which may arise from operations under the Contract, whether such operations be by himself, his subcontractors, or by anyone directly or indirectly employed or engaged by him.

The following types of insurance shall be provided before starting and until final completion and acceptance of the Work and expiration of the guarantee period provided for in the Agreement.

- a. Workmen's Compensation and Employer's Liability Insurance.
- b. Bodily Injury Insurance for operations and completed operations and Contractor's Protective Bodily Injury Insurance.
- c. Property Damage Insurance for operations and completed operations and Contractor's Protective Property Damage Insurance, each including coverage for injury to or destruction of wires or pipes and similar property and appurtenant apparatus and the collapse of or structural injury to any building or structure except those on which work under the Contract is being done. Blasting and explosion coverage shall be obtained if there is a need for blasting under the Contract, and no blasting shall be performed until such insurance has been secured.
- d. Bodily Injury Insurance covering the operation of all motor vehicles owned by the Contractor.
- e. Personal Injury Insurance to cover claims for personal injury and including claims brought by employees.
- f. Property Damage Insurance covering the operation of all motor vehicles owned by the Contractor.
- g. Insurance to cover bodily injuries and property damage resulting from the use of motor vehicles not owned by the Contractor, while such vehicles are being operated in connection with the prosecution of the Work.
- h. Contractual Liability Insurance covering the liability assumed by the Contractor under the fifth paragraph of that subsection titled "Obligations and Liability of Contractor" of this Agreement.
- i. Owner's Protective Liability and Property Damage Insurance to protect the City and any Engineer against claims for Property damage and for bodily injuries, including accidental death, caused by the operations of the Contractor or his subcontractors on the Work. The policy shall indicate the City and any Engineer as the named insured. A copy of the policy shall be furnished to the City and a Certificate of Insurance shall be furnished to any Engineer.

Any of the above coverages written on a claims made form have an Extended Reporting Period of three years from the termination of the contract.

All policies shall be so written that the owner will be notified in writing of cancellation or restrictive amendment at least 30 days prior to the effective date of such cancellation or amendment.

Certificates from the Contractor's insurance carriers stating the coverages provided, the limits of liability, and expiration dates shall be filed in triplicate with the Engineer before operations are begun. Such certificates shall be on the form furnished by the Engineer.

The CITY requires that the aggregate limits be maintained by the CONTRACTOR as required. It is the responsibility of the CONTRACTOR or his representative to notify the CITY if ever or whenever claims reduce the General Aggregate below \$1,000,000.

Renewal certificates must be furnished by the Contractor prior to the expiration date of any of the initial insurances.

No insurance required or furnished hereunder shall in any way relieve the Contractor of or diminish any of his responsibilities, obligations and liabilities under the Contract.

8. Contract: This Agreement, which includes all the Contract Document elements listed in paragraph 1 above, forms the Contract between the parties identified in the heading of this document. In the event that any provision of the Contract conflicts with any other provision of this Contract, the decision of the City will be final.

9. Funding and Fiscal Year Appropriations: Appropriations for expenditures by the City and authorization to spend for a particular purpose are ordinarily made on a fiscal year basis. The fiscal year of the City is the twelve (12) month period ending June 30 of each year. The obligations of the City under this Contract for the present or any subsequent fiscal year following the fiscal year in which this Contract is executed are subject to the appropriation of funds sufficient to discharge the City's obligation, which accrues in this or any subsequent fiscal year. In the absence of such appropriation or authorization, this Contract shall be terminated immediately upon the Contractor's receipt of notice to said effect without liability for damages, penalties or other charges arising from early termination. Expenditures for Contracted services that will extend beyond a single fiscal year shall not exceed in any fiscal year the amount appropriated and authorized for said fiscal year. The Contractor's yearly costs, as contained herein, may not exceed the amount appropriated for said year.

10. Termination: The Contract may be terminated without cause by either party by giving written notice to the other at least thirty (30) calendar days prior to the effective date of termination stated in the notice. If Contractor fails to fulfill his obligations, the City may terminate this Contract by giving written notice to the Contractor at least seven (7) calendar days before the effective date of termination stated in the notice. The notice shall state the circumstances of the alleged breach and may state a period during which the alleged breach may be cured, which cure shall be subject to approval by the City.

11. Obligations in Event of Termination:

A. Upon termination, all finished or unfinished documents, data, studies, and reports prepared by the Contractor pursuant to this Contract, shall become the property of the City.

B. The City shall promptly pay the Contractor for all services performed to the effective date of termination, subject to indemnification provisions of Paragraph 5 hereof and subject to offset of sums due the Contractor against sums owed by the Contractor to the City.

12. Record keeping, Audit, and Inspection of Records: The Contractor shall maintain books, records and other compilations of data pertaining to the requirements of the Contract to the extent and in such detail as shall properly substantiate claims for payment under the Contract. All such records shall be kept for a period of six (6) years or for such longer period as is specified herein. All retention periods start on the first day after final payment under this Contract. If any litigation, claim, negotiation, audit or other action involving the records is commenced prior to the expiration of the applicable retention period, all records shall be retained until completion of the action and resolution of all issues resulting therefrom, or until the end of the applicable retention period, whichever is later. The Federal grantor agency, the State Auditor, the City, or any of their duly authorized representatives or designees shall have the right at reasonable times and upon reasonable notice, to examine and copy, at reasonable expense, the books, records, and other compilations of data of the Contractor which pertain to the provisions and requirements of this Contract. Such access shall include on-site audits, review, and copying of records.

13. Publicity, Publication, Reproduction and Use of Contract Products or Materials: Unless provided otherwise by law or the City, title and possession of all data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for with City funds shall vest with the City at the termination of the Contract. The Contractor shall at all times obtain the prior written approval of the City before it, any of its officers, agents, employees or subcontractors, either during or after termination of the Contract, makes any statement bearing on the work performed or data collected under this Contract to the press or issues any material for publication through any medium of communication. If the Contractor, or any of its subcontractors, publishes a work dealing with any aspect of performance under the Contract, or of the results and accomplishments attained in such performance, the City shall have a royalty-free

non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the publication. The Contractor shall use reasonable means to inform the public that the City provides financial support for its operations and services by explicitly stating on publicity material, stationery, posters and other written materials, and on its premises the following: "This program is supported in part (in full) by the City of New London."

14. Assignment by Contractor and Subcontracting: The Contractor shall not assign or in any way transfer any interest in this Contract without the prior written consent of the City, nor shall he subcontract any services without the prior written approval of the City.

15. Connecticut Law: It is agreed that this contract shall be governed by, construed, and enforced in accordance with the internal laws of the State of Connecticut.

16. Venue: In the event of litigation, the parties do agree to be contractually bound to submit themselves to the personal jurisdiction of the state courts of Connecticut. The venue for any court proceeding shall be in the Superior Court for the Judicial District for New London at New London, Connecticut.

17. Waiver of Jury Trial: CONTRACTOR HEREBY EXPRESSLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (1) ARISING UNDER THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR (2) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND CONTRACTOR HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THE CITY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF CONTRACTOR'S CONSENT TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

18. Nondiscrimination and affirmative action provisions, nondiscrimination provisions regarding sexual orientation, Executive Order Number Three and guidelines and rules, Executive Order Number Seventeen, Executive Order Number Sixteen and sexual harassment policy:

For the purposes of this article, the word "contractor" is substituted for and has the same meaning and effect as if it read "Contractor's name." Section A of this article is inserted in connection with subsection (a) of Section 4a-60 of the General Statutes of Connecticut, as revised. Section B of this article is inserted in connection with subsection (a) of Section 4a-60a of the General Statutes of Connecticut, as revised.

A. (a) For the purposes of this section, "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Conn. Gen. Stat. Section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

For the purposes of this section, "Commission" means the Commission on Human Rights and Opportunities.

For the purposes of this section, "public works contract" means any agreement between any individual, firm, or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance, or guarantees.

(b) (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race,

color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and Conn. Gen. Stat. Sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to Conn. Gen. Stat. Sections 46a-56, 46a-68e, and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records, and accounts concerning the employment practices and procedures of the contractor as they relate to the provisions of this section and Conn. Gen. Stat. Section 46a-56. If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(c) Determination of the contractor's good faith efforts shall include, but shall not be limited to, the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

(d) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.

(e) The contractor shall include the provisions of subsection (b) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor, or manufacturer unless exempted by regulations or orders of the Commission. The contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. Section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

(f) The contractor agrees to comply with the regulations referred to in this section as they exist on the date of this contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.

B. (a) (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to Section 46a-56 of the Connecticut General Statutes; (4) the

contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records, and accounts concerning the employment practices and procedures of the contractor that relate to the provisions of this section and Section 46a-56 of the Connecticut General Statutes.

(b) The contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor, or manufacturer unless exempted by regulations or orders of the Commission. The contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Section 46a-56 of the Connecticut General Statutes; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

(c) The contractor agrees to comply with the regulations referred to in this section as they exist on the date of this contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.

C. This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971, and, as such, this contract may be cancelled, terminated, or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three, or any State or federal law concerning nondiscrimination, notwithstanding that the State Labor Commissioner is not a party to this contract. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion.

The contractor agrees, as part consideration hereof, that this contract is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that he will not discriminate in his employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

D. This contract is subject to the provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this contract may be cancelled, terminated, or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the State Labor Commissioner may not be a party to this contract. The parties to this contract, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

E. This contract is subject to the provisions of Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, and, as such, the contract may be canceled, terminated, or suspended by the State for violation of or noncompliance with said Executive Order No. Sixteen. Executive Order No. Sixteen is attached hereto and made a part hereof. The parties agree to comply with such executive order. In addition, the contractor agrees to include a copy of Executive Order No. Sixteen, and the requirement to comply with said executive order, in all contracts with its contractors, subcontractors, consultants, sub-consultants, and vendors.

F. This contract is subject to the provisions of the City of New London Sexual Harassment Policy ("Policy") and, as such, the contract may be canceled, terminated, or suspended by the City in the event that the contractor, its employees, contractors, subcontractors, consultants, sub-consultants, or vendors engages in behavior prohibited by the provisions of the Policy (a copy of the Policy is attached hereto). The contractor agrees to include a copy of the Policy, and the requirement to prevent behavior as defined in such Policy, in all contracts with its contractors, subcontractors, consultants, sub-consultants, and vendors.

G. Notwithstanding anything herein to the contrary:

(A)(1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, sexual orientation, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission; (3) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e, 46a-68f and 46a-86; (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this section and section 46a-56.

(2) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; and, the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

(B) Any Contractor who is a party to a municipal public works contract or quasi-public agency project, where any such contract is valued at less than \$50,000 for each year of the contract, shall provide the Commission on Human Rights and Opportunities with a written or electronic representation that complies with the nondiscrimination agreement and warranty under subsection (A)(1) above, provided if there is any change in such representation, the Contractor shall provide the updated representation to the Commission not later than 30 days after such change. Any Contractor who is a party to a municipal public works contract or a quasi-public agency project, where any such contract is valued at \$50,000 or more for any year of the contract, shall provide the Commission with any one of the following: (1) Documentation in the form of a company or corporate policy adopted by resolution of the board of directors, shareholder, managers, members or other governing body of such Contractor that complies with the nondiscrimination agreement and warranty under subsection (A)(1) of this section; (2) Documentation in the form of a company or corporate policy adopted by a prior resolution of the board of directors, shareholders, managers, members or other governing body of such contractor if (a) the prior resolution is certified by a duly authorized corporate officer of such contractor to be in effect on the date the documentation is submitted, and the executive director of the Commission on Human Rights and

Opportunities or designee certifies that the prior resolution complies with the nondiscrimination agreement and warranty under subdivision (A)(1) of this section; or (3) Documentation in the form of an affidavit signed under penalty of false statement by a chief executive officer, president, chairperson or other corporate officer duly authorized to adopt company or corporate policy that certifies that the company or corporate policy of the contractor complies with the nondiscrimination agreement and warranty under subdivision (A)(1) of this section and is in effect on the date the affidavit is signed..

(C) If the Contract is a municipal public works contract or a quasi-public agency project, the Contractor agrees and warrants that s/he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project. The Contractor shall include the provisions of subdivision (A)(1) of this section in every subcontract or purchase order entered into to fulfill any obligation of a municipal public works contract or contract for a quasi-public agency project, and such provisions shall be binding on a subcontractor, vendor or manufacturer, unless exempted by regulations or orders of the Commission on Human Rights and Opportunities. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance in accordance with section 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission regarding a state contract, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

(D) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) Who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements. Determination of the Contractor's good faith efforts shall include, but shall not be eliminated to, the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission on Human Rights and Opportunities may prescribe that are designed to ensure the participation of minority business enterprises in municipal public works contracts or quasi-public agency projects. "Municipal public works project" means that portion of an agreement entered into on or after October 1, 2015, between any individual, firm or corporation and a municipality for the construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, which is financed in whole or in part by the state, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees but excluding any project of an alliance district, as defined in section 10-262u, finance by the state funding in an amount equal to fifty thousand dollars or less. "Quasi-public agency project" means the construction, rehabilitation, conversion, extension, demolition or repair of a building or other changes or improvements in real property pursuant to a contract entered into on or after October 1, 2015, which is financed in whole or in part by a quasi-public agency using state funds, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

(E) The Contractor, general contractor or trade contract, hereby acknowledges that it shall be required to comply with the provisions of General Statute §4a-60g and the requirements concerning nondiscrimination and affirmative action under General Statute §4a-60 and §4a-60a.

19. Force Majeure: Neither party shall be liable to the other or be deemed to be in breach of this Contract for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather. Dates or times of performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

20. Compliance with Laws and Indemnification of the City of New London: The Contractor shall comply with all applicable laws, rules, regulations, ordinances, orders or requirements of the State of Connecticut and any governmental authority relating to the delivery of the services specified in this Contract. This shall include compliance with Paragraphs 1 through 13 and 15 through 20 of the State of Connecticut's Required Contract Provisions, as applicable, if this Contract has State funding. Said Contract Provisions are attached hereto and marked as Appendix A. The City may require the Contractor to pay fines, penalties, and damages that may arise out of or may be imposed because of, the Contractor's breach or failure to comply with the provisions of this Contract. Unless otherwise provided by law the Contractor shall indemnify and hold harmless the City, its agents, officers and employees against any and all liability, loss, damages, penalties, costs or expenses for personal injury or damage to real or tangible personal property which the City may sustain, incur or be required to pay resulting from, arising out of, or in connection with the services performed or delivered under this Contract by reason of acts, inactions, omissions, negligence, reckless or intentional misconduct of the Contractor, its agent(s), officers, employees or subcontractors; provided that the Contractor is notified of any claim within a reasonable time after the City becomes aware of it, and the Contractor is afforded an opportunity to participate in the defense of such claim. In such event, no negotiated settlement agreement shall be binding on the Contractor without the Contractor's concurrence.

21. Waivers And Severability: All conditions, covenants, duties and obligations contained in this Contract can be waived only by written agreement. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to that party. A waiver or breach of any term, condition, or covenant by a party shall not constitute a waiver or breach of any other term, condition or covenant. If any court of competent jurisdiction declares a provision of this Agreement invalid, illegal, or otherwise unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.

22. Amendments: No amendment to this Contract shall be effective unless it is signed by authorized representatives of both parties and complies with all other regulations and requirements of law.

23. Entire Agreement: The parties understand and agree that this Contract and attachments (if any), which includes all Contract Documents, supersede all other verbal and written agreements and negotiations by the parties relating to the services under this Contract.

24. Notice: Unless otherwise specified in an attachment hereto, any notice hereunder shall be in writing addressed to the persons and addresses indicated in the caption of this Contract on page 1.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed in two (2) original copies on the day and year first above written.

OWNER:

CONTRACTOR:

Michael Passero
Its Mayor

Its Owner or Duly Authorized Agent

Approved as to form:

Jeffrey T. Londregan, Esq., Director of Law

Date Signed _____

Appendix A

August 2015

Construction Contracts - Required Contract Provisions (State Funded Only Contracts)

Index

1. Title VI of the Civil Rights Act of 1964 / Nondiscrimination Requirements
2. Contractor Work Force Utilization / Specific Equal Employment Opportunity
3. Contract Wage Rates
4. Americans with Disabilities Act of 1990, as Amended
5. Connecticut Statutory Labor Requirements
 - a. Construction, Alteration or Repair of Public Works Projects; Wage Rates
 - b. Debarment List - Limitation on Awarding Contracts
 - c. Construction Safety and Health Course
 - d. Awarding of Contracts to Occupational Safety and Health Law Violators Prohibited
 - e. Residents Preference in Work on Other Public Facilities (Not Applicable to Federal Aid Contracts)
6. Tax Liability - Contractor's Exempt Purchase Certificate (CERT – 141)
7. Executive Orders (State of CT)
8. Non Discrimination Requirement (pursuant to section 4a-60 and 4a-60a of the Connecticut General Statutes, as revised)
9. Whistleblower Provision
10. Connecticut Freedom of Information Act
 - a. Disclosure of Records
 - b. Confidential Information
11. Service of Process
12. Substitution of Securities for Retainages on State Contracts and Subcontracts
13. Health Insurance Portability and Accountability Act of 1996 (HIPAA)
14. Forum and Choice of Law
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16. Audit and Inspection of Plants, Places of Business and Records
17. Campaign Contribution Restriction

August 2015

- 18. Tangible Personal Property
- 19. Bid Rigging and/or Fraud -- Notice to Contractor
- 20. Consulting Agreement Affidavit

Index of Exhibits

- EXHIBIT A – Title VI Contractor Assurances (page 13)
- EXHIBIT B – Contractor Work Force Utilization / Equal Employment Opportunity (page 14)
- EXHIBIT C – Health Insurance Portability and Accountability Act of 1996 (HIPAA) (page 17)
- EXHIBIT D - Campaign Contribution Restriction (page 25)
- EXHIBIT E - State Wage Rates (Attached at the end)

1. Title VI of the Civil Rights Act of 1964 / Nondiscrimination Requirements

The Contractor shall comply with Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. 2000 et seq.), all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the Title VI Contractor Assurances attached hereto at Exhibit A, all of which are hereby made a part of this Contract.

2. Contractor Work Force Utilization / Equal Employment Opportunity

- (a) The Contractor shall comply with the Contractor Work Force Utilization / Equal Employment Opportunity requirements attached at Exhibit B and hereby made part of this Contract, whenever a contractor or subcontractor at any tier performs construction work in excess of \$10,000. These goals shall be included in each contract and subcontract. Goal achievement is calculated for each trade using the hours worked under each trade.
- (b) Companies with contracts, agreements or purchase orders valued at \$10,000 or more will develop and implement an Affirmative Action Plan utilizing the ConnDOT Affirmative Action Plan Guideline. This Plan shall be designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex or national origin, and to promote the full realization of equal employment opportunity through a positive continuation program. Plans shall be updated as required by ConnDOT.

3. Contract Wage Rates

The Contractor shall comply with:

The State wage rate requirements indicated in Exhibit E hereof are hereby made part of this Contract.

Prevailing Wages for Work on State Highways; Annual Adjustments. With respect to contracts for work on state highways and bridges on state highways, the Contractor shall comply with the provisions of Section 31-54 and 31-55a of the Connecticut General Statutes, as revised.

As required by section 1.05.12 (Payrolls) of the State of Connecticut, Department of Transportation's Standard Specification for Roads, Bridges and Incidental Construction (FORM 816), as may be revised, every Contractor or subcontractor performing project work on a federal aid project is required to post the relevant prevailing wage rates as determined by the United States Secretary of Labor. The wage rate determinations shall be posted in prominent and easily accessible places at the work site.

4. Americans with Disabilities Act of 1990, as Amended

This provision applies to those Contractors who are or will be responsible for compliance with the terms of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), (Act), during the term of the Contract. The Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the Act. Failure of the Contractor to satisfy this standard as the same applies to performance under this Contract, either now or during the term of the Contract as it may be amended, will render the Contract voidable at the option of the State upon notice to the contractor. The Contractor warrants that it will hold the State harmless and indemnify the State from any liability which may be imposed upon the State as a result of any failure of the Contractor to be in compliance with this Act, as the same applies to performance under this Contract.

5. Connecticut Statutory Labor Requirements

(a) Construction, Alteration or Repair of Public Works Projects; Wage Rates. The Contractor shall comply with Section 31-53 of the Connecticut General Statutes, as revised. The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in subsection (i) of section 31-53 of the Connecticut General Statutes, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

(b) Debarment List. Limitation on Awarding Contracts. The Contractor shall comply with Section 31-53a of the Connecticut General Statutes, as revised.

(c) Construction Safety and Health Course. The Contractor shall comply with section 31-53b of the Connecticut General Statutes, as revised. The contractor shall furnish proof to the Labor Commissioner with the weekly certified payroll form for the first week each employee begins work on such project that any person performing the work of a mechanic, laborer or worker pursuant to the classifications of labor under section 31-53 of the Connecticut General Statutes, as revised, on such public works project, pursuant to such contract, has completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration or, has completed a new miner training program approved by the Federal Mine Safety and Health Administration in accordance with 30 CFR 48 or, in the case of telecommunications employees, has completed at least ten hours of training in accordance with 29 CFR 1910.268.

Any employee required to complete a construction safety and health course as required that has not completed the course, shall have a maximum of fourteen (14) days to complete the course. If the employee has not been brought into compliance, they shall be removed from the project until such time as they have completed the required training.

Any costs associated with this notice shall be included in the general cost of the contract. In addition, there shall be no time granted to the contractor for compliance with this notice. The contractor's compliance with this notice and any associated regulations shall not be grounds for claims as outlined in Section 1.11 – "Claims".

(d) Awarding of Contracts to Occupational Safety and Health Law Violators Prohibited. The Contract is subject to Section 31-57b of the Connecticut General Statutes, as revised.

(e) Residents Preference in Work on Other Public Facilities. NOT APPLICABLE TO FEDERAL AID CONTRACTS. Pursuant to Section 31-52a of the Connecticut General Statutes, as revised, in the employment of mechanics, laborers or workmen to perform the work specified herein, preference shall be given to residents of the state who are, and continuously for at least six months prior to the date hereof have been, residents of this state, and if no such person is available, then to residents of other states

6. Tax Liability - Contractor's Exempt Purchase Certificate (CERT – 141)

The Contractor shall comply with Chapter 219 of the Connecticut General Statutes pertaining to tangible personal property or services rendered that is/are subject to sales tax. The Contractor is responsible for determining its tax liability. If the Contractor purchases materials or supplies pursuant to the Connecticut Department of Revenue Services' "Contractor's Exempt Purchase Certificate (CERT-141)," as may be revised, the Contractor acknowledges and agrees that title to such materials and supplies installed or placed in the project will vest in the State simultaneously with passage of title from the retailers or vendors thereof, and the Contractor will have no property rights in the materials and supplies purchased.

Forms and instructions are available anytime by:

Internet: Visit the DRS website at www.ct.gov/DRS to download and print Connecticut tax forms; or
Telephone: Call 1-800-382-9463 (Connecticut calls outside the Greater Hartford calling area only) and select Option 2 or call 860-297-4753 (from anywhere).

7. Executive Orders

This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the contract as if they had been fully set forth in it. The contract may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order No. 14 and/or Executive Order No. 49 are applicable, they are deemed to be incorporated into and are made a part of the contract as if they had been fully set forth in it. At the Contractor's request, the Department shall provide a copy of these orders to the Contractor.

8. Non Discrimination Requirement (pursuant to section 4a-60 and 4a-60a of the Connecticut General Statutes, as revised): References to "minority business enterprises" in this Section are not applicable to Federal-aid projects/contracts. Federal-aid projects/contracts are instead subject to the Federal Disadvantaged Business Enterprise Program.

(a) For purposes of this Section, the following terms are defined as follows:

- i. "Commission" means the Commission on Human Rights and Opportunities;
- ii. "Contract" and "contract" include any extension or modification of the Contract or contract;
- iii. "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
- iv. "gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.

- v. "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- vi. "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
- vii. "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
- viii. "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
- ix. "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
- x. "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the State, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

- (b) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or

understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56;

and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter."

The Nondiscrimination Certifications can be found at the Office of Policy and Management website.

<http://www.ct.gov/opm/cwp/view.asp?a=2982&Q=390928>

9. Whistleblower Provision

The following clause is applicable if the Contract has a value of Five Million Dollars (\$5,000,000) or more.

Whistleblowing. This Contract may be subject to the provisions of Section 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

10. Connecticut Freedom of Information Act

- (a) **Disclosure of Records.** This Contract may be subject to the provisions of section 1-218 of the Connecticut General Statutes. In accordance with this statute, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.

- (b) **Confidential Information.** The State will afford due regard to the Contractor's request for the protection of proprietary or confidential information which the State receives from the Contractor. However, all materials associated with the Contract are subject to the terms of the FOIA and all corresponding rules, regulations and interpretations. In making such a request, the Contractor may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the Contractor believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Contractor that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Contract conflicts or is in any way inconsistent with this section, this section controls and shall apply and the conflicting provision or part shall not be given effect. If the Contractor indicates that certain documentation is submitted in confidence, by specifically and clearly marking the documentation as "CONFIDENTIAL," DOT will first review the Contractor's claim for consistency with the FOIA (that is, review that the documentation is actually a trade secret or commercial or financial information and not required by statute), and if determined to be consistent, will endeavor to keep such information confidential to the extent permitted by law. See, e.g., Conn. Gen. Stat. §1-210(b)(5)(A-B). The State, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. Should the State withhold such documentation from a Freedom of Information requester and a complaint be brought to the Freedom of Information Commission, the Contractor shall have the burden of cooperating with DOT in defense of that action and in terms of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall the State have any liability for the disclosure of any documents or information in its possession which the State believes are required to be disclosed pursuant to the FOIA or other law.

11. Service of Process

The Contractor, if not a resident of the State of Connecticut, or, in the case of a partnership, the partners, if not residents, hereby appoints the Secretary of State of the State of Connecticut, and his successors in office, as agent for service of process for any action arising out of or as a result of this Contract; such appointment to be in effect throughout the life of this Contract and six (6) years thereafter.

12. Substitution of Securities for Retainages on State Contracts and Subcontracts

This Contract is subject to the provisions of Section 3-112a of the General Statutes of the State of Connecticut, as revised.

13. Health Insurance Portability and Accountability Act of 1996 (HIPAA)

The Contractor shall comply, if applicable, with the Health Insurance Portability and Accountability Act of 1996 and, pursuant thereto, the provisions attached at Exhibit C, and hereby made part of this Contract.

14. Forum and Choice of Law

Forum and Choice of Law. The parties deem the Contract to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

15. Summary of State Ethics Laws

Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.

16. Audit and Inspection of Plants, Places of Business and Records

- (a) The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract. For the purposes of this Section, "Contractor Parties" means the Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to Perform under the Contract in any capacity.
- (b) The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
- (c) The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
- (d) The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
- (e) The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- (f) The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.

17. Campaign Contribution Restriction

For all State contracts, defined in Conn. Gen. Stat. §9-612(f)(1) as having a value in a calendar year of \$50,000 or more, or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice, as set forth in "Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations," a copy of which is attached hereto and hereby made a part of this contract, attached as Exhibit D.

18. Tangible Personal Property

(a) The Contractor on its behalf and on behalf of its Affiliates, as defined below, shall comply with the provisions of Conn. Gen. Stat. §12-411b, as follows:

- (1) For the term of the Contract, the Contractor and its Affiliates shall collect and remit to the State of Connecticut, Department of Revenue Services, any Connecticut use tax due under the provisions of Chapter 219 of the Connecticut General Statutes for items of tangible personal property sold by the Contractor or by any of its Affiliates in the same manner as if the Contractor and such Affiliates were engaged in the business of selling tangible personal property for use in Connecticut and had sufficient nexus under the provisions of Chapter 219 to be required to collect Connecticut use tax;
- (2) A customer's payment of a use tax to the Contractor or its Affiliates relieves the customer of liability for the use tax;
- (3) The Contractor and its Affiliates shall remit all use taxes they collect from customers on or before the due date specified in the Contract, which may not be later than the last day of the month next succeeding the end of a calendar quarter or other tax collection period during which the tax was collected;
- (4) The Contractor and its Affiliates are not liable for use tax billed by them but not paid to them by a customer; and
- (5) Any Contractor or Affiliate who fails to remit use taxes collected on behalf of its customers by the due date specified in the Contract shall be subject to the interest and penalties provided for persons required to collect sales tax under chapter 219 of the general statutes.

(b) For purposes of this section of the Contract, the word "Affiliate" means any person, as defined in section 12-1 of the general statutes, that controls, is controlled by, or is under common control with another person. A person controls another person if the person owns, directly or indirectly, more than ten per cent of the voting securities of the other person. The word "voting security" means a security that confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business, or that is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. "Voting security" includes a general partnership interest.

(c) The Contractor represents and warrants that each of its Affiliates has vested in the Contractor plenary authority to so bind the Affiliates in any agreement with the State of Connecticut. The Contractor on its own behalf and on behalf of its Affiliates shall also provide, no later than 30 days after receiving a request by the State's contracting authority, such information as the State may require to ensure, in the State's sole determination, compliance with the provisions of Chapter 219 of the Connecticut General Statutes, including, but not limited to, §12-411b.

19. Bid Rigging and/or Fraud – Notice to Contractor

The Connecticut Department of Transportation is cooperating with the U.S. Department of Transportation and the Justice Department in their investigation into highway construction contract bid rigging and/or fraud.

August 2015

A toll-free "HOT LINE" telephone number 800-424-9071 has been established to receive information from contractors, subcontractors, manufacturers, suppliers or anyone with knowledge of bid rigging and/or fraud, either past or current. The "HOT LINE" telephone number will be available during normal working hours (8:00 am – 5:00 pm EST). Information will be treated confidentially and anonymity respected.

20. Consulting Agreement Affidavit

The Contractor shall comply with Connecticut General Statutes Section 4a-81(a) and 4a-81(b), as revised. Pursuant to Public Act 11-229, after the initial submission of the form, if there is a change in the information contained in the form, a contractor shall submit the updated form, as applicable, either (i) not later than thirty (30) days after the effective date of such change or (ii) prior to execution of any new contract, whichever is earlier.

The Affidavit/Form may be submitted in written format or electronic format through the Department of Administrative Services (DAS) website.

EXHIBIT A

TITLE VI CONTRACTOR ASSURANCES

During the performance of this Contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. Compliance with Regulations: The Contractor shall comply with the regulations relative to nondiscrimination in federally assisted programs of the United States Department of Transportation (hereinafter, "USDOT"), Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Subsection 5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:
In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

4. Information and Reports: The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Connecticut Department of Transportation (ConnDOT) or the Funding Agency (FHWA, FTA and FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to ConnDOT or the Funding Agency, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the ConnDOT shall impose such sanctions as it or the Funding Agency may determine to be appropriate, including, but not limited to:

- A. Withholding contract payments until the Contractor is in-compliance; and/or
- B. Cancellation, termination, or suspension of the Contract, in whole or in part.

6. Incorporation of Provisions: The Contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the ConnDOT or the Funding Agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the ConnDOT to enter into such litigation to protect the interests of the Funding Agency, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States

EXHIBIT B

CONTRACTOR WORKFORCE UTILIZATION / EQUAL EMPLOYMENT OPPORTUNITY

1. Project Workforce Utilization Goals:

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted or funded) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where the work is actually performed.

Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications which contain the applicable goals for minority and female participation.

The goals for minority and female utilization are expressed in percentage terms for the contractor's aggregate work-force in each trade on all construction work in the covered area, are referenced in the Appendix A below.

STATE FUNDED PROJECTS (only)APPENDIX A

(Labor Market Goals)

LABOR MARKET AREA GOALMinorityFemale

Bridgeport				14%
6.9%				
Ansonia	Beacon Falls	Bridgeport	Derby	
Easton	Fairfield	Milford	Monroe	
Oxford	Seymour	Shelton	Stratford	
Trumbull				
Danbury				4%
6.9%				
Bethel	Bridgewater	Brookfield	Danbury	
Kent	New Fairfield	New Milford	Newtown	
Redding	Ridgefield	Roxbury	Sherman	
Washington				
Danielson				2%
6.9%				
Brooklyn	Eastford	Hampton	Killingly	
Pomfret	Putnam	Scotland	Sterling	
Thompson	Voluntown	Union	Woodstock	
Hartford				15%
6.9%				

Andover	Ashford	Avon	Barkhamsted
Belin	Bloomfield	Bolton	Bristol
Burlington	Canton	Chaplin	Colchester
Columbia	Coventry	Cromwell	Durham
East Granby	East Haddam	East Hampton	East Hartford
East Windsor	Ellington	Enfield	Farmington
Glastonbury	Granby	Haddam	Hartford
Harwinton	Hebron	Lebanon	Manchester
Mansfield	Marlborough	Middlefield	Middletown
Newington	Plainville	Plymouth	Portland
Rocky Hill	Simsbury	Somers	South Windsor
Southington	Stafford	Suffield	Tolland
Vernon	West Hartford	Wethersfield	Willington
Winchester	Windham	Windsor	Windsor Locks

Lower River	2%
6.9%	

Chester	Deep River	Essex	Old Lyme
Westbrook			

New Haven	14%
6.9%	

Bethany	Branford	Cheshire	Clinton
East Haven	Guilford	Hamden	Killingworth
Madison	Meriden	New Haven	North Branford
North Haven	Orange	Wallingford	West Haven
Woodbridge			

New London	8%
6.9%	

Bozrah	Canterbury	East Lyme	Franklin
Griswold	Groton	Ledyard	Lisbon
Montville	New London	North Stonington	Norwich
Old Lyme	Old Saybrook	Plainfield	Preston
Salem	Sprague	Stonington	Waterford
Hopkinton	RJ – Westerly Rhode Island		

Stamford	17%
6.9%	

Darien	Greenwich	New Canaan	Norwalk
Stamford	Weston	Westport	Wilton

Torrington	2%
6.9%	

Canaan	Colebrook	Cornwall	Goshen
Hartland	Kent	Litchfield	Morris
Norfolk	North Canaan	Salisbury	Sharon
Torrington	Warren		

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Waterbury				10%
6.9%				
Bethlehem	Middlebury	Naugatuck	Prospect	
Southbury	Thomaston	Waterbury	Watertown	
Wolcott	Woodbury			

EXHIBIT C

Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract (hereinafter the "Department") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of "individually identifiable health information," as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a "business associate" of the Department, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Department agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (hereinafter the HITECH Act), (Pub. L. 111-5, sections 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
 - (1) "Breach shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1))
 - (2) "Business Associate" shall mean the Contractor.
 - (3) "Covered Entity" shall mean the Department of the State of Connecticut named on page 1 of this Contract.
 - (4) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
 - (5) "Electronic Health Record" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5))

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- (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
 - (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.
 - (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
 - (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
 - (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
 - (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
 - (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
 - (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
 - (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and parts 164, subpart A and C.
 - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in section 13402(h)(1)(A) of HITECH. Act. (42 U.S.C. § 17932(h)(1)(A)).
- (h) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
 - (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
 - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
 - (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.

- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
- (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with clause h. (10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. sections 164.504(e), 164.308, 164.310, 164.312, and 164.316.

(14) In the event that an individual requests that the Business Associate (a) restrict disclosures of PHI; (b) provide an accounting of disclosures of the individual's PHI; or (c) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.

(15) Business Associate agrees that it shall not, directly or indirectly, receive any remuneration in exchange for PHI of an individual without (1) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and (2) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations

(16) Obligations in the Event of a Breach

- A. The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. 17932(b) and the provisions of this Section of the Contract.
- B. Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402 (g) of HITECH (42 U.S.C. 17932(g)). A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- C. The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
 1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
 2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
 3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
 4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
 5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to

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individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.

- D. Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
- E. Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.

(i) Permitted Uses and Disclosure by Business Associate.

- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

(2) Specific Use and Disclosure Provisions

- (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

(j) Obligations of Covered Entity.

- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
 - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
 - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
- (l) Term and Termination.

- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with clause h. (10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
 - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
 - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(3) Effect of Termination

- (A) Except as provided in (l)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with clause h. (10) of this Section of the Contract to the Covered Entity

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within ten business days of the notice of termination. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

(B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Provisions.

(1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.

(2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

(3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.

(4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.

(5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.

(6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the provisions of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.

(7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the

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HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

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Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (*italicized words are defined on the reverse side of this page*).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract or state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall knowingly *solicit* contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor or principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may resulting the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "Lobbyist/Contractor Limitations."

DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.

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EXHIBIT E

(state wages will be inserted here)