

# **CONTRACT**

**18PSX0153**

Between

**THE STATE OF CONNECTICUT**

Acting by its

**DEPARTMENT OF ADMINISTRATIVE SERVICES**

**AND**

**Fuss & O'Neill, Inc.**

**ENVIRONMENTAL INVESTIGATION, REMEDIATION AND  
PROJECT MANAGEMENT SERVICES**

## Contract # 18PSX0153

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

### ***Contract Table of Contents***

1. Definitions
  2. Term of Contract; Contract Extension
  3. Description of Goods and Services
  4. Price Schedule, Payment Terms and Billing, and Price Adjustments
  5. Rejected Items; Abandonment
  6. Order and Delivery
  7. Contract Amendments
  8. Assignment
  9. Termination
  10. Cost Modifications
  11. Breach
  12. Waiver
  13. Open Market Purchases
  14. Purchase Orders
  15. Indemnification
  16. Forum and Choice of Law
  17. Contractor Guaranties
  18. Implied Warranties
  19. Goods, Standards and Appurtenances
  20. Delivery
  21. Goods Inspection
  22. Emergency Standby for Goods and/or Services
  23. Setoff
  24. Force Majeure
  25. Advertising
  26. Americans With Disabilities Act
  27. Representations and Warranties
  28. Representations and Warranties Concerning Motor Vehicles
  29. Disclosure of Contractor Parties Litigation
  30. Entirety of Contract
  31. Exhibits
  32. Executive Orders
  33. Non-Discrimination
  34. Tangible Personal Property
  35. Whistleblowing
  36. Notice
  37. Insurance
  38. Headings
  39. Number and Gender
  40. Parties
  41. Contractor Changes
  42. Further Assurances
  43. Audit and Inspection of Plants, Places of Business and Records
  44. Background Checks
  45. Continued Performance
  46. Working and Labor Synergies
  47. Contractor Responsibility
  48. Severability
  49. Confidential Information
  50. References to Statutes, Public Acts, Regulations, Codes and Executive Orders
  51. Cross-Default
  52. Disclosure of Records
  53. Summary of State Ethics Laws
  54. Sovereign Immunity
  55. Time of the Essence
  56. Certification as Small Contractor or Minority Business Enterprise
  57. Campaign Contribution Restriction
  58. Health Insurance Portability and Accountability Act of 1996
  59. Protection of Confidential Information
  60. Antitrust
  61. Audit Requirements for Recipients of State Financial Assistance
- EXHIBIT A** - Description of Goods & Services and Additional Terms & Conditions
- EXHIBIT B1, B2 and B3** - Price Schedules
- EXHIBIT C** - Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations
- ATTACHMENT A – Table of Federal Laws as Amended**

## Contract # 18PSX0153

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

This Contract (the "Contract") is made as of the Effective Date by and between, Fuss & O'Neill, Inc.(the "Contractor,") with a principal place of business at 146 Hartford Road Manchester, CT 06040, acting by Robert L. May Jr., its Senior Vice President and the State of Connecticut, Department of Administrative Services ("DAS"), with a principal place of business at 450 Columbus Boulevard, Hartford, Connecticut 06103, acting by Paul Greco, its Contract Specialist, in accordance with Sections 4a-2 and 4a-51 of the Connecticut General Statutes.

Now therefore, in consideration of these presents, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the Contractor and the State agree as follows:

1. Definitions. Unless otherwise indicated, the following terms shall have the following corresponding definitions:
  - (a) Claims: 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.
  - (b) Client Agency: Any department, commission, board, bureau, agency, institution, public authority, office, council, association, instrumentality or political subdivision of the State of Connecticut, as applicable, who is authorized and chooses to make purchases under, and pursuant to the terms and conditions of, this Contract.
  - (c) Confidential Information: This shall mean any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that the Client Agency or DAS classifies as "confidential" or "restricted." Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.
  - (d) Confidential Information Breach: This shall mean, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to Client Agency, the Contractor, DAS or State.
  - (e) Contract: The agreement, as of its Effective Date, between the Contractor and the State for any or all Goods or Services at the Proposal price.

## Contract # 18PSX0153

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

- (f) Contractor: A person or entity who submits a Proposal and who executes a Contract.
  - (g) Contractor Parties: A Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to Perform under the Contract in any capacity.
  - (h) Day: All calendar days other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
  - (i) Force Majeure: Events that materially affect the cost of the Goods or Services or 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 Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
  - (j) Goods: For purposes of the Contract, all things which are movable at the time that the Contract is effective and which include, without limiting this definition, supplies, materials and equipment, as specified in the Request for Proposals and set forth in Exhibit A.
  - (k) Goods or Services: Goods, Services or both, as specified in the Request for Proposals and set forth in Exhibit A.
  - (l) Proposal: A submittal in response to a Request for Proposals.
  - (m) Records: All working papers and such other information and materials as may have been accumulated by the Contractor in performing the Contract, 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.
  - (n) Request for Proposals: A State request inviting proposals for Goods or Services. This Contract shall be governed by the statutes, regulations and procedures of the State of Connecticut, Department of Administrative Services.
  - (o) Services: The performance of labor or work, as specified in the Request for Proposals and set forth in Exhibit A.
  - (p) State: The State of Connecticut, including DAS, the Client Agency and any office, department, board, council, commission, institution or other agency of the State.
  - (q) Termination: An end to the Contract prior to the end of its term whether effected pursuant to a right which the Contract creates or for a breach.
  - (r) Title: all ownership, title, licenses, rights and interest, including, but not limited to, perpetual use, of and to the Goods or Services.
2. Term of Contract; Contract Extension. The Contract will be in effect from 1 March 2019 through 28 February 2024.  
The parties, by mutual agreement, may extend this Contract for additional terms beyond the original term, prior to Termination or expiration, one or more times for a combined

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

total period not to exceed the complete length of the original term, but only in accordance with the section in this Contract concerning Contract Amendments.

3. Description of Goods or Services and Additional Terms and Conditions. The Contractor shall perform as set forth in Exhibit A. For purposes of this Contract, to perform and the performance in Exhibit A is referred to as "Perform" and the "Performance."
4. Price Schedule, Payment Terms and Billing, and Price Adjustments.
  - (a) Price Schedule: Price Schedule under this Contract is set forth in Exhibit B1, B2 and B3.
  - (b) Payment Terms and Billing:
    - (1) Payment shall be made only after the Client Agency receives and accepts the Goods or Services and after it receives a properly completed invoice. Unless otherwise specified in the Contract, payment for all accepted Goods or Services shall be due within forty-five (45) days after acceptance of the Goods or Services, or thirty (30) days if the Contractor is a certified small contractor or minority business enterprise as defined in Conn. Gen. Stat. § 4a-60g. The Contractor shall submit an invoice to the Client Agency for the Performance. The invoice shall include detailed information for Goods or Services, delivered and Performed, as applicable, and accepted. Any late payment charges shall be calculated in accordance with the Connecticut General Statutes.

(2) THE STATE SHALL MAKE ALL PAYMENTS TO THE CONTRACTOR THROUGH ELECTRONIC FUNDS TRANSFER VIA THE AUTOMATED CLEARING HOUSE ("ACH"). CONTRACTOR SHALL ENROLL IN ACH THROUGH THE OFFICE OF THE STATE COMPTROLLER PRIOR TO SENDING ANY INVOICE TO THE STATE. THE CONTRACTOR MAY OBTAIN DETAILED INFORMATION REGARDING ACH AT: [HTTP://WWW.OSC.CT.GOV/VENDOR/DIRECTDEPOSIT.HTML](http://www.osc.ct.gov/vendor/directdeposit.html).
    - (c) Notwithstanding any language regarding Contractor price increases herein, the Price Schedule will be adjusted to reflect any increase in the minimum wage rate that may occur during the term of this Contract as mandated by State law and in accordance with the terms of this section. Contractor shall provide documentation, in the form of certified payroll or other documentation acceptable to the State, substantiating the amount of any increase in Contractor labor costs as a result of changes to the minimum wage rate within ninety (90) days of the statutorily identified effective date of any increase in the minimum wage. Upon receipt, and verification of Contractor documentation DAS shall adjust the Price Schedule accordingly through a supplement to this Contract.
    - (d) The Contractor shall comply with all provisions of Section 31-57f of the Connecticut General Statutes concerning standard wages. Current standard wage rates are included in Exhibit D. Notwithstanding any language regarding Contractor price increases, the Price Schedule will be adjusted to reflect any increase in the standard wage rate that may occur, as mandated by State law. Exhibit D will not be adjusted to reflect new standard wage rates until the Contractor provides documentation, in the form of certified payroll or other documentation acceptable to the State, substantiating the increase in Contractor labor costs as a result of changes to the standard wage rate. The Contractor must provide this documentation to the State within ninety (90) days' of the effective date that the State Department of Labor establishes for the increase in the standard wage. Upon receipt and verification of Contractor documentation, DAS shall adjust the Price Schedule and update Exhibit D accordingly through a supplement to this Contract.

## Contract # 18PSX0153

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

### (e) Price Adjustments:

Prices for the Goods or Services listed in Exhibit B1, B2 and B3 shall remain unchanged for Thirty (30) months following the Effective Date of the Contract. The Contractor shall have the right to request a price adjustment only during the thirty (30) days immediately preceding the annual anniversary dates of the Effective Date of the Contract during the term of the Contract. During this thirty (30) day period, the Contractor may submit a request in writing to DAS for a price adjustment that is consistent with and relative to price changes originating with and compelled by manufacturer and/or market trends and which changes are outside of the Contractor's control. The Contractor must fully document its request, attaching to the request, without limitation, such manufacturer and market data, as support the requested adjustment. DAS may, in its sole discretion, approve or disapprove the requested adjustment, in whole or in part. Any approved adjustment shall be final and shall remain unchanged until the next annual anniversary date of the Effective Date of the Contract.

The Contractor shall submit all requests in accordance with Section #36. Notice. A request made to the Client Agency shall not be valid and the parties shall treat it as if the Contractor had not made the request at all. A request made to the Client Agency shall not be considered timely and shall not toll or extend the running of the thirty (30) days. The right of the Contractor to request a particular price adjustment shall lapse upon the expiration of the applicable thirty (30) days. If the Contractor fails to make a timely request, then the price shall remain unchanged from the previous year and shall continue through the next succeeding twelve (12) months and until the second annual anniversary of the Effective Date of the Contract, If approved, price adjustments shall become effective ten (10) days after the date of the approval. The Contractor shall honor any purchase orders issued prior to the effective date of the approval at the price in effect at the time of the issuance of the purchase order.

### 5. Rejected Items; Abandonment.

(a) The Contractor may deliver, cause to be delivered, or, in any other way, bring or cause to be brought, to any State premises or other destination, Goods, as samples or otherwise, and other supplies, materials, equipment or other tangible personal property. The State may, by written notice and in accordance with the terms and conditions of the Contract, direct the Contractor to remove any or all such Goods ("the "Rejected Goods") and any or all other supplies, materials, equipment or other tangible personal property (collectively, the "Contractor Property") from and out of State premises and any other location which the State manages, leases or controls. The Contractor shall remove the Rejected Goods and the Contractor Property in accordance with the terms and conditions of the written notice. Failure to remove the Rejected Goods or the Contractor Property in accordance with the terms and conditions of the written notice shall mean, for itself and all Contractor Parties, that:

(1) they have voluntarily, intentionally, unconditionally, unequivocally and absolutely abandoned and left unclaimed the Rejected Goods and Contractor Property and relinquished all ownership, title, licenses, rights, possession and interest of, in and to (collectively, "Title") the Rejected Goods and Contractor Property with the specific and express intent of (A) terminating all of their Title to the Rejected Goods and Contractor Property, (B) vesting Title to the Rejected Goods and Contractor Property in the State of Connecticut and (C) not ever reclaiming Title or any future rights of any type in and to the Rejected Goods and Contractor Property;

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

- (2) there is no ignorance, inadvertence or unawareness to mitigate against the intent to abandon the Rejected Goods or Contractor Property;
  - (3) they vest authority, without any further act required on their part or the State's part, in the Client Agency and the State to use or dispose of the Rejected Goods and Contractor Property, in the State's sole discretion, as if the Rejected Goods and Contractor Property were the State's own property and in accordance with law, without incurring any liability or obligation to the Contractor or any other party;
  - (4) if the State incurs any costs or expenses in connection with disposing of the Rejected Goods and Contractor Property, including, but not limited to, advertising, moving or storing the Rejected Goods and Contractor Property, auction and other activities, the State shall invoice the Contractor for all such cost and expenses and the Contractor shall reimburse the State no later than thirty (30) days after the date of invoice; and
  - (5) they do remise, release and forever discharge the State and its employees, departments, commissions, boards, bureaus, agencies, instrumentalities or political subdivisions and their respective successors, heirs, executors and assigns (collectively, the "State and Its Agents") of and from all Claims which they and their respective successors or assigns, jointly or severally, ever had, now have or will have against the State and Its Agents arising from the use or disposition of the Rejected Goods and Contractor Property.
- (b) The Contractor shall secure from each Contractor Party, such document or instrument as necessary or appropriate as will vest in the Contractor plenary authority to bind the Contractor Parties to the full extent necessary or appropriate to give full effect to all of the terms and conditions of this section. The Contractor shall provide, no later than fifteen (15) days after receiving a request from the State, such information as the State may require to evidence, in the State's sole determination, compliance with this section.
6. Order and Delivery. The Contract shall bind the Contractor to furnish and deliver the Goods or Services in accordance with Exhibit A and at the prices set forth in Exhibit B1, B2 and B3. Subject to the sections in this Contract concerning Force Majeure, Termination and Open Market Purchases, the Contract shall bind the Client Agency to order the Goods or Services from the Contractor, and to pay for the accepted Goods or Services in accordance with Exhibit B1, B2 and B3.
  7. Contract Amendments.  
No amendment to or modification or other alteration of the Contract shall be valid or binding upon the parties unless made in writing, signed by the parties and, if applicable, approved by the Connecticut Attorney General.
  8. Assignment. The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of DAS. DAS may void any purported assignment in violation of this section and declare the Contractor in breach of Contract. Any Termination by DAS for a breach is without prejudice to DAS's or the State's rights or possible Claims.
  9. Termination.
    - (a) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may Terminate the Contract whenever DAS makes a written determination that such Termination is in the best interests of the State. DAS shall notify the Contractor in writing of

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

Termination pursuant to this section, which notice shall specify the effective date of Termination and the extent to which the Contractor must complete its Performance under the Contract prior to such date.

- (b) Notwithstanding any provisions in this Contract, DAS, through a duly authorized employee, may, after making a written determination that the Contractor has breached the Contract, Terminate the Contract in accordance with the provisions in the Breach section of this Contract.
- (c) DAS shall send the notice of Termination via certified mail, return receipt requested, to the Contractor at the most current address which the Contractor has furnished to DAS for purposes of correspondence, or by hand delivery. Upon receiving the notice from DAS, the Contractor shall immediately discontinue all services affected in accordance with the notice, undertake all commercially reasonable efforts to mitigate any losses or damages, and deliver to the Client Agency all Records. The Records are deemed to be the property of the Client Agency and the Contractor shall deliver them to the Client Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from either DAS or the Client Agency for the Records. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to, ASCII or .TXT.
- (d) Upon receipt of a written notice of Termination from DAS, the Contractor shall cease operations as DAS directs in the notice, and take all actions that are necessary or appropriate, or that DAS may reasonably direct, for the protection, and preservation of the Goods and any other property. Except for any work which DAS directs the Contractor to Perform in the notice prior to the effective date of Termination, and except as otherwise provided in the notice, the Contractor shall terminate or conclude all existing subcontracts and purchase orders and shall not enter into any further subcontracts, purchase orders or commitments.
- (e) The Client Agency shall, within forty-five (45) days of the effective date of Termination, reimburse the Contractor for its Performance rendered and accepted by the Client Agency in accordance with Exhibit A, in addition to all actual and reasonable costs incurred after Termination in completing those portions of the Performance which the notice required the Contractor to complete. However, the Contractor is not entitled to receive and the Client Agency is not obligated to tender to the Contractor any payments for anticipated or lost profits. Upon request by DAS or the Client Agency, as applicable, the Contractor shall assign to DAS or the Client Agency, or any replacement contractor which DAS or the Client Agency designates, all subcontracts, purchase orders and other commitments, deliver to DAS or the Client Agency all Records and other information pertaining to its Performance, and remove from State premises, whether leased or owned, all of Contractor's property, equipment, waste material and rubbish related to its Performance, all as DAS or the Client Agency may request.
- (f) For breach or violation of any of the provisions in the section concerning Representations and Warranties, DAS may Terminate the Contract in accordance with its terms and revoke any consents to assignments given as if the assignments had never been requested or consented to, without liability to the Contractor or Contractor Parties or any third party.
- (g) Upon Termination of the 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 Contract shall survive such Termination to the extent not



## Contract # 18PSX0153

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

otherwise limited in the Contract and without each one of them having to be specifically mentioned in the Contract.

(h) Termination of the Contract pursuant to this section shall not be deemed to be a breach of contract by DAS.

10. Cost Modifications. The parties may agree to a reduction in the cost of the Contract at any time during which the Contract is in effect. Without intending to impose a limitation on the nature of the reduction, the reduction may be to hourly, staffing or unit costs, the total cost of the Contract or the reduction may take such other form as the State deems to be necessary or appropriate.

11. Breach. If either party breaches the Contract in any respect, the non-breaching party shall provide written notice of such breach to the breaching party and afford the breaching party an opportunity to cure the breach within ten (10) days from the date that the breaching party receives such notice. Any other time provided for in the notice shall trump such ten (10) days. Such right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure but the nature of the breach is such that it cannot be cured within the right to cure period. The notice may include an effective Contract Termination date if the breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the Termination date, no further action shall be required of any party to effect the Termination as of the stated date. If the notice does not set forth an effective Contract Termination date, then the non-breaching party may Terminate the Contract by giving the breaching party no less than twenty four (24) hours' prior written notice. If DAS believes that the Contractor has not performed according to the Contract, the Client Agency may withhold payment in whole or in part pending resolution of the Performance issue, provided that DAS notifies the Contractor in writing prior to the date that the payment would have been due in accordance with Exhibit B1, B2 and B3.

12. Waiver.

(a) No waiver of any breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity.

(b) A party's failure to insist on strict performance of any provision of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of Performance and shall not be deemed to be a waiver of any subsequent rights, remedies or breach.

13. Open Market Purchases. Failure of the Contractor to Perform within the time specified in the Contract, or failure to replace rejected or substandard Goods or fulfill unperformed Services when so requested and as the Contract provides or allows, constitutes a breach of the Contract and as a remedy for such breach, such failure shall constitute authority for DAS, if it deems it to be necessary or appropriate in its sole discretion, to Terminate the Contract and/or to purchase on the open market, Goods or Services to replace those which have been rejected, not delivered, or not Performed. The Client Agency shall invoice the Contractor for all such purchases to the extent that they exceed the costs and expenses in Exhibit B1, B2 and B3 and the Contractor shall pay the Client Agency's invoice immediately after receiving the invoice. If DAS does not Terminate the Contract, the Client Agency will deduct such open market purchases from the Contract quantities. However, if the Client

## Contract # 18PSX0153

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

Agency deems it to be in the best interest of the State, the Client Agency may accept and use the Goods or Services delivered which are substandard in quality, subject to an adjustment in price to be determined by the Client Agency.

### 14. Purchase Orders.

- (a) The Contract itself is not an authorization for the Contractor to ship Goods or begin Performance in any way. The Contractor may begin Performance only after it has received a duly issued purchase order against the Contract for Performance.
- (b) The Client Agency shall issue a purchase order against the Contract directly to the Contractor and to no other party.
- (c) All purchase orders shall be in written or electronic form, bear the Contract number (if any) and comply with all other State and Client Agency requirements, particularly the Client Agency's requirements concerning procurement. Purchase orders issued in compliance with such requirements shall be deemed to be duly issued.
- (d) A Contractor making delivery without a duly issued purchase order in accordance with this section does so at the Contractor's own risk.
- (e) The Client Agency may, in its sole discretion, deliver to the Contractor any or all duly issued purchase orders via electronic means only, such that the Client Agency shall not have any additional obligation to deliver to the Contractor a "hard copy" of the purchase order or a copy bearing any hand-written signature or other "original" marking.

### 15. Indemnification.

- (a) The Contractor 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 arising, directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively, the "Acts") of the Contractor or Contractor Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Contractor's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Contractor's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance.
- (b) The Contractor shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any other person or entity acting under the direct control or supervision of the State.
- (c) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such Claims.
- (d) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

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.

(e) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any provisions survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall cause the State to be named as an additional insured on the policy and shall provide (1) a certificate of insurance, (2) the declaration page and (3) the additional insured endorsement to the policy to DAS all in an electronic format acceptable to DAS prior to the Effective Date of the Contract evidencing that the State is an additional insured. The Contractor shall not begin Performance until the delivery of these 3 documents to DAS. Contractor shall provide an annual electronic update of the 3 documents to DAS on or before each anniversary of the Effective Date during the Contract Term. State shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that State is contributorily negligent.

(f) This section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.

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

17. Contractor Guaranties. Contractor shall:

- (a) Perform fully under the Contract;
- (b) Guarantee the Goods or Services against defective material or workmanship and to repair any damage or marring occasioned in transit or, at the Client Agency's option, replace them;
- (c) Furnish adequate protection from damage for all work and to repair damage of any kind, for which its workers are responsible, to the premises, Goods, the Contractor's work or that of Contractor Parties;
- (d) With respect to the provision of Services, pay for all permits, licenses and fees and give all required or appropriate notices;
- (e) Adhere to all Contractual provisions ensuring the confidentiality of Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law; and
- (f) Neither disclaim, exclude nor modify the implied warranties of fitness for a particular purpose or of merchantability.

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

18. Implied Warranties. DAS does not disclaim, exclude or modify the implied warranty of fitness for a particular purpose or the warranty of merchantability.
19. Goods, Standards and Appurtenances. Any Goods delivered must be standard new Goods, latest model, except as otherwise specifically stated in the Contract. Remanufactured, refurbished or reconditioned equipment may be accepted but only to the extent allowed under the Contract. Where the Contract does not specifically list or describe any part or nominal appurtenances of equipment for the Goods, it shall be understood that the Contractor shall deliver such parts and appurtenances as are usually provided with the manufacturer's stock model.
20. Delivery.
- (a) Delivery shall be made as ordered and in accordance with the Contract. Unless otherwise specified in the Contract, delivery shall be to a loading dock or receiving platform. The Contractor or Contractor's shipping designee shall be responsible for removal of Goods from the carrier and placement on the Client Agency loading dock or receiving platform. The receiving personnel of the Client Agency are not required to assist in this process. The decision of DAS as to reasonable compliance with delivery terms shall be final and binding. The burden of proof of proper receipt of the order shall rest with the Contractor.
  - (b) In order for the time of delivery to be extended, the Client Agency must first approve a request for extension from the time specified in the Contract, such extension applying only to the particular item or shipment.
  - (c) Goods shall be securely and properly packed for shipment, according to accepted standard commercial practice, without extra charge for packing cases, baling or sacks. The containers shall remain the property of the Client Agency unless otherwise stated in the Contract.
  - (d) All risk of loss and damage to the Goods transfers to the Client Agency upon Title vesting in the Client Agency.
21. Goods Inspection. The Commissioner of DAS, in consultation with the Client Agency, shall determine the manner and prescribe the inspection of all Goods and the tests of all samples submitted to determine whether they comply with all of the specifications in the Contract. If any Goods fail in any way to meet the specifications in the Contract, the Client Agency or the Commissioner of DAS may, in its sole discretion, either reject it and owe nothing or accept it and pay for it on an adjusted price basis, depending on the degree to which the Goods meet the specifications. Any decision pertaining to any such failure or rejection shall be final and binding.
22. Emergency Standby for Goods and/or Services. If any Federal or State official, having authority to do so, declares an emergency or the occurrence of a natural disaster within the State of Connecticut, DAS and the Client Agency may request the Goods and Services on an expedited and prioritized basis. Upon receipt of such a request the Contractor shall make all necessary and appropriate commercially reasonable efforts to reallocate its staffing and other resources in order to give primary preference to Performing this Contract ahead of or prior to fulfilling, in whole or in part, any other contractual obligations that the Contractor may have. The Contractor is not obligated to make those efforts to Perform on an expedited and prioritized basis in accordance with this paragraph if doing so will make the Contractor materially breach any other contractual obligations that the Contractor may have. Contractor shall acknowledge receipt of any request made pursuant to this

## Contract # 18PSX0153

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

paragraph within 2 hours from the time that the Contractor receives it via purchase order or through a request to make an expedited or prioritized purchase through the State of Connecticut Purchasing Card (MasterCard) Program (the "P-Card Program"). If the Contractor fails to acknowledge receipt within 2 hours, confirm its obligation to Perform or actually Perform, as set forth in the purchase order or through the P-Card Program, then DAS and the Client Agency may procure the Performance from another source without further notice to Contractor and without creating any right of recourse at law or in equity against DAS or Client Agency.

23. Setoff. In addition to all other remedies available hereunder, the State, in its sole discretion, may setoff (1) any costs or expenses that the State incurs resulting from the Contractor's unexcused nonperformance under the Contract and under any other agreement or arrangement that the Contractor has with the State and (2) any other amounts that are due or may become due from the State to the Contractor, against amounts otherwise due or that may become due to the Contractor under the Contract, or under any other agreement or arrangement that the Contractor has with the State. The State's right of setoff shall not be deemed to be the State's exclusive remedy for the Contractor's or Contractor Parties' breach of the Contract, all of which shall survive any setoffs by the State.
24. Force Majeure. The State and the Contractor shall not be excused from their obligation to Perform in accordance with the Contract except in the case of Force Majeure events and as otherwise provided for in the Contract. 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.
25. Advertising. The Contractor shall not refer to sales to the State for advertising or promotional purposes, including, but not limited to, posting any material or data on the Internet, without DAS's prior written approval.
26. Americans With Disabilities Act. The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 ("Act"), to the extent applicable, during the term of the Contract. DAS may Terminate the Contract if the Contractor fails to comply with the Act.
27. Representations and Warranties. The Contractor, represents and warrants to DAS for itself and Contractor Parties, that:
  - (a) if they are entities, they are duly and validly existing under the laws of their respective states of organization and authorized to conduct business in the State of Connecticut in the manner contemplated by the Contract. Further, as appropriate, they have taken all necessary action to authorize the execution, delivery and Performance of the Contract and have the power and authority to execute, deliver and Perform their obligations under the Contract;
  - (b) they will comply with all applicable State and Federal laws and municipal ordinances in satisfying their obligations to the State under and pursuant to the Contract, including, but not limited to (1) Connecticut General Statutes Title 1, Chapter 10, concerning the State's Codes of Ethics and (2) Title 4a concerning State purchasing, including, but not limited to Section 22a-194a concerning the use of polystyrene foam;
  - (c) the execution, delivery and Performance of the Contract 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: (1) any provision of law; (2) any order of

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

- any court or the State; or (3) any indenture, agreement, document or other instrument to which it is a party or by which it may be bound;
- (d) they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental entity;
  - (e) as applicable, they have not, within the three years preceding the Contract, in any of their current or former jobs, been convicted of, or had a civil judgment rendered against them or against any person who would Perform under the Contract, 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) they are not presently indicted for or otherwise criminally or civilly charged by any governmental entity with commission of any of the offenses listed above;
  - (g) they have not within the three years preceding the Contract had one or more contracts with any governmental entity Terminated;
  - (h) they have not employed or retained any entity or person, other than a bona fide employee working solely for them, to solicit or secure the Contract and that they have not paid or agreed to pay any entity or person, other than a bona fide employee working solely for them, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of the Contract or any assignments made in accordance with the terms of the Contract;
  - (i) to the best of their knowledge, there are no Claims involving Contractor or Contractor Parties 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 Contract;
  - (j) they shall disclose, to the best of their knowledge, to DAS 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 Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. For purposes of the Contractor's obligation to disclose any Claims to DAS, the ten (10) Days in the section of this Contract concerning Disclosure of Contractor Parties Litigation shall run consecutively with the ten (10) Days provided for in this representation and warranty;
  - (k) their participation in the Request for Proposals 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;
  - (l) the Proposal was not made in connection or concert with any other person or entity, including any affiliate (as defined in the Tangible Personal Property section of this Contract) of the Contractor, submitting a proposal for the same Goods or Services, and is in all respects fair and without collusion or fraud;
  - (m) they are able to Perform under the Contract using their own resources or the resources of a party who is not a Contractor;

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

- (n) the Contractor shall obtain in a written contract all of the representations and warranties in this section from any Contractor Parties and to require that provision to be included in any contracts and purchase orders with Contractor Parties;
- (o) they have paid all applicable workers' compensation second injury fund assessments concerning all previous work done in Connecticut;
- (p) they have a record of compliance with Occupational Health and Safety Administration regulations without any unabated, willful or serious violations;
- (q) they owe no unemployment compensation contributions;
- (r) they are not delinquent in the payment of any taxes owed, or, that they have filed a sales tax security bond, and they have, if and as applicable, filed for motor carrier road tax stickers and have paid all outstanding road taxes;
- (s) all of their vehicles have current registrations and, unless such vehicles are no longer in service, they shall not allow any such registrations to lapse;
- (t) each Contractor Party has vested in the Contractor plenary authority to bind the Contractor Parties to the full extent necessary or appropriate to ensure full compliance with and Performance in accordance with all of the terms and conditions of the Contract and that all appropriate parties shall also provide to DAS, no later than fifteen (15) days after receiving a request from DAS, such information as DAS may require to evidence, in DAS's sole determination, compliance with this section;
- (u) except to the extent modified or abrogated in the Contract, all Title shall pass to the Client Agency upon complete installation, testing and acceptance of the Goods or Services and payment by the Client Agency;
- (v) if either party Terminates the Contract, for any reason, they shall relinquish to the Client Agency all Title to the Goods delivered, accepted and paid for (except to the extent any invoiced amount is disputed) by the Client Agency;
- (w) with regard to third party products provided with the Goods, they shall transfer all licenses which they are permitted to transfer in accordance with the applicable third party license;
- (x) they shall not copyright, register, distribute or claim any rights in or to the Goods after the Effective Date of the Contract without DAS's prior written consent;
- (y) they either own or have the authority to use all Title of and to the Goods, and that such Title is not the subject of any encumbrances, liens or claims of ownership by any third party;
- (z) the Goods do not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- (aa) the Client Agency's use of any Goods shall not infringe or misappropriate any patent, trade secret or other intellectual property right of a third party;
- (bb) if they procure any Goods, they shall sub-license such Goods and that the Client Agency shall be afforded the full benefits of any manufacturer or subcontractor licenses for the use of the Goods; and

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

(cc) they shall assign or otherwise transfer to the Client Agency, or afford the Client Agency the full benefits of any manufacturer's warranty for the Goods, to the extent that such warranties are assignable or otherwise transferable to the Client Agency.

**28. Representations and Warranties Concerning Motor Vehicles.** If in the course of Performance or in any other way related to the Contract the Contractor at any time uses or operates "motor vehicles," as that term is defined by Conn. Gen. Stat. §14-1 (including, but not limited to such services as snow plowing, sanding, hauling or delivery of materials, freight or merchandise, or the transportation of passengers), the Contractor, represents and warrants for itself and the Contractor Parties, that:

- (a) It is the owner of record or lessee of record of each such motor vehicle used in the Performance of the Contract, and each such motor vehicle is duly registered with the Connecticut Department of Motor Vehicles ("ConnDMV") in accordance with the provisions of Chapter 246 of the Connecticut General Statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV, for any reason or cause. If such motor vehicle is not registered with ConnDMV, then it shall be duly registered with another state or commonwealth in accordance with such other state's or commonwealth's applicable statutes. Each such registration shall be in valid status, and shall not be expired, suspended or revoked by such other state or commonwealth for any reason or cause.
- (b) Each such motor vehicle shall be fully insured in accordance with the provisions of Sections 14-12b, 14-112 and 38a-371 of the Connecticut General Statutes, as amended, in the amounts required by the said sections or in such higher amounts as have been specified by ConnDMV as a condition for the award of the Contract, or in accordance with all substantially similar provisions imposed by the law of the jurisdiction where the motor vehicle is registered.
- (c) Each Contractor Party who uses or operates a motor vehicle at any time in the Performance of the Contract shall have and maintain a motor vehicle operator's license or commercial driver's license of the appropriate class for the motor vehicle being used or operated. Each such license shall bear the endorsement or endorsements required by the provisions of Section 14-36a of the Connecticut General Statutes, as amended, to operate such motor vehicle, or required by substantially similar provisions imposed by the law of another jurisdiction in which the operator is licensed to operate such motor vehicle. The license shall be in valid status, and shall not be expired, suspended or revoked by ConnDMV or such other jurisdiction for any reason or cause.
- (d) Each motor vehicle shall be in full compliance with all of the terms and conditions of all provisions of the Connecticut General Statutes and regulations, or those of the jurisdiction where the motor vehicle is registered, pertaining to the mechanical condition, equipment, marking and operation of motor vehicles of such type, class and weight, including, but not limited to, requirements for intrastate carriers with motor vehicles having a gross vehicle weight rating or gross combination weight rating or gross vehicle weight or gross combination weight of 18,001 pounds or more or interstate carriers with motor vehicles having a gross vehicle weight rating or gross combination weight rating or gross vehicle weight or gross combination weight of 10,001 pounds or more otherwise described by the provisions of Conn. Gen. Stat. § 14-163c(a) and all applicable provisions of the Federal Motor Carrier Safety Regulations, as set forth in Title 49, Parts 382 to 399, inclusive, of the Code of Federal Regulations. If the Contractor is a "motor carrier," as that term is defined in section 49 CFR Part 390, and the Contractor is subject to an order issued by the Federal



## Contract # 18PSX0153

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

Motor Carrier Safety Administration that prohibits such Contractor from operating or allowing the operation of a motor vehicle, then the Contractor shall comply fully with such order. In addition, if a motor vehicle or its operator is declared out of service pursuant to Conn. Gen. Stat. § 14-163c(d)(4), then the Contractor shall not operate or allow the operation of that motor vehicle and shall not allow the operator to operate a motor vehicle while the respective subject out-of-service order is in effect.

29. Disclosure of Contractor Parties Litigation. The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties 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 Contract, no later than ten (10) Days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
30. Entirety of Contract. The Contract is the entire agreement between the parties with respect to its subject matter, and supersedes all prior agreements, proposals, offers, counteroffers and understandings of the parties, whether written or oral. The Contract has been entered into after full investigation, neither party relying upon any statement or representation by the other unless such statement or representation is specifically embodied in the Contract.
31. Exhibits. All exhibits referred to in and attached to this Contract are incorporated in this Contract by such reference and shall be deemed to be a part of it as if they had been fully set forth in it.
32. Executive Orders. This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. The Contract may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order 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 Client Agency or DAS shall provide a copy of these orders to the Contractor.
33. Non-discrimination.
- (a) For purposes of this Section, the following terms are defined as follows:
- (1) "Commission" means the Commission on Human Rights and Opportunities;
  - (2) "Contract" and "contract" include any extension or modification of the Contract or contract;
  - (3) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

(4) "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.

(5) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;

(6) "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;

(7) "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced;

(8) "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;

(9) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and

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

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

(b)

(1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such

## Contract # 18PSX0153

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved;

(2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission;

(3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment;

(4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and

(5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

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

**34. Tangible Personal Property.**

- (a) The Contractor on its behalf and on behalf of its Affiliates, as defined below, shall comply with the provisions of Conn. Gen. Stat. §12-411b, as follows:
  - (1) For the term of the Contract, the Contractor and its Affiliates shall collect and remit to the State of Connecticut, Department of Revenue Services, any Connecticut use tax due under the provisions of Chapter 219 of the Connecticut General Statutes for items of tangible personal property sold by the Contractor or by any of its Affiliates in the same manner as if

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

the Contractor and such Affiliates were engaged in the business of selling tangible personal property for use in Connecticut and had sufficient nexus under the provisions of Chapter 219 to be required to collect Connecticut use tax;

- (2) A customer's payment of a use tax to the Contractor or its Affiliates relieves the customer of liability for the use tax;
  - (3) The Contractor and its Affiliates shall remit all use taxes they collect from customers on or before the due date specified in the Contract, which may not be later than the last day of the month next succeeding the end of a calendar quarter or other tax collection period during which the tax was collected;
  - (4) The Contractor and its Affiliates are not liable for use tax billed by them but not paid to them by a customer; and
  - (5) Any Contractor or Affiliate who fails to remit use taxes collected on behalf of its customers by the due date specified in the Contract shall be subject to the interest and penalties provided for persons required to collect sales tax under chapter 219 of the general statutes.
- (b) For purposes of this section of the Contract, the word "Affiliate" means any person, as defined in section 12-1 of the general statutes, that controls, is controlled by, or is under common control with another person. A person controls another person if the person owns, directly or indirectly, more than ten per cent of the voting securities of the other person. The word "voting security" means a security that confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business, or that is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. "Voting security" includes a general partnership interest.
- (c) The Contractor represents and warrants that each of its Affiliates has vested in the Contractor plenary authority to so bind the Affiliates in any agreement with the State of Connecticut. The Contractor on its own behalf and on behalf of its Affiliates shall also provide, no later than 30 days after receiving a request by the State's contracting authority, such information as the State may require to ensure, in the State's sole determination, compliance with the provisions of Chapter 219 of the Connecticut General Statutes, including, but not limited to, §12-411b.
35. Whistleblowing. This Contract may be subject to the provisions of Section 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

36. Notice. All notices, demands, requests, consents, approvals or other communications required or permitted to be given or which are given with respect to this Contract (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, overnight express delivery service that provides for a return receipt. All such Notices shall be in writing and shall be addressed as follows:

If to DAS:

State of Connecticut, Department of Administrative Services  
Procurement Division  
450 Columbus Boulevard, Suite 1202  
Hartford, CT 06103  
Attention: Paul Greco

If to the Contractor:

Fuss & O'Neill, Inc. 146  
Hartford Road  
Manchester, CT 06040  
Attn: Robert L. May Jr.

37. Insurance. Before commencing Performance, the Contractor shall obtain and maintain at its own cost and expense for the duration of the Contract, the following insurance as described in (a) through (h) below. Contractor shall assume any and all deductibles in the described insurance policies. The Contractor's insurers shall have no right of recovery or subrogation against the State and the described Contractor's insurance shall be primary coverage. Any failure to comply with the claim reporting provisions of the policy shall not affect coverage provided to the State.

- (a) Commercial General Liability: \$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 project or the general aggregate limit shall be twice the occurrence limit.
- (b) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of the contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the contract then automobile coverage is not required.
- (c) Workers' Compensation and Employers Liability: Statutory coverage in compliance with the Compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

- (d) Pollution Liability Property Damage \$1,000,000.00 limit, \$1,000,000.00, accident, \$2,000,000.00 Aggregate
  - (e) Railroad Protective Liability: When and if necessary
  - (f) Type U Underground Damage. May be part of Commercial General or Contractor's Protective Liability Policies. \$1,000,000,00 limit Accident \$2,000,000.00 Aggregate
  - (g) Professional Liability Minimum \$5,000,000.00
  - (h) Umbrella Liability: Excess/umbrella liability insurance may be included to meet minimum requirements. Umbrella coverage must indicate the existing underlying insurance coverage.
  - (i) Claims Made: Not acceptable with the exception of Professional Liability when specified.
  - (j) Reserved
38. Headings. The headings given to the sections in the Contract are inserted only for convenience and are in no way to be construed as part of the Contract or as a limitation of the scope of the particular section to which the heading refers.
39. Number and Gender. Whenever the context so requires, the plural or singular shall include each other and the use of any gender shall include all genders.
40. Parties. To the extent that any Contractor Party is to participate or Perform in any way, directly or indirectly in connection with the Contract, any reference in the Contract to "Contractor" shall also be deemed to include "Contractor Parties", as if such reference had originally specifically included "Contractor Parties" since it is the parties' intent for the terms "Contractor Parties" to be vested with the same respective rights and obligations as the terms "Contractor."
41. Contractor Changes. The Contractor shall notify DAS in writing no later than ten (10) Days from the effective date of any change in:
- a) its certificate of incorporation or other organizational document;
  - b) more than a controlling interest in the ownership of the Contractor; or
  - c) the individual(s) in charge of the Performance.

This change shall not relieve the Contractor of any responsibility for the accuracy and completeness of the Performance. DAS, after receiving written notice by the Contractor of any such change, may require such agreements, releases and other instruments evidencing, to DAS's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that provision has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to DAS in accordance with the terms of DAS's written request. DAS may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to Perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to Perform under the Contract until Performance is fully completed.

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

42. Further Assurances. 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 Contract and which do not involve the vesting of rights or assumption of obligations other than those provided for in the Contract, in order to give full effect to the Contract and to carry out the intent of the Contract.
43. Audit and Inspection of Plants, Places of Business and Records.
- (a) Audit and Inspection of Plants, Places of Business and Records. The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.
  - (b) The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
  - (c) The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
  - (d) The Contractor will pay for all costs and expenses of any audit or inspection which reveals information that, in the sole determination of the State, is sufficient to constitute a breach by the Contractor under this Contract. The Contractor will remit full payment to the State for such audit or inspection no later than 30 days after receiving an invoice from the State. If the State does not receive payment within such time, the State may setoff the amount from any moneys which the State would otherwise be obligated to pay the Contractor in accordance with this Contract's Setoff provision.
  - (e) The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of (i) final payment under this Contract, or (ii) the expiration or earlier termination of this Contract, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
  - (f) The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
  - (g) The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.
44. Background Checks. The State may require that the Contractor and Contractor Parties undergo criminal background checks as provided for in the State of Connecticut Department of Emergency Services and Public Protection Administration and Operations Manual or such



## Contract # 18PSX0153

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

other State document as governs procedures for background checks. The Contractor and Contractor Parties shall cooperate fully as necessary or reasonably requested with the State and its agents in connection with such background checks.

45. Continued Performance. The Contractor and Contractor Parties shall continue to Perform their obligations under the Contract while any dispute concerning the Contract is being resolved.
46. Working and Labor Synergies. The Contractor shall be responsible for maintaining a tranquil working relationship between the Contractor work force, the Contractor Parties and their work force, State employees, and any other contractors present at the work site. The Contractor shall quickly resolve all labor disputes which result from the Contractor's or Contractor Parties' presence at the work site, or other action under their control. Labor disputes shall not be deemed to be sufficient cause to allow the Contractor to make any claim for additional compensation for cost, expenses or any other loss or damage, nor shall those disputes be deemed to be sufficient reason to relieve the Contractor from any of its obligations under the Contract.
47. Contractor Responsibility.
- (a) The Contractor shall be responsible for the entire Performance under the Contract regardless of whether the Contractor itself performs. The Contractor shall be the sole point of contact concerning the management of the Contract, including Performance and payment issues. The Contractor is solely and completely responsible for adherence by the Contractor Parties to all applicable provisions of the Contract.
- (b) The Contractor shall exercise all reasonable care to avoid damage to the State's property or to property being made ready for the State's use, and to all property adjacent to any work site. The Contractor shall promptly report any damage, regardless of cause, to the State.
48. Severability. If any term or provision of the Contract or its application to any person, entity or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of the Contract or the application of such term or provision shall not be affected as to persons, entities or circumstances other than those as to whom or to which it is held to be invalid or unenforceable. Each remaining term and provision of the Contract shall be valid and enforced to the fullest extent possible by law.
49. Confidential Information. The State will afford due regard to the Contractor's request for the protection of proprietary or confidential information which the State receives. However, all materials associated with the Proposal and the Contract 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 Contractor may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the Contractor believes are exempt from disclosure under the FOIA must be specifically identified as such. Convincing explanation and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Contractor that would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Contract, especially including the Proposal, the Records and the specifications, 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

## Contract # 18PSX0153

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

effect. If the Contractor indicates that certain documentation is submitted in confidence, by specifically and clearly marking said documentation as CONFIDENTIAL, DAS will endeavor to keep said information confidential to the extent permitted by law. DAS, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. The Contractor shall have the burden of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall DAS or the State have any liability for the disclosure of any documents or information in its possession which the State or DAS believes are required to be disclosed pursuant to the FOIA or other requirements of law.

50. References to Statutes, Public Acts, Regulations, Codes and Executive Orders. All references in this Contract to any statute, public act, regulation, code or executive order shall mean such statute, public act, regulation, code or executive order, respectively, as it has been amended, replaced or superseded at any time. Notwithstanding any language in this Contract that relates to such statute, public act, regulation, code or executive order, and notwithstanding a lack of a formal amendment to this Contract, this Contract shall always be read and interpreted as if it contained the most current and applicable wording and requirements of such statute, public act, regulation, code or executive order as if their most current language had been used in and requirements incorporated into this Contract at the time of its execution.

51. Cross-Default.

- (a) If the Contractor or Contractor Parties breach, default or in any way fail to Perform satisfactorily under the Contract, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to Perform under any or all other agreements or arrangements ("Other Agreements") that the Contractor or Contractor Parties have with DAS. Accordingly, DAS may then exercise at its sole option any and all of its rights or remedies provided for in the Contract or Other Agreements, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS, as if the Contractor or Contractor Parties had suffered a breach, default or failure to perform under the Other Agreements.
- (b) If the Contractor or Contractor Parties breach, default or in any way fail to Perform satisfactorily under any or all Other Agreements with DAS or the State, then DAS may, in its sole discretion, without more and without any action whatsoever required of the State, treat any such event as a breach, default or failure to Perform under the Contract. Accordingly, the State may then exercise at its sole option any and all of its rights or remedies provided for in the Other Agreements or the Contract, either selectively or collectively and without such election being deemed to prejudice any rights or remedies of DAS or the State, as if the Contractor or Contractor Parties had suffered a breach, default or failure to Perform under the Contract.

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

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.

53. Summary of State Ethics Laws. Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes is incorporated by reference into and made a part of the Contract as if the summary had been fully set forth in the Contract.
54. Sovereign Immunity. The parties acknowledge and agree that nothing in the Request for Proposals or the Contract shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.
55. Time of the Essence. Time is of the essence with respect to all provisions of this Contract that specify a time for performance; provided, however, that this provision shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Contract.
56. Certification as Small Contractor or Minority Business Enterprise.  
This paragraph was intentionally left blank.
57. Campaign Contribution Restriction. For all State contracts as defined in Conn. Gen. Stat. § 9-612(g)(1) having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice, as set forth in "Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations," attached as Exhibit C.
58. Health Insurance Portability and Accountability Act of 1996.
- (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as noted in this Contract, the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
  - (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
  - (c) The Client Agency is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
  - (d) The Contractor is a "business associate" of the Agency, as that term is defined in 45 C.F.R. § 160.103; and

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

- (e) The Contractor and the Client Agency agree to the following in order to secure compliance with HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (“HITECH Act”), (Pub. L. 111-5, §§ 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, D and E (collectively referred to herein as the “HIPAA Standards”).
- (f) Definitions:
- (1) “Breach” shall have the same meaning as the term is defined in section 45 C.F.R. 164.402 and shall also include any use or disclosure of PHI that violates the HIPAA Standards.
  - (2) “Business Associate” shall mean the Contractor.
  - (3) “Covered Entity” shall mean the Client Agency.
  - (4) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
  - (5) “Electronic Health Record” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5)).
  - (6) “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
  - (7) “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
  - (8) “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, and includes electronic PHI, as defined in 45 C.F.R. 160.103, limited to information created, maintained, transmitted or received by the Business Associate from or on behalf of the Covered Entity or from another Business Associate of the Covered Entity.
  - (9) “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.
  - (10) “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.
  - (11) “More stringent” shall have the same meaning as the term “more stringent” in 45 C.F.R. § 160.202.
  - (12) “This Section of the Contract” refers to the HIPAA provisions stated herein, in their entirety.
  - (13) “Security Incident” shall have the same meaning as the term “security incident” in 45 C.F.R. § 164.304.
  - (14) “Security Rule” shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

- (15) "Unsecured protected health information" shall have the same meaning as the term as defined in 45 C.F.R. 164.402.

(g) Obligations and Activities of Business Associates.

- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
- (2) Business Associate agrees to use and maintain appropriate safeguards and comply with applicable HIPAA Standards with respect to all PHI and to prevent use or disclosure of PHI other than as provided for in this Section of the Contract and in accordance with HIPAA Standards.
- (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any Security Incident of which it becomes aware.
- (6) Business Associate agrees, in accordance with 45 C.F.R. 502(e)(1)(ii) and 164.308(d)(2), if applicable, to ensure that any subcontractors that create, receive, maintain or transmit PHI on behalf of the Business Associate, agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information.
- (7) Business Associate agrees to provide access (including inspection, obtaining a copy or both), at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524. Business Associate shall not charge any fees greater than the lesser of the amount charged by the Covered Entity to an Individual for such records; the amount permitted by state law; or the Business Associate's actual cost of postage, labor and supplies for complying with the request.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner designated by the Covered Entity.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created, maintained, transmitted or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary investigating or determining Covered Entity's compliance with the HIPAA Standards.

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner designated by the Covered Entity, information collected in accordance with subsection (g)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any State or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an Individual requests that the Business Associate
  - (A) restrict disclosures of PHI;
  - (B) provide an accounting of disclosures of the Individual's PHI;
  - (C) provide a copy of the Individual's PHI in an Electronic Health Record; or
  - (D) amend PHI in the Individual's Designated Record Set the Business Associate agrees to notify the Covered Entity, in writing, within five Days of the request.
- (15) Business Associate agrees that it shall not, and shall ensure that its subcontractors do not, directly or indirectly, receive any remuneration in exchange for PHI of an Individual without
  - (A) the written approval of the Covered Entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and
  - (B) the valid authorization of the Individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations.
- (16) Obligations in the Event of a Breach.
  - (A) The Business Associate agrees that, following the discovery by the Business Associate or by a subcontractor of the Business Associate of any use or disclosure not provided for by this section of the Contract, any breach of Unsecured protected health information, or any Security Incident, it shall notify the Covered Entity of such Breach in accordance with Subpart D of Part 164 of Title 45 of the Code of Federal Regulations and this Section of the Contract.

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

- (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the Breach is discovered by the Business Associate, or a subcontractor of the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to 45 C.F.R. 164.412. A Breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate or its subcontractor. The notification shall include the identification and last known address, phone number and email address of each Individual (or the next of kin of the individual if the Individual is deceased) whose Unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such Breach.
- (C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
1. A description of what happened, including the date of the Breach; the date of the discovery of the Breach; the unauthorized person, if known, who used the PHI or to whom it was disclosed; and whether the PHI was actually acquired or viewed.
  2. A description of the types of Unsecured protected health information that were involved in the Breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
  3. The steps the Business Associate recommends that Individual(s) take to protect themselves from potential harm resulting from the Breach.
  4. A detailed description of what the Business Associate is doing or has done to investigate the Breach, to mitigate losses, and to protect against any further Breaches.
  5. Whether a law enforcement official has advised the Business Associate, either verbally or in writing, that he or she has determined that notification or notice to Individuals or the posting required under 45 C.F.R. 164.412 would impede a criminal investigation or cause damage to national security and; if so, contact information for said official.
- (D) If directed by the Covered Entity, the Business Associate agrees to conduct a risk assessment using at least the information in subparagraphs 1 to 4, inclusive of (g) (16) (C) of this Section and determine whether, in its opinion, there is a low probability that the PHI has been compromised. Such recommendation shall be transmitted to the Covered Entity within 20 business days of the Business Associate's notification to the Covered Entity.
- (E) If the Covered Entity determines that there has been a Breach, as defined in 45 C.F.R. 164.402, by the Business Associate or a subcontractor of the Business Associate, the Business Associate, if directed by the Covered Entity, shall provide all notifications required by 45 C.F.R. 164.404 and 45 C.F.R. 164.406.
- (F) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that Individuals informed of a Breach have the opportunity to ask questions and contact the Business Associate for additional information

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its website and a postal address. Business Associate agrees to include in the notification of a Breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Business Associate.

- (G) Business Associate agrees that, in the event of a Breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.
- (H) Permitted Uses and Disclosure by Business Associate.
  - (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the HIPAA Standards if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
  - (2) Specific Use and Disclosure Provisions
    - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
    - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
    - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (I) Obligations of Covered Entity.
  - (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
  - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual(s) to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.



**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

- (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
  
- (J) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Standards if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
  
- (K) Term and Termination.
  - (1) Term. The term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (g)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
  
  - (2) Termination for Cause Upon Covered Entity's knowledge of a material Breach by Business Associate, Covered Entity shall either:
    - (A) Provide an opportunity for Business Associate to cure the Breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity in accordance with Section 11 of the Contract; or
  
    - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
  
    - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
  
  - (3) Effect of Termination.
    - (A) Except as provided in (k)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (g)(10) of this Section of the Contract to the Covered Entity within ten Days of the notice of termination. This section shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
  
    - (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under State or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(L) Miscellaneous Sections.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the HIPAA Standards means the section as in effect or as amended.
- (2) Amendment. The parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of HIPAA, the HITECH Act and the HIPAA Standards (all as amended).
- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with HIPAA, the HITECH Act and the HIPAA Standards (all as amended). Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, HIPAA, the HITECH Act and the HIPAA Standards. (all as amended).
- (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
- (7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, the HIPAA Standards, or the HITECH Act (all as amended), including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this Section of the Contract, under HIPAA, the HITECH Act, and the HIPAA Standards.

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

**59. Protection of Confidential Information.**

- (a) Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.
- (b) Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of DAS or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:
  - (1) A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
  - (2) Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
  - (3) A process for reviewing policies and security measures at least annually;
  - (4) Creating secure access controls to Confidential Information, including but not limited to passwords; and
  - (5) Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.
- (c) The Contractor and Contractor Parties shall notify DAS, Client Agency and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Client Agency and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from DAS, the Client Agency or any State of Connecticut entity or any affected individuals.
- (d) The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.

**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

(e) Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of Covered Entity.

**60. Antitrust.**

Contractor hereby irrevocably assigns to the State of Connecticut all rights, title and interest in and to all Claims associated with this Contract that Contractor now has or may or will have and that arise under the antitrust laws of the United States, 15 USC Section 1, *et seq.* and the antitrust laws of the State of Connecticut, Connecticut General Statute § 35-24, *et seq.*, including but not limited to any and all Claims for overcharges. This assignment shall become valid and effective immediately upon the accrual of a Claim without any further action or acknowledgment by the parties.

**61. Audit Requirements for Recipients of State Financial Assistance.**

For purposes of this paragraph, the word "contractor" shall be deemed to mean "nonstate entity," as that term is defined in Section 4-230 of the Connecticut General Statutes. The contractor shall provide for an annual financial audit acceptable to the Client Agency for any expenditure of state-awarded funds made by the contractor. Such audit shall include management letters and audit recommendations. The State Auditors of Public Accounts shall have access to all records and accounts for the fiscal year(s) in which the award was made. The contractor will comply with federal and state single audit standards as applicable.

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**Contract # 18PSX0153**

Contract Document

RFP-50 Rev. 11/18/16

Prev. Rev. 8/16/16

**SIGNATURE PAGE OF CONTRACT**

IN WITNESS WHEREOF, the parties have executed this Contract by their duly authorized representatives with full knowledge of and agreement with its terms and conditions.

Fuss & O'Neill, Inc.

STATE OF CONNECTICUT  
Department of Administrative Services

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Robert L. May Jr.

Name: Josh Geballe

Title: Senior Vice President

Title: CT DAS Commissioner

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**18PSX0153 Exhibit A**  
**Description of Goods and Services and Additional Terms and Conditions**

**Section I. Overview, of Services and Definitions**

**Overview**

The Contractor shall provide oversight, consultation and administration of various environmental services to include but not limited to the discovery, investigation, evaluation, mitigation, and remediation of contaminated media, including surface water, groundwater, land, air, waters of the State including offshore or coastal waters, or other contamination resulting from the discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum, chemical liquids, solid, liquid or gaseous products, waste oil, or hazardous wastes; maintenance and monitoring of ongoing remedial activities or services including landfill maintenance and monitoring; as well as providing oversight, consultation and administration of related environmental projects. Services may also require professional and expert advice and or testimony in administrative, arbitration or judicial proceedings regarding all aspects of any work Performed under this Contract.

**Definitions**

As used in this Exhibit A, unless specified otherwise, the following terms shall have the following meanings:

- a) The terms “chemical liquids”, “hazardous waste”, “oil or petroleum”, “solid, liquid or gaseous products” and “waste oil” shall be defined as those terms are defined in Connecticut General Statutes §22a-448, including any amendment thereto.
- b) “Remediation” shall be defined as the term is defined in the Regulations of Connecticut State Agencies section §22a-133k-1 et seq., including any amendment thereto.
- c) “Day” shall mean a calendar day.
- d) “Week” shall mean any consecutive seven (7) Day period.
- e) “Month” shall mean thirty (30) consecutive Days.
- f) “Environmental law” shall mean Title 22a of the Connecticut General Statutes, including all chapters contained therein, the Table of Federal Laws provided on Table 1 and all regulations promulgated under the aforementioned State and Federal statutes, including any amendment thereto.
- g) “Occupational Safety and Health Law” shall mean Chapter 571 of Title 31 of the Connecticut General Statutes, the Federal Occupational Safety and Health Act of 1970, and all regulations promulgated under the aforementioned State and Federal statutes, including any amendment thereto.
- h) “Phase I Environmental Site Assessment” shall mean an investigation of the existing and past uses of a site for the purpose of identifying all potential areas of concern at a site at which substances may have been Released to the environment.

- i) "Phase II Environmental Site Assessment" shall mean an investigation of all potential areas of concern identified in the Phase I Environmental Site Assessment for the purpose of determining if a Release of any substance has occurred.
- j) "Phase III Environmental Site Assessment" shall mean an investigation that fully defines the nature and extent of pollution associated with Releases confirmed during the Phase II Environmental Site Assessment or otherwise known to be present.
- k) "Person" shall mean employees, agents or Subcontractors of a Contractor.
- l) "Substance" shall mean an element, compound or material which, when added to air, water, soil or sediment, may alter the physical, chemical, biological or other characteristics of such air, water, soil or sediment.
- m) "Release" shall mean any discharge, spillage, uncontrolled loss, seepage, filtration, leakage, injection, escape, dumping, pumping, pouring, emitting, emptying, or disposal of a substance.
- n) "Ecological Risk Assessment" shall mean qualitative and quantitative evaluation of the potential for harm to occur to ecological receptors as a result of exposure to one or more stressors.
- o) "Human Health Risk Assessment" shall mean qualitative and quantitative evaluation of the potential for harm to occur to people as a result of exposure to one or more stressors.

## Section II. Technical Specifications

- a) **Safety Precautions and Environmental Compliance:** The Contractor shall be responsible for taking all necessary precautions for the safety of employees on the work site and shall comply with all applicable provisions of Federal, State, and municipal regulations and building codes to prevent accidents or injuries to persons on, about, or adjacent to the premises where the work is being performed. The work area shall be kept orderly, clean, and free from any unnecessary material and or rubbish.

The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of work, all necessary safeguards for the protection of workers and the public. Contractor shall post danger signs warning against the hazards created by such features of construction. The Contractor shall designate a responsible member on the work site whose duty shall be the prevention of accidents.

In addition, the Contractor shall comply with all Federal laws as listed on Attachment A "Table of Federal Laws, as Amended".

- b) **Environmental Investigation Services:** Environmental investigations include Phase I Environmental Site Assessments, Phase II Environmental Site Assessments, Phase III Environmental Site Assessments, Ecological Risk Assessments, Human Health Risk Assessments and any other investigations necessary for the Client Agency to ensure that public health and the environment are protected. Environmental investigations are conducted, for among other purposes, to determine the past and current uses of a site that may have resulted in a Release of a substance or substances

to the soil, sediment, surface water or groundwater; determine if such Releases have occurred; determine the degree and extent of such Releases; and evaluate the compliance with all applicable environmental laws including, but not limited to, the regulations promulgated pursuant to Connecticut General Statutes §22a-133k. Such environmental investigations may, among other actions, require the Contractor to: (1) locate the source of contamination or define the extent and degree of pollution, with a view toward designing a remedial feasibility study and remedial action plan; (2) locate and gather relevant geological, site, or other data including, but not limited to, geologic maps and property records; (3) prepare a site investigation scope of work that proposes the location and number of soil borings, soil samples, soil-gas samples, water samples, and groundwater monitoring or water supply wells, to be analyzed, as applicable; and the analytical methods to be used; (4) conduct a site investigation that may include collecting soil, sediment, air, surface water, groundwater, and drinking water samples, and conducting geophysical, hydrogeologic, geotechnical, and soil gas testing; (5) prepare reports that describe the investigation conducted, present the results of the investigation, interpret the data collected and make recommendations for further actions; and (6) perform any other activities deemed necessary by the Client Agency.

- c) **Remedial Action Design and Project Management Services:** Remedial action services may include the preparation of a remedial action plan that details the actions proposed for Remediation of a Release(s); design of a Remediation system; development of RFP documents and specifications for remedial services; assistance in procurement of a remedial Contractor; oversight and management of Remediation and remedial Contractors; conducting monitoring to determine the effectiveness of any such Remediation; preparation of a remedial action report that documents the results of Remediation conducted, the compliance of the site with respect to environmental laws including, but not limited to, regulations promulgated pursuant to Connecticut General Statutes §22a-133k, and recommends any additional actions; development of RFP documents and specifications for establishing a supply of public water, including design and construction of water mains and residential service connections, abandonment of supply wells, and constructing any necessary project elements, oversight and management of public water supply projects; maintenance, monitoring, and oversight of ongoing investigation and remedial activities including, but not limited to, landfill maintenance and monitoring; and any other activity deemed necessary by the Client Agency.
  
- d) **Analytical Services:** At the direction of the Client Agency, the Contractor may procure analytical services provided by a laboratory that is currently under contract with the State. If the laboratory providing analytical services is under contract with the State, payment for such services shall be limited to the rates set forth in the contract between the laboratory and the State. A Contractor shall not unless authorized by the Client Agency, utilize a laboratory whose charges for the analytical services provided would exceed the maximum charges for such services using a laboratory under contract with the State. Each invoice which includes charges for laboratory analysis or other analytic services shall include invoices for all such charges, and a copy of the chain of custody documentation for all such analysis. If the laboratory performing analysis or providing analytical services is under contract with the State, either the laboratory itself or the Contractor may submit an invoice to the Client Agency regarding such services. If the invoice is submitted by a Contractor, such Contractor shall ensure that the invoice for analytical services: (1) notes that the laboratory performing such services is under contract with the State; (2) contains the applicable contract number; and (3) accurately reflects charges for the analyses requested.
  
- e) **Conflict of Interest:** Before providing any and all Services at a site, a Contractor shall determine if it is or may be potentially liable, as defined by Connecticut General Statute §22a-451 or any other



State or Federal law, for the pollution or contamination at the site. If a Contractor determines that it may be potentially liable, the Contractor shall immediately inform the Client Agency before initiating Services at a site.

A Contractor shall not provide labor, equipment and or materials at a site if said Contractor may be potentially liable, under Connecticut General Statute §22a-451 or any other State or Federal law, for the pollution or contamination at the site. In addition, the Contractor must determine, before providing Services at a site, if any other potential conflict of interest exists. At a minimum, the Contractor must identify any known relationships with current or past owners of the site where services have been requested by the Client Agency or any known relationships with parties responsible or potentially responsible for a Release at the site where services have been requested by the Client Agency. Based on the Contractor's response to this requirement, the Client Agency may choose to seek the Services of another Contractor, if an actual or potential conflict of interest exists.

### Section III. Service Charges and Payments

Services shall not commence until the Contractor has received an authorized purchase order from the Client Agency and not until the Contractor has provided to the Client Agency the required Insurance types and amounts to the Client Agency representative for the specific project pursuant to Section 37 of the Contract. Any failure to comply with the claim reporting provisions of the insurance policy(ies) shall not affect coverage provided to the State.

#### I. Contract Provisions Regarding Labor Charges:

- a) The Client Agency shall only pay the Contractor for pre-authorized labor costs incurred in Performing Services associated with the project.

Allowable charges for labor include, but shall not exceed the time actually spent traveling to and from the site from either the Contractor's closest place of business or residence whichever is closest. Such time shall not exceed two (2) hours per Day, unless otherwise authorized by the Client Agency.

- b) **Equipment Charges:** The Client Agency shall pay the Contractor for authorized equipment used at a project site unless the Client Agency determines, in its sole discretion, either before or after equipment is or has been used at a site that:

(1) A task performed by the Contractor at a site could have been accomplished using equipment chargeable at a lower rate than the equipment chosen by a Contractor; or

(2) A Contractor has substituted equipment at a site resulting in a Contractor charging a higher equipment rate, then the allowable equipment charges for any such equipment shall be limited to the lowest equipment rate for equipment which the Client Agency, in its sole discretion, determines should or would have been sufficient to complete the tasks performed.

A Contractor may only seek and receive reimbursement for equipment when the equipment at a site is operational. If, for any reason, equipment used at a site becomes inoperable or unusable resulting in a Contractor having to procure, purchase or rent replacement equipment, the allowable

equipment charges for any such replacement equipment shall be limited to the equipment rate in effect for the equipment being replaced or the actual costs to the Contractor of procuring or renting replacement equipment, whichever the Client Agency, in its sole discretion, determines is lower.

Contractor shall not seek or receive equipment related reimbursement of any kind for:

- (1) Repairs to equipment including, but not limited to, labor and parts;
- (2) Any and all costs associated with repairing or replacing inoperable equipment;
- (3) Any and all costs including, but not limited to, any rental, operational or other cost attributable to any period when the equipment reflected in such costs was inoperable or unusable;
- (4) Fuel, oil, replacement filters or similar consumables; and
- (5) Equipment brought to the site, which the Client Agency, in its sole discretion, determines is unnecessary.

**c) Maximum Charge for Equipment:** The Contractor may seek the maximum reimbursement from the Client Agency for all preauthorized equipment costs incurred in Performing Services at a site provided:

- (1) The total charges for all similar pieces of equipment used at the site must be considered as one piece of equipment when comparing the total amount billed to the original purchase price, unless otherwise authorized by the Client Agency.
- (2) The highest priced piece of equipment will be used to set the original purchase price when more than one piece of similar equipment is used at a site.
- (3) The Client Agency, in its sole discretion, shall determine which equipment is similar and which equipment is appropriate and necessary for the work conducted at the site.

Prior to initiating work at a project site, if the Contractor determines that the total usage charges for a piece of equipment or a similar type of equipment will or is likely to exceed the original purchase cost of any one piece of such equipment, the Contractor shall promptly notify the Client Agency in writing. The Client Agency may ask the Contractor to purchase new equipment on behalf of the Client Agency. If such equipment is purchased by a Contractor on behalf of Client Agency, such equipment must be returned to the Client Agency at the completion of such task or project and such equipment shall remain the property of the Client Agency. Any defective or damaged, as deemed by the Client Agency in its sole discretion, shall be rejected by the Client Agency.

The Contractor may no longer invoice the Client Agency for the use of any equipment listed in Exhibit B when the total amount billed to the Client Agency for use of such equipment at a site exceeds the original purchase price of such equipment.

It is the sole responsibility of the Contractor to track the total charges for equipment use at a site, and compare these totals to original purchase prices prior to submitting any invoice to the Client Agency. Upon request, the Contractor shall immediately make available to the Client Agency supporting documentation that shows the original purchase price of any equipment used at a project site.

Contractors are also advised that, except where noted, the Client Agency shall not pay for any consumable or reusable supplies including, but not limited, to:

- ❖ Reusable hand tools (e.g., screwdrivers, hammers);
- ❖ Gasoline, oils or other fuels;

- ❖ Reusable protective clothing (e.g. air purifying respirators or their disposable cartridges);
- ❖ Disposal protective clothing (e.g. Tyvek suits, boots, bootees, latex or like gloves).
- ❖ Computer equipment and software, including all costs relating to use of such equipment;
- ❖ Communication equipment including, but not limited to, regular or cellular telephones, including all costs relating to the use of such equipment;
- ❖ Standard mailing charges for project documents/reports (not including overnight/expedited mail and courier services);
- ❖ Copying costs (Successful bidders will be required to provide, free of charge, 1 draft and 2 final copies of reports documenting the project work. Contractors may request reimbursement for production of additional materials requested by the Client Agency.);
- ❖ Food or drink; and
- ❖ Cost of routine cleaning of equipment.

**d) Provisions Regarding Material Charges:** The Client Agency shall pay for the costs of all Client Agency approved materials used at a project site provided:

(1) The materials for which reimbursement is sought and any costs related to the use of such materials are authorized by and are in full compliance with all applicable requirements of this Contract.

(2) The documentation submitted by the Contractor seeking payment for such material costs fully complies with all applicable requirements of this Contract; and

(3) The Contractor has been and remains in full compliance with all applicable provisions of this Contract.

**e) Subcontracted Services Labor, Equipment, Materials not listed in Exhibits B1, B2, and B3:** The Client Agency recognizes that there are situations that may require a Contractor to seek labor, equipment, materials and or other items not awarded to and or listed in Exhibits B1, B2, and B3 to complete the Services. In the event such Services or items are required and are not in Exhibits B1, B2, and B3 and are likely to exceed one thousand dollars (\$1,000) for obtaining its use, the Contractor must request prior written authorization from the Client Agency to obtain such services or items.

After the Client Agency notifies the Contractor to proceed with subcontracting or procuring such services or items, the Contractor shall transmit in writing to the Client Agency a justification for obtaining such Services or items not in Exhibits B1, B2, and B3; at least three (3) cost proposals for such services or items; and the Contractor's recommended selection of the most qualified Subcontractor or most appropriate and cost effective item. Based on the Contractor's authorization request and recommendation of a subcontractor, the Client Agency may authorize, in writing, the selection of said subcontractor.

If the Contractor receives authorization from the Client Agency to provide subcontracted Services or items not listed in Exhibits B1, B2 or B3, the Contractor may be eligible to receive a markup not to exceed five percent (5%) of the costs actually incurred by said Contractor for any such Services or items provided. Authorization, however, from the Client Agency to provide any such Services or items shall not, in and of itself constitute authorization for a Contractor to receive up to a five percent (5%) mark-up for such costs. Rather, a Contractor may receive up to a five percent (5%) mark-up for such costs, subject to negotiation and agreement of the Client Agency, only if (1) For

any costs relating to the use of a subcontractor, such subcontractor is not itself a Contractor under a resulting DAS Contract; (2) Any such Services or items provided are not included in Exhibits B1, B2, and B3 to a Contractor's proposal; and (3) Any such Services or items were provided in a manner satisfactory, in the Client Agency's sole discretion, and approved by the Client Agency. In addition to meeting the above three requirements, if the total cost for subcontracted Services or items will or is likely to exceed ten thousand dollars (\$10,000), the Client Agency shall determine, at its sole discretion, after negotiation with the Contractor, the allowable mark-up for such subcontracted Services or items, which shall not exceed five percent (5%).

In the event a Contractor providing Services is authorized to use a subcontractor under this Contract, reimbursement for any labor, equipment, materials and/or other items provided by such subcontractor shall be limited to and computed at the rates in Exhibits B1, B2, and B3 to this Contract. No increase or mark-up to such subcontractor's rates or added costs of any kind shall be allowed for any such labor, equipment, materials and or other items.

**f) Daily Field Records:** When providing labor, equipment or materials the Contractor shall maintain a written daily record, for each Day which such labor, equipment and or materials are provided at the project site. This daily field record shall include at a minimum the following: (1) A description of the tasks performed for the project for such Day; (2) The equipment, materials or other items used in performing such tasks; (3) The personnel, including subcontractors, that Performed tasks for the project; (4) The time accounting for personnel, equipment and subcontracted Services; and (5) Any and all other information that the Client Agency may require for the project. Such daily field records shall be immediately available upon request of the Client Agency, or an auditing agency chosen by the Client Agency.

In the event the Contractor is delayed n providing such daily field records, the Contractor shall resubmit the daily field records within the time specified by the Client Agency, which shall not exceed thirty (30) Days from the Client Agency's notice.

**g) Invoicing and Payment:** Each invoice shall include the Client Agency project name, address, and Client Agency purchase order number, and include the following:

**(1) Cover Letter.** This cover letter must clearly describe, by task, activities that were conducted during the billing cycle, the percent completion of all tasks for the project, and the percent of each task's budget that has been billed to date. For each task, if any discrepancies occur or are anticipated between the cost estimate and actual expenditures, the cover letter must describe and support such discrepancy.

**(2) Labor Spreadsheet.** This labor spreadsheet must summarize all labor charges. At a minimum, such information must include the following:

1. Contractor's employee names.
2. Classification and Contract rates listed on the Exhibit B1 Personnel.
3. The total number of hours and charges for each classification, by employee for the billing period.
4. The total number of hours worked per Day during the billing period for each task, and subtask, by labor classification.
5. A summary for each task and subtask that compares the hours billed by each employee classification in relation to the cost estimate included in the scope of work approved by the Client Agency for the project.

6. A detailed summary of the work completed and hours spent on each task for each team member working on the project.

**(3) Equipment Spreadsheet.** This equipment sheet must summarize the following:

1. The equipment used,
2. The contracted rates,
3. The total number of hours used per Day of billing cycle,
4. The justification for use of hourly, daily, Weekly, or Monthly rate for equipment listed on Exhibit B2 Equipment,
5. A comparison of total billed amount for equipment or similar equipment with the authorized original purchase price,
6. A justification that equipment used was necessary for task performed,
7. A summary for each task and subtask that compares the hours of equipment use with the cost estimate included in the scope of work for the project approved by the Client Agency,
8. The vehicles used, class, make and model,
9. The purpose of the vehicle usage (e.g. transport staff to site, transport of groundwater sampling equipment for performing sampling of monitoring wells),
10. The mileage or hours used, as applicable, and
11. The number of Persons using such vehicle.

**(4) Materials Spreadsheet.** This materials spreadsheet must summarize the following:

1. A description and amount of materials used during the billing cycle as listed on Exhibit B3 Materials,
2. A description of tasks completed with such materials, and
3. A summary for each task and subtask that compares the materials used with the cost estimate included in the scope of work for the project approved by the Client Agency.

**(5) Records** requested by the Client Agency must be appended to the invoice.

**(6) Receipts.** Copies of all receipts or invoices for all billable items purchased, and all subcontracted services or items in the Performance of the Client Agency project must be appended to the invoice.

- h) Invoice Discrepancies:** A Contractor shall notify the Client Agency, in writing as soon as possible but no later than five (5) business Days of becoming aware that an invoice submitted to the Client Agency contains incorrect information. This notification shall include the Client Agency project name and address, the incorrect information, the known and correct information and a brief explanation of why the incorrect information was provided to the Client Agency. Receipt of any such notification by the Client Agency shall not prevent nor shall be deemed to prevent the Client Agency from seeking its contractual remedies including remedies at law or equity.

The Client Agency shall reserve the right to require a Contractor to provide any and all additional information regarding any portion of any and all invoices submitted by the Contractor. Revised, corrected, or resubmitted invoices shall be prominently marked "REVISED" and include the revised invoice number.

An invoice discrepancy that is not corrected within the above period shall result in delayed payments.

- i) Overpayment by Client Agency:** In the event that the Client Agency determines that a Contractor has received an overpayment, the Client Agency shall request the return of such overpayment from the Contractor and the Contractor shall provide a reimbursement of the overpayment within thirty

(30) Days of receipt of the request. In the event the Contractor fails to provide the reimbursement of the request within thirty (30) Days, the Client Agency shall charge the Contractor an annual percentage interest rate of 10% on any outstanding balance.

## Section IV. General Provisions

### I. Client Agency Duties and Authorities

- a) Each Contractor shall permit the Client Agency, its agents or representatives to enter any portion of a project site at any time for any purpose.
- b) The Client Agency shall have the authority to direct, coordinate and or oversee all activities, actions or Services being conducted at a project site by the Contractor. This includes, but is not limited to, the authority to stop work, direct, modify or schedule the performance of any work at the project site.
- c) A Contractor performing activities at a project site shall coordinate through the Client Agency all activities at a project site, shall fully cooperate with all representatives of all Client Agency parties to include but not be limited to, municipal, State and Federal officials, other Contractors, subcontractors, State personnel, public utility companies and others engaged in performing response activities at a project site and shall attend such meetings, discussions, hearings as may be requested from time to time by the Client Agency.

### II. General Health and Safety Plan, OSHA Compliance

- a) Each Contractor shall initiate, develop, maintain and comply with at all times, a health and safety plan (the "Plan") applicable to all actions undertaken or all activities performed at a project site. Such Plan shall ensure that all such actions and activities taken at the project site by a Contractor, its employees, agents and subcontractors are in full compliance with the Occupational Health and Safety Act of 1970 ("OSHA") 29 U.S.C. §651 et seq., as amended, Connecticut General Statute §31-367 et seq., the Solid Waste Disposal Act, 42 U.S.C. §6901 et seq., Connecticut General Statute §22a-449(c) and their implementing regulations, any permit(s) or order(s) issued by the Client Agency to such Contractor and all other applicable State and Federal statutes and regulations. Such Plan shall be available at the Contractor's principal place of business in the State and shall be made available for inspection during normal business hours or be immediately provided to the Client Agency upon request. In addition, each Contractor providing Services shall maintain a site-specific Plan on-site, as required by applicable OSHA laws. This site-specific Plan shall be available for review by the Client Agency immediately upon request. In the event the Client Agency determines that any action, inaction or condition at a site is inconsistent with or in violation of a Contractor's Plan, any applicable OSHA or other requirement, may pose a threat to public safety, human health or the environment, the Client Agency shall take actions necessary to prevent or abate such threat including, but not limited to, ordering or directing a Contractor to take or refrain from taking certain actions.

### III. Equipment Regulations

Contractors renting or supplying equipment or vehicles are required to equip them with all required devices. Equipment is to be in compliance with all of current as well a subsequent applicable Federal, State, and municipal regulations.

In addition, all Contractor and subcontractor on-highway and non-road diesel powered, idle or active, construction equipment with engine horsepower ("HP") ratings of 60 HP and above, that are on a project for a period in excess of sixty (60) consecutive or non-consecutive calendar Days must



be retrofitted with emission control devices and/or use clean fuels in order to reduce diesel emissions. Regularly available on-highway diesel fuel shall be utilized in all on-highway and non-road diesel powered equipment that is not utilizing the specified clean fuels.

In addition, all motor vehicles and/or construction equipment (both on-highway and non-road) must comply with all pertinent State and Federal regulations relative to exhaust emission controls and safety.

The reduction of emissions of carbon monoxide ("CO"), hydrocarbons ("HC"), nitrogen oxides ("NOx"), and particulate matter ("PM10") must be accomplished by installing retrofit emission control devices or by using less polluting clean fuels.

The retrofit emission control devices must consist of oxidation catalysts, or similar retrofit equipment control technology that (1) is included on the Environmental Protection Agency ("EPA") Verified Retrofit Technology List and (2) is verified by the EPA or certified by the manufacturer to provide a minimum emissions reduction of twenty percent (20%) PM10, forty percent (40%) CO, and fifty percent (50%) HC.

The clean fuels must consist of low NOx and PM10 emission diesel fuel that (1) can be used without engine modification, (2) is certified to provide a minimum emissions reduction of thirty percent (30%) PM10 and ten percent (10%) NOx when compared to No. 2 diesel fuel, and (3) is included on the California Air Research Board (CARB) verification List.

Construction shall not proceed until the Contractor submits a certified list of the diesel powered construction equipment that will be retrofitted with emission control devices or that will use clean fuels. The list shall include (1) the equipment number, type, make, year and Contractor/subcontractor name; (2) the emission control device make, model and EPA verification number; and/or (3) the type and source of fuel to be used.

The Contractor shall submit Monthly summary reports, updating the same information stated above, and include certified copies of the clean fuel delivery slips for the report time period, noting which vehicles received the fuel. The addition or deletion of diesel equipment shall be included on the Monthly report.

Additionally, the Contractor shall submit bi-weekly reports tracking the number of calendar Days (consecutive or non-consecutive) that all Contractor and subcontractor uses on-highway and non-road diesel powered (idle or active) construction equipment with engine HP ratings of sixty (60) HP and above on the project site. The list shall include (1) the equipment number, type, make, year and Contractor/subcontractor name; (2) the number of calendar Days (consecutive or non-consecutive) that the equipment has been on project site; (3) emission control device make, model and EPA verification number (if applicable); and/or (4) the type and source of fuel being used (if applicable).

The Contractor shall establish truck-staging zones for vehicles that are waiting to load or unload material at the project site. Such zones shall be located where the emissions from the trucks will have minimum impact on abutters, other nearby properties, and the general public. Idling of delivery and/or dump trucks, or other equipment shall not be permitted during periods of non-active use, and it must be limited to three (3) minutes in accordance with the Regulations of Connecticut State Agencies Section 22a-174-18(b)(3)(C), which states the following:

No mobile source engine shall be allowed “to operate for more than three (3) consecutive minutes when the mobile source is not in motion, except as follows:

- (i) When a mobile source is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control,
- (ii) When it is necessary to operate defrosting, heating or cooling equipment to ensure the safety or health of the driver or passengers,
- (iii) When it is necessary to operate auxiliary equipment that is located in or on the mobile source to accomplish the intended use of the mobile source,
- (iv) To bring the mobile source to the manufacturer’s recommended operating temperature,
- (v) When the outdoor temperature is below twenty degrees Fahrenheit (20 degrees F),
- (vi) When the mobile source is undergoing maintenance that requires such mobile source be operated for more than three (3) consecutive minutes, or
- (vii) When a mobile source is in queue to be inspected by U.S. military personnel prior to gaining access to a U.S. military installation.”

All work shall be conducted to ensure that no harmful effects are caused to adjacent sensitive receptors. Sensitive receptors are to include but not be limited to hospitals, schools, daycare facilities, elderly housing and convalescent facilities. Exhaust from engines shall be located away from fresh air intakes, air conditioners, and windows. A diesel emissions mitigation plan will be required for areas where extensive work will be performed in close proximity (less than 50 feet (15 meters)) to sensitive receptors. No work will proceed until a sequence of construction and a vehicle emissions mitigation plan is submitted in writing to the Client Agency for review and all comments are addressed prior to the commencement of any extensive construction work in close proximity (less than 50 feet (15 meters)) to sensitive receptors. The mitigation plan must address the control of vehicle emissions from all vehicles and construction equipment.

If any diesel powered construction equipment is found to be in non-compliance with this specification, the Contractor will be issued a notice of non-compliance by the Client Agency and given a twenty four (24) hour period in which to bring the equipment into compliance or remove it from the project site. If the Contractor then does not comply with these “diesel vehicle emissions controls” within such cure period, the Client Agency shall withhold all payments for the work performed on any item(s) on which the non-conforming equipment was utilized for the time period in which the equipment was out of compliance.

Any costs associated with this “diesel vehicle emissions controls” notice shall be included in the general cost of this Contract

The Contractor is responsible for controlling air pollution at all times during work, twenty four (24) hours a Day, seven (7) Days per Week, including non-working hours, weekends and holidays.

The Contractor shall comply with all State and Federal regulations pertaining to dust control. Particular attention shall be made to the Regulations of Connecticut State Agencies Section 22a-174-18 “Control of Particulate Matter and Visible Emissions”.

The Contractor shall submit a dust control plan to the State within thirty (30) Days after the Award of the Contract.

The dust control plan must include contact information for the responsible individual(s) from the Contractor (24-hour availability) who have authority to implement necessary controls.

The plan should detail dust control procedures for anticipated activities that may typically generate dust such as, but not limited to, jack hammering, saw-cutting pavement, haul roads, and material storage sites.

The cost for the dust control submittal associated with this dust control plan shall be included in the general cost of this Contract. Payment for the application of dust control items included in this Contract will be under those respective items.

#### **IV. Responsibility and Protection for Items at the Project Site**

Contractor shall keep and hold the State, its employees, officers and agents harmless and the State shall not be liable for and assumes no liability, including the State's negligence, for any temporary structures, supplies, tools, materials, equipment, owned or leased, or anything else of value which a Contractor stores, keeps or maintains at the project site. Each Contractor shall be solely responsible for securing and providing security for any such temporary structure(s), supplies, tools, materials, equipment, owned or leased, or anything else of value, which a Contractor stores, keeps or maintains at the project site. In addition and with respect to all work Performed, a Contractor shall:

- (1) Continuously and adequately protect the work performed at the project site including, but not limited to, all supplies, tools, equipment and or materials against damage from any cause; and
- (2) Provide and maintain safeguards for the protection of the public and for all persons undertaking response actions at the project site including, but not limited to, posting adequate warning signs or taking steps to prevent the public from entering certain areas.

#### **Section V. Contract Implementation**

- a) **Contract Implementation.** The Client Agency will select a Contractor according to the procedures set forth below.
- b) **Standard Contract Use.** The Client Agency will request a work plan and cost estimate for required services from all Contractors. Contractors will then be required to submit a work plan and cost estimate that will accomplish the work task requested by the Client Agency. The Client Agency will evaluate each of the proposals and authorize the selected Contractor to proceed. The Client Agency may provide comments or other conditions to revise the selected Contractor's work plan.
- c) **Specialized Contract Use.** The Client Agency will request a work plan and cost estimate after providing a detailed scope of services request from Contractors deemed to be most qualified in their respective disciplines and consistent to the initial selection of the award. At the discretion of the Client Agency, and to serve the Client Agency's best interests, the Client Agency may select a single Contractor to submit a work plan and cost estimate. The Client Agency's best interests are determined by factors that include special expertise, past performance, project knowledge, time sensitivity, or other factors determined by the Client Agency.

**Note:** In both the Standard and Specialized Use of this Contract the Client Agency will select the Contractor with the most advantageous, responsive, and lowest project cost based on review of all work plans and cost estimates.

## **Section VI. Additional Terms and Conditions**

### **I. Contract Separately/Additional Savings Opportunities**

DAS reserves the right to either seek additional discounts from the Contractor or to contract separately for a single purchase, if in the judgment of DAS, the quantity required is sufficiently large, to enable the State to realize a cost savings, over and above the prices set forth in Exhibit B, whether or not such a savings actually occurs.

### **II. Mandatory Extension to State Entities**

Contractor shall offer and extend the contract (including pricing, terms and conditions) to political sub-Divisions of the State (which includes towns and municipalities), schools, and not-for-profit organizations.

### **III. P-Card (Purchasing MasterCard Credit Card)**

Notwithstanding the provisions of Section 4(b)(2) of the Contract, purchases may be made using the State of Connecticut Purchasing Card (MasterCard) in accordance with Memorandum No. 2011-11 issued by the Office of the State Comptroller.

Contractor shall be equipped to receive orders issued by the Client Agency using the MasterCard. The Contractor shall be responsible for the credit card user-handling fee associated with MasterCard purchases. The Contractor shall charge to the MasterCard only upon acceptance of Goods delivered to the Client Agency or the rendering of Services.

The Contractor shall capture and provide to its merchant bank, Level 3 reporting at the line item level for all orders placed by MasterCard.

Questions regarding the state of Connecticut MasterCard Program may be directed to Ms. Kerry DiMatteo, Procurement Card Program Administrator at 860-713-5072.

### **IV. Subcontractors**

DAS must approve any and all subcontractors utilized by the Contractor in writing prior to any such subcontractor commencing any work. Contractor acknowledges that any work provided under the Contract to any state entity is work conducted on behalf of the State and that the Commissioner of DAS or his/her designee may communicate directly with any subcontractor as the State deems to be necessary or appropriate. Contractor shall be responsible for all payment or fees charged by the subcontractor(s). A performance evaluation of any subcontractor shall be provided promptly by the Contractor to DAS upon request.

Contractor must provide the majority of services described in the specifications.

#### **V. Prevailing Wages**

Some or all of the Performance may be subject to prevailing wages. Accordingly, the following provision is included in this Contract in accordance with the requirements of Conn. Gen. Stat. Sec. 31-53(a):

The wages paid on an hourly basis to any Person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such Person to any employee welfare fund, as defined in subsection (i) of Conn. Gen. Stat. Sec. 31-53(a), shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any Contractor who is not obligated by agreement to make payment or contribution on behalf of such Persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such Person's wages the amount of payment or contribution for such Person's classification on each pay Day.

#### **VI. Standard Wages**

Contractors shall comply with all provisions of Connecticut General Statutes 31-57f, Standard Wage Rates for Certain Service Workers and shall pay wages in accordance with the current wage rates provided by the Department of Labor. Information regarding this Statute and how and when it applies can be obtained from DOL's web site at <http://www.ctdol.state.ct.us/wgwkstnd/standardwage.htm>. Questions concerning the provisions and implementation of this act should be referred to the Connecticut Department of Labor, Wage and Workplace Standards Division, 200 Folly Brook Blvd., Wethersfield, CT 06109-1114 (860) 263-6790 or his designated representative. A link to the Standard Wages is provided below.

Standard Wages: <http://www.ctdol.state.ct.us/wgwkstnd/prevailing-rates/service/rates-service.htm>

#### **VII. Security and/or Property Entrance Policies and Procedures**

Contractor shall adhere to established security or property entrance policies and procedures or both for each requesting Client Agency. It is the responsibility of each Contractor to understand and adhere to those policies and procedures prior to any attempt to enter any Client Agency premises for the purpose of carrying out the scope of work described in this Contract.

## VIII. Department of Correction Requirements for Contractors who Perform at a Correctional Facility

### (1) Facility Admittance

- (A) Contractors shall not allow any of their employees to enter the grounds of or any structures in any Department of Correction (“DOC”) facility (“Facility”) or undertake any part of the Performance unless the employees have first been issued an individual, valid, security identification badge which they shall display properly at all times while at the Facility.
- (B) Contractor employees who seek admittance to a DOC Facility must first undergo a background check to confirm their eligibility to be admitted into the DOC Facility. Contractors shall obtain from the DOC a form for each employee and complete and submit that form to DOC at least 10 business Days prior to the date that the employee is scheduled to arrive at the DOC Facility for the Performance. Information on the form includes the following:
  - 1. Name
  - 2. Date of Birth
  - 3. Social Security Number
  - 4. Driver's License Number
  - 5. Physical Characteristics (such as age, height, weight, etc.)

### (2) Official Working Rules

Contractors shall adhere to the following Official Working Rules of the DOC:

- (A) All Contractors shall report to the Facility’s security front desk for sign-in, regardless of work location, immediately upon arrival at the Facility.
- (B) All Contractor personnel shall work under the observation of an assigned correctional officer or supervisor, who will provide escort for the duration of the work.
- (C) Contractor personnel shall not have any verbal or personal contact with any inmates.
- (D) Equipment must be checked daily and, when not in use, locked in a secure place as the Facility officials may direct.
- (E) Hacksaws, blades and files will remain in the custody of the officer assigned, except when being used.
- (F) The correctional officials may refuse admittance to any Contractor personnel for any cause or reason the correctional officials deem to be sufficient.
- (G) In the event of any emergency, all Contractor personnel will be escorted outside the Facility by correctional officials.
- (H) Contractors shall address all questions pertaining to interruptions of service or to safety of the Facility to the appropriate correctional official.
- (I) Work at the Facility must be Performed between 8:00 a.m. and 12:00 Noon and between 12:30 p.m. and 4:30 p.m., the maximum allowable working Day being 8 hours. The

Contractor shall not Perform any work at any Facility on any Saturday, Sunday or Holiday, unless DOC determines, in its sole discretion, that there is an emergency.

- (J) The Contractor shall ensure that all equipment not in use, is secure to prevent use by inmates.
- (K) The Contractor shall supply to DOC a copy of all material safety data sheets for all products used in the process of construction, construction materials, and products brought onto the Facility.
- (L) All Contractors shall sign out at the Facility's security front desk prior to departure following completion of Performance.

(3) Rules Concerning Department of Correction Facilities

Contractors shall adhere to the Facilities rules ("Facilities Rules") described in this section. At the time that Contractors and Contractor Parties seek to enter a Facility, DOC staff will present to them a document setting forth the following Facilities Rules and extracts of the laws governing the introduction and control of contraband. Contractors and Contractors Parties shall read, understand and sign that document as a condition precedent to entering the Facility and as evidence that they understand the consequences imposed for violating these Facilities Rules:

(A) Restricted Areas

All Persons except DOC personnel, upon entering the grounds are restricted to the immediate area of their work assignment. In order to go to other areas, Contractor personnel shall first obtain written permission from the supervisory correctional official in charge. Only Persons having official business will be admitted to construction sites.

(B) Inmates

There may be times when inmates may be working adjacent to or in the same area as Contractor or Contractor Parties. All Persons are prohibited from accepting or giving anything from and to an inmate. Inmates are accountable to DOC personnel only, no other Person will have any conversation or dealings with inmates without the approval of the DOC supervisory official in charge.

(C) Vehicle Control

Any Contractor personnel entering upon the Facility shall remove the ignition keys of their vehicle and lock the vehicle when they leave it for any reason. Contractors shall ensure that all equipment in, on or around the vehicles is secured and inaccessible to anyone else while in the Facility.

(D) Contraband

Contractors shall not bring clothing or contraband into or onto the Facility's grounds or leave clothing or contraband in a vehicle located on the grounds of the Facility outside of an area designated by DOC personnel. Contraband is defined below and all Persons are subject to these DOC Facilities Rules concerning contraband when on the Facility's grounds.

Contractor shall not introduce into or upon, take or send to or from, or attempt the same to or from, the grounds of the Facility anything whatsoever without the knowledge of the Facility supervisor.

"Contraband" means any tangible or intangible article whatsoever which DOC has not previously authorized and may include letters, stamps, tools, weapons, papers, floor implements, writing

materials, messages (written and verbal), instruments and the like. Contractors shall discuss any questions regarding such matters with the Facility supervisor immediately upon those questions arising.

Cigarettes and Cell Phones are "contraband." Accordingly, Contractors shall leave them secured inside their locked vehicles in an area designated by DOC personnel.

Failure to comply with these Facilities Rules, in the sole determination of DOC, will result in the Contractor being removed from the Facility.

(4) State Laws Governing Unauthorized Conveyance, Possession or Use of Items, Weapons and Certain Devices

(A) Unauthorized conveyance of certain items brought into the Facility is governed by Conn. Gen. Stat. Sec. 53a-174, which provides as follows:

1. Any Person not authorized by law who conveys or passes or causes to be conveyed or passed, into any correctional or humane institution or the grounds or buildings thereof, or to any inmate of such an institution who is outside the premises thereof and known to the Person so conveying or passing or causing such convey or passing to be such an inmate, any controlled drug, as defined in section 21a-240, any intoxicating liquors, any firearm, weapon, dangerous instruments or explosives of any kind, any United States currency, or any rope, ladder or other instrument or device for use in making, attempting or aiding an escape, shall be guilty of a class D felony. [Penalty for a Class "D" felony per Sec. 53a-35 subsection a, b, c, d is a term not to exceed five (5) years.]The unauthorized conveying, passing, or possessing of any rope or ladder or other instrument or device, adapted for use in making or aiding an escape, into any such institution or the grounds or building thereof, shall be presumptive evidence that it was so conveyed, passed or possessed for such use.
2. Any Person not authorized by law who conveys into any such institution any letter or other missive which is intended for any person confined therein, or who conveys from within the enclosure to the outside of such institution any letter or other missive written or given by any person confined therein, shall be guilty of a class A misdemeanor. [Penalty for a Class "A" misdemeanor per Sec. 53a-36 subsection 1, the term is not to exceed one (1) year.]
3. Any Person or visitor who enters or attempts to enter a correctional institution or Facility by using a misleading or false name or title shall be guilty of a class A misdemeanor.

(B) Possession of weapons or dangerous instruments in the Facility is governed by Conn. Gen. Stat. Sec.53a-174a, which provides as follows:

1. A Person is guilty of possession of a weapon or dangerous instrument in a correctional institution when, being an inmate of such institution, he knowingly makes, conveys from place to place or has in his possession or under his control any firearm, weapon dangerous instrument, explosive, or any other substance or thing designed to kill, injure or disable.
2. Possession of a weapon or dangerous instrument in a correctional institution is a class B felony. [Penalty for a Class "B" felony per Sec. 53a-35 subsection a, b, c, d is a term not to exceed twenty (20) years.]



- (C) Conveyance or use of electronic or wireless communication devices in the Facility is governed by Conn. Gen. Stat. Sec. 53a-174b, which provides as follows:
1. A Person is guilty of conveyance or use of an electronic wireless communication device in a correctional institution when such Person, without authorization by the Commissioner of Correction or the commissioner's designee, (1) conveys or possesses with intent to convey an electronic wireless communication device to any inmate of a correctional institution while such inmate is in such institution, or (2) uses an electronic wireless communication device to take a photographic or digital image in a correctional institution.
  2. Conveyance or use of an electronic wireless communication device in a correctional institution is a Class A misdemeanor.

**IX. Badging Requirements for the Connecticut Airport Authority, Bradley International Airport (the Airport)**

- (1) All Contractor employees must pass all standard security requirements (based on activity and location) and pass prescribed driver training before entering Bradley International Airport or engaging in any part of the Performance.
- (2) Contractors shall not allow any of their employees to enter the Airport or undertake any part of the Performance unless the employees shall have first been issued an individual, valid, security identification badge which they shall display properly at all times while at the Airport. The security badge will be issued upon the successful completion of a ten year (10) criminal history records check, and Transportation Security Administration Security Threat Assessment and a training/testing program – all administered by Airport personnel. The cost per Person is \$50. This charge is subject to change during the term of the Contract. Persons with felony convictions will be evaluated on an individual basis. The Client Agency may, at any time during the term of the Contract and in its sole discretion, modify the criminal history records check, training, testing program, security and badge requirements. The Contractor shall comply with all such modifications.
- (3) The Contractor shall assign at least one individual, but no more than 3 individuals, to act as an Authorized Supervisor for the airport. Prior to starting Performance, Contractors shall direct the Authorized Supervisors to comply with all of the applicable terms and conditions of this Contract, including doing any and all things which the Authorized Supervisors deem to be necessary or appropriate to ensure full Performance.
- (4) Client Agency shall deliver to the Contractors a copy of the applicable requirements of all federal and state regulations governing aviation security activities prior to Contractors starting Performance. Contractors shall comply fully with all of those requirements and regulations and shall ensure the same for all of their employees who will perform in any way.
- (5) The duties of the Authorized Supervisor are to:
  - (A) read, understand and follow fully all of the requirements of all federal and state regulations governing aviation security activities;
  - (B) notify the security badging office or BDL Airport Operations **immediately** of all employee terminations and transfers in writing, which may include via e-mail.
  - (C) return to the security badging office or BDL Airport Operations a termination form with the terminated or transferred employee's security badge along with all other security-related items that had been issued to the employee, including, but not limited to, keys, gate cards and ramp stickers, no later than twenty-four (24) hours after the effective date of the termination or transfer. If the Authorized Supervisor fails to return timely the badge or other security related-item, the Authorized Supervisor shall submit a termination form no later than one (1) Week after the effective date of the termination or transfer, along with a

written explanation detailing the course of action that has been taken towards retrieving the outstanding item(s);

- (D) limit the distribution of security related information only to Persons with valid, Bradley International Airport security badges and as requested by the Airport Security Coordinator (ASC) or designated representative ;
  - (E) not presign badging applications and complete the entire Authorized Supervisor section of the badging application for all Contractors employees who will Perform under this Contract;
  - (F) report lost or stolen badges in writing immediately to the security badging office and/or Airport Operations on the standard lost/stolen security badge report.
- (6) Contractors shall ensure that the Authorized Supervisors read, understand and follow all of their prescribed such regulations and requirements. Accordingly, prior to starting Performance, and as a condition precedent to any of Contractors' employees being allowed to enter the Airport to Perform, Contractors shall deliver to the Client Agency a document signed by the Authorized Supervisors in the following form:

**BRADLEY INTERNATIONAL AIRPORT  
AUTHORIZED SUPERVISOR'S ACKNOWLEDGMENT AND ACCEPTANCE OF DUTIES**

I, \_\_\_\_\_, the undersigned, with regard to \_\_\_\_\_ activities at Bradley International Airport (BDL), accept the assignment as an Authorized Supervisor under a certain Contract between \_\_\_\_\_ and the State of Connecticut. I acknowledge and accept that as Authorized Supervisor under that Contract that my duties are to and I shall:

1. read, understand and follow fully all of the requirements of all federal and state regulations governing aviation security activities;
2. notify the security badging office or BDL Airport Operations **immediately** of all employee terminations and transfers in writing, which may include via e-mail.
3. return to the security badging office or BDL Airport Operations a termination form with the terminated or transferred employee's security badge along with all other security-related items that had been issued to the employee, including, but not limited to, keys, gate cards and ramp stickers, no later than twenty-four (24) hours after the effective date of the termination or transfer. If the Authorized Supervisor fails to return timely the badge or other security related-item, the Authorized Supervisor shall submit a termination form no later than one (1) Week after the effective date of the termination or transfer, along with a written explanation detailing the course of action that has been taken towards retrieving the outstanding item(s) ;
4. limit the distribution of security related information only to Persons with valid, Bradley International Airport security badges and as requested by the Airport Security Coordinator (ASC) or designated representative ;
5. not presign badging applications and complete the entire Authorized Supervisor section of the badging application for all Contractors employees who will Perform under this Contract; and
6. report lost or stolen badges in writing immediately to the security badging office and/or Airport Operations on the standard lost/stolen security badge report.

With my signature below I am verifying that I have received a copy of, and fully understand these requirements and my obligations and that I shall comply fully.

_____		_____	
Company Name	Signature Initials	of	Authorized Supervisor
_____		_____	
Company Mailing Address	Print Full Name		
_____		_____	
City, State, Zip	Title		
_____		_____	
Phone Number(s)	Fax No.	E-Mail Address	

- (7) Contractors shall pay the Client Agency a fee of \$100 per unreturned badges for any terminated or transferred employee and reimburse the Client Agency, no later than thirty (30) Days after receiving an invoice from the Client Agency, for any applicable federal or state amounts, penalties or both for which the Client Agency may be held responsible resulting from the Contractors' failure to follow fully all of the applicable federal and State regulations and other requirements concerning aviation security activities, including, by way of example, but not by way of limitation, \$100 per unreturned badges for any terminated or transferred employee and up to \$11,000 per occurrence for an individual employee's failure to comply with security regulations (including, by way of example, but not by way of limitation, failure to properly display security badge or failure to control access through a controlled access door with a proximity card reader). If Contractors fail to pay the fee or reimburse the Client Agency timely, the Client Agency may, in its sole discretion, demand, and the Contractors shall, return all of the security badges for all of the Contractors' employees. Consequently, DAS shall, at the Client Agency's request, terminate the Contract as to those Contractors. DAS and the Client Agency will take into account such Termination as an indication of Contractors' not being responsible in future leasing and contracting opportunities.
- (8) The Client Agency may suspend or terminate security privileges of individual employees pending investigation of any individual who is alleged to have violated any security regulations. Security privileges for the Contractor as an entity may also be suspended or terminated for failure to comply with all security regulations.

**CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL INVESTIGATION, REMEDIATION & ENVIRONMENTAL PROJECT  
MANAGEMENT SERVICES**

**18PSX0153 Attachment A Table of Federal Laws, as amended**

Act to Prevent Pollution from Ships (33 U.S.C. §§1901 to 1912)
Asbestos Hazard Emergency Response Act of 1986 (15 U.S.C. §§2641 to 2654)
Clean Air Act (42 U.S.C. §§7401 To 7642)
Clean Vessel Act of 1992 (33 U.S.C. §1322 )
Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. §§3951 to 3956)
Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 to 1464)
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§9601 to 9675)
Emergency Planning and Right-To-Know Act of 1986 (42 U.S.C. §§11001 to 11050)
Endangered Species Act of 1973 (16 U.S.C. §§1531 to 1544)
Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§136 to 136y)
Federal Water Pollution Control Act (33 U.S.C. §§1251 to 1387)
Lead-Based Paint Exposure Reduction Act (15 U.S.C. §§2681 to 2692)
Lead Contamination Control Act of 1988 (42 U.S.C. §§300j-21 to 300j-25)
Medical Waste Tracking Act of 1988 (42 U.S.C. §§6992 to 6992k)
National Ocean Pollution Planning Act of 1978 (33 U.S.C. §§1701 to 1709)
Noise Control Act of 1972 (42 U.S.C. §§4901 to 4918)
Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. §§4701 to 4751)
Nuclear Waste Policy Act of 1982 (42 U.S.C. §§10101 to 10270)
Ocean Dumping Ban Act of 1988 (33 U.S.C. §§1414b, 1414c)
Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. §§2401 to 2410)
Pollution Prevention Act of 1990 (42 U.S.C. §§13101 to 13109)
Public Health Service Act (42 U.S.C. §§300f to 300j-11)
Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§6901 to 6991i)
Rivers and Harbors Appropriation Acts (33 U.S.C. §§401 to 426p and 441 to 454)
Safe Drinking Water Act (42 U.S.C. §§300f to 300j-11)
Shore Protection Act of 1988 (33 U.S.C. §§2601 to 2609 & 2621 to 2523)
Soil and Water Resources Conservation Act of 1977 (16 U.S.C. §§2001 to 2009)
Solid Waste Disposal Act (42 U.S.C. §§6901 to 6991i)
Toxic Substance Control Act (15 U.S.C. §§2601 to 2692)

Contract 18PSX0153 EXHIBIT B1 PRICE Schedule

Fuss & O'Neill, Inc. Personnel

Job Title & Description	Title Requirements	Hourly Rate	Overtime Rate
Engineer (Project) (Specialties include: civil, electrical, mechanical, chemical, environmental, etc.).	Holds a bachelor's degree or higher in civil, mechanical, electrical, chemical engineering or other relevant engineering discipline. Performs engineering tasks and analysis related to site investigation and designs remedial and treatment systems, oversees construction of remedial systems, landfills, etc. Specify minimum years of experience <u>0</u> and specialty.	\$ 100	\$100
Engineer – (Senior) (Specialties include: civil, electrical, mechanical, chemical, environmental, etc.).	Specify minimum years of experience <u>2</u> and specialty.	\$108	\$108
Professional Engineer (Project) (Specialties include: civil, electrical, mechanical, chemical, environmental, etc.).	Holds a bachelor's degree or higher in relevant engineering discipline. Licensed for this occupation by the Department of Consumer Protection. Designs remedial and treatment systems, oversees construction of remedial systems. Affixes professional engineer seal to documents when required. Specify minimum years of experience <u>5</u> and specialty.	\$127	\$127
Professional Engineer (Senior) (Specialties include: civil, electrical, mechanical, chemical, environmental, etc.).	Specify minimum years of experience <u>8</u> and specialty.	\$145	\$145
Project Manager	Oversees and coordinates projects from an administrative and operations standpoint. Initial contact at site for projects. DEP liaison. Specify minimum years of experience <u>10</u> .	\$162	\$162
Project Manager (Senior)	See Project Manager Specify minimum years of experience <u>12</u> .	\$185	\$185

Contract 18PSX0153 EXHIBIT B1 PRICE Schedule

Fuss & O'Neill, Inc. Personnel

<b>Job Title &amp; Description</b>	<b>Title Requirements</b>	<b>Hourly Rate</b>	<b>Overtime Rate</b>
Wetland /Soil Scientist (Project)	Holds a bachelor's or higher degree in soil science, geology, earth science, biology, botany or other relevant discipline plus specialized training and experience in wetland evaluation or soil science. Delineates wetlands using recognized Federal or state methodologies. Interprets and evaluates soil types. Classifies soil samples and evaluates effects of contaminants on wetlands and related animal and plant communities. Specify minimum years of experience <u>0</u> .	\$ 100	\$100
Wetland /Soil Scientist (Senior)	See Wetland /Soil Scientist Specify minimum years of experience <u>2</u> .	\$108	\$108
Biologist (Project)	Has a bachelor's or higher degree in biology, life sciences, botany, forestry, zoology, ecology or related field. Performs and supervises biological sampling and surveys, water, soil and sediment sampling to evaluate the effect of contaminants on plants and animals. Provides technical assistance to bioremediation projects. Specify minimum years of experience <u>5</u> .	\$127	\$127
Biologist (Senior)	See Biologist Specify minimum years of experience <u>8</u> .	\$145	\$145
Chemist (Project)	Holds a bachelor's degree or higher in chemistry, biochemistry, chemical engineering or related field. Performs chemical analysis, sample acquisition, sets data quality objectives, prepares reports, performs chemical data validation. Specify minimum years of experience <u>0</u> .	\$ 100	\$100
Chemist (Senior)	See Chemist Specify minimum years of experience <u>2</u> .	\$108	\$108

Contract 18PSX0153 EXHIBIT B1 PRICE Schedule

Fuss & O'Neill, Inc. Personnel

Job Title & Description	Title Requirements	Hourly Rate	Overtime Rate
Hydrogeologist (Project)	Holds a bachelor's degree or higher in geology, hydrogeology, engineering geology, geological engineering, engineering geology, geophysics or related earth science field, and specialized training and experience in hydrogeology. Specializes in evaluating the movement of groundwater and the fate and transport of groundwater contaminants. Uses computer models to analyze and predict subsurface movement of groundwater and contaminants. Designs, supervises, and interprets results of ground water pump tests and slug tests. Prepares specifications for monitoring wells and potable water wells. Maps and evaluates ground water aquifers. Prepares written reports maps, cross sections, etc. Specify minimum years of experience <u>5</u> .	\$127	\$127
Hydrogeologist (Senior)	See Hydrogeologist Specify minimum years of experience <u>8</u> .	\$145	\$145
Geologist (Project)	Holds a bachelor's degree or higher in geology, hydrogeology, engineering geology, geological engineering, engineering geology, geophysics or related earth science field. Oversees installation of monitoring wells, soil borings and other subsurface explorations. Collects and classifies soil and sediment samples, rock cores, surface water and ground water samples and other environmental media samples. Evaluates stratigraphy of soil and bedrock. Uses geophysical equipment to evaluate subsurface conditions and location of contaminants. Prepares and evaluates maps, cross section and other graphic representations of subsurface conditions. Prepares written reports, maps, cross sections, etc. Specify minimum years of experience <u>0</u> .	\$ 100	\$100
Geologist (Senior)	See Geologist Specify minimum years of experience <u>2</u> .	\$108	\$108



Contract 18PSX0153 EXHIBIT B1 PRICE Schedule

Fuss & O'Neill, Inc. Personnel

<b>Job Title &amp; Description</b>	<b>Title Requirements</b>	<b>Hourly Rate</b>	<b>Overtime Rate</b>
Licensed Environmental Professional	Has engineering, geology or hydrogeology training and is licensed by the board for this professional title.	\$190	\$190
Industrial Hygienist	Has a bachelor's or higher degree in an appropriate technical discipline Oversees monitoring analytical methods required to detect the extent of exposure, and the engineering and other methods use for hazard control. Develops corrective measures to control health hazards by reducing or eliminating exposure.	\$190	\$190
Risk Assessor	Holds bachelor's or higher degree in biology, chemistry or other relevant natural or life sciences plus specialized training and experience in ecological or human health risk assessment. Evaluates actual or potential effects of physical or chemical contaminants on human health or on biological receptors.	\$190	\$190
Licensed Surveyor	Licensed for this professional title by the Department of Consumer Protection.	\$190	\$190
Cartographer/GIS Specialist	Prepares maps on the extent of spill, topography, etc. to be digitized. Designs and draws original maps of cities and regions. Adapts existing maps. Uses geographic information systems and global positioning system to prepare maps on the extent of spill, topography, etc. Analyzes spatial and environmental data.	\$127	\$127
Technical Expert (provide specialty)	Provide description Specify minimum years of experience <u>15</u> and specialty. The definition of a technical expert will be determined based on the project at hand.	\$201	\$201
Expert Witness	Provides credible testimony during a hearing or court trial. Specify minimum years of experience <u>15</u> and specialty.	\$250	\$250

Contract 18PSX0153 EXHIBIT B1 PRICE Schedule

Fuss & O'Neill, Inc. Personnel

<b>Job Title &amp; Description</b>	<b>Title Requirements</b>	<b>Hourly Rate</b>	<b>Overtime Rate</b>
Field Technician	Collects ground water samples, provides field support, uses, maintains and deploys equipment.	\$86	\$86
Draftsperson	Draws site plans, equipment layouts, and detailed drawings on CAD system.	\$96	\$96
Clerical Staff	Uses computers, typewriters and other office equipment to provide clerical and logistical support to project. May type reports, correspondence and other written material. May prepare bills, invoices, and related documents.	\$69	\$69
Driller	Operates drill/Geoprobe or well service rig for installation of monitoring wells, obtains samples, classifies materials.	No bid Will Subcontract	No bid Will Subcontract
Driller Assistant	Assists driller in all related operations of monitoring and recovery well installation and maintenance	No bid Will Subcontract	No bid Will Subcontract
Additional Job Titles and Descriptions may be added as needed.	Additional Title Requirements may be added as needed.	\$ _____	\$ _____
Project Administrator	Works as assistant to PM to manage project financials and invoicing.	\$80	\$80
Senior Field Technician	Specify minimum years of experience <u>2</u>	\$96	\$96
Senior Survey Technician	Specify minimum years of experience <u>4</u>	\$100	\$100
Survey Data Specialist	Specify minimum years of experience <u>4</u>	\$127	\$127
Construction Inspector	Provides inspection on construction project Specify minimum years of experience <u>2</u>	\$127	\$127
Senior Construction Insp.	Provides inspection on construction project Specify minimum years of experience <u>5</u>	\$145	\$145
Principal	Vice President, Senior Vice President, CEO	\$220	\$220

Contract 18PSX0153 EXHIBIT B2 PRICE Schedule

Fuss & O'Neill, Inc. Equipment

**EQUIPMENT RATES (included but not limited to overhead, i.e., taxes, fuel, maintenance, delivery)**

Equipment Description	No. of Units	Capacity/size/model (specify for each unit)	Hourly Rate	Daily Rate	Weekly Rate	Monthly Rate	Original Purchase Price
Drill rig (indicate size and type)	NA	Subcontracted	NA	NA	NA	NA	NA
Direct push drill rig (indicate size and type)	NA	Subcontracted	NA	NA	NA	NA	NA
Flow through cell and data analyzer for low flow sampling (specify type)	1	YSI Proplus	\$10.63	\$85	\$340	\$1,020	\$1,500
Magnetometer	---	---	---	---	---	---	Rental at Cost
XRF	---	---	---	---	---	---	Rental at Cost
Metal detector	1	Schmested	\$3.25	\$25	\$100	\$300	\$1,300
Photo ionization detector	1	ProCheck Tiger	\$9.40	\$75	\$300	\$900	\$4,000
Flame Ionization Detector	---	---	---	---	---	---	Rental at Cost
Multi-gas Meter (specify type)	1	Confined Space Meter	\$3.75	\$30	\$100	\$350	Rental at Cost
Landfill Gas Meter	---	---	---	---	---	---	Rental at Cost
Core Drill	1	MILW/NKEF	\$31.25	\$250	\$1,000	\$3,000	\$13,000
Hammer Drill	1	Bosch	\$6.25	\$50	\$200	\$600	\$2,600
Manometer	---	---	---	---	---	---	Rental at Cost



Fuss & O'Neill, Inc. Materials

<b>MATERIAL COSTS</b>			
	Materials	Units	Unit Price \$0.00
	17H Drum	Each	\$100
	17C Drum	Each	\$100
	17E Drum	Each	\$100
	Poly Rolls/Sheets	Roll	\$100
	5 Gallon Plastic Pails	Each	\$5
	2" Locking Well Cap	Each	\$10
	1.5" Locking Well Cap	Each	\$10
	Padlocks Keyed to One Master Key	Each	15
	Encore Soil VOC Sampler	Each	10
	TerraCore Soil VOC Sampler	Each	2
	Petro Flag Sampler	Each	25
	Hand GeoProbe Sleeves	Each	4
	Tyvek Suit	Each	35
	Sample Tubing	Foot	0.65
	Disposable Filters	Each	20
	Separate materials handling charges will not be allowed and must, therefore, be included in the unit price specified for each item.		



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

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

### CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

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

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

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

### DUTY TO INFORM

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

### PENALTIES FOR VIOLATIONS

Contributions of 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 possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

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

### CONTRACT CONSEQUENCES

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

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

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

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



## DEFINITIONS

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

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

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

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

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

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

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

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

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

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

Contract # **18PSX0153**  
R - New 10/2/15

**EXHIBIT D**

**STANDARD WAGE RATES**

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Information concerning Section 31-57f of the Connecticut General Statutes and when it applies may be obtained from the Connecticut Department of Labor's web site, which may currently be accessed at <http://www.ctdol.state.ct.us/wgwkstnd/standardwage.htm>.

Questions concerning Standard Wage Rates should be addressed to the Connecticut Department of Labor, Wage and Workplace Standards Division, 200 Folly Brook Blvd., Wethersfield, CT 06106-1114, 860/263-6790.