

School Building Committee

Waterbury Board of Education
City of Waterbury, Connecticut
October 16, 2014 5:30 PM
Waterbury Arts Magnet School Media Center

Meeting Agenda

- I. Call to Order**
- II. Discussion: Draft Request for Proposal – Public School Facility Utilization & Redistricting Study**
- III. Other Matters**
- IV. Adjournment**

REQUEST FOR PROPOSAL NO. 51??

**PUBLIC SCHOOL FACILITY UTILIZATION
& REDISTRICTING STUDY**

DRAFT

City of Waterbury
Department of Education

October 6, 2014

**The City of Waterbury
Department of Education**

**Request for Proposal #51__
Public School Facility Utilization & Redistricting Study**

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**The City of Waterbury
Department of Education**

**Request for Proposal #51__
Public School Facility Utilization & Redistricting Study**

INSTRUCTIONS FOR SUBMISSION

The City of Waterbury, Department of Education, hereinafter “City” & “Owner”, is seeking to hire a Consultant capable of performing a study on Waterbury’s public school enrollment trends and projections, existing facility capacity and utilization and redistricting options.

A. Background and Intent

The City of Waterbury Public School System has experienced a significant increase in student population over the past three years. The reason for the increase is unknown. Before proceeding with the construction of a new elementary school in the east end of the City, the Board of Education (BOE) desires a study on current and future enrollment. The recent enrollment increase has impacted the City’s shift towards creating true neighborhood schools. Several elementary schools are at or above capacity. Existing facility utilization has pushed teaching into spaces not necessarily conducive to a learning environment. The BOE desires surveys of the existing elementary schools to inventory learning space and improve building utilization. In addition, the BOE desires a study of the current districting plan and potential options to improve the distribution of students which will create an equitable distribution of students to existing facilities and maintain space to accommodate new enrollments.

Any contract or purchase order award resulting from this RFP will be based on a three step process. The first step will be to review and evaluate the qualifications of the firms responding to this RFP. The second step will involve interviews of the four (4) firms deemed most qualified and of best value to the City. The third step will involve contract negotiations with one firm deemed most qualified and offering the best value to perform the services needed.

B. Qualifications

Eligible proposers will be those firms or businesses that have the following qualifications:

1. Experience and expertise in regards to providing the type of professional services noted below as well as those outlined in Section 00500 in the RFP:

- The ability to understand city and neighborhood demographic, housing and enrollment trends as well as, district policy on enrollment, and feeder patterns.
 - The ability to determine the best and most accurate sources of enrollment data and experience in preparing enrollment projections.
 - The ability to evaluate school capacity based on program requirements, and to conduct facility utilization analyses for each of Waterbury's school facilities.
 - Experience in the development and guidance of redistricting plans from adoption to implementation.
 - The ability to project and convey multiple building usage options that factor in enrollment change with cost estimates.
 - The ability to graphically present district enrollment options.
 - The ability to present study findings to multiple audiences, including the Board of Education, school administration, parents, the community and other stakeholders.
2. Provide brief history of your firm with services offered, years and approximate percentage breakdown of business dedicated to enrollment projections. Identify key qualities or services provided by your firm that distinguish you from other Consultants.
 3. Provide qualifications and related experience with a summary of no less than (2) two projects of similar scope, completed by your firm within the last (5) five years. For each Project, identify its size and scope of services provided. Provide three (3) Owner references for which similar services were provided.
 4. List the key individuals who will make up the Consultant's team for this contract. Describe their relevant qualifications and experience including education and technical training. Include the name of the person providing supervision. Provide the firm's organizational/team structure. Include a resume of each team member. Identify each member's time commitment to this project. Identify each member's current workload and availability for this assignment. Staff shall have excellent verbal and written communication skills.
 5. Describe your firm's management process.
 6. The firm must acknowledge that they are fully in accord with the requirements of the terms and conditions of the Contract Agreement.

C. Scope of Services

The Consultant shall provide services in accordance with Section 00500 – Scope of Services as part of the City of Waterbury's Agreement (Attachment B). The City's

Agreement is a standard document. The City reserves the right to amend it during negotiations.

D. Agreement Period

The agreement period for any contract or purchase order resulting from this RFP is anticipated to be January 2015 thru April 2015.

E. General Information

1. The City is an Equal Opportunity and Affirmative Action employer and does not discriminate in its hiring, employment, or business practices. The City is committed to complying with the Americans with Disabilities Act of 1990 (ADA) and does not discriminate on the basis of disability, in admission to, access to, or operation of its programs, services, or activities. Proposers must review and be prepared to sign, prior to the execution of any contract with the City, the items and any forms included in Attachment C (Submission Compliance Pack).
2. All questions about the meaning or intent of the RFP Documents must be submitted to The City of Waterbury eProcurement website by October __, 2014 at 2:00 p.m.
3. The City will issue written clarifications or interpretations by Addenda online at the City of Waterbury eProcurement website not later than October __, 2014 at 4:00 p.m.
4. Only information issued by such City written Addenda will be binding. Oral and other clarifications or interpretations will not be binding and will be without legal effect.
5. Each Bidder shall be responsible for determining that it has received all Addenda issued and shall acknowledge receipt of all Addenda on the Addendum Acknowledgment Form and the Bidder shall list therein all written Addenda number(s) issued by the City.

F. Management

The City of Waterbury Department of Education will manage any Agreement or Purchase Order resulting from this RFP.

G. Conditions

All those submitting proposals must be willing to adhere to the following conditions and must positively state this in the proposal:

1. All proposals in response to this RFP are to be the sole property of the City. Proposers are encouraged **not** to include in their proposals any information, which is proprietary. All materials associated with this procurement process are subject to the terms of state laws defining freedom of information and privacy and all rules, regulations and interpretations resulting from those laws.
2. Any product, whether acceptable or unacceptable, developed under a contract awarded as a result of the RFP is to be the sole property of the City.
3. The timing and sequence of events resulting from this RFP will ultimately be determined by the City.
4. The proposer agrees that the proposal will remain valid for a period of **120** days after the closing date for the submission and may be extended beyond that time by mutual agreement.
5. The City may amend the terms or cancel this RFP any time prior to the execution of a contract or purchase order for these services if the City deems it to be necessary, appropriate or otherwise in the best interests of the City. Failure to acknowledge receipt of amendments, in accordance with the instructions contained in the amendments, may result in a proposal not being considered. At his option, the City's Director of Purchasing may provide all proposers with a limited opportunity to remedy any technical deficiencies identified by the City in their initial review of proposals.
6. The proposer must certify that the personnel identified in its response to this RFP will be the persons actually assigned to the project. At its discretion, the City may require the removal and replacement of any of the proposer's personnel who do not perform adequately, regardless of whether they were previously approved by the City. Any additions, deletions or changes in personnel for any reason from the proposal during the course of the agreement period must be approved by the City.
7. All subcontractors hired by the proposer awarded a contract or purchase order as a result of this RFP must have prior approval of the City prior to and during the agreement period.

8. Any costs and expenses incurred by proposers in preparing or submitting proposals are the sole responsibility of the proposer.
9. A proposer must be prepared to present evidence of experience, ability, financial standing, and any other information deemed necessary by the City to satisfactorily meet the requirements set forth or implied in the proposal.
10. No additions or changes to the original proposal will be allowed after submittal, except as may be allowed by the City, at its option, in accordance with Section G.5. of this RFP. While changes are not permitted, clarification of proposals may be required by the City at the proposer's sole cost and expense. The final price and scope of services of any contract or purchase order resulting from this RFP may be negotiated with responsible proposers.
11. The proposer may be required to give presentations to the extent necessary to satisfy the City's requirements or needs. In some cases, proposers may have to give presentations or further explanation to any RFP selection committee established by the City.
12. The proposer represents and warrants that the proposal is not made in connection with any other proposer and is in all respects fair and without collusion or fraud.
13. All responses to the RFP must conform to instruction. Failure to include any required signatures, provide the required number of copies, to meet deadlines, answer all questions, follow the requested format, or failure to comply with any other requirements of this RFP may be considered appropriate cause for rejection of the response.
14. The proposer must accept the City's standard Agreement language. See Attachment B.
15. Any contract or purchase order resulting from this RFP process will represent the entire agreement between the proposer and the City and will supersede all prior negotiations, representations or agreements, alleged or made, between the parties. The City shall assume no liability for payment of services under the terms of the contract or purchase order until the successful proposer is notified that the contract or purchase order has been accepted and approved by the City. Any contract resulting from this RFP may be amended only by means of a written instrument signed by the proposer and signed by the Mayor.

16. The Consultant shall not be an employee of, or financially associated with any of the commissioning agents, design teams, construction managers or any of the trade contractors.

H. Submission Requirements & Required Format

One original (clearly identified as such), three (3) paper copies and one (1) electronic version of the Submission must be received at the following address no later than 10:30 AM on November __, 2014.

Mr. Rocco Orso
Director of Purchasing
City of Waterbury
235 Grand Street, Room 113
Waterbury, CT 06702

Submissions submitted must be bound, paginated, indexed and numbered consecutively. Proposers shall complete Attachment C addressed to Mr. Orso, which, in part, includes a statement by the proposer accepting all terms and conditions and requirements contained in the RFP, and which shall be signed by a duly authorized official of the organization submitting the proposal. Proposers shall also, as indicated in Attachment C, identify the name of a contact person, along with their telephone number and address, who can be contacted for the purpose of clarifying the information contained in their response to this RFP. In addition to any other information required in Attachment C, proposers shall provide their firm's authorization and a request to any persons, firm, or corporation to furnish any information requested by the City of Waterbury in verification of the recitals included in its response to this RFP.

Submissions must set forth accurate and complete information for each of the items listed below. At the City's discretion, failure to do so could result in disqualification.

1. Proposer Information: Please provide the following information:
 - a. Firm Name
 - b. Permanent main office address
 - c. Date firm organized
 - d. Legal Form of ownership. If a corporation, indicate where incorporated.
 - e. How many years have you been engaged in services you provide under your present name?
 - f. Names, titles, reporting relationships, and background and experience of the principal members of your organization, including officers.

2. Experience, Expertise and Capabilities

- a. Philosophy Statement and Business Focus. A statement of the proposer's philosophy and approach in undertaking the services of the nature outlined in the RFP, as well as a description of its primary business focus.
- b. Letter of Intent: Provide a letter of intent indicating your firm's commitment to the project and how your firm will meet or exceed all expectations.
- c. Executive Summary: Provide a brief history of your firm. Identify key qualities or services provided by your firm that distinguish you from other construction managers.
- d. Summary of Relevant Experience: Provide a summary of no more than five public school projects completed by your firm within the last (10) ten years. For each project, identify its size and scope of services provided. Provide five (5) Owner references for which similar services were provided. The following information shall be provided for each organization listed under this subsection:
 - Organization name and the name, title, address and telephone number of a responsible contact person.
 - Nature of services provided and dates services started and actually completed. Please indicate, for each assignment, if it was completed within the original contract timeframe and budget. If not, please explain.
 - For each project done for a municipality or other government agency, please indicate the gross cost of the agreement. Additionally, please list any contracts or purchase orders in the last five (5) years between the proposer and any agency of the City of Waterbury.
- e. Personnel Listing: A complete listing of the staff identified in the work plan by job classification, along with their resumes. Each resume shall include the individual's qualifications and experience in the subject area. Identify each member's time commitment to this project. Identify each member's current workload and availability for this assignment.
- f. Conflict of Interest: Disclose any current (within the last 5 years) business, financial, personal or other types of relationships, which may pose a conflict of interest.
- g. Project Approach: Describe your firm's management process including pre-construction and construction services.
- h. Contract Agreement: The firm must acknowledge that they are fully in accord with the requirements of the terms and conditions of the City's Contract Agreement.
- i. Fee Proposal: Refer to Section 00400.

3. Statement of Qualifications and Work Plan

- a. Qualifications: For each item listed in Section B- Qualifications, please describe your firm's qualifications, experience and capabilities as they pertain to each of the areas of qualifications listed, as well as those of the personnel to be assigned to this project.
- b. Work Plan: Describe your firm's management process including preconstruction and construction services. For each item listed in Section C. - Scope of Services, please describe the approach that would be generally followed in undertaking these tasks.
- c. Services Expected of the City: Identify the nature and scope of the services that would be generally required of the City in undertake these projects.

4. Fee & Compensation Schedule

Refer to Section 00400 – Fee & Compensation Schedule included in this RFP. Proposals shall include a single price for each component of work to be performed in accordance with this RFP, inclusive of all personnel and non-personnel expenses. This price should encompass the entire Scope of Services in this RFP. The City reserves the right to negotiate costs, scope of services, and key personnel based on provider proposals. In order for the City to evaluate the proposed cost, proposers must include for each element in the Work Plan outlined in Section H.3.b. above, the staff, hours, hourly rates and the total cost. Attach this breakdown to Section 00400.

Since the City may desire to consider the proposer's experience, qualifications, statement of work, and other aspects of the RFP prior to Section 00400 - Fee & Compensation Schedule, Section 00400 shall be sealed in a separate envelop marked "Confidential: Cost Proposal".

Note: The City 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 prices.

5. Information Regarding: Failure to Complete Work, Default and Litigation

Please respond to the following questions:

- a. Have you ever failed to complete any work awarded to you? If so, when and why?
- b. Have you ever defaulted on a contract? If so, where and why?
- c. Is there any pending litigation, which could affect your organization's ability to perform this agreement? If so, please describe.
- d. Has your firm ever had a contract terminated for cause within the past (5) five years? If yes, provide details.

- e. Has your firm been named in a lawsuit related to errors and omissions within the past five years? If yes, provide details.
- f. During the past seven years, has your firm ever filed for protection under the Federal bankruptcy laws? If yes, provide details.
- g. Are there any other factors or information that could affect your firm's ability to provide the services being sought about which the City should be aware?

6. Exceptions and Alternatives

Proposers wishing to take any exceptions to any requirement in the RFP shall state and explain such exceptions. The City may accept proposals which take exception to any requirements in this RFP, or which offer any alternative to a requirement herein, as well as consider such exceptions and alternatives in evaluating responses. Any exception or alternative must be clearly delineated and cannot materially affect the substance of this Request for Proposal.

7. Additional Data

Any additional information which the proposer wishes to bring to the attention of the City that is relevant to this RFP.

I. Evaluation of Proposals; Selection Process

1. Evaluation Criteria

The following criteria are expected to be among those utilized in the selection process. They are presented as a guide for the proposer in understanding the City's requirements and expectations for this project and are not necessarily all inclusive or presented in order of importance.

- a. Proposed statement of work. Emphasis will be on grasp of the issues involved, soundness of approach and the quality of the overall proposal.
- b. Proposed fee and compensation schedule
- c. Experience, expertise, and capabilities of the proposer. Background, qualifications, and previous experience of personnel to be assigned to the project and their demonstrated competence, experience and expertise in the type of work to be performed. The type of experience, expertise, capabilities, and qualifications desired are outlined in Section B. - Qualifications of this RFP Section. The City may contact one or more of the organization references listed in Section H.2.d. of this RFP as part of

assessing the experience, expertise and capabilities of the proposers or those selected as the finalist(s)

- d. Time, Project and Cost Schedule. Emphasis will be on the proposer's record with completing tasks and producing the necessary products within required time frames and within budget.

2. Selection Process

A Selection Committee will review and evaluate the qualifications of the Consultant firms responding to this RFP. Interviews may be conducted with the four firms deemed most qualified and of best value to the City. Contract negotiations will occur with one firm deemed most qualified and offering the best value to perform the work needed.

J. Rights Reserved To the City

The City reserves the right to award in part, to reject any and all proposals in whole or in part for misrepresentation or if the proposer is in default of any prior City contract, or if the proposal limits or modifies any of the terms and conditions and/or specifications of the RFP. The City also reserves the right to waive technical defects, irregularities and/or omissions if, in its judgment, the best interest of the City will be served.

END OF SECTION

SECTION 00300

ADDENDUM ACKNOWLEDGEMENT FORM

The undersigned declares that the only persons or parties interested in this Bid as principals are as stated; that the Bid is made without any collusion with other persons, firms, or corporations; that Bidder has carefully examined all the Bid Documents; that Bidder has informed itself fully regarding all conditions pertaining to the Work and the place where it is to be performed; and that with this representation, the undersigned makes this Bid. The Bid prices shall cover all expenses incurred in performing the Work required in the Bid Documents, of which this Bid Form is a part.

The undersigned agrees and covenants that the Contract Time shall commence on delivery of the CITY'S written notice to proceed, which shall occur only after contract execution by both parties.

The undersigned acknowledges receipt of addenda numbered: (insert date)

1 _____ 4 _____

2 _____ 5 _____

3 _____ 6 _____

In accordance with the above understanding, the undersigned proposes to perform the Work, furnish all materials and complete the Work in its entirety in the manner and under the conditions required at the prices listed as follows:

All Work for this Project shall be performed at the Bid Prices as described in the Bid Documents

Should the Bidder have any question(s) regarding the scope of work to be included within the Total Bid Prices, said question(s) shall be directed as provided in Article 4.1 of the Instructions to Bidders.

Signature: _____

Date: _____

**SECTION 00400
FEE & COMPENSATION SCHEDULE**

Consultant: _____

Complete the following Fee & Compensation Schedule to determine a Lump Sum Cost for the services defined in this RFP. All reimbursable expenses (i.e. travel, mileage, per diem, meetings, progress reports, communications, insurance, printing, mailing, office overhead, direct costs, etc.) and services shall be included in the amounts listed below. Respondents may attach a cover letter and any other supporting documents if they so choose. Provide personnel billing rates for use in determining additional services, if requested.

The price proposal shall be submitted in a separate sealed envelope clearly identified in accordance with the Instructions for Submission.

Description	Cost
District Wide Enrollment Projections	\$
Facility Surveys & Utilization Study	\$
Redistricting Study	\$
Final Report & Presentations	\$
Other: (Provide description and breakdown on a separate sheet of paper.)	\$
TOTAL ALL ABOVE	\$

SECTION 00500

SCOPE OF SERVICES

SECTION 1 – GENERAL PROVISIONS

1.1 General Description of Services

- A. Customary Services: The Consultant's services shall consist of the services described herein.
- B. Scope of Professional Services: The scope of the Professional Services are described generally in this RFP and also include those services that are reasonable, consistent with and necessary to complete the Study.
- C. Cooperation with Other Parties and Participants: The Consultant shall cooperate fully with and confer with the appropriate City of Waterbury Departments and State of Connecticut Agencies in connection with the Study.

1.2 Use of the Study

- A. It is understood that the Owner, may reproduce the Consultant's reports without modifications and distribute the reports in connection with this RFP without incurring obligation for additional compensation to the Consultant. The original reports shall remain the property of the Consultant.

SECTION 2 – CONSULTANT SERVICES & RESPONSIBILITIES

2.1 Overview of Services

- A. The Waterbury Department of Education is soliciting proposals from professional consultants to conduct a study on public school enrollment trends and projections, existing facilities capacity and utilization and redistricting options.
- B. The Consultant shall provide District Administration and Board of Education Commissioners with a comprehensive plan and report of their findings and recommendations.

2.2 Scope of Services

- A. Enrollment Projections: Prepare comprehensive enrollment projections based on a ten-year horizon for Waterbury Public Schools. Projections should be disaggregated by school, grade, magnet and other special programs and neighborhood.

1. Projections should factor in housing conditions, trends and development proposals at city-wide and neighborhood level. Housing analysis should include new housing plans and approvals with expected number of school aged children generated.
 2. Projections should factor in demographic trends and conditions at city-wide and neighborhood level.
 3. Projections should factor in live birth data disaggregated by school and neighborhood.
 4. Projections should factor in economic conditions.
 5. Projections should factor in recent school construction phasing plans, programmatic changes and magnet school enrollments.
 6. Catalogue Department of Education services with the objective of determining how these might impact the attractiveness of Waterbury Schools.
- B. Facility Utilization: Prepare an analysis of functional capacity and utilization of Waterbury Public School Elementary School Facilities.
1. Survey existing elementary school facilities and compile an inventory of available classroom space for both standard classrooms and special use (art, music, special education, bilingual, etc.). Identify which spaces are suitable/useable for the function they serve and which spaces are not.
 2. Work closely with Waterbury Public Schools to understand programmatic requirements and special service needs, planned changes to programming and building conditions to ensure functional analysis captures Waterbury's Neighborhood Schools Vision for delivering education.
 3. Develop benchmarking for schools to identify areas of concern and help guide the redistricting process.
 4. Audit current classroom utilization, taking into account core space as well as classroom space.
 5. Calculate functional capacity for the entire district and at the school level based on desired program deployment.
 6. Model building utilization for both current class size guidelines and possible adjustments to class size guidelines (higher and lower) and changes in program deployment.
 7. Evaluate options for the use of other City owned facilities.

8. Develop a list other known facilities in the City that could be considered for use as a school.
 9. Evaluate the option of a new elementary school and identify a preferred geography, not necessarily site specific, for it.
- C. Redistricting: Informed by the enrollment facility utilization analysis, develop a series of redistricting options and facility recommendations to address areas of concern. The redistricting plan should provide equitable distribution of students within the existing school facility assets and deliver to the greatest extent possible the Neighborhood Schools vision of the City.
1. Work with Waterbury Public Schools to develop redistricting criteria to ensure redistricting options align with City's vision for school system.
 2. Test redistricting options by developing enrollment projections and utilization modeling for the proposed options to gauge impact on class size, staffing and core facilities.
 3. Based on Enrollment and Facility Analysis Findings, evaluate options for the use of other city facilities as well as areas in the city that may have merit for a school.
 4. Conduct an analysis of probable costs for the various options in order to present a cost/benefit analysis.
 5. Produce maps and address lists as well as provide redistricting boundaries and other pertinent data in GIS format.

2.3 Workshops, Progress Meetings and Public Meetings

- A. The Consultant shall include as many meetings and workshops with District Administration as needed to collect information.
- B. Progress meetings for the term of services will be held bi-monthly during normal working hours in the District Administration's Offices commencing upon receipt of a fully executed Agreement.
- C. The Consultant shall attend up to three (3) meetings with the Board of Education, community and other stakeholders for the purpose of presenting and discussing the analysis and findings of this study as well as proposed recommendations. Prepare graphical materials in both electronic form and paper copy as required for the presentations.

2.4 Final Report

- A. The Consultant shall prepare a Comprehensive Report inclusive of Enrollment Projections, Facility Capacity Utilization and Redistricting Recommendations inclusive of appropriate statistical and graphic materials in a format acceptable to the Waterbury Department of Education.
- B. The Consultant shall attend a Board of Education meeting to present the Final Report. The Final Report shall be presented in electronic format and paper copy.
- C. The Consultant shall also attend a Board of Aldermen meeting to present the Final Report. The Final Report shall be presented in electronic format and paper copy.

SECTION 3 – SCHEDULE

3.1 Services Schedule

- A. The Consultant shall be ready to commence work upon receipt of a fully executed City Agreement.
- B. The anticipated commencement date of services is early January 2015.
- C. Presentation of the Final Report to the Board of Education and Board of Aldermen is anticipated to occur no later than April 13, 2015.

End of Section

**ATTACHMENT A
CONTRACT COMPLIANCE DOCUMENTS**

1. City of Waterbury Annual Statement of Financial Interests (4 pages)
2. City of Waterbury Disclosure and Certification Affidavit
Regarding Outstanding Obligations to the City of Waterbury (4 pages)
3. City of Waterbury Certification Regarding Debarment, Regarding
Outstanding Obligations to the City of Waterbury (1 page)
4. Limited Liability Company Resolution & Letter (2 pages)
5. Corporate Resolution (1 page)

CITY OF WATERBURY
ANNUAL STATEMENT OF FINANCIAL INTERESTS (Calendar Year 200__)
Persons or Entities Conducting Business with the City

I. Outstanding Purchase Orders of Contracts with the City

A. Contracts

No Contracts with the City

(Service or Commodity Covered by Contract)

(Term of Contract)

(Service or Commodity Covered by Contract)

(Term of Contract)

(Service or Commodity Covered by Contract)

(Term of Contract)

CITY OF WATERBURY
ANNUAL STATEMENT OF FINANCIAL INTERESTS (Calendar Year 200__)
Persons or Entities Conducting Business with the City

B. Purchase Order(s).

No Purchase Order(s) with the City

(Service or Commodity Covered by Purchase Order)

(Date of Purchase Order)



(Service or Commodity Covered by Purchase Order)

(Date of Purchase Order)



(Service or Commodity Covered by Purchase Order)

(Date of Purchase Order)

CITY OF WATERBURY
ANNUAL STATEMENT OF FINANCIAL INTERESTS (Calendar Year 200__)
Persons or Entities Conducting Business with the City

II. Financial Interest Disclosure

(Public Officials, Employees or Board and Commission Members with interest in Person or Entity Conducting Business with the City)

No Officials, Employees or Board and Commission Members with Financial Interest

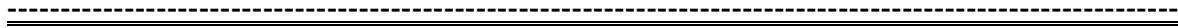
(Name of Official)

(Position with City)

(Nature of Business Interest)
(e.g. Owner, Director etc...)

Interest Held By:

Self Spouse Joint Child



(Name of Official)

(Position with City)

(Nature of Business Interest)
(e.g. Owner, Director etc...)

Interest Held By:

Self Spouse Joint Child

1. I certify that this Annual Statement of Financial Interests is a complete and accurate statement of those matter required to be disclosed by me pursuant to §40.51 of the Code of Ordinances.

2. I understand that if I fail to file an Annual Statement (or amendment thereto) or an inaccurate Statement I will be in violation with Chapter 40 of the Code of Ordinance and, thereby, subject to the remedies set forth in §§38.71 and 40.81 of said Code.

3. I understand that I must file with the City Clerk, within fifteen (15) days following any reportable occurrence, any amendments to the Annual Statement.

I have read and agree to the above certification.

(Name of Company, if applicable)

Signature of Individual (or Authorized Signatory)

Date

Print or Type Name and Title (if applicable)

DELIVERED | By Mail Hand-Delivered

**CITY OF WATERBURY
DISCLOSURE AND CERTIFICATION AFFIDAVIT REGARDING OUTSTANDING
OBLIGATIONS TO THE CITY OF WATERBURY**

For the purposes of this Disclosure of Outstanding Financial Obligations, the following definitions apply:

(a) "Contract" means any Public Contract as defined below.

(b) "Person" means one (1) or more individuals, partnerships, corporations, associations, or joint ventures.

(c) "Public Contract" means any agreement or formal commitment entered into by the city to expend funds in return for work, labor, services, supplies, equipment, materials or any combination of the foregoing, or any lease, lease by way of concession, concession agreement, permit, or per agreement whereby the city leases, grants or demises property belonging to the city, or otherwise grants a right of privilege to occupy or to use said property of the city.

(d) "City" means any official agency, board, authority, department office, or other subdivision of the City of Waterbury.

State of _____

SS.: _____

County of _____

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

1. I am the **owner, partner, officer, representative, agent or** _____ of _____ (Contractor's Name), the Contractor that has submitted the attached agreement.

2. I am fully informed respecting the preparation and contents of the attached Agreement and of all pertinent circumstances respecting such Agreement;

3. That as a person desiring to contract with the City (check all that apply):

_____ The Contractor and each owner, partner, officer, representative, agent or affiliate of the Contractor has filed a list of taxable personal property with the City of Waterbury for the most recent grand list, as required by Conn. Gen. Stat. §12-42.

_____ Neither the Contractor nor any owner, partner, officer, representative, agent or affiliate of the Contractor are required to file a list of taxable personal property with the City of Waterbury for the most recent grand list, as required by Conn. Gen. Stat. §12-42.

_____ Neither the Contractor nor any owner, partner, officer, representative, agent or affiliate of the Contractor either directly or through a lease agreement, owes back taxes to the City of Waterbury

**CITY OF WATERBURY
DISCLOSURE AND CERTIFICATION AFFIDAVIT REGARDING OUTSTANDING
OBLIGATIONS TO THE CITY OF WATERBURY**

_____ Neither the Contractor nor any owner, partner, officer, representative, agent or affiliate of the Contractor either directly or through a lease agreement, has any other outstanding obligations to the City of Waterbury

4. The following list is a list of the names of all persons affiliated with the business of the Contractor, if none state none. Use additional sheet if necessary (Must be on company letterhead and notarized):

Name	Title	Affiliated Company (if none state NONE)	Service or Material	DOB
1				
2				
3				
4				

5. That as a person desiring to contract with the City:

(a) The Contractor or an owner, partner, officer, representative, agent or affiliate of the Contractor provides, or has provided, services or materials to the City within one (1) year prior to the date of this disclosure, if none, state none. Use additional sheet if necessary (Must be on company letterhead and notarized):

Name	Title	Affiliated Company (if none state NONE)	Service or Material	DOB
1				
2				
3				
4				

(b) The Contractor possesses an ownership interest in the following business organizations, if none, state none. Use additional sheet if necessary (Must be on company letterhead and notarized) :

Organization Name	Address	Type of Ownership
1		
2		
3		
4		

(c) The following persons possess an ownership interest in the Contractor. If the Contractor is a corporation, list all of the officers of the corporation and the names of each stockholder whose shares exceed twenty-five

**CITY OF WATERBURY
DISCLOSURE AND CERTIFICATION AFFIDAVIT REGARDING OUTSTANDING
OBLIGATIONS TO THE CITY OF WATERBURY**

(25) percent of the outstanding stock, if none, state none. Use additional sheet if necessary (Must be on company letterhead and notarized):

Name	Title	DOB	Stock %
1			
2			
3			
4			

(d) Of the following of the affiliates, individuals or business entities identified in this affidavit, list each that owns, owned, or within one (1) year prior to the date of this disclosure has owned, taxable property situated in the City of Waterbury, if none state none. Use additional sheet if necessary (Must be on company letterhead and notarized):

Name	Title	Affiliated Company (if none state NONE)	Address	DOB
1				
2				
3				
4				

(e) If the Contractor conducts business under a trade name, the following additional information is required: the place where such entity is incorporated or is registered to conduct such business; and the address of its principal place of business, if none, state none:

TRADE NAME	PLACE OF INCORPORATION/REGISTRY	PRINCIPAL PLACE OF BUSINESS
1		
2		
3		
4		

I hereby certify that the statements set forth above are true and complete, and I understand that any incorrect information or omission of information from this affidavit may result in the immediate termination of the Contractor's agreement with the City of Waterbury.

For Partnership

In presence of:

_____ (Name of Partnership) _____

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OBLIGATIONS TO THE CITY OF WATERBURY**

_____ By: _____
(Name of General Partner)
_____ (Business Address) _____

For Corporation

_____ Attest _____
(Corporate Principal)
_____ (Business Address) _____

Affix
Corporate
Seal

_____ (Name of Corporation) _____

By: _____
(Name of Authorized Corporate Officer)

Its _____ (Title) _____

State of _____)

) SS

County of _____)

_____ being duly sworn,

deposes and says that he/she is _____ of _____ and
that he/she answers to the foregoing questions and all statements therein are true and
correct.

Subscribed and sworn to before me this _____ day of _____ 2014

_____ (Notary Public)

My Commission Expires: _____

**City of Waterbury Certification
Regarding
Debarment, Suspension, Ineligibility and Exclusion**

DRAFT 10-10-14

If the transaction is Federally funded, in whole or in part (including pass through grants to state and/or municipal government), this certification is required by the regulations implementing one or more Presidential Executive Orders. If this transaction is funded by the State of Connecticut, in whole or in part, this certification is required in accordance with one or more State of Connecticut general statutes.

1. By signing and submitting the attached proposal and/or this document, the prospective lower tier participant, vendor, or contractor is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant, vendor, or contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal, State, or City government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant, vendor or contractor shall provide immediate written notice to the person to which the attached proposal and/or this document is submitted if at any time the prospective lower tier participant, vendor or contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used herein, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 and/or State of Connecticut statutes and regulations. You may contact the person to which this proposal and/or this document is submitted for assistance in obtaining a copy of the foregoing.
5. The prospective lower tier participant, vendor or contractor agrees by submitting the attached proposal and/or this document that, should the proposed covered transaction be entered into, it shall not knowingly enter into any covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction

- unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant, vendor or contractor further agrees by submitting the attached proposal and/or this document that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions", without modification, in all covered transaction and in all solicitations for covered transactions.
7. A participant in a covered transaction may rely upon the certification of a prospective participant in a covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required herein. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 herein, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal, State or Municipal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

- (1) The prospective recipient of monies hereby certifies, by submission of its attached proposal and/or by execution of this document, that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, disqualified, or voluntarily excluded from bidding or participation in the proposed transaction by any Federal, State, or Municipal department or agency or by the statutes, regulations or ordinances of the foregoing departments and agencies.
- (2) Where the prospective recipient of monies is unable to certify to any of the statements in this certification, such prospective participant shall attach a written explanation hereto.

Full Legal Name and address of Recipient, Vendor, or Contractor: _____

_____.

Print Name and Title of Authorized Representative: _____

Signature of Authorized Representative: _____

Date: _____

LIMITED LIABILITY COMPANY RESOLUTION

I, _____, hereby certify that I am the duly authorized and acting Member / Manager (circle one) of _____, LLC, a limited liability company organized and existing under the laws of the State of _____, do hereby certify that the following facts are true and were taken from the records of said LLC.

The following resolution was adopted at a meeting of the LLC duly held on the _____ day of _____, _____.

“It is hereby resolved that _____ is authorized to make, execute and approve, on behalf of this LLC, any and all contracts or amendments thereof”.

And I do further certify that the above resolution has not been in any way altered, amended, repealed and is now in full force and effect.

IN WITNESS WHEREOF, I hereunto set my hand and affix the corporate seal of said _____, LLC this _____ day of _____, 20____.

Manager/Member

*** This is a sample of a Resolution acceptable to the City. The Contractor may provide its own similar version if desired.

_____, 20__

City of Waterbury
235 Grand Street
Waterbury, CT 06706

Re: City of Waterbury
Limited Liability Company Resolution Form

To Whom It May Concern:

I, _____, am the sole Member of _____, LLC. Being the only Member of the LLC, I am authorized to sign the Limited Liability Company Resolution form.

Sincerely,

Name
Company

Witness

Notary Public: _____

My Commission expires: _____

CORPORATE RESOLUTION

I, _____, hereby certify that I am the duly elected and acting Secretary of _____ Corporation, a corporation organized and existing under the laws of the State of _____, do hereby certify that the following facts are true and were taken from the records of said corporation.

The following resolution was adopted at a meeting of the corporation duly held on the _____ day of _____, _____.

“It is hereby resolved that _____ is authorized to make, execute and approve, on behalf of this corporation, any and all contracts or amendments thereof”.

And I do further certify that the above resolution has not been in any way altered, amended, repealed and is now in full force and effect.

IN WITNESS WHEREOF, I hereunto set my hand and affix the corporate seal of said _____ corporation this _____ day of _____, 2014.

Secretary

**ATTACHMENT B
SAMPLE AGREEMENT**

DRAFT 10-10-14

OTHER PROFESSIONAL SERVICES AGREEMENT

RFP No. _____

for

_____ **between**

**The City of Waterbury, Connecticut
and**

_____ **THIS AGREEMENT**, effective on the date signed by the Mayor, is by and between the CITY OF WATERBURY, City Hall, 235 Grand Street, Waterbury, Connecticut (the "City") and _____, located at _____, a State of _____ duly registered domestic corporation (the "Consultant/Vendor").

WHEREAS, the Consultant/Vendor submitted a proposal to the City responding to RFP No. _____ for _____; and

WHEREAS, the City accepted the Consultant/Vendor's proposal for RFP No. _____; and

WHEREAS, the City desires to obtain the Consultant/Vendor's services pursuant to the terms, conditions and provisions set forth in this agreement (the "Project").

NOW THEREFORE, THE PARTIES AGREE AND COVENANT AS FOLLOWS:

1. Scope of Services. The Consultant/Vendor shall furnish all of the labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc necessary to complete the Project as specified in this agreement (also referred to herein as "Contract") and such shall be completed in a satisfactory manner, as reasonably determined by the City. All labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc shall comply with any and all applicable Local, State and Federal laws, statutes, ordinances and regulations and with generally accepted professional standards. The Consultant/Vendor shall make such revisions or modifications to its work, at its own cost and expense, as the City may require in order to be deemed complete.

The Project consists of _____ shown on **Attachment A** attached hereto and hereby made material provisions of this Contract. **Attachment A** shall consist of the following:

The entirety of **Attachment A** plus this executed instrument are together deemed the Contract Documents (hereinafter collectively referred to as "Contract Documents"). The City's

record copy of the Contract Documents shall control and shall be effective and binding on the Contractor. In the event that any provision in the Contract Documents conflict with any other provision therein, the provision in the component part of the Contract Document first enumerated below shall govern over any other component part which follows it numerically:

2. Consultant/Vendor Representations Regarding Qualification and Accreditation. The Consultant/Vendor represents that, to the extent required by law, its employees are licensed to perform the scope of work set forth in this agreement. The Consultant/Vendor further represents that its employees have the requisite skill, expertise and knowledge necessary to perform the scope of work required under the terms of this agreement, including any supplementary work and the City relies upon these.

A. Representations regarding Personnel. The Consultant/Vendor represents that it has, or will secure at its own expense, all personnel required to perform the services under this agreement. Such personnel shall not be employees of or have any contractual relationship with the City, unless use of City employees or of personnel having a contractual relationship with the City is approved by the City in writing. As set forth above, all the services required hereunder shall be performed by the Consultant/Vendor under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

B. Representations regarding Qualifications. The Consultant/Vendor hereby represents that, to the extent required by Federal, State and Local statutes, regulations, codes, ordinances, and policies, that the Consultant/Vendor and/or its employees be licensed, certified, registered, or otherwise qualified, the Consultant/Vendor and all employees providing services under this agreement, are in full compliance with those statutes, regulations and ordinances. Upon City request, the Consultant/Vendor shall provide to the City a copy of the Consultant/Vendor's licenses, certifications, registrations, etc.

3. Responsibilities of the Consultant/Vendor. All data, information, etc. given by the City to the Consultant/Vendor and/or created by the Consultant/Vendor shall be treated by the Consultant/Vendor as proprietary to the City and confidential unless the City agrees in writing to the contrary and shall be used solely for the purposes of providing services under this agreement. The Consultant/Vendor agrees to forever hold in confidence all files, records, documents and other information which may come into the Contractor's possession during the term of this agreement, except where a disclosure is expressly stated as a requirement of this agreement. Notwithstanding the foregoing, where a Consultant/Vendor disclosure is required to comply with statute, regulation, or court order, the Consultant/Vendor shall provide prior advance written notice to the City of the need for such disclosure. The Consultant/Vendor agrees to properly implement the services required in the manner herein provided.

A. Use of City Property. To the extent the Consultant/Vendor is required to be on City property to render its services hereunder, the Consultant/Vendor shall have access to such areas of City property as the City and the Consultant/Vendor agree are necessary for the performance of the Consultant/Vendor's services under this agreement (the "Site" or the "Premises") and at such times as the City and the Consultant/Vendor may mutually agree. Consultant/Vendor shall perform all work in full compliance with Local, State and Federal health and safety regulations. All work hereunder shall be performed in a safe manner. Consultant/Vendor shall immediately correct any dangerous condition caused by or resulting from its work. If it fails to correct, or to act diligently to correct, any condition which City reasonably believes to be a hazard to persons or property, then immediately upon oral or written notice to any supervisory or similar personnel of Consultant/Vendor, City may, but shall not be required to, correct same at Consultant/Vendor's expense. City shall confirm in writing any oral notice given within five (5) days thereafter.

B. Working Hours. To the extent the Consultant/Vendor is required to be on City property to render its services hereunder, the Consultant/Vendor shall coordinate its schedule so that work on the Premises is performed during those hours the City sets forth in a written notice to the Consultant/Vendor, unless written permission is obtained from the City to work during other times. This condition shall not excuse Consultant/Vendor from timely performance under the Contract. The work schedule must be agreed upon by the City and the Consultant/Vendor.

C. Cleaning Up. To the extent the Consultant/Vendor is required to be on City property to render its services hereunder, the Consultant/Vendor shall at all times keep the premises free from accumulation of waste materials or rubbish caused by Consultant/Vendor, its employees or subcontractors, and at the completion of the work shall remove all rubbish from and about the project and all tools, scaffolding and surplus materials and shall leave the Premises "broom clean" or its equivalent, unless more exactly specified. In case of dispute, the City may remove the rubbish and charge the cost to the Consultant/Vendor.

D. Publicity. Consultant/Vendor agrees not to deliberately disclose the fact that the City has entered into or terminated this agreement or disclose any of the terms of the agreement or use City's name in connection with any publicity, unless City gives prior written consent to such use of City's name in each instance.

E. Standard of Performance. All workmanship, services, materials or equipment, either at the Premises or intended for it, shall conform in all respects with the requirements of all this agreement, and shall be the best obtainable from the crafts and trades. In all cases, the services, materials, equipment, reports, plans, specifications, deliverables, workmanship, etc. shall be equal to or better than the grade specified, and the best of their kind that is obtainable for the purpose for which they are intended. The standard of care and skill for all services performed by the

Consultant/Vendor shall be that standard of care and skill ordinarily used by other members of the Consultant/Vendor's profession practicing under the same or similar conditions at the same time and in the same locality. The Consultant/Vendor's services rendered hereunder shall be rendered completely and by qualified personnel in accordance with standard industry practice.

F. Consultant/Vendor's Employees. The Consultant/Vendor shall at all times enforce strict discipline and good order among its employees, and shall not employ any unfit person or anyone not skilled in the work assigned.

G. Due Diligence Obligation. The Consultant/Vendor acknowledges its responsibilities to examine and to be thoroughly familiar with the City's proposal document, including, but not limited to the specifications, and any addenda thereto. The Consultant/Vendor hereby warrants and represents that prior to the submission of its proposal during the proposal process it reviewed or was afforded opportunity, by the City, to review all physical items, facilities, services or functions essential to the satisfactory performance of the services required ("Due Diligence") and thereby certifies that all such items facilities, services or functions are included in this agreement and thereby warrants that:

(1) it conducted or had opportunity to conduct all Due Diligence prior to the submission of its proposal and, accordingly, any additional costs, services or products resulting from the failure of the Consultant/Vendor to complete Due Diligence prior to submission of its proposal shall be borne by the Consultant/Vendor. Furthermore the Consultant/Vendor had the opportunity during the proposal process to ask questions it saw fit and to review the responses from the City;

(2) its failure or omission to make investigation and verification of data shall, in no way, be cause for future claim of ignorance of such data or conditions nor shall such failure to investigate and verify be the basis for any claim whatsoever, monetary or otherwise;

(3) it is solely responsible for resolving any issues resulting from the failure to conduct Due Diligence and shall assume any costs that may result during the implementation of the Project, including, but not limited to, adherence to specifications and pricing for the Project.

(4) it was responsible for specifying any changes and disclosing any new costs prior to the submittal of its proposal. Thus, in the event any changes or costs are disclosed by the Consultant/Vendor, or otherwise required, during the performance of its services, the sole responsibility for any modification, delay and cost of such changes shall reside with the Consultant/Vendor.

(5) has familiarized itself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and Federal, State and

Professional Services Agreement (PSA) between the City of Waterbury, Connecticut and _____ - RFP No.

Local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work;

(6) has given the City written notice of any conflict, error or discrepancy that the Consultant/Vendor has discovered in the Proposal Documents; and

(7) agrees that the Proposal Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

H. Reporting Requirement. The Firm shall deliver periodic, _____, written reports to the City's Using Agency setting forth (i) the issue date of the report, (ii) the time period covered by the report, (iii) a brief description of the work and services completed by the Firm and/or delivered by the Firm during the time period covered by the report, (iv) expressed as a percentage of the total work and services required under this contract, the percentage of the total work represented by the work and services described in subsection iii above, (v) expressed as a percentage of this contract's Section 6 total compensation, the percentage of the total compensation represented by the work and services described in subsection iii above, (vi) the Firm's declaration as to whether the entirety of the Firm's work and services required in this contract will be, or will not be, completed within the contract's Section 6 total compensation amount, and (vii) any and all additional useful and/or relevant information. Each report shall be signed by _____.

NOTE, the Firm's failure to deliver any report required herein shall be deemed a material breach of this contract, the City hereby reserving the right to exercise all available legal remedy(ies) to address said breach.

4. Responsibilities of the City. Upon the City's receipt of Consultant/Vendor's written request, the City will provide the Consultant/Vendor with all documents, data and other materials the City agrees are necessary and appropriate to the service to be performed by the Consultant/Vendor hereunder and the City will endeavor to secure, where feasible and where the City agrees it is necessary and appropriate, materials or information from other sources requested by the Consultant/Vendor for the purpose of carrying out the services under this agreement.

5. Contract Time. The Firm shall complete all work and services required under this agreement within _____ consecutive calendar days of execution of this agreement by all parties hereto

Time is and shall be of the essence for all Project milestones and completion dates for the Project.. The Consultant/Vendor further agrees that the Work shall be prosecuted regularly, diligently and uninterruptedly and at such rate of progress as will insure full completion thereof within the Contract Time stated above. It is expressly understood and agreed, by and between

Professional Services Agreement (PSA) between the City of Waterbury, Connecticut and _____ - RFP No.

the Consultant/Vendor and City, that the Contract Time is reasonable for the completion of the Work. The Firm shall be subject to City imposed fines and/or penalties in the event the Firm breaches the foregoing dates.

6. Compensation. The City shall compensate the Consultant/Vendor for satisfactory provision of all of the goods and services set forth in this agreement as follows in this Section 6.

A. Fee Schedule. The fee payable to the Consultant/Vendor shall not exceed _____ DOLLARS (\$_____).

B. Limitation of Payment. Compensation payable to the Consultant/Vendor is limited to those fees set forth in Section 6.A. above. Such compensation shall be paid by the City upon review and approval of the Consultant/Vendor's invoices for payment and review of the work, services, deliverables, etc. required in this agreement and review as may be further required by the Charter and Ordinances of the City. Consultant/Vendor's invoices shall describe the work, services, reports, plans, specifications, deliverables, etc. rendered and the compensation sought therefore in a form and with detail and clarity acceptable to the City.

The Consultant/Vendor and its affiliates are hereby provided with notice that the City reserves the right, in the City's sole discretion, to offset, withhold, or otherwise reduce City payment(s) to the Consultant/Vendor in an amount equaling the sum or sums of money the Consultant/Vendor and/or its affiliates is/are, or becomes delinquent or in arrears on, regarding the Consultant/Vendor's and/or its affiliate's real and personal tax obligations to the City.

C. Review of Work. The Consultant/Vendor shall permit the City to review, at any time, all work performed under the terms of this agreement at any stage of the work. The Consultant/Vendor shall maintain or cause to be maintained all records, books or other documents relative to charges, costs, expenses, fees, alleged breaches of the agreement, settlement of claims or any other matter pertaining to the Consultant/Vendor's demand for payment. The City shall not certify fees for payment to the Consultant/Vendor until the City has determines that the Consultant/Vendor has completed the work in accordance with the requirements of this agreement.

D. Proposal Costs. All costs of the Consultant/Vendor in preparing its proposal for RFP No. _____ shall be solely borne by the Consultant/Vendor and are not included in the compensation to be paid by the City to the Consultant/Vendor under this agreement or any other agreement.

E. Payment for Services, Materials, Employees. The Consultant/Vendor shall be fully and solely responsible for the suitability, and compliance with the agreement, of all labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc. furnished to the City under this agreement. The Consultant/Vendor shall promptly pay all employees as their pay falls due, shall pay promptly as they fall due all bills for labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc., going into the work, and all bills for insurance, bonds, Worker's Compensation coverage, Federal and State Unemployment Compensation, and Social Security charges applicable to this project. Consultant/Vendor Before final payment is made, the Consultant/Vendor shall furnish a legal statement to the City that all payments required under this subparagraph have been made.

F. Liens. Neither the final payment nor any part of the retained percentage, if any, shall become due until the Consultant/Vendor, if requested by the City, shall deliver to the City a complete release of all liens arising out of this agreement, or receipts in full in lieu thereof, and, if required, in either case, an affidavit that so far as the Consultant/Vendor has knowledge or information, the releases and receipts include all the labor and material for which a lien could be filed; but the Consultant/Vendor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the City, to indemnify it against any lien. If any lien remains unsatisfied after all payments are made, the Consultant/Vendor shall refund to the City all moneys that the City may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

7. This Section Intentionally Blank.

8. This Section Intentionally Blank.

9. Passing of Title and Risk of Loss. Title to each item of equipment, material, reports, plans, specifications, supplies, services, etc. required to be delivered to the City hereunder shall pass to City upon City payment to the Consultant/Vendor for that item. Consultant/Vendor and its insurer shall assume the risk of loss or damage up to and including the date title passes, except that City shall be responsible for loss or damage caused by City's negligence.

10. Indemnification.

A. The Consultant/Vendor shall indemnify, defend, and hold harmless the City and its boards, the City's Board of Education (if applicable), commissions, agents, officials and employees from and against all claims, suits, damages, losses, judgments, costs and expenses including attorney's fees arising out of or resulting from the delivery of the labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc provided that any such claims, suits, damages, losses, judgments, costs or expenses (a) are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the services itself) including the loss

of use resulting there from, and (b) is caused in whole or in part by any willful or negligent act or omission of the Consultant/Vendor, its employees, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

B. In any and all claims against the City or any of its boards, agents, employees or officers by the Consultant/Vendor or any employee of the Consultant/Vendor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph A, above, shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant/Vendor or any subcontractor under Worker's Compensation Acts, disability benefit acts or other employee benefit acts.

C. The Consultant/Vendor understands and agrees that any insurance required by this agreement, or otherwise provided by the Consultant/Vendor, shall in no way limit the responsibility to indemnify, defend, keep and hold harmless the City as provided in this agreement.

11. This Section Intentionally Blank.

12. Consultant/Vendor's Insurance. The Consultant/Vendor shall not commence work under this agreement until all insurance required under this Section 12 has been obtained by the Consultant/Vendor and such insurance has been approved by the City. The Consultant/Vendor shall not allow any subcontractor to commence work on any subcontract until all insurance required of any such subcontractor has been so obtained and approved by the City. Insurance shall be provided by insurers that are satisfactory to the City, authorized to do business in the State of Connecticut, that have at least an "A-" Best's Rating, and are in an A.M. Best financial size category of VII or higher. The A.M. Best classifications are based on the most current A.M. Best Company ratings or an equivalent City approved rating system.

At no additional cost to the City, the Consultant/Vendor shall purchase and maintain the insurance coverages set forth below which shall protect the City from claims which may arise out of or result from the Consultant/Vendor's obligation under this agreement, whether such obligations are the Consultant/Vendor's or subcontractor or person or entity directly or indirectly employed by said Consultant/Vendor or subcontractor, or by any person or entity for whose acts said Consultant/Vendor or subcontractor may be liable.

The Consultant/Vendor's General, Automobile and Excess Liability Insurance policies shall be endorsed to add the City as an additional insured. The insurance afforded the additional insured shall be primary insurance and the coverage and limits provided under the Consultant/Vendor's policies shall not be reduced or prorated by the existence of any other insurance applicable to any loss the additional insured may have suffered. Each insurance policy shall state that the insurance company shall agree to investigate and defend the insured

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against all claims for damages, even if groundless. If any insurance required herein is to be issued or renewed on a claims made form as opposed to an occurrence form, the retroactive date for coverage shall be no later than the commencement date of this agreement and shall provide that in the event of cancellation or non-renewal, the discovery period for insurance claims (“Tail Coverage”) shall be available for at least 60 months.

The following policies with stated limits shall be maintained, in full force and effect, at all times during which the services are to be performed by the Consultant/Vendor:

-
- A. General Liability Insurance: \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate
 - B. Automobile Liability Insurance: \$1,000,000.00 combined single limit (CSL)
 - C. Workers’ Compensation: Statutory Limits within the State of Connecticut
 - D. Excess Liability Insurance: \$3,000,000.00 aggregate limit
 - E. Professional Liability Insurance: \$1,000,000.00 aggregate limit
-

- A. General Liability Insurance: Providing coverage to protect the City for all damages arising out of bodily injuries, sickness to or death of all persons in any one accident or occurrence and for all damages arising out of destruction of property in any one accident or occurrence.
- B. Automobile Liability Insurance: Providing coverage to protect the City with respect to claims for damage for bodily injury and or property damage arising out of ownership, maintenance, operation, use or loading and unloading of any owned or non-owned vehicle
- C. Workers’ Compensation: Consultant/Vendor shall comply with all State of Connecticut statutes as it relates to workers’ compensation.
- D. Excess General Liability Insurance: Comprehensive general liability umbrella insurance coverage.
- E. Professional Liability Insurance: Professional liability (also know as, errors and omissions) insurance providing coverage to the Consultant/Vendor.

Failure to Maintain Insurance: In the event the Consultant/Vendor fails to maintain the minimum required coverage as set forth herein, the City may at its option purchase same, and offset the Consultant/Vendor’s invoices for the cost of said insurance.

Professional Services Agreement (PSA) between the City of Waterbury, Connecticut and _____ - RFP No. _____

Cancellation: THE CITY OF WATERBURY SHALL RECEIVE WRITTEN NOTICE OF CANCELLATION FROM THE INSURER AT LEAST 30 CALENDAR DAYS PRIOR TO THE DATE OF ACTUAL CANCELLATION, REGARDLESS OF THE REASON FOR SUCH CANCELLATION.

Certificates of Insurance: At the time the Consultant/Vendor executes this agreement, it shall furnish to the City, subject to City approval, certificate(s) of insurance verifying the above coverages, including the naming of the City of Waterbury, as follows: **“The City of Waterbury and its Board of Education (if applicable) are listed as additional insured as their interests may appear”**. The City's request for proposal number must be shown on the certificate of insurance. The Consultant/Vendor must supply replacement/renewal certificates at least 30 days prior to the expiration of the policy(ies). Said certificates shall contain a provision that coverage afforded under the policies shall not be cancelled or reduced for any reasons unless notice of not less than thirty (30) calendar days has been mailed to the Office of Corporation Counsel, 235 Grand Street, Waterbury, CT. 06702.

Upon request the Consultant/Vendor shall deliver to the City a copy of the Consultant/Vendor's insurance policies, endorsements, and riders.

13. Conformance with Federal, State and Other Jurisdictional Requirements.

By executing this agreement, the Consultant/Vendor represents and warrants that, at all pertinent and relevant times to the agreement, it has been, is and will continue to be in full compliance with all applicable statutes, acts, ordinances, guidelines, resolutions, orders, judgments, decrees, injunctions, rules, and regulations of all government authorities applicable to performance by the Consultant/Vendor of services hereunder, including those having jurisdiction over its registration and licensing to perform services hereunder; including, but not limited to, the following: *EQUAL EMPLOYMENT OPPORTUNITY ACT*; *COPELAND ANTI-KICKBACK ACT*, as supplemented in the Department of Labor Regulations (29 CFR Part 3); *DAVIS-BACON ACT* as supplemented by Department of Labor Regulations (29 CFR Part 5); Section 103 and 107 of the Contract Work Hours and Safety Standards Act, as supplemented by the Department of Labor Regulations (29 CFR Part 5); and the *HOUSING and COMMUNITY DEVELOPMENT ACT of 1974*, as amended; Title 31 of the State of Connecticut General Statutes. All applicable sections of the City Charter and Code of Ordinances are incorporated by reference and made a part hereof.

A. Permits, Laws, Taxes and Regulations. Permits and licenses necessary for the delivery and completion of the Consultant/Vendor's work and services shall be secured in advance and paid by the Consultant/Vendor. The Consultant/Vendor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work and services as specified.

B. Taxes-Federal, State and Local. The City is exempt from Federal Excise and Transportation, State and Local Sales and Use Taxes, including without limitation, taxes that would otherwise be imposed upon the Contractor for transactions required or necessitated hereunder between it and its subcontractors, suppliers, etc.

The Consultant/Vendor remains liable, however, for any applicable tax obligations it incurs. Moreover, the Consultant/Vendor represents that the proposal and pricing contained in this agreement do not include the amount payable for said taxes.

C. Labor and Wages. The Consultant/Vendor and its subcontractors shall conform to the labor laws of the State of Connecticut, and all other laws, ordinances, and legal requirements affecting the work in Connecticut.

The Consultant/Vendor is aware of the provisions of Title 31, §53 of the Connecticut General Statutes, latest revision (the "Act"), concerning the payment of minimum wages and other payments or contributions established by the State of Connecticut Labor Commissioner for work on public facilities. The provisions of the Act are incorporated by reference and made a part of this agreement. The Act provides that the Connecticut prevailing wage law applies to certain remodeling, refurbishing, alteration, repair and new construction. 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 Conn.Gen.Statute 31-53(i), 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.

The Contractor is aware of, and shall comply with, the provisions of both the Federal Davis-Bacon Act and the Federal American Recovery and Reinvestment Act of 2009, the provisions of both acts hereby incorporated by reference and made a part of this Contract. The Federal Davis-Bacon Act provides that Federal wage rate laws apply to certain federally funded contracts. The American Recovery and Reinvestment Act ("ARRA") provides that Federal wage rate laws apply to all ARRA funded contracts regardless of the contract's dollar value.

14. Discriminatory Practices. In performing this agreement, the Consultant/Vendor shall not discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, sex, age, religious creed, disability, national origin or ancestry, marital status, family status, prior psychiatric treatment, health care, military status or source of income or because of a handicap that is unrelated to the employee's or the applicant's ability to perform the duties of a particular job or position. Subcontracts with each subcontractor shall contain a provision requiring

non-discrimination in employment as herein specified. This covenant is required pursuant to §93.04 of the Code of Ordinances of the City and any breach thereof may be regarded as a material breach of this agreement. Said provisions with subcontractors shall require conformity and compliance with all Local, State and Federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements.

A. Discrimination Because of Certain Labor Matters. No person employed on the work covered by this agreement shall be discharged or in any way discriminated against because such person has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or related to the labor standards applicable hereunder to its employer.

B. Equal Opportunity. In its execution of the performance of this agreement, the Consultant/Vendor shall not discriminate and shall comply with applicable laws prohibiting discrimination on the grounds of race, color, religion, sex, national origin or citizenship status, age or handicap. The Consultant/Vendor agrees to comply with all Local, State and Federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements, and will require the same of all subcontractors.

15.1 Conformance With An Ordinance Concerning The Hiring Of Waterbury Residents On Certain Publicly- Funded Construction Projects.

(A) The Contractors and its Subcontractors shall comply with the specific requirements of “An Ordinance Concerning the Hiring of Waterbury Residents on Certain Publicly-Funded Construction Projects” (the “Good Jobs Ordinance”), as may be amended from time to time and as set forth in Chapter 34 of the Code of Ordinances of the City. While the principal provisions of the ordinance are summarized as set forth in paragraphs C-H below, the Contractor does hereby acknowledge that it has reviewed a copy of the Good Jobs Ordinance and that it has read the Ordinance and that Contractor is familiar with the obligations imposed on the Contractor by the Good Jobs Ordinance.

(B) Failure of the Contractor or its Subcontractors to comply with the Good Jobs Ordinance shall be a material breach of this Agreement.

(C) This paragraph shall apply to a Covered Project, as that term is defined in the Good Jobs Ordinance, in the City with a value of \$500,000.00 or greater and only to the extent permitted by federal and state law.

(D) **Definitions.** For purposes of this paragraph:

(1) “Apprentice” shall be defined as it is in the Good Jobs Ordinance.

(2) "Construction work" shall be defined as it is in the Good Jobs Ordinance.

(3) "Subcontractor" shall include the Contractor's direct subcontractor providing construction work and all lower tiered (level) providers of construction work.

(4) "Resident" shall be defined as it is in the Good Jobs Ordinance.

(E) **Hiring Goals.** If this Agreement requires the Contractor to perform construction work, the Contractor shall have as its hiring goals:

(1) at least thirty percent (30%) of its total worker hours performed by City Residents, and

(2) at least twenty-five percent (25%) of construction trade jobs shall go to Apprentices, and

(3) at least seventy percent (70%) of all "new hires" (as that term is defined in the Good Jobs Ordinance) shall be "economically disadvantaged" individuals (as that term is defined in the Good Jobs Ordinance), and

(4) a minimum of five percent (5%) of the construction workforce labor hours will be local resident, minority artisans, and

(5) a minimum of five percent (5%) of the construction workforce labor hours will be women, and

(6) a minimum of ten percent (10%) of the total work hours shall be allocated for minorities, or

(7) as may otherwise be required by any superseding Federal or State employment discrimination prohibition laws.

Moreover, each subcontractor shall each comply with the foregoing Hiring Goals.

(F) **Good Faith Efforts.** The Contractor shall engage in a Good Faith Efforts to comply with the Hiring Goals. For the purposes of this paragraph, the term "Good Faith Efforts" shall have the same meaning as it does in the Good Jobs Ordinance.

The Contractor and each subcontractor shall individually implement Good Faith efforts to satisfy the Hiring Goals.

(G) **Action Plan and Pre-Construction Meeting.** Not later than fourteen (14) business days prior to the scheduled commencement date for construction, the Contractor shall submit a written plan-of-action to the City and to the Administrator of the Good Jobs Ordinance defining how the Contractor, and each Subcontractor, shall implement Good Faith Efforts to fulfill the Hiring Goals. Each plan-of-action shall include the anticipated number of job positions required for the Work. Not later than five (5) business day prior to the commencement date of construction, the Contractor must attend a mandatory "pre-construction" meeting with the City to review all plans-of-action and other relevant materials. No construction work shall proceed absent this pre-construction meeting.

(H) **Other Contractor Obligations.** In addition to the foregoing, the Contractor shall ensure that all Subcontractor contracts and agreements expressly set forth and state as binding obligations therein, subject to appropriate party name change, the above Hiring Goals and Good Faith Efforts. The Contractor shall be accountable for and liable to the City for Contractor and Subcontractor compliance with Hiring Goals and Good Faith efforts.

(1) The Contractor shall be required to produce Contractor and Subcontractor documentation that may be required under the provisions of Good Jobs or that the City or the Administrator of the Good Jobs Ordinance reasonably believes will assist the City or the Administrator of the Good Jobs Ordinance with their evaluation of Hiring Goals and Good Faith Efforts.

(2) The Contractor shall deliver weekly certified payroll records to the City within five (5) working days of the end of each payroll period. Moreover, the Contractor shall require each Subcontractor to create weekly certified payroll records.

(3) The Contractor's and Subcontractors' payroll records shall include the person-hours, the residential address, race, gender, hiring date, and apprentice (job) classification of all personnel employed under this Agreement and all Contracts and Sub-Contracts thereunder. The Contractor and Subcontractors shall mark their respective final payroll period records as being final and be signed by an authorized officer or employee.

15.2 Liquidated Damages Applicable To Paragraph 15.1

1) If the City finds the Contractor, or a Subcontractor, has failed to achieve Hiring Goals during any five (5) day work period (Monday through Friday), the City shall:

(a) issue a written notice to the Contractor specifying the matters constituting such failure and the time period within which Good Faith Efforts documentation must be delivered to the City for its evaluation.

(b) if the Good Faith documentation is not provided or, if provided, it fails to demonstrate compliance with Good Faith Efforts, for each full five (5) day work period of the Contractor or Subcontractor's failure to achieve Hiring Goals, the City shall as liquidated damages withhold from payment to the Contractor:

(i) if the contact is for an amount between \$500,000.00 and \$1,000,000.00, inclusive, the lesser of \$1,000.00 or one (1%) percent of the Value of the payment then payable to the Contractor;

(ii) if the contact is for an amount between \$1,000,000.01 and \$5,000,000.00, inclusive, the lesser of \$2,000.00 or one (1%) percent of the Value of the payment then payable to the Contractor;

(iii) if the contact is for an amount greater than \$5,000,000.00, the lesser of \$2,500.00 or one (1%) percent of the Value of the payment then payable to the Contractor.

2) The foregoing liquidated damages provisions shall be expressly set forth, subject to appropriate party name adjustments, as material provisions in all Contracts that the Contractor has with Subcontractors and the Contractor is obligated hereunder to enforce compliance in such Contracts with Subcontractors.

3) Any payment of liquidated damages hereunder shall not preclude a later claim, nor any later finding of a breach, or any payment of additional damages related to such later claim.

16. Housing and Urban Development Section 3 Clause. In the event this agreement is funded, in whole or in part, through Housing and Urban Development assistance, 24 C.F.R. §135.38 may apply and the Contractor shall then be required to comply with the following (referred to as the "Section 3 clause"):

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that

employment and other economic opportunities generated by HUD assistance or HUD-assisted Projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 C.F.R. part 135.

F. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference

in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

17. Termination.

A. Termination of Agreement for Cause. If, through any cause, in part or in full, not the fault of the Consultant/Vendor, the Consultant/Vendor shall fail to fulfill in a timely and proper manner its obligations under this agreement, or if the Consultant/Vendor shall violate any of the covenants, agreements, or stipulations of this agreement, the City shall thereupon have the right to terminate this agreement by giving written notice to the Consultant/Vendor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In the event of such termination, all finished or unfinished documents, data, studies, reports, specifications, deliverables, etc. prepared by the Consultant/Vendor under this agreement shall, at the option of the City, become the City's property, and the Consultant/Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed for such.

Notwithstanding the above, the Consultant/Vendor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this agreement by the Consultant/Vendor, and the City may withhold any payments to the Consultant/Vendor for the purpose of setoff until such time as the exact amount of damages due the City from the Consultant/Vendor is determined.

B. Termination for Convenience of the City. The City may terminate this agreement at any time for the convenience of the City, by a notice in writing from the City to the Consultant/Vendor. If this agreement is terminated by the City as provided herein, the Consultant/Vendor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Consultant/Vendor covered by this agreement, less payments of compensation previously made.

C. Termination for Non-Appropriation or Lack of Funding. The Consultant/Vendor acknowledges that the City is a municipal corporation and that this agreement is subject to the appropriation of funds by the City sufficient for this agreement for each budget year in which this agreement is in effect. The Consultant/Vendor therefore agrees that the City shall have the right to terminate this agreement in whole or in part without penalty in the event sufficient funds to provide for City payment(s) under this agreement is not appropriated, not authorized or not made available pursuant to law, or such funding has been reduced pursuant to law.

(1) Effects of Nonappropriation. If funds to enable the City to effect continued payment under this agreement are not appropriated, authorized

or otherwise made available by law, the City shall have the right to terminate this agreement without penalty at the end of the last period for which funds have been appropriated, authorized or otherwise made available by law by giving written notice of termination to the Consultant/Vendor.

(2) **Effects of Reduced Levels of Funding.** If funding is reduced by law, or funds to pay the Consultant/Vendor for the agreed to level of the products, services and functions to be provided by the Consultant/Vendor under this agreement are not appropriated, authorized or otherwise made available by law, the City may, upon seven (7) business days written notice to the Consultant/Vendor, reduce the level of the products, services or functions in such manner and for such periods of time as the City may elect. The charges payable under this agreement shall be equitably adjusted to reflect such reduced level of products, services or functions and the parties shall be afforded the rights set forth in this agreement.

(3) **No Payment for Lost Profits.** In no event shall the City be obligated to pay or otherwise compensate the Consultant/Vendor for any lost or expected future profits.

D. Rights Upon Cancellation of Termination.

(1) **Termination for Cause.** In the event the City terminates this agreement, for cause, the Consultant/Vendor shall relinquish to the City any applicable interest, title and ownership including, but not limited to, perpetual use of any proprietary rights in and to the documents, data, studies, reports, specifications, deliverables, etc. provided to, in possession of, and properly invoiced and paid for by (except to the extent such invoiced amount is disputed) the City. With regard to third party products, the Consultant/Vendor shall transfer all licenses to the City which the Consultant/Vendor is permitted to transfer in accordance with the applicable third party license. The City shall have no financial obligation to compensate the Consultant/Vendor for such terminated documents, data, studies, reports, specifications, deliverables, etc. unless payment is otherwise approved by the City prior to such termination. The Consultant/Vendor shall be liable for costs incurred by the City, including but not limited to reasonable attorney fees and all court awarded fees and costs incurred in terminating this agreement in whole or in part.

(2) **Termination for Lack of Funding or Convenience.** In the event of termination by the City for lack of funding or convenience, the City shall pay the Consultant/Vendor for all documents, data, studies, reports, specifications, deliverables, etc. (including any holdbacks), installed and delivered to the City as of the Termination Date and the Consultant/Vendor shall relinquish to the City any applicable interest, title and ownership including, but not limited to perpetual use of any proprietary rights in and to said documents, data, studies, reports, specifications, deliverables, etc. in possession of and paid for by the

City (except to the extent any invoiced amount is disputed). The Consultant/Vendor shall be required to exercise commercially reasonable efforts to mitigate damages. In the event of a termination for Lack of Funding or Convenience the City and the Consultant/Vendor may negotiate a mutually acceptable payment to the Consultant/Vendor for reasonable demobilization expenses. Said demobilization expenses, if any, shall be handled in accordance with the provision of this agreement pertaining to Changes in the Work.

(3) Termination by the Consultant/Vendor. The Consultant/Vendor may, by written notice to the City, terminate this agreement if the City materially breaches, provided that the Consultant/Vendor shall give the City thirty (30) calendar days prior written notice and an opportunity to cure by the end of said thirty day period. In the event of such termination, the Consultant/Vendor will be compensated by the City for work performed prior to such termination date and the Consultant/Vendor shall deliver to the City all deliverables as otherwise set forth in this agreement.

(4) Assumption of Subcontracts. In the event of termination, the City shall have the right to assume, at its option, any and all subcontracts for products, services and functions provided exclusively under this agreement, including but not limited to any contracts and may further pursue completion of the work under this agreement by replacement contract or otherwise as the City may in its sole judgment deem expedient.

(5) Delivery of Documents. In the event of termination, (i) the Consultant/Vendor shall promptly deliver to the City, in a manner reasonably specified by the City, all labor, services, equipment, materials, reports, plans, specifications, deliverables, incidentals, etc and other tangible items furnished by, or owned, leased, or licensed by, the City, and (ii) the City shall pay the Consultant/Vendor for all services performed and deliverables completed and accepted (pro-rated for deliverables partially completed) prior to the effective date of the termination (except to the extent any invoice amount is disputed).

E. Ownership of Instruments of Professional Services. The City acknowledges the Consultant/Vendor's documents, data, studies, reports, specifications, deliverables, etc. created and to be created pursuant to this agreement, including electronic files, are Instruments of Professional Services. Nevertheless, the final Instruments of Professional Services, including, but not limited to documents, data, studies, reports, specifications, deliverables, etc. prepared for the City under this agreement shall become the property of the City upon City payment for that Instrument of Professional Services and the City reserves the right to use the Instruments of Professional Services.

18. Force Majeure. Consultant/Vendor shall not be held responsible for delays nor be subject to liquidated damages when such delays are caused by conditions beyond its control, including without limitation:

A. Acts of God, fire, explosion, epidemic, cyclone, flood, war, strikes, revolution, civil commotion, or acts of public enemies.

B. Change of law and order, proclamation, regulation, ordinance, or governmental requirement.

C. Delays caused by the Consultant/Vendor's vendors, except where such delays are the result of lack of adequate coordination by the Consultant/Vendor.

Upon cessation of work for reason of force majeure delays, Consultant/Vendor shall use its best efforts to meet the schedule set forth in Section 5 of this agreement.

19. Subcontracting. The Consultant/Vendor shall not, without the prior written approval of the City, subcontract, in whole or in part, any of the Consultant/Vendor's services. Any subcontractor so approved shall be required to secure and maintain insurance coverage equal to or better than that required of the Consultant/Vendor and shall name the City as an additional insured party and said subcontractors shall deliver to the City a certificate of insurance evidencing such coverages. All subcontractors shall comply with all Federal, State and Local, laws, regulations and ordinances but such requirement shall not relieve the Consultant/Vendor from its requirement that all work and services provided or required hereunder shall comply with all Federal, State and Local, laws, regulations and ordinances.

The Consultant/Vendor shall be as fully responsible to the City for the acts and omissions of the Consultant/Vendor's subcontractors, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Consultant/Vendor.

20. Assignability. The Consultant/Vendor shall not assign any interest in this agreement, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the City; provided, however, that claims for money due or to become due the Consultant/Vendor from the City under this agreement may be assigned to a bank, trust, company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

21. Audit. The City reserves the right to audit the Consultant/Vendor's books of account in relation to this agreement any time during the period of this agreement or at any time during the twelve month period immediately following the closing or termination of this agreement. In the event the City elects to make such an audit, the Consultant/Vendor shall immediately make available to the City all records pertaining to this agreement, including, but not limited to, payroll records, bank statements and canceled checks.

22. Risk of Damage and Loss. The Consultant/Vendor shall be solely responsible for causing the timely repair to and/or replacement of, City property or item(s) intended to become City property hereunder, where the need for repair or replacement was caused by the Consultant/Vendor, by someone under the care and/or control of the Consultant/Vendor, by

any subcontractor of the Consultant/Vendor, or by any shipper or delivery service. The Consultant/Vendor shall be solely responsible for all costs and expenses, including but not limited to shipping, delivery, insurance, etc, associated with the foregoing repair and replacement obligation. Further, the Consultant/Vendor shall be solely responsible for securing the City's written acceptance of all completed repairs and replacements required hereunder. The City hereby retains sole discretion to determine whether a repair or a replacement is the proper remedy.

23. Interest of Consultant/Vendor. The Consultant/Vendor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in the project or any parcel of land therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The Consultant/Vendor further covenants that in the performance of this agreement no person having any such interest shall be employed.

24. Entire Agreement. This agreement shall constitute the complete and exclusive statement of the Contract between the parties as it relates to this transaction and supersedes all previous agreements and understandings, whether written or oral, relating to such subject matter. Any amendment to this agreement must be in writing and agreed to and executed by the City and the Consultant/Vendor.

25. Independent Contractor Relationship. The relationship between the City and the Consultant/Vendor is that of client and independent contractor. No agent, employee, or servant of the Consultant/Vendor shall be deemed to be an employee, agent or servant of the City. The Consultant/Vendor shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this agreement. It is the express intention of the parties hereto, and the Consultant/Vendor hereby agrees and covenants, that it and any and all third party(ies) and subcontractor(s) retained by the Consultant/Vendor hereunder is/are not and shall not be deemed an employee of the City of Waterbury, but is/are and shall remain an independent contractor relative to the City and that nothing herein shall be interpreted or construed as creating or establishing the relationship of employer-employee between the City of Waterbury and the Consultant/Vendor or between the City of Waterbury and any third party(ies) or subcontractor(s). Thus, the Consultant/Vendor hereby covenants that it, its subcontractor(s) and third party(ies) shall not be entitled to the usual characteristics of employment, such as income tax withholding, F.I.C.A. deductions, pension or retirement privileges, Workers Compensation coverage, health benefits, etc. and that the Consultant/Vendor shall be solely and entirely responsible for its acts and the acts of its agents, employees, servants, representatives, subcontractors and third party(ies).

26. Severability. Whenever possible, each provision of this agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this agreement, however, is held to be prohibited or invalid under applicable law, such provision shall be deemed restated to reflect the original intentions of the parties, as nearly as possible in accordance with applicable law, and if capable of substantial performance, the remaining provisions of this agreement shall be enforced as if this agreement was entered into without an invalid provision. If the ruling and/or controlling principle of law or equity leading

to the ruling is subsequently overruled, modified or amended by legislation, judicial or administrative action, then the provision(s) in question as originally set forth in this agreement shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principal of law or equity.

27. Survival. Any provisions of this agreement that impose continuing obligations on the parties shall survive the expiration or termination of this agreement for any reason.

28. Contract Change Orders. At the sole discretion of the City, a Change Order may be issued solely by the City to modify an existing party obligation set forth in this agreement where the scope of the Change Order is:

(i) within the scope of the original agreement OR is made pursuant to a provision in the original agreement, AND

(ii) the Change Order monetary cost is charged solely against those funds encumbered for and at the time the contract was originally executed by the City, that is those funds set forth in the original contract as a not to exceed payment amount OR within the original contract's contingency / allowance / reserve amount (if any is stated therein).

Notwithstanding the foregoing, a Change Order shall not include (iii) an upward adjustment to a Consultant/Vendor's payment claim, or (iv) a payment increase under any escalation clause set forth in the original contract, or any Change Order, or any amendment. That the work and/or services contemplated are necessary does not, in itself, permit a Change Order. Should the need for a Change Order arise, the request shall be reviewed and approved by the City's Using Agency and any City designated representative(s). To be binding and enforceable, a Change Order shall thereafter be signed by both the Consultant/Vendor, any City designated representative(s), and a duly authorized representative of the City's Using Agency prior to the Consultant/Vendor's delivery of the services, etc. contemplated in said Change Order. All Change Orders are governed by the provisions of this agreement. Any contract change NOT fully complying with this Section 28 shall be effectuated solely by an amendment to this agreement complying with Section 38.073 of the City's "Centralized Procurement System" ordinance.

29. Conflicts or Disputes. This agreement represents the full and complete concurrence between the City and the Consultant/Vendor and governs all disputes between them. In the instance of a conflict or dispute over issues not specifically referenced within the agreement, the following documents shall be used as historical documents. Without regard to the order of precedence, to resolve such conflicts or disputes, the historical documents are (a) the City's aforementioned RFP and (b) the Consultant/Vendor's proposal responding to the aforementioned RFP and are hereby fully incorporated by the foregoing reference.

A. Procedure. This procedure supersedes all statements to the contrary occurring either in proposals or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

Professional Services Agreement (PSA) between the City of Waterbury, Connecticut and _____ - RFP No.

B. Presumption. This agreement or any section thereof shall not be construed against any party due to the fact that the agreement or any section thereof was drafted by such party.

30. Disputes; Legal Proceedings; Waiver of Trial by Jury and Continued Performance. The Consultant/Vendor agrees that its waives a trial by jury as to any and all claims, causes of action or disputes arising out of this agreement or services to be provided pursuant to this agreement. Notwithstanding any such claim, dispute or legal action, the Consultant/Vendor shall continue to perform services under this agreement in a timely manner, unless otherwise directed by the City.

31. Binding Agreement. The City and the Consultant/Vendor each bind themselves, and their successors, assigns and legal representatives to the other party to this agreement and to the successors, assigns and legal representatives of such other party with respect to all covenants of this agreement.

32. Waiver. Any waiver of the terms and conditions of this agreement by either of the parties hereto shall not be construed to be a waiver of any other term or condition of this agreement.

33. Governing Laws. This agreement, its terms and conditions and any claims arising there from shall be governed by the laws of the State of Connecticut.

34. Notice. Except as otherwise specifically prohibited in this agreement, whenever under this agreement approvals, authorizations, determinations, notices, satisfactions or waivers are required or permitted, such items shall be effective and valid only when given in writing signed by a duly authorized officer of the City's Using Agency or the Consultant/Vendor, and delivered in hand or sent by mail, postage prepaid, to the party to whom it is directed, which until changed by written notice, are as follows:

Consultant/Vendor: _____

City: City of Waterbury
c/o _____

Waterbury, CT 0670__

35. City Code of Ordinances, Ethics and Conflict of Interest Code, Provisions.

The Person (the term "Person" shall herein be as defined in Section 38 of the City's Code of Ordinances) supplying the documents, data, studies, reports, specifications, deliverables, etc. under this Contract shall comply with all applicable Federal, State and

Municipal statutes, regulations, charters, ordinances, rules, etc, whether or not they are expressly stated in this Contract, including but not limited to the following:

A. It shall be a material breach of this Contract, and, except as may be permitted by regulations or rulings of the City of Waterbury Board of Ethics it shall be a violation of the City's Code of Ordinances, for any Public Official, City Employee or Member of a Board or Commission who is participating directly or indirectly in the procurement process as set forth in the City's Code of Ordinances, including those participating in exempt transactions, to become or be the employee of any person contracting with the governmental body by whom the Official, Employee, or Board or Commission member is employed or is a member.

B. It shall be a material breach of this Contract, and it shall be a violation of the City's Code of Ordinances for any Person to offer, give, or agree to give any current or former Public Official, Employee or Member of a Board or Commission, or for such current or former Public Official, Employee or Member of a Board or Commission to solicit, demand, accept or agree to accept from another Person, a gratuity or an offer of employment in connection with any: decision; approval; disapproval; recommendation; preparation of any part of a program requirement or a requisition; influencing the content of any specification or procurement standard; or rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a Contract or Purchase Order, or to any solicitation or proposal therefore.

C. It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for any payment, Gratuity, or offer of employment to be made as an inducement for the award of a subcontract or order, by or on behalf of a subcontractor, the prime Consultant/Vendor or higher tier subcontractor or any Person associated therewith, under a Contract or Purchase Order to the City.

D. The value of anything transferred or received in violation of the City's Charter, Code of Ordinances, and/or regulations promulgated there under, by any Person subject to said Charter and/or Ordinances may be recovered by the City.

E. Upon a showing that a subcontractor made a kickback to the City, a prime Consultant/Vendor or a higher tier subcontractor in connection with the award of a subcontract or order there under, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the City and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

F. It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for a Person to be retained, or to retain a Person, to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee; and every Person, before being awarded a City Contract, shall deliver to the City, on a City authored form, a representation that such Person has not retained

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anyone in violation of this subsection F, the failure to deliver said form being a material breach of this Contract and a violation of the City's Code of Ordinances. Note, however, this subsection f shall not apply to full-time Employees who, as a condition of their employment, may be entitled to bonuses or other fees in accordance with their employment relationship.

G. The Person hereby expressly represents that he/she/it has complied with those sections of the City's Code of Ordinances requiring that said Person has (1) delivered to the City an affidavit, on a City authored form, stating that the Person and its affiliates have no delinquent taxes or other financial obligations owned to the City; (2) filed the City authored financial disclosure statement form as set forth in the City's Code of Ordinances regarding disclosure of financial interests; (3) delivered to the City a written acknowledgement, on a City authored form, evidencing receipt of a copy of the "Ethics and Conflict of Interest" ordinance for the City of Waterbury and hereby expressly represents that said Person is in full compliance with the entirety of said Code of Ordinances; and (4) filed a current list of all taxable personal and real property as required by the State of Connecticut General Statutes. Any violation of this subsection G shall be deemed a material breach of this Contract and shall be a violation of the City's Code of Ordinances.

H. The definitions set forth in the City's Code of Ordinances shall be the primary source for interpretation of the forgoing subsections A-G.

I. The Contractor is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, all relevant provisions of the City's Charter and all relevant provisions of the City's Code of Ordinances, including without limitation Chapters 93, titled "Discriminatory Practices", Chapter 38 titled "Centralized Procurement System", and Chapter 39 titled "Ethics and Conflict of Interest", of said Code as may be amended from time to time.

J. The Contractor hereby acknowledges receipt of a copy of the Chapters 38 and 39 of City's Ordinance regarding Procurement, Ethics, and Conflicts of Interest and has familiarized itself with said Code and hereby agrees to adhere to said Code. The text of Chapters 38 and 39 of said Code may be obtained from the Office of the City Clerk of the City and on the internet at the City Clerk's web site: <http://www.waterburyct.org/content/458/539/default.aspx> [click link titled "The City of Waterbury Code of Ordinances Passed 8/24/2009". For Chapter 38, click on "TITLE III: ADMINISTRATION", then click on "CHAPTER 38: CENTRALIZED PROCUREMENT SYSTEM". For Chapter 39, click on "TITLE III: ADMINISTRATION", then click on "CHAPTER 39: ETHICS AND CONFLICTS OF INTEREST"].

K. The Contractor is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, the City's Ordinance Sections 34.15 through 34.99 entitled, "Ordinance Concerning the Hiring of Waterbury Residents on Certain Publicly-Funded Construction Projects" and the State of Connecticut Legislature's Special Act No. 01-1.

L. Every Person who conducts business with, contracts, with or provides commodities or services to the City, is charged with notice of the extent of the powers and authority, and the limitations thereon, of the Public Officials and Employees of the City, as set forth in the charter of the City, the Code of Ordinances and any Regulations or Policies pertaining thereto.

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In particular, and without implying any limitation as to its applicability, it applies to all Persons who participate in the procedures pertaining to the Centralized Procurement System as set forth in Chapter 38, and the Ethics and Conflict of Interest provisions set forth in Chapter 39 of the Code of Ordinances.

M. INTEREST OF CITY OFFICIALS. No member of the governing body of the City, and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the project, to which this agreement pertains, shall have any personal interest, direct or indirect, in this agreement.

N. PROHIBITION AGAINST CONTINGENCY FEES. The Contractor hereby represents that it has not retained anyone to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage or contingency fee.

O. FREEDOM OF INFORMATION ACT NOTICE. Pursuant to State statute, in the event the total compensation payable to the Consultant/Vendor set forth in Section 6 herein is greater than \$2,500,000.00, the City is entitled to receive a copy of any and all Consultant/Vendor records and files related to the performance of this contract and those records and files are subject to the Freedom of Information Act ("the Act") and may be disclosed by the City pursuant to the Act.

IN WITNESS WHEREOF, the parties hereto execute this agreement on the dates signed below.

WITNESS:

CITY OF WATERBURY

By: _____
Neil M. O'Leary, Mayor

Date: _____

WITNESS:

By: _____

Its _____

Date: _____

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ATTACHMENT A

ATTACHMENT C

ROCCO ORSO
DIRECTOR OF PURCHASING
235 GRAND STREET
WATERBURY, CT 06702

The undersigned declares that the only persons or parties interested in this Proposal as principals are as stated; that the Proposal is made without any collusion with other persons, firms, or corporations; that Proposer has carefully examined the entire Request for Proposal; that Proposer has informed itself fully in regard to all conditions pertaining to the Work and the place where it is to be performed; and that with this representation, the undersigned makes this Proposal. These prices shall cover all expenses incurred in performing the Work required under the Contract Documents, of which this Proposal and Form are a part.

The undersigned agrees and covenants that the Contract Time shall commence on delivery of the City of Waterbury's written notice to proceed, which shall occur after contract execution by both parties.

The undersigned acknowledges receipt of addenda numbered: (insert date)

- 1 _____ 4 _____
2 _____ 5 _____
3 _____ 6 _____

All Work for this Project shall be performed at the Proposal Prices as described in the Proposal Documents.

The undersigned hereby certifies under the penalties of perjury that this Proposal is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this section, the work "person" shall mean any natural person, joint venture, partnership, corporation, or other business or legal entity.

Social Security Number
or Federal Identification Number

Signature of Individual or Corporate Name

Corporate Officer
(if applicable)

City notice of acceptance should be mailed, telegraphed or delivered to the undersigned Proposer at the following address:

Name _____
By: _____
(Title)
Business Address: _____
(City, State, Zip Code)

Phone: _____

Date: _____

Note: If the Proposer is a corporation, indicate State of incorporation under signature, and affix corporate seal; if a partnership, give full names and residential addresses, if different from business address.