

ATTORNEY GENERAL STATE OF CONNECTICUT

Request for Proposals for Services

RFP # 2020-05

(Representation of the State of Connecticut With Regard to Negotiating and Drafting a Vehicle Emissions Testing Contract for the Department of Motor Vehicles)

The State of Connecticut, Office of the Attorney General, is seeking proposals to provide certain legal services involving the negotiation and drafting of the emissions contract between the Department of Motor Vehicles and the Vendor. **PROPOSALS ARE DUE BY FRIDAY, JUNE 5, 2020, at 4:30 p.m. local time, as detailed in the Request for Proposals.**

This Request for Proposals is available online at <https://portal.ct.gov/AG/RFPs>.

WILLIAM TONG, Attorney General

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**REQUEST FOR PROPOSALS
BY
THE STATE OF CONNECTICUT
OFFICE OF THE ATTORNEY GENERAL**

**Representation of the State of Connecticut Department of Motor Vehicles in
negotiating and drafting an emissions contract**

RFP# 2020-05

The State of Connecticut, Office of the Attorney General (“OAG”) is seeking proposals to provide certain legal services for the State of Connecticut, Department of Motor Vehicles, (DMV) under the supervision of the OAG, with respect to negotiating and drafting a contract with a vendor to conduct emissions testing.

SCOPE OF SERVICES

The Attorney General of Connecticut, William Tong, pursuant to Conn. Gen. Stat. § 3-125, invites proposals from appropriately qualified firms to provide one or more of the following tasks:

Representing, assisting, advising, contract drafting and providing legal counsel and technical expertise to the State of Connecticut (DMV) in the law(s) applicable to emissions systems, federal and state environmental laws involving emission testing requirements, information systems associated with emissions systems, including but not limited to software, licenses, intellectual property rights and performance based warranties of emission and information systems and the law applicable to state contractor selection and contracting;

- (a) Representing, assisting, advising, negotiating, drafting and providing legal counsel to the State of Connecticut, under the direction of the ATTORNEY GENERAL, in regards to the Department of Motor Vehicles’ negotiation of and contracting with a vendor to contract with DMV, including but not limited to all aspects of the contracting process from the initial negotiations and drafting of the contract through acceptance of the new emissions testing system;
- (b) Review, analysis, investigation and research necessary to carry out the Services;
- (c) Preparing, writing, and providing to the Attorney General or his designee all documents and instruments, in electronic, magnetic, paper and any other form, which are necessary or appropriate to carry out the services;
- (d) Providing all necessary expert, technical, paralegal, clerical, document retrieval and analysis and other legal support for the drafting, negotiating and implementation of the DMV emissions contract that is necessary;

- (e) Providing all staff, clerical support, equipment, and expertise to minimize the administrative burdens imposed on state employees, officials and agencies in the course of rendering services;
- (f) Perform all tasks under this Agreement in coordination with the ATTORNEY GENERAL.

TERM AND AMOUNT OF CONTRACT

Contracts awarded pursuant to this Request for Proposals (“RFP”) will have a term of two (2) years, renewable by mutual agreement and a maximum value of two hundred thousand dollars (\$200,000). Any extensions will be only by written amendment to the original Professional Services Agreement (hereinafter referred to as “Contract” or “Agreement”). These awards are not necessarily exclusive. The OAG reserves the right during the terms of these contracts to solicit and request additional proposals for legal services in the same or other areas of practice.

Proposals must be received by the OAG by 4:30 p.m., local time, on **Friday, June 5, 2020**. The Attorney General may invite some firms to attend an interview shortly thereafter.

An evaluation committee will evaluate the proposals in accordance with the selection criteria set forth in this RFP, which explains other terms and requirements. The selected consultant must enter into a contract with the OAG, substantially in the form of the draft contract set out in Appendix A. The Attorney General encourages minority, women-owned and disadvantaged businesses to apply.

All communication with the OAG must be undertaken only as specified in this RFP.

SELECTION CRITERIA

The evaluation committee will evaluate firms on the basis of their written responses to this RFP, additional written information that may be requested by the OAG and, possibly, oral interviews. The goal of the evaluation will be to select the firm or firms which provide(s) the best combination of qualifications, relevant experience and cost.

The evaluation committee will also consider the following non-exclusive factors in making its determination:

- Depth and quality of experience in drafting and negotiating contracts involving federal and state environmental laws involving emissions requirements for compliance and testing vehicles as well as acquisition of emission testing systems including but not limited to emissions testing and equipment software;
- Depth and quality of experience in emissions technology including software, licenses, intellectual property rights and warranties for technology equipment and

systems;

- Depth and quality of experience in federal and state emission testing requirements;
- Significant experience in drafting and negotiating complex contracts including but not limited to contracts involving emission standards;
- Working knowledge of DMV and its functions, preferably in the area of emissions, vehicle emissions testing and working knowledge of both federal and state vehicle emissions laws and regulations;
- Depth and quality of experience and knowledge regarding state of Connecticut contract law and law regarding selection and management of vendors;
- The firm's financial resources and commitment to carry out this undertaking including negotiating, drafting, writing and meeting with the necessary parties both in person and electronically to facilitate an executed contract;
- Qualifications and commitment of personnel, including the experience and ability of the lead attorneys, and breadth and depth of other partners, associates and other professionals available to provide services to the state;
- Demonstrated ability to work closely and cooperatively with clients in meetings and negotiation sessions;
- Team organization and approach, including the ability of the firm or firms to adequately staff and promptly respond throughout the negotiation process;
- Ability and commitment to minimize the administrative burden imposed on State employees, officials and agencies in this undertaking;
- Qualifications of personnel, including the experience and availability of the attorneys to provide the requested services to the State of Connecticut;
- If not already admitted to the Connecticut Bar, the ability to obtain pro hac vice admission to the Connecticut Superior Court and arrangements for local counsel in Connecticut and other jurisdictions, if necessary;
- Ability to communicate clearly and effectively and present defensible findings and appropriate recommendations to the OAG staff;
- Results of reference checks;
- Demonstrated commitment to affirmative action and equal opportunity for employees;
- Workforce diversity, as evidenced by the contractor's current workforce diversity and its explanation of its current diversity and any plans or efforts it describes to improve or broaden its diversity;
- Equal employment opportunity record as evidenced by the composition of firm personnel and the firm's affirmative action and equal employment opportunity policies and practices;

- Record of compliance with all applicable ethical rules and rules of professional conduct; and
- Reasonableness of rates proposed, and demonstrated efficiency in providing sound advice and counsel without unnecessary or excessive charges.

The proposing firm will not be considered to have an irreconcilable conflict of interest because the firm or attorneys associated with the firm have in the past brought or are currently bringing litigation against the State of Connecticut, whether in court, mediation or arbitration, so long as that litigation does not concern the firm's involvement in matters related to and adverse to the State related to any of the described services sought in this RFP. However, all potential conflicts with the State of Connecticut must be fully described and discussed in the proposal.

INSTRUCTIONS TO PROPOSERS

I. Proposals Schedule

Release of RFP: **Friday, May 8, 2020**
Proposals due: **Friday, June 5, 2020**

From the date the OAG issues this RFP until the date that it awards the Contract to the successful proposer, interested parties should not contact any employee of the State of Connecticut for additional information concerning this RFP, except in writing directed only to Joseph Rubin, Assistant Deputy Attorney General at Connecticut Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106, or via email at joseph.rubin@ct.gov. Interested parties should submit questions no later than **May 26, 2020**. Answers will be posted by **May 29, 2020**. Late questions may not receive answers. The OAG will answer questions only in the form of one or more addenda to this RFP posted on its website, <https://portal.ct.gov/AG/RFPs>. Proposers have the responsibility to review that location for any addenda to this RFP.

For technical questions only, concerning issues or problems with access to or downloading of this RFP and associated information from the website, proposers may contact Muhannad Alsaqri by e-mail at muhannad.alsaqri@ct.gov.

II. Sealed Proposals

Proposers must submit an original and four (4) copies of their proposals in a SEALED envelope or carton, clearly marked with **RFP #2020-05**, the date it is due, and the name and address of the firm. **Proposers may send the proposal by courier or overnight delivery service or deliver it in person to the address below, arriving no later than Friday, June 5, 2020, at 4:30 p.m. local time.** Proposals will not be publicly opened on the due date. Proposals received after that time may not be accepted. Postmark dates will not be considered as the basis for meeting any submission deadline. All proposals and other communications with the State regarding this RFP must be submitted in writing in sealed envelopes or cartons which clearly identify this RFP. Any material received that

does not conform to this provision will be opened as general mail, which may not ensure the proposer's intent or that the materials arrive timely.

Joseph Rubin, Assistant Deputy Attorney General

RFP # 2020-05

Connecticut Office of the Attorney General, 165 Capitol Ave., Hartford, CT 06106

III. Submission of Proposals

- (a) To be considered, all submissions must include all of the following:
- (1) All information and documents requested by the RFP;
 - (2) A statement affirming specifically all of the representations and warranties set forth in Section XII (Independent Price Determinations) and Section XIII (Offer of Gratuities), below;
 - (3) Five (5) paper copies of all required or supporting documents, and five (5) copies of a CD, DVD or USB drives containing all documents in a format compatible with Microsoft Word, current version, and affording the user the capability of searching its contents; except that the signature pages and required or necessary forms not conveniently available in Microsoft Word may be provided in PDF format;
 - (A) The RFP calls for both hard copies and submissions on CD, DVD or USB drive. In light of circumstances related to the COVID-19 pandemic, we will also accept, in lieu of those requirements, any one (or more) of the following, with no preference for your choice: (1) submission on CD, DVD or USB drives only; (2) submission by email with attachments, for a proposal submission less than 35MB, email to Joseph.Rubin@ct.gov and to Lynn.Rioux@ct.gov, but note that our email system cannot accept emails over 35MB, and so you may have to break your submission into smaller parts; or (3) submission to an FTP secure file transfer site that we will establish for each submission, but only if you notify us by email (Joseph.Rubin@ct.gov and Muhannad.Alsaqri@ct.gov) of your request to do so no later than **3 pm EST, Thursday, June 4, 2020**. Please do not make this request if your file can be submitted conveniently by email. Note that submissions must still comply with all other requirements, including the requirements that "all documents [must be submitted] in a format compatible with Microsoft Word, current version, and affording the user the capability of searching its contents; except that the signature pages and required or necessary

forms not conveniently available in Microsoft Word may be provided in PDF format.”

- (4) Confirmation that an account has been created in the Connecticut Department of Administrative Services (“DAS”) Business Network (“BizNet”) system showing that all required forms have been completed and uploaded. The required forms may include, but may not be limited to: *Ethic Affidavits and Certifications Form 1 (Gift and Campaign Contribution)*; *Form 5 (Consulting Agreement)*; *Form 6 (Affirmation of Receipt of State Ethics Laws Summary)*; and *Form 7 (Iran Certification)*; *Commission on Human Rights & Opportunities’ Nondiscrimination Certification and Workplace Analysis Affirmative Action Report/ Employment Information Forms*. These documents are included in your BizNet account as fillable forms. Copies of these completed forms do not need to be submitted with your proposal. Any proposer that does not make the certifications required may be disqualified. Information regarding the DAS BizNet system and required documents can be found on DAS’s website at <https://portal.ct.gov/DAS/Procurement/Contracting/DAS-Procurement-BizNet-Accounts>; <https://portal.ct.gov/DAS/Procurement/Contracting/DAS-Procurement-BizNet-Accounts/Documents>. DAS’s help desk for BizNet related questions is (860) 713-5095.
- (5) Given the COVID-19 pandemic, the ATTORNEY GENERAL is willing to accept electronic, non-notarized signatures in lieu of notarization for the duration of Connecticut’s Governor Ned Lamont’s Executive Order 7Q. (“ . . . All witness requirements on any document, other than a Last Will and Testament, requiring a notarial act are hereby suspended for the duration of this Executive Order.”)
- (b) Concise answers are encouraged. Responses should be prepared on 8½ x 11 inch paper using at least 12 point type with standard margins.
- (c) The submission of proposals shall constitute, without any further act required of the proposers or the OAG, acceptance of the requirements, administrative stipulations and all of the terms and conditions of this RFP. Proposals must reflect compliance with such requirements. Failure of the proposal to so comply may result in the OAG’s rejection of the proposal. The OAG will reject any proposal that deviates materially from the specifications, terms or conditions of this RFP. Proposers submitting proposals with any minor or immaterial deviations must identify and fully justify such deviations in order for the OAG to consider their proposal.
- (d) No additions or changes to any proposal will be allowed after the proposal

due date, unless the OAG specifically requests such modification. The OAG may, at his option, seek proposer retraction and/or clarification of any discrepancy or contradiction found during the review of proposals.

- (e) Information Required in the Proposal:
- (1) Name the primary individuals who would work with the State, and explain their experience, relevant background and anticipated duties. Include brief resumes for each.
 - (2) Explain the firm's qualifications in light of the stated criteria detailed above.
 - (3) Disclose any past or present assignments, relationships or other employment that your firm or any employee of your firm has or has had that may create a conflict of interest or the appearance of a conflict of interest in serving as counsel for the State in this matter.
 - (4) If you find any term or provision of the proposed draft contract in Appendix A unacceptable, identify the term, explain why it is unacceptable, and state whether failure to modify this term would result in your firm's failure to execute a contract in this matter.
 - (5) Discuss any pending complaints or investigations, or any made or concluded within the past five (5) years, to or by any regulatory body or court regarding the conduct of your firm or its predecessors, or any of its present or former attorneys or employees.
 - (6) State whether your firm owns or operates, or participates in the ownership or operation of, any business entity, affiliate, subsidiary or the like which provides lobbying or any other products or services. If so, state whether that related business entity is a vendor to State of Connecticut or has the potential to become a vendor and explain.
 - (7) Provide names and contact information of three (3) client references for whom you have performed services reasonably comparable to those sought in this RFP.
- (f) Conformity and Completeness of Proposals: To be considered acceptable, proposals must be complete and conform to all material RFP instructions and conditions. The OAG, in its sole discretion, may reject in whole or in part any proposal if in its judgment the best interests of the State will be served.
- (g) Stability of Proposed Fees: Any fee proposals must be valid for the entire duration of the Contract. The total cost of this contract will not exceed two hundred thousand dollars (\$200,000) and the duration of the contract will not exceed two (2) years subject to possible extension by amendment.

IV. Amendment or Cancellation of this RFP

The OAG reserves the right to cancel, amend, modify or otherwise change this RFP at any time if it deems it to be in the best interest of the State to do so.

V. Presentation of Supporting Evidence

Proposers must be prepared to provide evidence of experience, performance, ability, financial resources or other factors as the OAG deems to be necessary or appropriate concerning the performance capabilities represented in their proposals.

VI. Misrepresentation or Default

The OAG may reject the proposal and void any award resulting from this RFP to a firm which makes any material misrepresentation in its proposal or other submittal in connection with this RFP.

VII. Errors

The OAG reserves the right to correct clerical or administrative errors that may be made during the evaluation of proposals or during the negotiation of the contract and to change the contract award accordingly. In addition, the OAG reserves the right to re-evaluate proposals and the award of the contract in light of information either not previously known or otherwise not properly having been taken into account prior to contract award. In any case, this may include, in extreme circumstances, revoking the awarding of the contract already made to a firm and subsequently awarding the contract to another firm.

Such action on the part of the OAG shall not constitute a breach of contract on the part of the OAG since the contract with the initial firm would be deemed void and of no effect as if no contract ever existed between the OAG and such firm.

The OAG may waive minor irregularities found in proposals or allow the proposer to correct them, depending on which is in the best interest of the state. "Minor irregularities" means typographical errors, informalities that are matters of form rather than substance and evident from the proposal itself, and insignificant mistakes that can be waived or corrected without prejudice to other proposers, as determined in the discretion of the OAG.

VII. Ownership of Proposals

All proposals shall become the sole property of the State and will not be returned.

IX. Validation of Proposals

The proposal must be signed by an authorized official and shall be a binding commitment which the OAG may incorporate, in whole or in part, by reference or otherwise, into the Contract. The proposal must also include evidence that the person submitting the proposal has the requisite power and authority to submit and deliver the proposal and

subsequently to enter into, execute and deliver and perform on behalf of the firm, the Contract.

X. Execution of Contract

- (a) This RFP is not a contract and, alone, shall not be interpreted as such. Rather, this RFP only serves as the instrument through which proposals are solicited. Once the evaluation of the proposals is complete and a firm is selected, the selected proposal and this RFP may then serve as the basis for the Contract that will be negotiated and executed between the OAG and the selected firm. If the OAG and the initial selected firm fail to reach agreement on all issues relative to the Contract within a time determined solely by the OAG, then the OAG may commence and conclude contract negotiations with other proposers. The OAG may decide at any time to start this RFP process again.

- (b) Section 4-252 of the Connecticut General Statutes requires that this RFP include a notice of the certification requirements for large state contracts described in this statute. Accordingly, pursuant to this statute, firms are notified as follows:
 - (1) The terms “gift,” “quasi-public agency,” “state agency,” “large state contract,” “principals and key personnel” and “participated substantially” as used in this Section X(b) shall have the meanings set forth in this statute.
 - (2) No state agency or quasi-public agency shall execute a large state contract unless the state agency or quasi-public agency obtains the written certifications described in this Section X(b). Each such certification shall be sworn as true to the best knowledge and belief of the person signing the certification, subject to the penalties of false statement.
 - (3) The official of the person, firm or corporation awarded the contract, who is authorized to execute the contract, shall certify on such forms as the State shall provide:
 - (A) That no gifts were made between the date that the state agency or quasi-public agency began planning the project, services, procurement, lease or licensing arrangement covered by the contract and the date of execution of the contract, by (i) such person, firm, corporation, (ii) any principals and key personnel of the person, firm or corporation, who participated substantially in preparing the bid or proposal or the negotiation of the contract, or (iii) any agent of such person, firm, corporation or principals and key personnel, who participated substantially in preparing the bid

or proposal or the negotiation of the contract, to (I) any public official or state employee of the state agency or quasi-public agency soliciting bids or proposals for the contract, who participated substantially in the preparation of the bid solicitation or request for proposals for the contract or the negotiation or award of the contract, or (II) any public official or state employee of any other state agency, who has supervisory or appointing authority over such state agency or quasi-public agency;

- (B) That no such principals and key personnel of the person, firm or corporation, or agent of such person, firm or corporation or principals and key personnel, knows of any action by the person, firm or corporation to circumvent such prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the person, firm or corporation to provide a gift to any such public official or state employee; and
 - (C) That the person, firm or corporation made the bid or proposal without fraud or collusion with any person.
- (4) Contractors are required to submit a certification form and thereafter annually to update previously submitted certification forms for state contracts. Contractors must use the most current Gift and Campaign Contribution Certification form. (See Section III(4))
- (5) This Section X(b) is set forth here only for purposes of providing notice of the requirements of Conn. Gen. Stat. § 4-252. Accordingly, it is neither intended nor should it be interpreted or relied upon to be a complete and full reiteration of the Act's contents. Any interpretation or understanding of the statute's requirements or content by any party must come only from reading the full text of the statute itself.
- (c) Section 4a-81 of the Connecticut General Statutes requires that this RFP include a notice of the consulting affidavit requirements described in the statute. Accordingly, pursuant to the statute, vendors are notified as follows:
- (1) No state agency shall execute a contract for the purchase of goods or services, which contract has a total value to the state of fifty thousand dollars or more in any calendar or fiscal year, unless the state agency obtains the written affidavit described in subsection (2) of this section.
 - (2) The chief official of the vendor awarded a contract described in Section X(c)(1) or the individual awarded such contract who is

authorized to execute such contract, shall attest in an affidavit as to whether any consulting agreement has been entered into in connection with such contract. Such affidavit shall be required if any duties of the consultant included communications concerning business of such state agency, whether or not direct contact with a state agency, state or public official or state employee was expected or made. "Consulting agreement" means any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of (i) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the State, (ii) contacting, whether in writing or orally, any executive, judicial, or administrative office of the state, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction or requests for information or (iii) any other similar activity related to such contract. "Consulting agreement" does not include any agreements entered into with a consultant who is registered under the provisions of Chapter 10 of the Connecticut General Statutes concerning the State's Codes of Ethics, as of the date such affidavit is submitted.

- (3) Such affidavit shall be sworn as true to the best knowledge and belief of the person signing the certification on the affidavit and shall be subject to the penalties of false statement.
 - (4) Such affidavit shall include the name of the consultant, the consultant's firm, the basic terms of the consulting agreement, a brief description of the services provided, and an indication as to whether the consultant is a former state employee or public official. If the consultant is a former state employee or public official, such affidavit shall indicate his or her former agency and the date such employment terminated.
 - (5) The Connecticut Office of Policy and Management has provided OPM Ethics Form 5 to satisfy the requirements of this statute. (See Section III(4) above.)
 - (6) This Section X(c) is set forth here only for purposes of providing notice of the requirements of the Conn. Gen. Stat. § 4a-81. Accordingly, it is neither intended nor should it be interpreted or relied upon to be a complete and full reiteration of the statute's contents. Any interpretation or understanding of the statute's requirements or content by any party must come only from reading the full text of the statute itself.
- (d) Pursuant to Conn. Gen. Stat. §§ 4a-60(a)(1) and 4a-60a(a)(1), as amended, every contractor is required to provide the State with documentation in the

form of a company or corporate policy adopted by resolution of the board of directors, shareholders, managers, members or other governing body of such contractor to support the contractor's nondiscrimination agreements and warranties which are included in such contractor's contract pursuant to said statutes. The applicable certification form must be completed and submitted through the BizNet system, as explained in Section III(4), above.

- (e) In addition, an IRS W-9 and State of Connecticut Agency Vendor forms must be completed and attached to the proposal. Copies of previously submitted IRS W-9 and/or Agency Vendor forms may be resubmitted if the information contained on the forms is still current.

XI. Oral Agreement or Arrangements

Any alleged oral agreements or arrangements made by firms with any State agency or employee will be disregarded in any State proposal evaluation or associated award.

XII. Independent Price Determinations

In the proposals, firms must warrant, represent, and certify that the following requirements have been met in connection with this RFP:

- (a) The fees and costs proposed have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such process with any other organization or with any competitor.
- (b) Unless otherwise required by law, the fees and costs quoted have not been knowingly disclosed by the firm prior to the deadline for submission of proposals directly or indirectly to any other organization or to any competitor; and
- (c) No attempt has been made, or will be made, by the firm to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

XIII. Offer of Gratuities

In the proposals, firms must represent that no elected or appointed official or employee of the State of Connecticut has, or will, benefit financially or materially from the Contract. The Contract may be terminated by the OAG if it is determined that gratuities of any kind were either offered to, or received by, any of state officials or employees from the firm, the law firm's agent(s), representatives(s) or employees(s). Such action on the part of the OAG shall not constitute a breach of contract on the part of the OAG.

XIV. Subletting or Assigning of Contract

The Contract or any portion thereof, or the work provided for therein, or the right, title, or interest of the firm therein or thereto may not be sublet, sold, transferred, assigned or otherwise disposed of to any person or entity without the prior written consent of the OAG. No person or entity, other than the firm to which the contract was awarded, is permitted to perform work pursuant to the Contract without the prior written approval of the OAG.

XV. Freedom of Information

The OAG is a public agency and its records, including responses to this RFP, are public records. See Conn. Gen. Stat. §§ 1-200, et seq., and especially § 1-210(b)(4) and § 1-210(b)(5)(B). Due regard will be given for the protection of proprietary or confidential information contained in all proposals received. However, all materials associated with this RFP are subject to the terms of the Connecticut Freedom of Information Act (“FOIA”) and all applicable rules, regulations and administrative decisions. If a firm is interested in preserving the confidentiality of any part of its proposal, it will not be sufficient merely to state generally in the proposal that the proposal is proprietary or confidential in nature and not, therefore, subject to release to third parties. Instead, those particular sentences, paragraphs, pages or sections that a firm believes to be exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with Section 1-210(b) of the FOIA must accompany the proposal. The rationale and explanation must be stated in terms of the reasons the materials are legally exempt from release pursuant to the FOIA. Firms should not request that their entire proposal, nor the majority of the proposal, be confidential. Any submitted proposal, once execution of a contract is complete, and any completed contract will be considered public information. The OAG has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The firm has the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall the OAG have any liability for the disclosure of any documents or information in its possession which the OAG believes are required to be disclosed pursuant to the FOIA or other requirements of law.

XVI. Conformance with Federal, State and Other Requirements

In the Contract, the firm will represent and warrant that, at all pertinent and relevant times to the contract, it has been, is and will continue to be in full compliance with all Federal, State, municipal or other governmental department, commission, board, bureau, agency or instrumentality codes, statutes, acts, ordinances, judgments, decrees, injunctions and regulations.

XVII. Executive Orders

The Contract is subject to the provisions of Executive Order No. 3 of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive

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

XVIII. Americans with Disabilities Act

The firm(s) to which contracts are awarded shall comply with the Americans with Disabilities Act and any other applicable federal laws and regulations.

XIX. Affirmative Action and Contract Compliance Reporting

Firms are advised that in addition to evaluating their qualifications, experience, capabilities, competitiveness of cost and conformance to this RFP specification, weight may also be given to firms which demonstrate a commitment to affirmative action by full compliance with the CHRO regulations.

XX. Campaign Contribution and Solicitation Ban

For all State contracts as defined in Conn. Gen. Stat. § 9-612 having a value in a calendar year of fifty thousand dollars (\$50,000) or more or a combination or series of such agreements or contracts having a value of one hundred thousand dollars (\$100,000) or more, the authorized signatory to the proposal in response to this RFP expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising prospective state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice as set forth in the *Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations* attached hereto as Exhibit 1 to the RFP.



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

Acknowledgement of Receipt of Explanation of Prohibitions for Incorporation in Contracting and Bidding Documents

This notice is provided under the authority of Connecticut General Statutes § 9-612 (f) (2) and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined on the reverse side of this page).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

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

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

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

DUTY TO INFORM

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

PENALTIES FOR VIOLATIONS

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

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

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

CONTRACT CONSEQUENCES

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

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

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



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DEFINITIONS

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

“Prospective state contractor” means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100.

“Prospective state contractor” does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person’s capacity as a state or quasi-public agency employee.

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

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

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

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

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

“Solicit” means (A) requesting that a contribution be made, (B) participating in any fundraising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee, serving on the committee that is hosting a fundraising event, introducing the candidate or making other public remarks at a fundraising event, being honored or otherwise recognized at a fundraising event, or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. “Solicit” does not include (i) making a contribution that is otherwise permitted under this chapter, (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office, (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this subdivision, or (v) mere attendance at a fundraiser.

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

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



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ACKNOWLEDGEMENT OF RECEIPT			
_____ SIGNATURE		_____ DATE (mm/dd/yyyy)	
NAME OF SIGNER			
First Name	MI	Last Name	Suffix
TITLE			
COMPANY NAME			
Additional information may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec Click on the link to "Lobbyist/Contractor Limitations"			

**APPENDIX A
TO REQUEST FOR PROPOSALS 2020-05**

PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE STATE OF CONNECTICUT,
ACTING BY ITS ATTORNEY GENERAL,
AND

This Agreement is made by and between the STATE OF CONNECTICUT, acting by its ATTORNEY GENERAL, William Tong, duly authorized pursuant to Section 3-125 of the Connecticut General Statutes, with an office at 165 Capitol Avenue, Hartford, CT 06106 and _____, acting by _____, with its principal place of business at _____ (hereinafter referred to as the “CONTRACTOR” or “CONSULTANT”).

In consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

SECTION 1: SCOPE OF SERVICES

- 1.1 The services to be performed by the CONSULTANT shall consist of the following, collectively referred to as “Services:”
- (a) Representing, assisting, advising, negotiating, drafting and providing legal counsel to the State of Connecticut, under the direction of the ATTORNEY GENERAL, in regards to the Department of Motor Vehicles’ negotiation of and contracting with a vendor to contract with DMV, including but not limited to all aspects of the contracting process from the initial negotiations and drafting of the contract through acceptance of the new emissions testing system;
 - (b) Review, analysis, investigation and research necessary to carry out the Services;
 - (c) Preparing, writing, and providing to the Attorney General or his designee all documents and instruments, in electronic, magnetic, paper and any other form, which are necessary or appropriate to carry out the services;
 - (d) Providing all necessary expert, technical, paralegal, clerical, document retrieval and analysis and other legal support for the drafting, negotiating and implementation of the DMV emissions contact that is necessary;

- (e) Providing all staff, clerical support, equipment, and expertise to minimize the administrative burdens imposed on state employees, officials and agencies in the course of rendering services;
- (f) Perform all tasks under this Agreement in coordination with the ATTORNEY GENERAL.

SECTION 2: AGREEMENT ADMINISTRATION

2.1 The person in charge of administering this Agreement on behalf of the ATTORNEY GENERAL is _____, Assistant Attorney General, and her successors in office, whose contact information is as follows:

Office of the Attorney General
 165 Capitol Avenue
 Hartford, CT 06106
 Telephone: _____ E-mail: _____

2.2 The person in charge of administering this Agreement on behalf of the CONSULTANT is: _____, whose contact information is as follows:

 Telephone: _____ E-mail: _____

2.3 The professional staff members of the CONSULTANT primarily responsible for the performance of this Agreement are _____. The CONSULTANT may not change these individuals without the prior written consent of the ATTORNEY GENERAL.

2.4 Within seven (7) days after receiving a request by the ATTORNEY GENERAL, the CONSULTANT shall remove from assignment to this Agreement any specified professional or other staff member and, at the ATTORNEY GENERAL'S request, shall augment the remaining staff with such other staff member(s) as is acceptable to the ATTORNEY GENERAL.

SECTION 3: COMPENSATION AND REIMBURSEMENT

3.1 The ATTORNEY GENERAL agrees to compensate the CONSULTANT for Services in accordance with the rate schedule provided in Section 3.1.a. below or as otherwise agreed in accordance with Section 3.1.b. Compensation shall not exceed \$[to be added upon completion of negotiations] for the term of this Agreement.

(a) Rate Schedules:

(i) Hourly Rates

Position	Hourly Rate
-----------------	--------------------

The above hourly rates shall be charged only for actual time spent rendering the Services; the CONSULTANT shall not “round off” time. The time spent rendering Services shall be billed to the tenth part of an hour.

- (ii) The ATTORNEY GENERAL shall not be charged for any other time expended by the CONSULTANT during travel, overnight stays, or the like associated with the performance of the Services, except as provided in Section 3.4 below.

(b) *Alternative Fee Arrangements: [optional]*

Upon a determination by the _____ that an alternative fee arrangement (“AFA”) for specified Services will be more advantageous to the _____ and the CONSULTANT may agree to such AFA for a specified Service, provided that no such AFA may be agreed to between the _____ and the CONSULTANT unless the agreement is in writing, for each specific assignment, and approved in advance by the ATTORNEY GENERAL. AFAS may include, but are not limited to, a fixed fee, a not to exceed fee, a blended hourly rate, a volume discount or other arrangement.

3.2 Compensation will be paid only after the submission of itemized documentation, in a form acceptable to the ATTORNEY GENERAL, the Assistant Attorney General. Billings are to be on a monthly basis. The billings must contain, at a minimum, a detailed description of the work performed, the date of performance, the actual time spent performing the work, the name and position of the person(s) rendering the Service and the rate charged for that Service. The monthly bill must also be accompanied by a summary of time and charges billed for each attorney and paralegal itemized on the invoice. Upon the request of the ATTORNEY GENERAL, the CONSULTANT shall submit a summary memorandum describing how the Service rendered furthered resolution of the matter and the current status of the matter. The ATTORNEY GENERAL or his designee may, prior to authorizing payment under this Section, require the CONSULTANT to submit such additional accounting and information as he deems to be necessary or appropriate. The CONSULTANT shall not be compensated for any time spent preparing any billing documentation including,, but not limited to such documentation and accompanying memoranda required by this Section and the Status Reports and Records Section of this Agreement.

All bills must be sent to Office of the Attorney General, Business Office, 165 Capitol Avenue, Hartford, CT 06106.

- 3.3 Within twenty (20) days of receiving a request for the provision of Services hereunder, the CONSULTANT shall submit to the ATTORNEY GENERAL for approval a detailed projected plan and budget containing, but not limited to, a brief statement of the case or matter, a description of the nature and scope of the various phases of the Services expected to be performed, an estimate of the cost of the work broken down into the various phases of the Services, with a total cost not to exceed the maximum amount of this Agreement, and an estimate of the time required to successfully complete the Services. Prior to effecting, undertaking or initiating a material change in the Services, or upon having reason to believe that the Services or any portion of the Services cannot be completed within the amount budgeted for the Services or that portion of the Services, the CONSULTANT shall submit to the ATTORNEY GENERAL for approval a revised projected plan and budget that reflects the changes to the existing projected plan and budget. If the revised projected plan and budget contains a projected cost exceeding the maximum compensation set out in this Section, the CONSULTANT shall consult with the ATTORNEY GENERAL or his designee, for the purpose of: (i) revising the Services; (ii) revising the maximum compensation amount; (iii) revising the billing rates; (iv) agreeing on some combination thereof; or (v) agreeing on other action permitted under this Agreement or any agreed-upon amendment. The ATTORNEY GENERAL, in their sole discretion, may require revisions, supplements and modifications of the projected plan and budget from time to time. The CONSULTANT will not be compensated for the preparation, amendment, or modification of the projected plan and budget.
- 3.4 The ATTORNEY GENERAL agrees to reimburse the CONSULTANT for actual, necessary and reasonable out-of-pocket disbursements and expenses, including filing fees, court costs, computerized research (at cost), commercial messenger and delivery services (at cost), expert witnesses, consultants, mediators, investigative services, long distance telephone calls, and transcript or deposition costs. The ATTORNEY GENERAL shall not reimburse the CONSULTANT for any overhead-related expenses, including, but not limited to, duplicating, secretarial, facsimile (other than long-distance telephone line charges), clerical staff, library staff, proofreading staff, meals and in-state transportation costs or expenses unless they are otherwise approved by the ATTORNEY GENERAL. The CONSULTANT shall be reimbursed for reasonable expenses for transportation, parking and reasonable lodging and meals associated with interstate travel, specifically excluding first class airfare, as approved in advance by the ATTORNEY GENERAL or his designee. Reimbursable interstate travel shall not include travel to meet with staff of the ATTORNEY

GENERAL, and all such meetings shall be conducted in Hartford, Connecticut, unless otherwise specified by the ATTORNEY GENERAL.

- 3.5 The CONSULTANT shall not be compensated for time spent on background or elementary legal research, particularly in areas where the Contractor has represented that it has experience and expertise, nor for any legal training, without the prior written consent of the ATTORNEY GENERAL. Charges for legal research must be accompanied by a detailed description setting forth the purpose of the research and summarizing its nature. Any written material produced as a result of such research shall be available to the ATTORNEY GENERAL or his designee at on or before the third business day following the date of his written request. The ATTORNEY GENERAL shall have the final decision in all disputes between the parties to this Agreement under this subsection.
- 3.6 The CONSULTANT shall not be compensated for time spent in consultation with any attorney or other employee of the ATTORNEY GENERAL concerning the administration of this Agreement and/or issues relating to billing. Unless otherwise authorized by the ATTORNEY GENERAL, compensation for communication between or among attorneys and/or staff within the CONSULTANT'S firm is limited to the time and billing rate of the most senior attorney or staff member participating in the communication. Invoices for these charges must be accompanied by a detailed description setting forth the purpose of the communication and summarizing its details. The ATTORNEY GENERAL shall make the final determination, in their sole discretion, as to the adequacy of such description.
- 3.7 Absent the consent of the ATTORNEY GENERAL or his designee, the CONSULTANT shall not be compensated for the attendance or participation of more than one attorney representing the State of Connecticut at or during any meeting, conference or proceeding, in person or otherwise, in any forum, in connection with performing the Services. Where more than one attorney has attended or participated in any such meeting, conference or proceeding without the consent of the ATTORNEY GENERAL or his designee, the CONSULTANT shall be compensated only for the time of the most senior attorney in attendance or participating.
- 3.8 The CONSULTANT shall not be compensated for the performance of paralegal or clerical type duties performed by an attorney. Paralegal duties or clerical duties include, by way of example and not limitation, routine proofreading of contract drafts, pleadings and other correspondence, preparation of trial or closing binders or notebooks, photocopying and coordinating the schedules of others.

- 3.9 The ATTORNEY GENERAL shall approve for payment all undisputed fees and costs as soon as the documentation can properly be processed in accordance with usual State practice.
- 3.10 Maximum payments under this Agreement shall not exceed ___ dollars (\$).
- 3.11 The ATTORNEY GENERAL shall have the right, without the need of prior notice to the CONSULTANT, to assign the performance of some aspect of the Services to an Associate or Assistant Attorney General where the ATTORNEY GENERAL, in his sole discretion, finds that such an assignment would best serve the interests of the State of Connecticut. This assignment shall not be deemed to be a breach of contract by the ATTORNEY GENERAL.
- 3.12 Compensation and reimbursement provided under this Section constitutes full and complete payment for all costs and expenses incurred or assumed by the CONSULTANT in performing this Agreement. No other costs, expenses or overhead items shall be reimbursed by the ATTORNEY GENERAL without the prior written approval of the ATTORNEY GENERAL or his designee.

SECTION 4: TERMINATION

- 4.1 Notwithstanding any provisions in this Agreement, the ATTORNEY GENERAL, through a duly authorized employee, may terminate the Agreement whenever the ATTORNEY GENERAL makes a written determination that such termination is in the best interests of the State. The ATTORNEY GENERAL shall notify the CONSULTANT in writing of termination pursuant to this Section, which notice shall specify the effective date of termination and the extent to which the CONSULTANT must complete performance of the Services prior to such date.
- 4.2 In the case of any termination, the ATTORNEY GENERAL shall, within forty-five (45) days of final billing after the effective date of termination, pay the CONSULTANT for its performance rendered and accepted by the ATTORNEY GENERAL, in addition to all actual and reasonable costs incurred after notice of termination in completing those portions of the Services which the CONSULTANT was required to complete by the notice. However, the CONSULTANT is not entitled to receive and the ATTORNEY GENERAL is not obligated to tender to the CONSULTANT any payments for anticipated or lost profits.
- 4.3 Upon termination of the Agreement, for any reason, including the expiration of this contract, all rights and obligations shall be null and void, so that no party shall have any further rights or obligations to any other party, except with respect to the sections which survive termination. All representations,

warranties, agreements and rights of the parties under the Agreement shall survive such termination to the extent not otherwise limited in the Agreement and without each one of them having to be specifically mentioned in the Agreement.

- 4.4 Termination of the Agreement pursuant to this Section shall not be deemed to be a breach of contract by the ATTORNEY GENERAL.
- 4.5 Upon receipt of written notification from the ATTORNEY GENERAL of termination or expiration of this contract, the CONSULTANT shall immediately cease to perform the Services unless otherwise directed by the ATTORNEY GENERAL or to the extent necessary to prevent the State from failing to make timely filings or otherwise failing to comply with court orders or the law. The Records, as that term is defined in the Indemnification section of this Agreement, are deemed to be the property of the State. The CONSULTANT shall assemble and deliver to the ATTORNEY GENERAL all Records in electronic, magnetic, paper or any other form, that may be in his possession or custody, and shall transmit the same to the ATTORNEY GENERAL or his designee as soon as possible in a non-proprietary format no later than the fifteenth day following the receipt of the above-written notice, together with a detailed hourly description of the Services performed and expenses reasonably incurred.
- 4.6 The CONSULTANT, on sixty (60) days' prior written notice to the ATTORNEY GENERAL, may terminate this Agreement.
- 4.7 If the CONSULTANT terminates this Agreement, the CONSULTANT shall not be entitled to any compensation for Services that are rendered or payment for expenses that are incurred subsequent to the effective date of termination.

SECTION 5: TIME OF PERFORMANCE

- 5.1 The CONSULTANT shall perform the Services at such times and in such sequence as may be reasonably directed by the ATTORNEY GENERAL.
- 5.2 This Agreement will run from its effective date until the tasks defined and confirmed as set forth in Section 1.1 of this Agreement are performed or completed to the satisfaction of the ATTORNEY GENERAL, or unless sooner terminated in accordance with the Termination section of this Agreement unless otherwise amended.

SECTION 6: SETOFF

In addition to all other remedies that the ATTORNEY GENERAL may have, the ATTORNEY GENERAL, in his sole discretion, may setoff (i) any costs

or expenses that the State incurs resulting from the CONSULTANT'S unexcused non-performance under the Agreement and under any other agreement or arrangement that the CONSULTANT has with the State and (ii) any other amounts that are due or may become due from the State to the CONSULTANT, against amounts otherwise due or that may become due to the CONSULTANT under the Agreement, or under any other agreement or arrangement that the CONSULTANT has with the State. The State's right of setoff shall not be deemed to be the State's exclusive remedy for the CONSULTANT'S breach of the Agreement, all of which shall survive any setoffs by the State.

SECTION 7: CROSS DEFAULT

- 7.1 If the CONSULTANT breaches, defaults or in any way fails to perform satisfactorily under the Agreement, then the ATTORNEY GENERAL may, in his sole discretion, without more and without any action whatsoever required of the ATTORNEY GENERAL, treat any such event as a breach, default or failure to perform under any or all other agreements or arrangements ("Other Agreements") that the CONSULTANT has with the ATTORNEY GENERAL. Accordingly, the ATTORNEY GENERAL may then exercise at his sole option any and all of its rights or remedies provided for in the Agreement or Other Agreements, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of the ATTORNEY GENERAL, as if the CONSULTANT had suffered a breach, default or failure to perform under the Other Agreements.
- 7.2 If the CONSULTANT breaches, defaults or in any way fails to perform satisfactorily under any or all Other Agreements with the ATTORNEY GENERAL or the State, then the ATTORNEY GENERAL may, in his sole discretion, without more and without any action whatsoever required of the ATTORNEY GENERAL, treat any such event as a breach, default or failure to perform under the Agreement. Accordingly, the ATTORNEY GENERAL may then exercise at his sole option any and all of its rights or remedies provided for in the Other Agreements or the Agreement, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of the ATTORNEY GENERAL or the State, as if the CONSULTANT had suffered a breach, default or failure to perform under the Agreement.

SECTION 8: REPRESENTATIONS AND WARRANTIES

- 8.1 The CONSULTANT represents and warrants to the ATTORNEY GENERAL for itself and for the Contractor Agents, as defined in the Indemnification Section of this Agreement, as applicable, that:
- a. The CONSULTANT is duly and validly existing under the laws of its state of organization and is authorized to conduct business in the

State of Connecticut in the manner contemplated by the Agreement. Further, it has taken all necessary action to authorize the execution, delivery and performance of the proposal and the Agreement and has the power and authority to execute, deliver and perform its obligations under the Agreement;

- b. It will comply with all applicable State and Federal laws and municipal ordinances in satisfying its obligations under and pursuant to the Agreement, including, but not limited to Connecticut General Statutes Title 1, Chapter 10, concerning the State's Codes of Ethics;
- c. The execution, delivery and performance of the Agreement will not violate, be in conflict with, result in a breach of or constitute (with or without due notice and/or lapse of time) a default under any of the following, as applicable: (i) any provision of law; (ii) any order of any court or the State; or (iii) any indenture, agreement, document or other instrument to which it is a party or by which it may be bound;
- d. It is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental entity;
- e. The CONSULTANT and Consultant Agents have not, within the three (3) years preceding the Agreement, in any of their current or former jobs, been convicted of, or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a transaction or contract with any governmental entity. This includes, but is not limited to, violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- f. The CONSULTANT and Consultant Agents are not presently indicted or, to the best of their knowledge, under investigation for or otherwise criminally or civilly charged by any governmental entity with commission of any of the offenses listed above;
- g. The CONSULTANT and Consultant Agents have not within the three (3) years preceding the Agreement had one or more contracts with any governmental entity terminated for cause;
- h. To the best of its knowledge, there are no Claims, as defined in the Indemnification Section of this Agreement, involving the CONSULTANT that might reasonably be expected to materially adversely affect its businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under

the Agreement;

- i. It shall disclose, to the best of its knowledge, to the ATTORNEY GENERAL in writing any Claims involving them that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Agreement, no later than ten (10) days after becoming aware or after they should have become aware of any such Claims;
- j. Its participation in the request for proposal process is not a conflict of interest or a breach of ethics under the provisions of Title 1, Chapter 10 of the Connecticut General Statutes concerning the State's Code of Ethics;
- k. The proposal was not made in connection or concert with any other person, entity or proposer submitting a proposal and is in all respects fair and without collusion or fraud;
- l. It has paid all applicable workers' compensation second injury fund assessments concerning all previous work done in Connecticut;
- m. It owes no past due unemployment compensation contributions;
- n. It is not delinquent in the payment of any taxes owed to the State of Connecticut.
- o. It shall not copy or divulge to any third party any information or any data in any form obtained or produced in connection with the performance of its duties and responsibilities pursuant to this Agreement other than in connection with the performance of those duties and responsibilities. The CONSULTANT shall keep all confidential or privileged the Records in secured areas and shall take reasonable precautions to protect the Records from the dangers of fire, theft, flood, natural disasters and other physical threats, as well as unauthorized access.
- p. During the course of this Agreement, the CONSULTANT shall not represent any other client if such representation will materially affect its duties or obligations to the State of Connecticut or the ATTORNEY GENERAL or create an appearance of impropriety.
- q. The CONSULTANT will not knowingly enter into or retain any business relationships or enterprise in which an employee of the ATTORNEY GENERAL holds an interest, other than a nominal interest in a publicly held corporation, without the prior written consent of the ATTORNEY GENERAL.

SECTION 9: STATUS REPORTS AND RECORDS

- 9.1 Upon written or oral request by the ATTORNEY GENERAL or his designee, the CONSULTANT will promptly report on the status of the Services performed, including, but not limited to, problems, strategy, analysis and the like.
- 9.2 The above-described reports shall be provided in writing or orally, as directed by the person requiring a work status report.
- 9.3 The CONSULTANT, upon the request of the ATTORNEY GENERAL or his designee, shall give to the ATTORNEY GENERAL or his designee all original documentation, or, in the sole discretion of the ATTORNEY GENERAL or his designee, copies thereof, filed in the course of, or arising out of, the CONSULTANT'S performance of the Services. The CONSULTANT shall otherwise maintain all original documentation, or copies thereof in the manner specified in the Representations and Warranties section of this Agreement, for a period of at least six (6) years after the termination of this Agreement.

SECTION 10: INSURANCE

- 10.1 Before commencing performance of the Services, the CONSULTANT shall obtain and maintain at its own cost and expense for the duration of the Agreement, the following insurance:
 - (a) Commercial General Liability: One million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the work covered by this Agreement or the general aggregate limit shall be twice the occurrence limit.
 - (b) Automobile Liability: One million dollars (\$1,000,000) combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the CONSULTANT does not own an automobile, but one is used in the performance of the Services, then only hired and non-owned coverage is required. If a vehicle is not used in the performance of the Services, then automobile coverage is not required.
 - (c) Workers' Compensation and Employers Liability: Coverage in compliance with applicable workers compensation laws. Coverage shall include Employer's Liability with minimum limits of one hundred thousand dollars (\$100,000) each accident, five hundred thousand

dollars (\$500,000) Disease – Policy limit, one hundred thousand dollars (\$100,000) each employee.

- (d) Professional Liability: The CONSULTANT shall secure and maintain, at no cost or expense to the State, a professional liability insurance policy in a form acceptable to the ATTORNEY GENERAL in the minimum amount of _____ dollars (\$_____) with a deductible not to exceed _____ (\$_____). This policy shall insure the CONSULTANT against damages and costs resulting from negligent acts, errors, and omissions in the work performed by the CONSULTANT on and after the effective date of, and under the terms of, this Agreement. The CONSULTANT may, at its election, obtain a policy containing a maximum _____ dollars (\$_____) deductible clause, but if so, the CONSULTANT shall be liable, as stated above herein, to the extent of the deductible amount.

- 10.2 No later than thirty (30) days after the effective date of this Agreement, the CONSULTANT shall furnish to the ATTORNEY GENERAL, on a form or forms acceptable to the ATTORNEY GENERAL, a Certificate of Insurance, including amendment(s), fully executed by an insurance company or companies satisfactory to the ATTORNEY GENERAL for the insurance policy or policies required in the Status Reports and Records Section of this Agreement, which policy or policies shall be in accordance with the terms of the Certificate of Insurance.

SECTION 11: INDEMNIFICATION

- 11.1 The CONSULTANT shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims, as defined below, arising, directly or indirectly, in connection with the Agreement, including the acts of commission or omission (collectively, the “Acts”) of the CONSULTANT or Consultant Agents, as defined below; and (2) liabilities, damages, losses, costs and expenses, including, but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Agreement. The CONSULTANT shall use attorneys and contractors reasonably acceptable to the State in carrying out its obligations under this Section. The CONSULTANT'S obligations under this Section to indemnify, defend and hold harmless the State against Claims includes Claims concerning the confidentiality of any part or all of the proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions or articles furnished or used in the performance of the Agreement.
- 11.2 The CONSULTANT shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the

CONSULTANT or any Consultant Agents. The State shall give the CONSULTANT reasonable notice of any such Claims.

- 11.3 The CONSULTANT'S duties under this Section shall remain fully in effect and binding in accordance with the terms and conditions of the Agreement, without being lessened or compromised in any way, even where the CONSULTANT is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- 11.4 The rights provided in this Section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.
- 11.5 This section shall survive the Termination, Cancellation or Expiration of the Agreement, and shall not be limited by reason of any insurance coverage.
- 11.6 The term "Claims" means all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.
- 11.7 The term "Consultant Agents" means the CONSULTANT'S members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the CONSULTANT is in privity of oral or written contract and whom the CONSULTANT intends to perform services under the Agreement in any capacity.
- 11.8 The term "Records" means all working papers and such other information and materials as may have been accumulated by the CONSULTANT or Consultant Agents in performing the Agreement, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.
- 11.9 The CONSULTANT shall not use, raise, or plead the defense of sovereign or governmental immunity in the adjustment or settlement of any Claims against the CONSULTANT arising out of the work performed under this Agreement, or as a defense in any Claims, unless specifically authorized to do so in writing by the ATTORNEY GENERAL or his designee.

SECTION 12: CHANGES TO THIS AGREEMENT

- 12.1 Any and all amendments, changes, extensions, revisions or discharges of this Agreement, in whole or in part, on one or more occasions, must be in writing and executed by all the parties to this Agreement in order to be enforceable.

SECTION 13: REQUIRED PERSONNEL/OFFICE

- 13.1 On or before the effective date of this Agreement, the CONSULTANT shall have secured, and shall maintain during the term of this Agreement, all at its sole cost and expense (i) such appropriately skilled and competent personnel and supporting staff in adequate numbers; and (ii) such equipment as are reasonably necessary or appropriate to fully perform the Services to the satisfaction of the ATTORNEY GENERAL.
- 13.2 The personnel shall not be employees of or have any contractual relationship with the ATTORNEY GENERAL.
- 13.3 All the Services shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in the Services shall be fully qualified and shall be authorized or permitted under law to perform the applicable Services.

SECTION 14: NONDISCRIMINATION

- 14.1 (a) For purposes of this Section, the following terms are defined as follows:
 - i. “Commission” means the Commission on Human Rights and Opportunities;
 - ii. “Contract” and “contract” include any extension or modification of the Contract or contract;
 - iii. “Contractor” and “contractor” include any successors or assigns of the Contractor or contractor;
 - iv. “Gender identity or expression” means a person’s gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person’s physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person’s core identity or not being asserted for an improper purpose.
 - v. “good faith” means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
 - vi. “good faith efforts” shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;

- vii. “marital status” means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
- viii. “mental disability” means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association’s “Diagnostic and Statistical Manual of Mental Disorders”, or a record of or regarding a person as having one or more such disorders;
- ix. “minority business enterprise” means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Conn. Gen. Stat. § 32-9n; and
- x. “public works contract” means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

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

- (b) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related

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

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

- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. § 46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Conn. Gen. Stat. § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Conn. Gen. Stat. § 46a-56.

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

SECTION 15: CAMPAIGN CONTRIBUTIONS

- 15.1 For all State contracts as defined in Conn. Gen. Stat. § 9-612(g)(1) having a value in a calendar year of fifty thousand dollars (\$50,000) or more or a combination or series of such agreements or contracts having a value of one hundred thousand dollars (\$100,000) or more, the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice, as set forth in "Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations," attached hereto as Exhibit 1 to the Professional Services Agreement.

SECTION 16: APPLICABLE EXECUTIVE ORDERS OF THE GOVERNOR

- 16.1 This Contract is subject to the provisions of Executive Order No. 3 of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. 17 of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. 16 of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. The Contract may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order 14 and/or Executive Order 49 are applicable, they are deemed to be incorporated into

and are made a part of the Contract as if they had been fully set forth in it. At the CONSULTANT'S request, the OAG shall provide a copy of these orders to the CONSULTANT.

SECTION 17: CONFIDENTIALITY

- 17.1 All of the reports, information, data, and other papers and materials, in whatever form, prepared or assembled by the CONSULTANT under this Agreement are confidential, and the CONSULTANT shall not make them available to any individual or organization, other than in connection with the performance of those duties and responsibilities, without the prior written approval of the ATTORNEY GENERAL or his designee.
- 17.2 The ATTORNEY GENERAL will afford due regard to any request of the CONSULTANT for the protection of proprietary or confidential information which the ATTORNEY GENERAL receives from the CONSULTANT. However, all materials associated with the Agreement are subject to the terms of the Connecticut Freedom of Information Act ("FOIA") and all corresponding rules, regulations and interpretations. In making such a request, the CONSULTANT may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the CONSULTANT believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the CONSULTANT that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Agreement, especially including the Records, conflicts or is in any way inconsistent with this Section, this Section controls and shall apply and the conflicting provision or part shall not be given effect. The ATTORNEY GENERAL shall not have any obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The CONSULTANT shall have the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall the ATTORNEY GENERAL or the State have any liability for the disclosure of any documents or information in its possession which the ATTORNEY GENERAL believes are required to be disclosed pursuant to the FOIA or other requirements of law.

SECTION 18: MISCELLANEOUS

- 18.1 The sole and exclusive means for the presentation of any Claim, as defined in the Indemnification Section of this Agreement, against the State arising

from this Agreement shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State). The CONSULTANT shall not initiate any legal proceedings in any State or Federal Court in addition to, or in lieu of, said Chapter 53 proceedings.

- 18.2 The Agreement shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Agreement to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that Chapter 53 of the Connecticut General Statutes does not apply and to the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The CONSULTANT waives any objection which it may now have or will have to the laying of venue of any Claims, as defined in the Indemnification Section of this Agreement, in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.
- 18.3 The parties each bind themselves, their partners, successors, assigns, and legal representatives with respect to all covenants of this Agreement.
- 18.4 This Agreement incorporates all the understandings of the parties and supersedes any and all agreements relating to the Services and reached by the parties prior to the effective date of this Agreement, whether oral or written.
- 18.5 If any provision of this Agreement, or application to any party or circumstances, is held invalid by any court of competent jurisdiction, the balance of the provisions of this Agreement, or their application to any party or circumstances, shall not be affected, but only if the balance of the provisions of this Agreement would then continue to conform to the requirements of applicable laws.
- 18.6 The ATTORNEY GENERAL and the CONSULTANT shall not be excused from their obligation to perform in accordance with the Agreement except in the case of force majeure events and as otherwise provided for in the Agreement. In the case of any such exception, the nonperforming party shall give immediate written notice to the other, explaining the cause and probable duration of any such nonperformance. "Force majeure events" means events that materially affect the time schedule within which to perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the

CONSULTANT, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the CONSULTANT, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.

- 18.7 The CONSULTANT shall not refer to services provided to the State for advertising or promotional purposes, including, but not limited to, posting any material or data on the Internet, without the ATTORNEY GENERAL'S prior written approval.
- 18.8 The CONSULTANT shall notify the ATTORNEY GENERAL in writing no later than ten (10) days from the effective date of any change in (i) its certificate of incorporation or other organizational document, or (ii) a controlling interest in the ownership of the CONSULTANT. No such change shall relieve the CONSULTANT of any responsibility for the accuracy and completeness of the performance. The CONTRACTOR shall deliver such documents to the ATTORNEY GENERAL in accordance with the terms of the ATTORNEY GENERAL'S written request. The ATTORNEY GENERAL may also require, and the CONSULTANT shall deliver, a financial statement showing that solvency of the CONSULTANT is maintained.
- 18.9 The parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other party which are not inconsistent with the provisions of this Agreement and which do not involve the vesting of rights or assumption of obligations other than those provided for in the Agreement, in order to give full effect to the Agreement and to carry out the intent of the Agreement.
- 18.10 The CONSULTANT shall maintain accurate Records and shall make all of the Records available at all reasonable hours for audit and inspection by the State. This includes, but is not limited to accurate records and accounts of all expenditures under this Agreement as well as satisfactory evidence of payment to assure proper accounting. Such records and accounts shall be kept in the manner specified in the Representations and Warranties Section, and made available for at least six years after the termination of this Agreement and shall be made available and furnished upon request to the ATTORNEY GENERAL or his designee on or before the tenth business day following the date of the written request. The CONSULTANT will cooperate fully with any and all audit or review of billing by the ATTORNEY GENERAL or any other agency, person, or entity acting on behalf of the ATTORNEY GENERAL or the STATE, and shall, upon request, provide billing in a format which will facilitate audit or review.
- 18.11 The CONSULTANT shall continue to perform its obligations under the Agreement while any dispute concerning the Agreement is being resolved.

- 18.12 The CONSULTANT shall be responsible for the entire performance under the Agreement. The CONSULTANT shall be the sole point of contact concerning the management of the Agreement, including performance and payment issues. The CONSULTANT is solely and completely responsible for adherence by the Consultant Agents to all applicable provisions of the Agreement.
- 18.13 The waiver of a term or condition by the ATTORNEY GENERAL or his designee shall not (i) entitle the CONSULTANT to any future waivers of the same or different terms or conditions; (ii) impose any duties, obligations or responsibilities on the ATTORNEY GENERAL or any State department or agency not already in the Agreement, as amended, modified or superseded; or (iii) subject the ATTORNEY GENERAL or the State of Connecticut or any department or agency thereof to any Claims.
- 18.14 If a disagreement arises between the parties to this Agreement as to whether or not the CONSULTANT has or may in the foreseeable future have a conflict of interest or there exists or may exist in the foreseeable future an appearance of impropriety, the ATTORNEY GENERAL'S determination shall be final and dispositive of the issue. Where the ATTORNEY GENERAL determines that the CONSULTANT'S representation of any client constitutes a conflict of interest, or creates an appearance of impropriety, the CONSULTANT shall, within five (5) days of the posting of notice by the ATTORNEY GENERAL or his designee to the CONSULTANT, withdraw from the representation of the client, unless such a withdrawal is barred by law or order of a court of competent jurisdiction or the ATTORNEY GENERAL waives such conflict. Nothing in this subsection shall be construed as restricting or otherwise limiting the CONSULTANT'S rights under the Termination Section of this Agreement.
- 18.15 Unless the ATTORNEY GENERAL designates otherwise in writing, all Records generated or collected by the CONSULTANT, the Contractor's Agent or any subcontractor, in the scope of their work under this Agreement are the exclusive property of the State of Connecticut and no one else shall have any right, including but not limited to, intellectual property, copyright and trademark rights, in those Records.
- 18.16 The CONSULTANT acknowledges that the ATTORNEY GENERAL has relied upon all of the CONSULTANT'S representations in its proposal, submitted in response to the ATTORNEY GENERAL'S Request for Proposals concerning this matter and all subsequent information supplied to the ATTORNEY GENERAL in writing thereafter, as the basis for entering into this Agreement with the CONSULTANT. Any material misrepresentation, omission, mistake or error in those submittals shall be deemed to be a breach of this Agreement, which the ATTORNEY GENERAL may, in his sole discretion, waive or afford the CONSULTANT

the opportunity to cure in accordance with the written notice of such breach sent to the CONSULTANT.

18.17 References in the masculine gender shall also be construed to apply to the feminine and neuter genders, as the content requires.

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

18.19 Any notice required or permitted to be given under this Agreement shall be deemed to be given when hand delivered or one (1) business day after pickup by any express delivery service, in either case addressed to the persons identified in the Agreement Administration Section of this Agreement, or in each case to such other person and/or address as either party may from time to time designate by giving notice in writing to the other party. Telephone and facsimile numbers are for informational purposes only. Effective notice will be deemed given only as provided above. All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Agreement (for the purpose of this Section collectively called "Notices") shall be deemed to have been effected at such time as the notice is placed in the U.S. mail, first class and postage pre-paid, return receipt requested, or, placed with a recognized, express delivery service that provides for a return receipt. All such Notices shall be in writing and shall be addressed as follows:

If to the ATTORNEY GENERAL:

Attention: _____

If to the CONSULTANT:

Attention: _____

18.20 The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the scope of content of any of its provisions.

18.21 Time is of the essence in this Agreement.

18.22 This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed two (2) counterparts of this Agreement.

FIRM

Date

By: _____

STATE OF CONNECTICUT

Date

By: _____
William Tong
Attorney General



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

This notice is provided under the authority of Connecticut General Statutes §9-612 (f) (2) and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined on the reverse side of this page).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

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

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

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

DUTY TO INFORM

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

PENALTIES FOR VIOLATIONS

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

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

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

CONTRACT CONSEQUENCES

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

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

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

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



DEFINITIONS

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

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

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

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

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

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

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

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

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

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