

STATE OF CONNECTICUT  
DEPARTMENT OF CONSTRUCTION SERVICES

STANDARD FIXED-FEE ENGINEER'S CONTRACT  
PROJECT NUMBER: BI-RT-862  
CONTRACT NUMBER: BI-RT-862 ENG

This contract for professional services herein designated in connection with the project entitled

Roof Replacement and Mechanical Improvements  
Windham Technical High School  
Willimantic, Connecticut

is entered into this *26<sup>th</sup>* day of *August*, 2013, by and between the State of Connecticut, hereinafter called the State, acting herein by its Commissioner of the Department of Construction Services (DCS), under the provisions of Sections 4-8 and 4b-1 of the Connecticut General Statutes, as revised and/or amended, and

Gale Associates, Inc.  
Being the same as and transacting business in the State  
of Connecticut as Gale Consultants, Inc.  
703 Hebron Avenue  
Glastonbury, CT 06033

hereinafter called the Engineer;

WITNESSETH, that the State and the Engineer, in consideration of the mutual covenants, terms and conditions herein contained, do hereby agree as follows:

1. The Engineer shall provide professional services for the project in accordance with Exhibit A, which is attached hereto and made a part hereof, and the "Terms and Conditions of Contract between State and Engineer," Department of Construction Services Form CS-3E dated February 9, 1998, and last revised January 24, 2013, which document is attached hereto as Attachment 1 and made a part hereof.
2. The Engineer's total fee of **Three Hundred Sixty Nine Thousand Sixty Dollars (\$369,060.00)** shall be paid as indicated below, and such other work as described in Section II of Exhibit A, which exhibit is attached hereto and made a part hereof, for the completion of the work specified when previously authorized in writing:
  - A. Schematic Design Phase: **One Hundred Fifteen Thousand Two Hundred Eighty Dollars (\$115,280.00);**
  - B. Design Development Phase: **N/A Dollars (\$N/A);**
  - C. Contract Documents Phase:  
**(50 %) Seventy Three Thousand Six Hundred Thirty Five Dollars (\$73,635.00)**  
**(100 %) Seventy One Thousand Seven Hundred Ninety Five Dollars (\$71,795.00);**
  - D. The Engineer shall be paid a sum of **Thirty-Two Thousand Six Hundred Dollars (\$32,600.00)** after the documents to be provided in the contract documents phase are bid by the Department of Construction Services and the Engineer's duties for the bidding phase have been completed to the Department of Construction Services' satisfaction, or when the State's construction contract with the general contractor is signed. If neither occurs, this amount will not be earned and paid.
  - E. In the event the State approves and allocates funds for construction, a sum of **Seventy-Five Thousand Seven Hundred Fifty Dollars (\$75,750.00)** shall be paid to the Engineer for construction administration services, if such administration is requested by the Department of Construction Services. This sum includes the costs of services of any clerical and/or technical assistants working in the Engineer's office or in the field. Said sum shall be paid in equal monthly installments, based upon the construction contract time, until payment reaches 90% of the construction administration sum. An additional 5% of the construction administration sum shall be payable upon (1) completing project closeout as required by the General Conditions and the General

Requirements of the Contract for Construction and (2) the receipt of record drawings. The balance of the construction administration sum shall be payable upon Certification of the Final Application for Payment.

The duties of the Engineer for said construction administration are as indicated in Article VII of the "Terms and Conditions of Contract between State and Engineer."

In the event the Commissioner of the Department of Construction Services, hereinafter called the "Commissioner," determines that the Engineer has not performed its services as required by this contract, then the equal monthly installments shall be adjusted to a percentage commensurate with the level of the actual performance of the construction administration services. The equal monthly installment payments can be readjusted to a percentage commensurate with the level of the Engineer's actual improvement of performance of construction administration services. The issue of the Engineer's performance of services shall be determined by the Commissioner.

All payment installments, as adjusted, shall remain in effect until the payments reach 90% of the construction administration sum. An additional 5% of sum shall be payable upon (1) completing project closeout as required by the General Conditions and the General Requirements of the Contract for Construction and (2) the receipt of record drawings. The balance of the construction administration sum shall be payable upon Certification of the Final Application for Payment.

Nothing contained herein shall limit the State's right to terminate or suspend this contract pursuant to Articles VIII and IX of the Terms and Conditions of the contract.

It is understood that the Engineer's total fee hereinbefore mentioned in paragraph 2 shall be reduced by the sum hereinbefore mentioned in subparagraph 2E if construction administration is not requested, and, conversely, shall be increased by any payments that the State shall be obligated to make pursuant to the provisions of Article V and Section C of Article VII of the "Terms and Conditions of Contract between State and Engineer." Said total fee shall also be subject to reduction pursuant to the provisions of the third paragraph of Section D of Article V of the "Terms and Conditions of Contract between State and Engineer." It is also understood that a reasonable adjustment in said total fee shall be made by the Commissioner in the event of termination or suspension, as provided in Articles VIII and IX of the "Terms and Conditions of Contract between State and Engineer."

3. The Engineer shall provide the work pursuant to the following phases within the time periods specified below or, at the option of the Department of Construction Services, within extended periods to be determined by the Department if the Department is of the opinion that such extensions are warranted and if the Department evidences its consent to such extensions in writing. The Engineer shall not commence any phase work under the contract until the Engineer receives written authorization to proceed from the DCS Project Manager.

A. Schematic Design Phase: 60 calendar days after receipt of written notice to proceed;

B. Design Development Phase: N/A calendar days after receipt of written notice to proceed;

C. Contract Documents Phase:

(50 %) 80 calendar days after receipt of written notice to proceed.

(100 %) 50 calendar days after receipt of written notice to proceed.

4. The Engineer's design shall be based on a total construction budget of **Four Million Two Hundred Thousand Dollars (\$4,200,000.00)**.
5. The scope of professional services to be provided by the Engineer under this contract is set forth in "Exhibit A."
6. The Engineer shall submit the following materials for review and approval:
  - A. Schematic Design Phase: 6 sets of full-size drawings, 2 sets of half-size drawings; 6 sets of specifications; and 6 sets of detailed cost estimates;
  - B. Design Development Phase: N/A sets of full-size drawings, N/A sets of half-size drawings; N/A sets of specifications; and N/A sets of detailed cost estimates;

C. Contract Documents Phase:

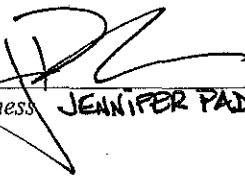
(50%) 6 sets of full-size drawings, 2 sets of half-size drawings; 6 sets of specifications; and 6 sets of detailed cost estimates.

(100%) 6 sets of full-size drawings, 2 sets of half-size drawings; 6 sets of specifications; and 6 sets of detailed cost estimates.


7. The Engineer shall develop drawings for this project using computer aided drafting software fully compatible with an AutoCAD version as approved in writing by the Department of Construction Services. After the documents to be provided are approved by the Department of Construction Services, and at a time specified by the Department of Construction Services, the Engineer shall submit an electronic copy of all drawings in a format approved by DCS. Upon completion of construction of the project, the Engineer shall submit a revised electronic copy utilizing the most recently recognized format of the National CAD Standard basic format to reflect as-built conditions. All AutoCAD documentation related to a project shall be of a single media type. All the work called for in this paragraph shall be provided by the Engineer at no additional cost to the State.
8. The following provisions modify the "Terms and Conditions of Contract between State and Engineer":
  - A. Section B of Article VI is hereby deleted.
  - B. Sections A and C of Article VI are hereby amended to additionally require the Engineer to submit, at a time determined by the Department of Construction Services, one set of progress drawings and specifications completed to a stage satisfactory to the Department.
  - C. Section C shall not apply to the amounts noted in Subparagraphs 2C of the contract. Said amounts shall be paid in installments with the first installment being paid after the submission and acceptance of the related aforementioned set of progress drawings and specifications, as indicated in said Subparagraph 2C. The second installment shall be paid, as indicated in said Subparagraph 2C, after the Engineer has submitted all the related phase work and such work has been accepted by the Department of Construction Services.
9. Entire Agreement No prior stipulation, agreement or understanding, verbal or otherwise, of the parties hereto, their agents or legal representatives shall be valid or enforceable unless embodied in the provisions of this contract.
10. 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 Engineer 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.
11. Approval of the State Properties Review Board As provided in Connecticut General Statutes Section 4b-23(i), it is essential for the Engineer contracting with the Department of Construction Services to understand that the approval of the State Properties Review Board must be granted before the Engineer's work can begin. By providing services without a properly executed contract, the Engineer accepts the risk that payment will not be made by the State of Connecticut.
12. Approval of the Attorney General's Office This contract shall take effect when it is approved as to form by the Attorney General of the State of Connecticut, the Deputy Attorney General of the State of Connecticut, or an Associate Attorney General of the State of Connecticut.


IN WITNESS WHEREOF, the State, acting herein by its Commissioner of the Department of Construction Services, and the Engineer have executed this contract.

Attested by:

  
Witness JENNIFER PADUA

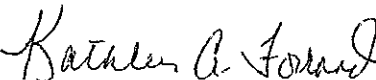
State of Connecticut

By   
Pasquale J. Salemi  
Its Deputy Commissioner  
of the Department of Construction Services

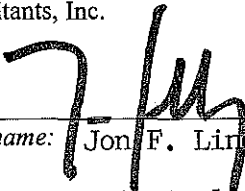
  
Witness Cheryl Benoit


Date signed: 8.26.13

Attested by:

  
Witness Kathleen A. Forrand

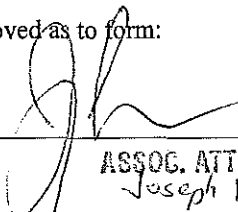
Gale Associates, Inc., being the same as and transacting business in the State of Connecticut as Gale Consultants, Inc.

By   
Print name: Jon F. Lindberg  
Its Principal, Duly Authorized

  
Witness Patricia M. Whalen

Date signed: August 13, 2013

Approved as to form:

  
ASSOC. ATTY. GENERAL Attorney General  
Joseph Rubin

Date signed: 9/9/13

## EXHIBIT A

**Roof Replacement and Mechanical Improvements  
Windham Technical High School  
Willimantic, CT  
Project No. BI-RT-862  
Contract No. BI-RT-862 ENG**

### Section I

The scope of professional services to be provided by the Engineer under this contract consists of providing the services called for in the contract in connection with the following construction work:

- Measure-up and verify field dimensions of roof areas and accessible structural roof framing components. Develop schematic roof area plans and proposed roof cross section details in AutoCad 2011.
- Research various roof assembly, translucent panel, metal wall panel and other systems associated with the roof replacement project.
- Perform wind uplift, drainage analysis, thermal analysis and code review for replacement roof system.
- Coordinate with their sub-consultant RZ Design Associates, for evaluation and restoration design of above roof line mechanical equipment.
- Apply to the State's Bureau of School Facilities for a tapered insulation variance to reduce the ½" slope requirement to ¼" per foot.
- Perform structural review of the existing roof framing system(s) for compliance with current code requirements; specifically snow drift and wind uplift resistance. The structural review is predicated on the available structural plans as provided by DCS.
- Provide schematic design/study report that includes options for roof replacement, insulation systems, window/wall closures assemblies and associated systems. The study will determine the potential for additional structural evaluations or design, if deemed necessary.
- Outline the scope of work for overflow scuppers, augmenting drains and leader pipe systems, door threshold flashing heights and reuse or replacement of existing rising wall through-wall flashings.
- Provide preliminary construction cost estimates in CSI division format.
- Provide a draft Division One specification.
- Submit Form 3030 Checklists for Permits, Certifications and Approvals.
- Complete and submit Form 3020 Life Cycle Determination Request Form and associated life cycle cost analysis for the roofing system.
- Respond to DCS, Code Unit, Factory Mutual Global, and DOE comments.
- Participate in one (1) design review meeting and provide meeting minutes documenting discussions and project scope.
- Submit Schematic Design/Study to Factory Mutual Global for preliminary approval and respond to comments. Revise documents as required.

The Engineer, inclusive of sub-consultants, will provide the following services at the 50 % Contract Documents Submission:

- Develop design for roof replacement and associated work based on approved scope of work during the Schematic Design phase.
- Develop roof area plans, proposed roof cross sections, rising wall flashing, door threshold, window replacement, wall infill, metal panel and overflow scupper details.

- Provide typical roof penetration details such as roof drains, vent pipe, fan unit curbs and expansion joints.
- Coordinate with their sub-consultant RZ Design Associates, for technical specification development of the restoration design for above roof line mechanical equipment.
- Provide draft technical specifications for selected roof replacement, mechanical system improvements and associated roof related items.
- Provide updated construction cost estimates in CSI division format.
- Complete and submit Form 6005 Consultant Bid Data Statement.
- Review and submit Form 3020 Checklists for Permits, Certifications and Approvals.
- Respond to DCS, Code Unit, Factory Mutual Globe and DOE comments.
- Participate in one (1) design review meeting and provide meeting minutes documenting discussions and revisions to documents.
- Submit 50% Contract Documents to Factory Mutual Global for acceptance, responding to comments and revising documents accordingly.

The Engineer, inclusive of sub-consultants, will provide the following services at the 100 % Contract Document Submission:

- Complete design for roof replacement and associated work.
- Complete roof area plans, proposed roof cross sections, rising wall flashing, door threshold, window replacement, wall infill, metal panel and overflow scupper details.
- Complete typical roof penetration details such as roof drains, vent pipe, fan unit curbs and expansion joints.
- Provide final technical specifications for selected roof replacement, mechanical system improvements and associated roof related items.
- The Engineer will coordinate with their sub-consultant RZ Design Associates, for the completion of technical specifications and details for the restoration or replacement of above roof line mechanical equipment.
- Provide updated construction cost estimates in CSI division format.
- Complete and submit Form 6005 Consultant Bid Data Statement.
- Review and submit Form 3020 Checklists for Permits, Certifications and Approvals.
- Respond to DCS, Code Unit, Factory Mutual Global and DOE comments.
- Participate in one (1) design review meeting and provide meeting minutes documenting discussions and revisions to documents.
- Submit 100% Contract Documents to Factory Mutual Global for final approval. Revise documents accordingly and respond to comments.

The Engineer, inclusive of sub-consultants, will provide the following services at the Bid Period and Bid Documents:

- Based on DCS approval of the Contract Document submission, provide one (1) set of stamped Bid Documents in hard copy and electronic format.
- Coordinate and attend a pre-bid meeting on site with contractors. Draft and distribute minutes of the meeting.
- Provide clarification of Contract Documents and issue addenda as needed.
- Review contractor bids, research contractor performance and provide a written letter of opinion of award to the lowest responsible bidder. Gale will not attend the bid opening.
- Provide final construction cost estimates in CSI division format.
- Complete and submit Form 6005 Consultant Bid Data Statement.
- Develop scope checklist and attend scope meeting with potential contractor and DCS to discuss bid and scope of work.

The Engineer, inclusive of sub-consultants, will provide the following Construction Administration services:

- Review shop drawings and submittals.
- Coordinate and attend preconstruction conference. Draft and distribute minutes of the meeting.
- Participate in bi-weekly job project meetings at the project site. Observe ongoing work and provide meeting minutes and observation field memos for each visit on CT-DCS standard forms.
- Perform up to sixteen (16) half day (4-hour) site visits to monitor construction activities on days that project meetings are not held. Draft and distribute daily report forms in CT-DCS standard format.
- Review payment requests, change orders and respond to technical questions via email, phone or fax.
- Utilize PM-Web for submission of shop drawings, submittals, payment requisitions, change orders and similar administrative forms. The Engineer shall attend PM-Web training as provided by DCS. PM-Web licenses will be provided to the Engineer by DCS.
- Process requests for proposals, architects supplementary instructions, construction change directives, non-conformance notice and other standard DCS forms.
- Perform punch-list and follow up inspections at Substantial and Final Completion.
- Review contractor close-out documents and forward to DCS.
- Complete Form 7810 Certificate of Substantial Completion and Form 7820 Certificate of Acceptance.
- Provide DCS with as-built drawings submitted per the Consultant Manual paragraph 2.5.6.5.

## **Section II**

**Not Applicable**

## Exhibit B

### SEXUAL HARASSMENT POLICY STATEMENT

All personnel of the Department of Public Works have the responsibility for maintaining high standards of honesty, integrity, impartiality and conduct to assure proper performance and maintenance of public trust. Sexual harassment violates these standards, especially with regards to principles of equal opportunity, and specific acts of such misconduct will result in the severest of disciplinary action that can be taken.

Acts of sexual harassment are illegal and prohibited by the Civil Rights Act, Title VII as amended and Connecticut General Statutes 46a-60 as a discriminatory practice.

As the Commissioner of the Department of Public Works, I will under no circumstances tolerate any incidents of this type of behavior. Specifically, any supervisors, who use implicit or explicit sexual behavior to control, influence, or affect the career, pay or job of an employee is engaging in sexual harassment. Similarly, any employee who makes deliberate or repeated offensive verbal comments, gestures, or physical contact of a sexual nature in the work environment is also engaging in sexual harassment.

Sexual harassment can include verbal abuse such as sexual insults, lewd or suggestive comments, or unwelcome jokes of a sexual nature. Sexually suggestive objects or sexually explicit posters, calendars, photographs, cartoons, drawings or other explicit materials are inappropriate in a state workplace and can contribute to creating a hostile or offensive work environment.

Individuals who are sexually harassed by supervisors, co-workers, or peers should make it clear that such behavior is offensive. Individuals can file a sexual harassment complaint to the appropriate source(s) for investigation of the matter, so that action can be taken to ensure a work environment free of sexual harassment.

Sexual harassment is totally unacceptable conduct; it undermines the integrity of the employment relationship, debilitates morale, and interferes with the work productivity of the organization.

I shall expect every manager and supervisor to ensure that any instance of sexual harassment is dealt with swiftly, fairly, and effectively. All substantiated complaints will result in the strongest disciplinary action available to the Department.

### SEXUAL HARASSMENT NARRATIVE

Sexual harassment is a particular type of sex discrimination. Like all sexual discrimination, it is illegal. It violates high standards of honesty, integrity, impartiality and conduct required of all sections of the Department of Public Works. It also interferes with and impedes work productivity.

Sexual harassment is defined as "any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by any individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment."

You may file a complaint with your supervisor, the Human Resources Office at (860) 713-5304 or Johnette Tolliver, the agency's designated Equal Employment Opportunity Specialist at (860) 713-5394.

Signed by Commissioner Raeanne V. Curtis on May 30, 2008.



**ATTACHMENT 1**  
(12 pages)

**STATE OF CONNECTICUT**  
**DEPARTMENT OF CONSTRUCTION SERVICES**  
**FORM CS-3E**  
**February 9, 1998**  
**Last Revision January 24, 2013**

**TERMS AND CONDITIONS OF CONTRACT**  
**BETWEEN STATE AND ENGINEER**

**I. GENERAL**

The amount of the total construction budget noted in Paragraph 4 of this contract is to include all construction work and the connecting up of all existing utilities and related services; it is to include any other costs directly chargeable to the proper functioning of the building with the exception of the furnishing of equipment other than that which is usually built in as a component part of the building. This amount is not to be exceeded except by prior and express written permission from the State.

**II. ENGINEER'S SERVICES**

- A. The Engineer agrees to prepare and furnish documents as set forth in Article VI.
- B. The Engineer agrees to become familiar with and follow the DCS provisions set forth in the "DEPARTMENT OF PUBLIC WORKS CONSULTANTS PROCEDURE MANUAL," which may be amended and/or supplemented current with the date of this contract. These guidelines and provisions are incorporated herein by reference and shall be as binding upon the parties to this contract as though fully set forth herein.
- C. The Engineer shall consult with the Department of Construction Services Project Manager to ascertain requirements of the project and consult with proper State authorities and inform himself as to specific institutional conditions that might affect his contemplated work or the hours or season of its execution, such as type of patients, use of adjacent areas, interruptions of institutional routine, etc. The drawings and specifications submitted by the Engineer for review and approval by the State shall reflect consideration of those conditions requiring safeguards and precautionary measures in excess of usual practice.
- D. Should the Engineer require the services of registered consultants at any time during the term of this contract, their names and qualifications shall be submitted to the State for approval. Such consultants shall provide evidence of their competence by affixing their seals on any drawings or specifications prepared by them or under their supervision. The Engineer shall pay such approved registered consultants in proportion to payments received by the Engineer as set forth in Article IV and shall submit evidence of such payments upon request by the State.
- E. The Engineer covenants and agrees that he shall perform his services under this contract in accordance with the standards and practices of his profession.
- F. Indemnification.

The Engineer shall indemnify and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising directly or indirectly in connection with the contract, concerning the negligent acts of commission or omission (collectively, the "Acts") of the Engineer or Engineer Parties, and (2) liabilities, damages, losses, costs and expenses, including but not limited to attorneys' and other professionals' fees, arising directly or indirectly in connection with Claims, Acts or the contract, to the extent of the Engineer's or Engineer Parties' negligence. The Engineer's obligations under this section to indemnify and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Engineer's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance.

**III. INSURANCE**

The Engineer for the duration of this contract, including any extension of the original contract term, must carry insurance to protect the interests of the State. The Engineer must obtain statutory workers' compensation and employers' liability insurance, comprehensive automobile liability insurance, commercial general liability insurance and professional services liability insurance to not less than the minimum limits as required in this article, all at no cost to the State.

A. Statutory Workers' Compensation and Employers' Liability:

- |                            |   |
|----------------------------|---|
| 1. Workers' Compensation:  | Statutory limits                                  |
| 2. Employers' Liability:   |   |
| Bodily injury by accident: | \$100,000 each accident                           |
| Bodily injury by illness:  | \$100,000 each employee<br>\$500,000 policy limit |

B. Commercial General Liability:

- |                        |   |
|------------------------|---|
| Combined single limit: | \$1,000,000 each occurrence<br>\$2,000,000 annual aggregate |
|------------------------|---|

C. Comprehensive Automobile Liability

(to include owned, non-owned and hired vehicles):

- |                        |   |
|------------------------|---|
| Combined single limit: | \$1,000,000 each occurrence<br>\$1,000,000 annual aggregate |
|------------------------|---|

D. Professional Services Liability Insurance: The Engineer shall furnish evidence by way of a certificate of insurance that it has obtained a professional services liability insurance policy with \$1,000,000.00 each occurrence and per aggregate minimum coverage for negligence and errors and omissions. If any claims are paid against its professional services liability insurance policy, the Engineer agrees to purchase additional insurance in order to maintain the minimum coverage of \$1,000,000.00 each occurrence and per aggregate. The insurance shall remain in effect during the entire duration of this contract and for eight years after substantial completion of the project. For policies written on a "Claims Made" basis, the Engineer agrees to maintain a retroactive date prior to or equal to the effective date of the contract. The Engineer shall contractually require any structural engineering firm it hires to maintain professional liability insurance in the same amount and with the same provisions indicated above. The Engineer's policy shall provide that it shall indemnify and save harmless the State and its officers, agents and employees from claims, suits, actions, damages and costs of every name and description resulting from negligence and errors and omissions in the work performed by the Engineer under the terms of this contract.

Each of the policies for such kinds of insurance mentioned above shall be issued by an insurance company or companies satisfactory to the DCS and shall contain a provision that coverage will not be changed, cancelled or non-renewed until at least sixty (60) calendar days' prior written notice has been given to the DCS. Each insurance policy shall state that the insurance company agrees to investigate and defend the insured against all claims for damages to the extent that all alleged damages might be covered by insurance. Such insurance policies shall name the State as an additional insured, except that the State shall not be named as an additional insured with respect to the coverage for the statutory workers' compensation, automobile liability, and employer's liability insurance and to the coverage for professional liability insurance. Certificates of insurance showing such coverages as required in this article shall be filed with the DCS prior to the time this contract is executed on behalf of the State.

#### IV. PAYMENT OF ENGINEER'S FEE

- A. The State agrees to pay the Engineer for the services herein described the total fee set forth in Paragraph 2 of this contract. It is understood that no changes or adjustments shall be made in said fee unless the scope of the work performed or to be performed by the Engineer has substantially changed as determined by the Commissioner of the Department of Construction Services, hereinafter referred to as the Commissioner.
- B. Said fee includes all costs of living, transportation and communication, whether within or without the State of Connecticut, connected with the discharge of the Engineer's duties under this contract unless express written notification to the contrary is received from the State.
- C. No payments shall be made until the materials submitted have been reviewed and approved by the Department of Construction Services.

## V. SPECIAL SERVICES

- A. Should it be necessary for the Engineer to engage the services of a licensed land surveyor, geotechnical engineer or test boring firm for the purposes of this contract, the State shall reimburse the Engineer for the cost of such services and in addition shall also pay the Engineer ten percent (10%) of such cost, or such other percentage deemed reasonable by the Commissioner, for overhead and profit. The Engineer's selection of the consultant retained in connection therewith is to be submitted for approval.
- B. If, in the opinion of the State, any special technical service is required which is not usually furnished in engineering practice and which is not included in this contract, either expressed or implied by the nature of the work, then the State shall, in writing, authorize the service and the related cost. The Engineer's selection of the consultant retained in connection therewith is to be submitted for approval. The State shall reimburse the Engineer for the cost of any such services and in addition shall also pay the Engineer ten percent (10%) of such cost, or such other percentage deemed reasonable by the Commissioner, for overhead and profit.
- C. Should the Engineer itself wish to perform special services as described in Sections A and B of this article, the Engineer shall submit to the State a written quotation of the cost of its performing such services. The quotation shall not include, nor shall the Engineer be paid for, an additional percentage of the cost for overhead and profit. The State shall decide whether to allow the Engineer to perform the work with its own forces based on its quotation, and shall notify the Engineer accordingly.
- D. If at any time during the term of this contract the State should require the Engineer to make any substantial change in the size or scope of the work or require any substantial change in plan, design or specification which shall necessitate the preparation by the Engineer of additional sketches, drawings or other documents, or the making of substantial changes in any other document already approved, or upon which substantial work had been done pursuant to instruction to proceed, then, and in such event, the Engineer shall prepare the additional documents and make changes as required and shall be entitled to reasonable compensation therefor. The Commissioner shall determine the amount of such compensation and the manner of payment thereof. If the State should require any such substantial changes and if these should result in a change in the amount of the total construction budget noted in Paragraph 4 of this contract, said amount shall be considered changed to an amount determined by the Commissioner.

The above notwithstanding, should it be necessary for the Engineer to prepare any such additional documents or make changes in the same for purposes of meeting the budget requirements of the project, and where an increase in the cost of labor and/or materials is not the governing factor, he shall perform such duties without receiving additional compensation.

In addition, if at any time during the term of this contract the State should request the Engineer to reduce the scope of services originally agreed upon under this contract, the Engineer shall then reduce said scope of services, as requested, and his fee shall be reduced by a fair and equitable amount determined by the Commissioner.

- E. For reuse by the State of the drawings and specifications prepared by the Engineer under this contract, the Engineer shall be paid a reasonable fee for such reuse plus a reasonable fee for making necessary changes to such drawings and specifications as may be required by job conditions. The Commissioner shall determine the amounts of such fees.

## VI. SPECIFIC DOCUMENTS TO BE FURNISHED BY THE ENGINEER WHEN AUTHORIZED

### A. Schematic Design Phase

The Engineer must receive written notice from the State to proceed with the schematic design phase before commencing the phase. Pursuant to conferences with the State, designs shall be prepared by the Engineer to encompass the general program of the project. These designs shall consist of small scale drawings, elevations, sections and outline specifications. All specifications shall be prepared in accordance with the CSI (Construction Specifications Institute) format. At this time the Engineer shall make sufficiently accurate estimates to determine the feasibility of constructing the project within the funds available. At the beginning of the schematic design phase, the Engineer shall engage his consultants as set forth in Section D of Article II. The Engineer shall submit for review and approval the number of sets of drawings, specifications and detailed cost estimates as indicated in Paragraph 6 of this contract.

While preparing such drawings, specifications and detailed cost estimates, the Engineer shall investigate any factors that may conflict with the use of the site as proposed, such as neighboring building lines, zoning

regulations, sanitary codes, health and fire laws, local ordinances, etc., and shall report his findings thereon to the State when submitting schematic design phase drawings, outline specifications and detailed cost estimates.

If the estimate agreed to by the State and Engineer exceeds the total construction budget noted in Paragraph 4 of this contract, or if the State and Engineer cannot agree upon an estimate of the probable construction cost and the probable cost of construction as determined by the State exceeds both the Engineer's estimate and the total construction budget noted in Paragraph 4 of this contract, then the Engineer shall make appropriate recommendations to the State for adjustments to the documents in regards to the project's scope, quality, or budget. At that time, the State shall have the right to require the Engineer to modify the documents as the State deems necessary to bring the cost within the amount of the total construction budget noted in Paragraph 4 of this contract. The revisions shall be made without additional compensation to the Engineer.

#### **B. Design Development Phase**

The Engineer must receive written notice from the State to proceed with the design development phase before commencing the phase. The design development phase drawings shall show the extent of the site, location of the project on the site and the general disposition of the principal features and equipment embodied in the project, and shall be sufficiently developed so as to fix and illustrate the size and character of the project in all of its essential basic particulars as to kinds of materials, types of structure, and mechanical and electrical systems. All specifications shall be prepared in accordance with the CSI (Construction Specifications Institute) format. The Engineer shall submit for review and approval the number of sets of drawings, specifications and detailed cost estimates as indicated in Paragraph 6 of this contract.

Submitted with the design development phase drawings and specifications shall be an estimate of the cost of construction predicated on the same, and broken down into the major sub-trades for the construction of the building, with separate figures for special items such as equipment, site work, and utility lines. Basic engineering and other drawings and specifications shall also be provided at this time by the engineers and other consultants working under the direction of the Engineer.

If the estimate agreed to by the State and Engineer exceeds the total construction budget noted in Paragraph 4 of this contract, or if the State and Engineer cannot agree upon an estimate of the probable construction cost and the probable cost of construction as determined by the State exceeds both the Engineer's estimate and the total construction budget noted in Paragraph 4 of this contract, then the Engineer shall make appropriate recommendations to the State for adjustments to the documents in regards to the project's scope, quality, or budget. At that time, the State shall have the right to require the Engineer to modify the documents as the State deems necessary to bring the cost within the amount of the total construction budget noted in Paragraph 4 of this contract. The revisions shall be made without additional compensation to the Engineer.

At this phase, a rendered colored and framed perspective drawing shall be submitted together with three (3) 8" x 10" black and white photographs thereof.

As the drawings submitted during this phase are to form the basis of the whole concept of the project, they shall be reviewed by the State for conformance to functional and technical requirements of the project and approved by the State before the Engineer proceeds to the next phase. It is understood, however, that such review and approval does not relieve the Engineer from any responsibility arising out of the State's reliance on his professional skill and ability to discharge his services as required by this contract.

#### **C. Contract Documents Phase**

The Engineer must receive written notice from the State to proceed with the contract documents phase before commencing the phase. The documents to be provided in this phase are a part of the construction contract and as such must explain in substantial detail the full scope of the work included in, and performed under, the construction contract.

A final detailed estimate of the cost of construction, including unit prices, quantities, labor and materials, predicated on the contract documents phase drawings and detailed specifications, shall be included as a part of this phase. All specifications shall be prepared in accordance with the CSI (Construction Specifications Institute) format and in accordance with Part II of Chapter 60 of the Connecticut General Statutes, as revised, when applicable. The Engineer shall submit for review and approval the number of sets of drawings, specifications and detailed cost estimates as indicated in Paragraph 6 of this contract. Such review and approval by the State does not relieve the Engineer of responsibility arising out of the State's reliance on his professional skill and ability to discharge his services as required by the contract.

If the estimate agreed to by the State and Engineer exceeds the total construction budget noted in Paragraph 4 of this contract, or if the State and Engineer cannot agree upon an estimate of the probable construction cost

and the probable cost of construction as determined by the State exceeds both the Engineer's estimate and the total construction budget noted in Paragraph 4 of this contract, then the Engineer shall make appropriate recommendations to the State for adjustments to the documents in regards to the project's scope, quality, or budget. At that time, the State shall have the right to require the Engineer to modify the documents as the State deems necessary to bring the cost within the amount of the total construction budget noted in Paragraph 4 of this contract. The revisions shall be made without additional compensation to the Engineer.

**If the project involves either new construction and/or additions to an existing facility, the Engineer will consult with the client agency and develop the first year estimated operating cost for the project's utilities including, but not limited to, heating, cooling, water and sewer.**

All original final tracings shall, together with the specifications typed in letter quality print on one side of 8 1/2" x 11" white bond paper, be submitted by the Engineer prior to the State's going to bid.

When the Engineer has incorporated all comments and the documents are ready for bidding, the Engineer will submit the tracings, master specifications, and a CD ROM disk of both to DCS. This submission will conclude the contract documents phase of the contract.

#### **D. Bidding Process**

In the event the Department of Construction Services bids the contract drawings and specifications, the Engineer shall, as part of the design services to be rendered for his established fee, include as much of his professional services as the State deems necessary for the well-being of the project and the efficient prosecution of the bidding process.

### **VII. ENGINEER'S DUTIES DURING CONSTRUCTION**

A. If the Engineer's services during construction are requested as set forth in Subparagraph 2E of this contract, the Engineer shall, as part of the services to be rendered for his established fee, include as much of his professional services and the services of his consultants as the State deems necessary for the well-being of the project and efficient prosecution of the construction work. The Engineer shall not, however, be required to undertake continuous on-site observation of the work. If the Engineer fails to perform such duties in a conscientious and reasonable manner, the State may exercise its right to terminate this contract as hereinafter provided in Article VIII.

B. Additionally, it is understood and agreed to by the Engineer and the State that, should the Engineer's services during construction be requested, such services shall include, but not be limited to, the following:

1. observe the progress of construction in order to determine whether there appear to be any defects or deficiencies in the construction work or deviations from the drawings and specifications, including variations from the materials specified and the methods of construction authorized. The Engineer shall not be required to guarantee the performance of the general contractor or his subcontractors;

The Engineer is obligated to immediately notify the DCS project manager, in writing, whenever any work is unsatisfactory, faulty or defective, or does not conform to the contract documents.

2. attend job meetings as required, at which the Engineer shall, on the basis of his visitations to the site and observations thereon, report on the progress of the work and make recommendations concerning the same;
3. submit to the Department of Construction Services on the fifteenth and last days of each month, in such form as directed by the State, observation-based reports regarding the progress of the work;
4. examine submittals and furnish recommendations to the State concerning material and equipment, and review and report on the general contractor's proposals in connection with changes in the construction contract. These services are to be performed within five (5) calendar days of receipt of such proposals so as not to delay the work;
5. review and return partial payment requisitions submitted by the general contractor within three (3) working days of the receipt of such submittals;
6. review and comment on shop drawings submitted to him for review. This service is to be performed within five (5) working days of the receipt of such submittals unless the Department of Construction Services assents to written notification of why this cannot be accomplished;
7. within thirty (30) calendar days after receipt, record on the original final tracings and CAD disks returned to him after the construction contract award all changes made during the period of construction as furnished and recorded by the general contractor, and, at his expense, provide reproducible mylars and

updated CAD disks to the State that reflect such changes. The mylars and CAD disks shall become the property of the State;

8. fully cooperate with the Department of Construction Services during the progress of the work.
- C. In the event that the time period of the construction contract is exceeded by more than 10% due to no fault of the Engineer, the Engineer may be paid for any additional services required beyond the 10% construction contract time overrun a reasonable fee to be determined by the Commissioner. The question of fault or no fault on the part of the Engineer shall be determined by the Commissioner.

### VIII. TERMINATION OF CONTRACT

- A. Notwithstanding any provisions or language in this contract to the contrary, the Commissioner may terminate the contract whenever he determines in his sole discretion that such termination is in the best interest of the State. Any such termination shall be effected by delivery to the Engineer of a written notice of termination. The notice of termination shall be sent by registered or certified mail to the Engineer's address as furnished to the State by the Engineer for purposes of correspondence, or by hand delivery. Upon receipt of such notice, the Engineer shall both immediately discontinue all services affected (unless the notice directs otherwise) and deliver to the State all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Engineer in performing his duties under this contract, whether completed or in progress. All such documents, information and materials shall become the property of the State.
- B. If the termination is for the convenience of the State, the Engineer shall be entitled to receive reasonable compensation for services already satisfactorily performed and accepted, but no amount shall be allowed for anticipated profit on unperformed services. The Commissioner shall determine the amount of such compensation.
- C. If the termination is for reason of failure of the Engineer to fulfill his contract obligations, the State may take over the work and prosecute the same to completion by contract or otherwise. In such event, he Engineer shall be liable to the State for any additional costs occasioned to the State thereby.
- D. If after notice of termination for failure of the Engineer to fulfill his contract obligations it is determined that the Engineer had not so failed, the termination shall be deemed to have been effected for the convenience of the State. In such event, the Engineer shall be entitled to reasonable compensation as provided in Section B of this article.
- E. If the Engineer is a sole proprietor and the Engineer should die during the term of this contract, this contract shall be considered terminated. In the event of such termination, the Engineer's estate shall be entitled to a reasonable payment for any uncompensated work performed to the date of death, and the State shall have title to, and shall have the right to immediate use and possession of, all finished and unfinished documents prepared under this contract. The Commissioner shall determine the amount of such payment.
- F. The rights and remedies of the parties provided in this article are in addition to any other rights and remedies provided by law or under this contract.

### IX. SUSPENSION OF THE WORK

- A. The State, at any time, may suspend all or any part of the services of the Engineer. In such event, the Engineer shall be given three (3) days' notice of such suspension in writing by registered or certified mail to the Engineer's address as given to the State by the Engineer for correspondence purposes. The mailing of such notice shall preclude any claim on the part of the Engineer as to failure to receive notice of such suspension.
- B. In the event of suspension by the State as noted above, the Engineer shall be entitled to such compensation as the Commissioner shall deem reasonable.
- C. Should the State reactivate any assigned work covered by this contract, in whole or in part, within one year from the time the work was suspended, any fees paid to the Engineer pursuant to this contract shall be applied as payment on the fees for the work as set forth in this contract at the time of reactivation. Should reactivation occur after a period of suspension exceeding one (1) year, the Engineer and the State may renegotiate the fees for the work based on current conditions or either may unilaterally elect to terminate the remaining work.
- D. In the event the State decides to suspend any work under this contract, the State shall become entitled, after payment of outstanding fees, to all finished and unfinished documents prepared pursuant to this contract.

- E. If the Engineer should be unwilling or unable to perform the services required by this contract at the time the State desires to reactivate the work after a period of suspension, then all finished or unfinished documents prepared pursuant to this contract shall become the property of the State and the State shall have the right to immediate possession and use thereof.

#### **X. CONFIDENTIALITY OF DOCUMENTS**

- A. The Engineer agrees on behalf of the Engineer and the Engineer's principals, employees, agents, heirs, successors and assigns that they shall only utilize drawings, specifications, maps, reports, records or other documents to the extent necessary for the performance of the Engineer's work and duties under this contract. This limitation on use applies to those items produced by the Engineer, as well as to those items received by the Engineer from the Department of Construction Services or others in connection with the Engineer's work and duties under this contract.
- B. The Engineer further agrees that said drawings, specifications, maps, reports, records and other documents may not be released to any other entity or person except for the sole purpose of the work described in this contract. No other disclosure shall be permitted without the prior written consent of the Department of Construction Services.
- C. The Engineer further agrees that the following provision will be included in its contracts with sub-consultants:

Any and all drawings, specifications, maps, reports, records or other documents associated with the contract work shall only be utilized to the extent necessary for the performance of the work and duties under this contract. Said drawings, specifications, maps, reports, records and other documents may not be released to any other entity or person except for the sole purpose of the work described in this contract. No other disclosure shall be permitted without the prior written consent of the Department of Construction Services. When any such drawings, specifications, maps, reports, records or other documents are no longer needed, they shall be destroyed.

#### **XI. NONDISCRIMINATION AND AFFIRMATIVE ACTION PROVISIONS, NONDISCRIMINATION PROVISIONS REGARDING SEXUAL ORIENTATION, EXECUTIVE ORDERS, SEXUAL HARASSMENT POLICY, SUMMARY OF STATE ETHICS LAWS AND CAMPAIGN FINANCE LAWS**

For the purposes of this article, the word "contractor" is substituted for and has the same meaning and effect as if it read "Engineer."

##### **A. Non-Discrimination**

(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, mental retardation, 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, mental retardation, 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.

B. 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 the applicable parts of Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. If Executive Orders 7C and 14 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.

1. The contractor agrees to abide by such Executive Orders.
2. The State Contracting Standards Board may review this contract and recommend termination of the contract for a violation of the State Ethics Code (Chapter 10 of the general statutes) or section 4a-100 of the general statutes, or wanton or reckless disregard of any state contracting and procurement process by any person substantially involved in such contract or state contracting agency.

3. This contract may be cancelled, terminated or suspended by DCS or the State Labor Commissioner for violation of or noncompliance with Executive Orders No. Three or Seventeen or any State or federal law concerning nondiscrimination, notwithstanding that the State Labor Commissioner is not party to this contract. The State Labor Commissioner shall have continuing jurisdiction regarding contract performance concerning nondiscrimination and listing all employment openings with the Connecticut State Employment Service until the contract is completed or until the contract is terminated prior to completion.
  4. 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 the contractor will not discriminate in its employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.
  5. This contract may be cancelled, terminated, or suspended by DCS or the State for violation of or noncompliance with Executive Order Sixteen. In addition, the contractor agrees to include a copy of Executive Order Sixteen, and the requirement to comply with said order, in all contracts with its contractors, subcontractors, consultants, subconsultants and vendors.
- C. This contract is subject to the provisions of the Department of Public Works Sexual Harassment Policy ("Policy"), which Policy has been adopted by the Department of Construction Services, and, as such, the contract may be cancelled, terminated, or suspended by the State in the event that the contractor, its employees, contractors, subcontractors, consultants, subconsultants, or vendors engage in behavior prohibited by the provisions of the Policy (a copy of the Policy is attached to this contract as Exhibit B). 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, subconsultants, and vendors.
- D. **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.
- E. **Campaign Contribution Restriction Provision**
- For all State contracts, defined in Conn. Gen. Stat. §9-612(g)(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," attached as "Attachment."

## XII. 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 Engineer takes or threatens to take any personnel action against any employee of the Engineer 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 Engineer 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 Engineer.

### **XIII. ANNUAL CERTIFICATION**

If the aggregate value of this contract is \$50,000.00 or more, including all amendments and/or commission letters, then the Engineer shall annually submit electronically, on or within two (2) weeks of the anniversary date of the execution of this contract, a completed Gift and Campaign Contribution Certification and notify the DCS Legal Unit that it has been uploaded. Said certification shall be uploaded on the Department of Administrative Services website. For the purposes of this article, the execution date of the contract shall be the date the Commissioner of DCS signs the contract.

### **XIV. SOVEREIGN IMMUNITY**

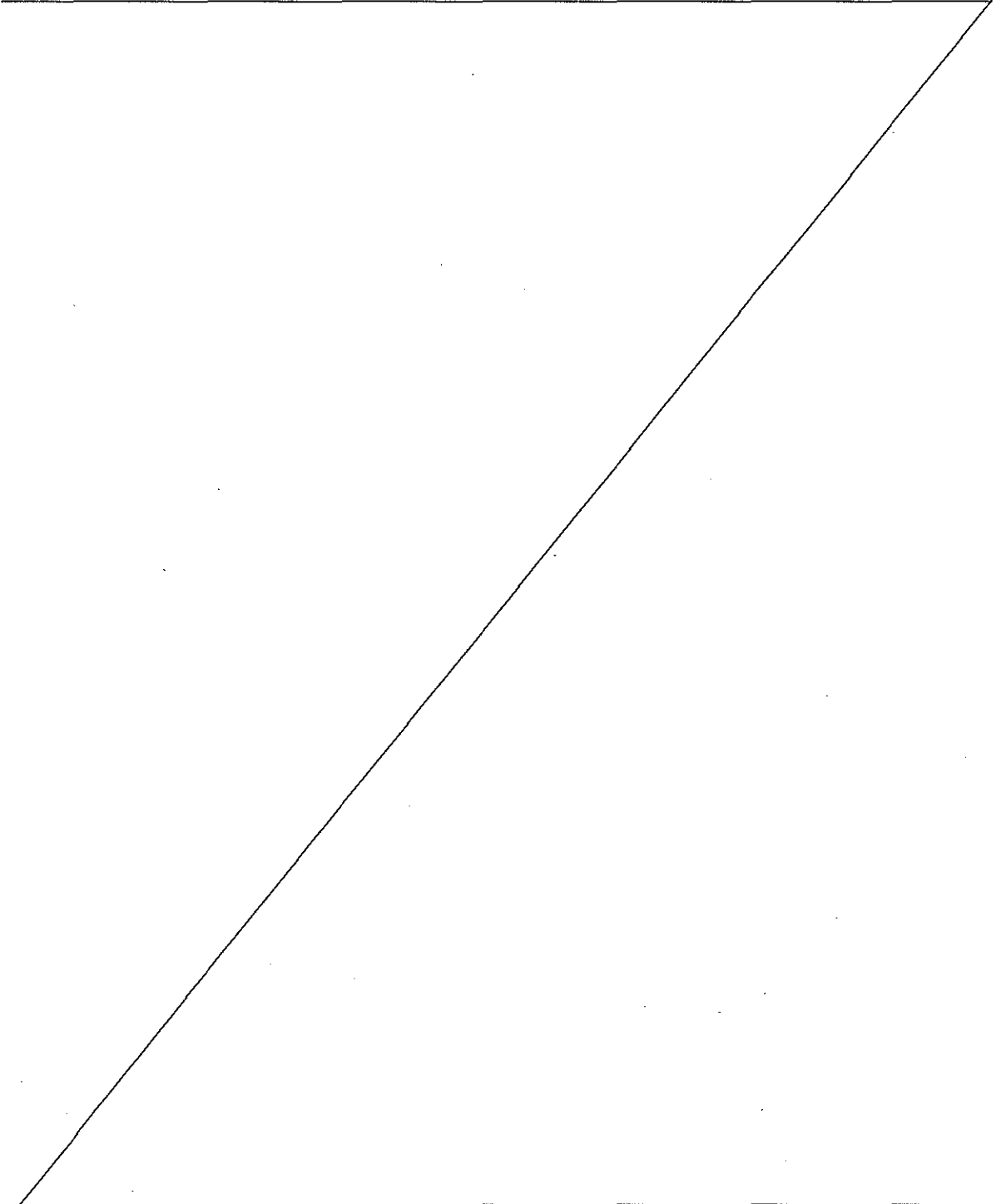
The parties acknowledge and agree that nothing in the solicitation or the contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the contract. To the extent that this section conflicts with any other section, this section shall govern.

### **XV. STATE'S RIGHTS OF INSPECTION, AUDIT AND COLLECTION; MAINTENANCE OF RECORDS**

- (a) All services performed by and material supplied by the Engineer under this contract shall be subject to the inspection and approval of the State at all times, and Engineer shall furnish all information concerning such material and services as may be requested by the State.
- (b) The Engineer shall maintain, and shall require each of its subcontractors hereunder to maintain, accurate and complete records, books of account and other documents that delineate the nature and extent of the State's, Engineer's, and, in the case of each subcontract, the applicable subcontractor's, performance hereunder. The Engineer shall maintain all such documentation and any and all other of its records (whether stored in electronic or other form) that in any way pertain or relate to this contract and/or the actual or alleged performance and/or lack of performance by any party hereunder (individually and collectively, "Records") at the Engineer's address provided on the first page of this contract or such other location as is approved in writing in advance by the State.
- (c) The Engineer agrees to make all of its Records available for inspection and/or examination, and copying, by the State's authorized representatives during reasonable hours. The State and its representatives also shall have the right, at reasonable hours, to inspect and examine all of the part(s) of the Engineer's and its subcontractors' plant(s) and/or place(s) of the businesses which, in any way, are related to, or involved in, the performance of this contract and/or any subcontract to ensure compliance with the same. Except in the case of suspected fraud or other abuse or in the event of an emergency, the State will give the Engineer at least twenty-four (24) hours notice of any intended inspections or examinations.
- (d) At the State's request, the Engineer shall provide the State with hard copies of or electronic media containing any data or information in the possession or control of the Engineer which pertains to the State's business or this contract.
- (e) The Engineer agrees that it will keep and preserve or cause to be kept and preserved all of its Records until three (3) years after the latter of (i) final payment under this contract, or (ii) the expiration or earlier termination of this contract, as the same may be extended or renewed, and any holdover period.
- (f) The Engineer also agrees that it will require each subcontractor under this contract to maintain all of its Records until three (3) years after the expiration or earlier termination of said subcontract or other agreement, as the same may be renewed or extended.
- (g) If any litigation, claim or audit is started before the expiration of said three (3) year periods, such records shall be (and shall be required to be) retained until all litigation, claims or audit findings have been resolved.
- (h) The Engineer shall incorporate the provisions of this article, including this section (h), verbatim into any contract or other agreement it enters into with any subcontractor under this contract.

### **XVI. 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 or entity 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.



ATTACHMENT



**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 result in 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](http://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.