

**PERSONAL SERVICE AGREEMENT**

CO-802A REV. 2/08

STATE OF CONNECTICUT  
OFFICE OF THE STATE COMPTROLLER

1. PREPARE IN QUADRUPPLICATE
2. THE STATE BUSINESS UNIT AND THE CONTRACTOR AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO AND SUBJECT TO THE PROVISIONS OF SECTION 4-98 OF THE CONNECTICUT GENERAL STATUTES AS APPLICABLE
3. ACCEPTANCE OF THIS CONTRACT IMPLIES CONFORMANCE WITH TERMS AND CONDITIONS SET FORTH BY THE OFFICE OF POLICY AND MANAGEMENT PERSONAL SERVICE AGREEMENT STANDARDS AND PROCEDURES.

(1)  ORIGINAL  AMENDMENT (2) IDENTIFICATION NO. P.S.

CONTRACTOR	(3) CONTRACTOR NAME	Triad Real Estate Services, LLC	(4) ARE YOU PRESENTLY A STATE EMPLOYEE?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	CONTRACTOR ADDRESS	400 Middle Street, Bristol, CT 06010	CONTRACTOR FEIN/SSN - SUFFIX	
STATE AGENCY	(5) AGENCY NAME AND ADDRESS Department of Public Works, 165 Capitol Avenue, Hartford, CT 06106			
CONTRACT PERIOD	(6) DATE (FROM)	THROUGH (TO)	(7) INDICATE	
	7/1/11	6/30/16	<input type="checkbox"/> MASTER AGREEMENT <input checked="" type="checkbox"/> CONTRACT AWARD NO. <b>110PW1381AA</b> <input checked="" type="checkbox"/> NEITHER	
CANCELLATION CLAUSE	(8) See Exhibit A, Article 5			

(9) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)  
Provide property management services and other related services for the total care, control and management of the property known as 525 Russell Road (Cedarcrest Hospital), Newington. These services may include but not limited to mechanical systems maintenance, physical maintenance, maintenance of building utility systems, tenant relations and safety issues. Such services shall be under the direction of the Director of Facilities Operations of the Department of Public Works (DPW) and be in accordance with the provisions of the ~~seven page~~ <sup>two page</sup> Exhibit A and ~~one page~~ <sup>two page</sup> Exhibit B and ~~four page~~ <sup>two page</sup> Exhibit C attached hereto and made a part hereof. In the provision of such services, the contractor shall act as the agent for the DPW. All purchases made by the contractor that are approved by the DPW shall be for the DPW's exclusive use and title for all tangible personal property will vest with the DPW.

(10) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.  
Payments are to be made in accordance with provisions of said Exhibit A. The total cost of this contract is not to exceed \$6,000,000.00.

(11) OBLIGATED AMOUNT **\$6,000,000.00**

(12) AMOUNT	(13) FUND	(14) DEPARTMENT	(15) SID	(16) PROGRAM	(17) ACCOUNT	(18) PROJECT/ GRANT	(19) CHARTFIELD 1	(20) CHARTFIELD 2	(21) BUDGET REFERENCE

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code Section 3121 (d) (2). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCES AND APPROVALS (22) STATUTORY AUTHORITY Sections 4-8, 4b-1 (b) 4-216 C.G.S.

(23) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE)	Edward A. D'Amato, Jr., Member	TITLE	DATE
(24) AGENCY (AUTHORIZED OFFICIAL)	DPW Acting Commissioner Jonathan Holmes	TITLE	DATE
(25) OFFICE OF POLICY & MANAGEMENT/DEPARTMENT OF ADMINISTRATIVE SERVICES		TITLE	DATE
(26) ATTORNEY GENERAL (APPROVED AS TO FORM)		ASSOC. ATTY. GENERAL	DATE

## EXHIBIT A

Property Known As  
525 Russell Road (Cedarcrest Hospital), Newington, CT  
("Property Location")

### ARTICLE 1 - CONTRACTOR'S RESPONSIBILITIES

- 1.1 **Contractor** - The contractor shall manage, operate and maintain the property in an efficient and satisfactory manner in accordance with relevant State of Connecticut (State) standards promulgated by Agency including but not limited to Purchasing Guidelines for Property Managers dated December 21, 2006, and as may be amended, the provisions of this agreement and all applicable laws, rules and regulations. The contractor shall act in a fiduciary capacity with respect to the proper protection of, and account for, the State's assets. In this capacity, the contractor shall deal at arms length with all third parties and the contractor shall serve the State's interests at all times. The contractor shall not do business with any affiliate of the contractor without the prior written consent of the Agency.
- 1.2 **Employees** - The contractor shall have in its employ at all times a sufficient number of capable employees to enable it to properly, adequately, safely and economically manage, operate and maintain the property. All matters pertaining to the employment, supervision, compensation, promotion and discharge of such employees are the responsibility of the contractor, which is in all respects the employer of such employees. The contractor may negotiate with any union lawfully entitled to represent such employees and may execute in its own name and not as agent for the State, collective bargaining agreements or labor contracts resulting there from. The contractor shall fully comply with all applicable laws, rules and regulations with respect to workers' compensation, social security, unemployment insurance, hours of labor, wages, working conditions, and other employer-employee related subjects. The contractor represents that it is and will continue to be an equal opportunity employer. All employment arrangements are therefore solely its concern and the State shall have no liability with respect thereto.
- 1.3 **Schedule of Employees** - The contractor shall provide a schedule of employees to be employed wholly or in part in the direct management of the property. This schedule shall include the number of employees and their titles and salary ranges. On the employee schedule, the contractor shall identify those employees whose salaries may from time to time be charged to the property for direct services rendered to the property. Employees whose salaries are eligible to be charged include, but are not limited to, property managers, engineers or others included as part of the approved operating budget, which is hereinafter mentioned. Employees whose salaries may not be charged include, but are not limited to, general management personnel, accountants and auditors. Such schedule is to be submitted with the proposed operating budget. The Agency shall not pay any increase in salary resulting from changes in the Standard Wage or any other reason in excess of the salary range provided by contractor in the schedule of employees. The contractor shall be responsible for paying any such increases at its own cost.
- 1.4 **Compliance with Laws**- The contractor shall be responsible for determining compliance with Federal, State and municipal laws, ordinances, rules, regulations and orders relative to the use, operation, and maintenance of the property. The contractor shall promptly notify the Agency of any violation of any such law, ordinance, rule, regulation or order which comes to the contractor's attention, and take action with Agency's approval to promptly remedy such violation.

Actions in remedying of violations may be implemented prior to obtaining the approval of Agency if the estimated expenses to be incurred do not exceed \$2,500.00 in any one instance. When more than such amount is required or if the violation is one for which the State might be subject to a penalty, the contractor shall notify the Agency by the end of the next business day so that prompt arrangements may be made to remedy the violation.

- 1.5 **Approved Operating Budget** - The contractor shall prepare and submit to the Agency, within (15) days from the date this agreement is approved by the Attorney General's Office, a proposed operating budget for the operation, management and maintenance of the property for the balance of the current fiscal year. Subsequently, the contractor shall annually prepare and submit to the Agency, by the date indicated by the Agency, a proposed operating budget for the fiscal year (June-1 - May 31) for the operation, and maintenance of the property.

The Agency will consider the proposed operating budget and will consult with the contractor as soon as reasonably practicable, in order to agree on an approved operating budget.

The contractor agrees to use diligence and to employ all reasonable efforts to ensure that the actual cost of managing, maintaining and operating the property shall not exceed the amount necessary and, in any event, will not exceed the approved operating budget either in total amount or in any one accounting category.

During the term of this agreement the contractor shall inform the Agency of any major increases in costs and expenses that were not foreseen during the budget preparation period and thus are not reflected in the approved operating budget.

- 1.6 **Monthly Reports** - The contractor shall prepare and submit to the Agency a monthly report covering the matters set forth in Exhibit B by the 10<sup>th</sup> of each month. Each such report shall cover the period beginning the first (1<sup>st</sup>) day of the immediately preceding calendar month and ending on the last day of such calendar month.

- 1.7 **Competitive Bidding** - All contracts for commodities and services, and repairs to and alteration or renovation of real property exceeding \$2,500.00 shall be awarded by the contractor on the basis of competitive bidding, solicited in the following manner:

- A. A minimum of two (2) written bids shall be obtained;
- B. Each bid will be solicited in a form prescribed by the Agency so that uniformity will exist in the bid form;
- C. All bids are subject to the approval of the Agency;
- D. If the contractor advises acceptance of other than the lowest bid, the contractor shall adequately support, in writing, its recommendations to the Agency;
- E. The Agency shall be free to accept or reject any and all bids;
- F. Once a vendor is selected, where appropriate, the contractor shall obtain proof of the vendor's commercial general liability (CGL), workers' compensation, and automobile insurance. The vendor must carry a minimum of \$1,000,000.00 CGL insurance for work valued to \$60,000.00

and \$2,000,000.00 CGL insurance for work valued over \$60,000.00. Proof of this coverage must be obtained before the work or services of the vendor begin.

- 1.8 **Service Contracts** - The contractor shall not enter into any contract for cleaning, maintaining, repairing or servicing the property or any of the constituent parts of the property without the prior written consent of the Agency. As a condition to obtaining such consent, the contractor shall supply the Agency with a copy of the proposed contract and shall state to the Agency the relationship, if any, between the contractor, or the person or persons in control of the contractor, and the party proposed to supply such services.

All service contracts shall: (a) be on a fixed-fee basis, (b) be in the name of the contractor as agent for the Agency, (c) be for a term not to exceed 5 years, and include provision for cancellation thereof by the State upon not less than 30 days' written notice, for without cause, and upon not less than 3 days' notice for cause, (d) require that all service vendors provide evidence of sufficient insurance and (e) be within the guidelines set forth in the approved operating budget. Unless the Agency specifically waives such requirements, all service contracts shall be subject to the bidding requirements under the procedures as specified in Section 1.7.

- 1.9 **Repairs** – The contractor shall supervise all ordinary and extraordinary repairs, decorations and alterations, capital improvements remodeling and occupant improvements, all subject to the terms of this agreement. The contractor may charge an additional (construction) management fee for the supervision of certain repairs and improvements. Such fee shall be negotiated with and agreed to by the Agency on a case by case basis.

In case of an emergency, the contractor may make expenditures for repairs without prior written approval of the Agency, if such repair is necessary to prevent damage or injury. For minor incidents (less than \$10,000), Agency must be informed of any such expenditures before the end of the next business day. For major incidents (greater than \$10,000), immediate notification to Agency must occur.

- 1.10 **Cooperation** - Should any claims, demands, suits or other legal proceedings be made or instituted by any person against the State in connection with this agreement, the contractor shall give the Agency all pertinent information and reasonable assistance in the defense or other disposition thereof. The terms of this paragraph shall not be construed as a waiver of sovereign immunity.

- 1.11 **Annual Contract Certification/Annual Affidavit** – On or within two (2) weeks of the anniversary date of the execution of this contract, the contractor shall submit a completed annual gift and campaign contribution affidavit to the Financial Management Unit, 165 Capitol Avenue, Room 208, Hartford, CT 06106, attention Property Management Services. For the purposes of this paragraph, the execution date of the contract will be the start date of the contract (<http://www.ct.gov/dpw>).

## **ARTICLE 2 - CONTRACTOR'S INSURANCE**

- 2.1 **Contractor's Insurance** – At all times during this contract and during any amendment thereto, the contractor shall protect, indemnify and hold harmless the State, its officers, agents and employees, from and against any and all loss, cost, liability, injuries (including death), damages, compensation, and expense, including without limitations, all claims, demands, penalties, actions, causes of action, suits, litigation and attorney's fees and costs, sustained by or alleged to have been sustained by the State, its officers, agents and employees, and sustained by or alleged to have been sustained by the property, real or personal, of the State, its officers, agents and employees, and sustained by or alleged to have been sustained by the public or by any other person or property, real or personal, from, or arising out

of, or directly or indirectly due to, any cause, condition, event, accident, incident, happening or occurrence, related to and including, without limitation, the following:

- (a) The acts, omissions, or neglect of the contractor and of the contractor's officers, agents, employees, subcontractors, invitees, licensees, guests, visitors, clients and any and all persons under the control of the contractor, in or about the building or buildings located at **525 Russell Road (Cedarcrest Hospital), Newington**, and in or about the State of Connecticut's adjoining property, parking lots, sidewalks, improvements, structures and facilities, including, without limitation, any of the same that may be detached from said location;
- (b) The contractor's use or activity or the conduct of its business or from any activity, work, or thing done, permitted, or suffered by the contractor and by the contractor's officers, agents, employees, subcontractors, invitees, licensees, guests, visitors, clients and any and all persons under the control of the contractor, in or about the building or buildings located at **525 Russell Road (Cedarcrest Hospital), Newington**, and in or about the State of Connecticut's adjoining property, parking lots, sidewalks, improvements, structures and facilities, including without limitation, any of the same that may be detached from said location; and,
- (c) The contractor's default in its observance and performance of any of the terms covenants or conditions of this contract and of any amendment thereto.

2.2 The contractor shall provide and maintain commercial general liability insurance, with the State named as an additional insured, in a combined single minimum amount of \$1,000,000.00 for bodily injury (including death) and property damage to protect the interest of the State as it appears herein, at no cost to the State, and shall annually provide the State with a certificate of insurance to this effect, at the contractor's expense.

In addition, the contractor shall have employee dishonesty and depositors forgery insurance in an amount to cover all business liabilities. The contractor shall annually provide the State with a certificate of such dishonesty and depositors forgery insurance, at no cost to the State. The required certificates of insurance shall also include a statement that the State is an additional insured. Such policies of insurance shall also provide notification to the State at least ten (10) days prior to any cancellation or modification of coverage.

In case any claim, action, cause of action, suit, proceeding, litigation is brought against the State, its officers, agents, and employees, by reason of any of the same, the contractor shall, at the contractor's expense, resist and defend such claim, action, cause of action, suit, proceeding or litigation, or cause the same to be resisted or defended, by retained counsel reasonably satisfactory to the State.

2.3 **Subcontractor's Insurance-** The contractor shall require that all subcontractors have insurance coverage at the subcontractors' expense, in the following amounts:

- A. Workers' compensation: statutory amount;
- B. Employer's liability: \$1,000,000.00 minimum;
- A. Commercial general liability: \$1,000,000.00 bodily injury for each occurrence and an aggregate of \$2,000,000.00;
- D. Employee dishonesty and depositors forgery: \$20,000.00 (for any subcontractor who handles funds in behalf of the Agency);
- E. Automobile: \$1,000,000.00 combined single limit.

The contractor must obtain the permission of the Agency to waive any of the above-mentioned requirements. Higher amounts, at the discretion of the Agency, may be required if the work to be performed is sufficiently hazardous. The contractor shall obtain and keep on file a certificate of insurance which shows that each subcontractor is so insured.

### **ARTICLE 3 - PAYMENT OF EXPENSES**

**3.1 Processing of Invoices** - The contractor shall receive, review and approve all invoices for expenses incurred in operating the property and shall timely pay such invoices if they are within the approved operating budget or if they have otherwise been approved by the Agency. Copies of all paid invoices shall be forwarded to the Agency together with the contractor's monthly report.

**3.2 Contractor's Employee Costs** - The contractor will be reimbursed by the State for the share of the costs of the gross salary and wages, payroll taxes, insurance, workers' compensation and other benefits of the contractor's employees who are directly involved and required to maintain the property, provided that such employees have been identified and enumerated in the approved operating budget, such costs do not exceed the budgeted amount and such costs are not already reflected in the monthly fixed fee. (See Article 4.)

**3.3 Contractor's Reimbursable Costs** - The following costs paid by the contractor in connection with the management, operation and maintenance of the property shall be reimbursed by the State:

- A. Actual cost of all items set forth in the approved operating budget;
- B. Emergency repair costs approved by the Agency.

**3.4 Non-reimbursable Costs** - The following expenses or costs incurred by the contractor in connection with the management, operation and maintenance of the property shall be at the sole cost and expense of the contractor and shall not be reimbursable by the State:

- A. Cost of gross salary and wages, payroll taxes, insurance, workers' compensation and other benefits of the contractor's office personnel not identified in the approved operating budget;
- B. General accounting and reporting services which are considered to be within the contractor's office not associated with the operation of the property;
- C. Cost of forms, papers, ledgers, and other supplies and equipment used in the contractor's office not associated with the operation of the property;
- D. Cost of electronic data processing equipment, or any pro rata charge thereof, whether located at the property or at the contractor's office off the property;
- E. Cost of electronic data processing, or any pro rata charge thereof, for data processing provided by computer service companies;
- F. Cost of advances made to employees;
- G. Cost attributable to losses arising from negligence or fraud on the part of the contractor and the contractor's employees and agents;
- H. Employment agency fees unless specifically approved by the Agency.

**3.5 Method of Reimbursement** - The contractor shall include in monthly reports, as set forth in Exhibit B, an itemized invoice requesting a total monthly payment. Such invoice shall include all reimbursable costs as well as the monthly fixed fee.

**ARTICLE 4 - COMPENSATION**

The contractor shall receive a management fee as set forth in this article for its services in managing the property. The contractor's monthly fixed fee shall be as follows:

For the period: 7/1/11 – 6/30/12  
Management fee ..... \$ 1,500.00/month  
Partial contractor's employee costs..... 4,074.00/month  
Total monthly fixed fee..... \$ 5,574.00/month

For the period: 7/1/12 – 6/30/13  
Management fee ..... \$ 1,584.00/month  
Partial contractor's employee costs..... 4,196.00/month  
Total monthly fixed fee..... \$ 5,780.00/month

For the period: 7/1/13 – 6/30/14  
Management fee ..... \$ 1,667.00/month  
Partial contractor's employee costs..... 4,322.00/month  
Total monthly fixed fee..... \$ 5,989.00/month

For the period: 7/1/14 – 6/30/15  
Management fee ..... \$ 1,750.00/month  
Partial contractor's employee costs..... 4,451.00/month  
Total monthly fixed fee..... \$ 6,201.00/month

For the period: 7/1/15 – 6/30/16  
Management fee ..... \$ 1,834.00/month  
Partial contractor's employee costs..... 4,585.00/month  
Total monthly fixed fee..... \$ 6,419.00/month

**NOTE: PER SECTION III. 5.A., OF THIS RFP, THE ANNUAL MANAGEMENT FEE TO BE INDICATED ON THE PROPERTY MANAGEMENT COST CALCULATION FORM REFERS ONLY TO COST CATEGORY "A" ABOVE.**

For each contract year, the contractor's fixed fee for the year shall equal or exceed the contractor's employee costs for the year not included in such fixed fee.

**ARTICLE 5 - TERMINATION**

- (a) Notwithstanding any provisions in this Contract, the Agency, through a duly authorized employee, may Terminate the Contract whenever the Agency makes a written determination that such Termination is in the best interests of the State. The Agency shall notify the Contractor in writing of 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, the Agency, 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) The Agency 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 the Agency for purposes of correspondence, or by hand delivery. Upon receiving the notice from the Agency, 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 Agency all Records. The Records are deemed to be the property of the Agency and the Contractor shall deliver them to the 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 the 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 the Agency, the Contractor shall cease operations as the Agency directs in the notice, and take all actions that are necessary or appropriate, or that the Agency may reasonably direct, for the protection, and preservation of the Goods and any other property. Except for any work which the Agency 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 Agency shall, within forty-five (45) days of the effective date of Termination, reimburse the Contractor for its Performance rendered and accepted by the 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 Agency is not obligated to tender to the Contractor any payments for anticipated or lost profits. Upon request by the Agency, the Contractor shall assign to the Agency, or any replacement contractor which the Agency designates, all subcontracts, purchase orders and other commitments, deliver to the 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 the Agency may request.
- (f) For breach or violation of any of the provisions in the section concerning Representations and Warranties, the Agency 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 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 the Agency.

#### **ARTICLE 6 – STATE LIABILITY**

The State of Connecticut shall assume no liability for payment for services under the terms of this Agreement until the contractor is notified that this agreement has been accepted by the contracting agency and, if applicable, approved by the Office of Policy and Management (OPM) or the Department of Administrative Services (DAS) and by the Attorney General of the State of Connecticut.

## **ARTICLE 7 – BREACH**

If either party breaches the Contract in any respect, the non-breaching party shall provide written notice of the breach to the breaching party and afford the breaching party an opportunity to cure within ten (10) days from the date that the breaching party receives the notice. In the case of a Contractor breach, any other time period which the Agency sets forth in the notice shall trump the ten (10) days. The 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 the Agency believes that the Contractor has not performed according to the Contract, the Agency may withhold payment in whole or in part pending resolution of the Performance issue, provided that the Agency notifies the Contractor in writing prior to the date that the payment would have been due.

## **ARTICLE 8 - REPRESENTATIONS AND WARRANTIES**

The Contractor, and the Bidder, as appropriate, represent and warrant to the Agency for itself, Contractor Parties and Bidder Parties, as appropriate, 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 Bid and 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 Agency 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 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 or property, 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 the Bidder, Bidder Parties, 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 the Agency 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 the Agency, 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 Solicitation 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 Bid was not made in connection or concert with any other person, entity or Bidder, including any affiliate (as defined in the Tangible Personal Property section of this Contract) of the Bidder, submitting a Bid 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 Bidder;
- (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 such 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 or Bidder Party has vested in the Contractor and Bidder plenary authority to bind the Contractor Parties and Bidder 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, no later than fifteen (15) days after receiving a request from the Agency, such information as the Agency may require to evidence, in the Agency's sole determination, compliance with this section;
- (u) except to the extent modified or abrogated in the Contract, all Title shall pass to the Agency upon complete installation, testing and acceptance of the Goods or Services and payment by the Agency;
- (v) if either party Terminates the Contract, for any reason, the Contractor shall relinquish or cause to be relinquished to the Agency all Title to the Goods delivered, accepted and paid for (except to the extent any invoiced amount is disputed) by the 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 the Agency'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 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 Agency shall be afforded the full benefits of any manufacturer or subcontractor licenses for the use of the Goods; and
- (cc) they shall assign or otherwise transfer to the Agency, or afford the 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 Agency.

#### **ARTICLE 9 – DEFINITIONS**

1. Bid: A Bid submitted in response to a Solicitation.
2. Bidder: A person or entity submitting a competitive Bid in response to a Solicitation.
3. Bidder Parties: A Bidder'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 Bidder is in privity of oral or written contract and the Bidder intends for such other person or entity to Perform under the Contract in any capacity.
4. 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.

5. Title: all ownership, title, licenses, rights and interest, including, but not limited to, perpetual use, of and to the Goods or Services.
6. 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.
7. Contract: This agreement, as of its effective date, between or among the Parties.
8. 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.
9. 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 Solicitation and set forth in Exhibit A.
10. Goods or Services: Goods, services or both, as specified in the Solicitation and set forth in Exhibit A.
11. Perform: For purposes of this Contract, the verb "to perform" and the Contractor's performance set forth in Exhibit A are referred to as "Perform," "Performance" and other capitalized variations of the term.
12. 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, memoranda and correspondence, kept or stored in any form.
13. Services: The performance of labor or work, as specified in the Solicitation and set forth in Exhibit A.
14. Solicitation: A State request, in whatever form issued, inviting bids, proposals or quotes for Goods or Services, typified by, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes. The Solicitation and this Contract shall be governed by the statutes, regulations and procedures of the State of Connecticut Department of Administrative Services, even if the Agency has statutes, regulations and procedures which overlap DAS's. However, to the extent that the Agency has statutes, regulations or procedures which the Agency determines in its sole discretion to be inconsistent with DAS's, the Agency's shall control over those of DAS's. The Solicitation is incorporated into and made a part of the Contract as if it had been fully set forth in it if, but only if, the Solicitation is in the form of an invitation to bid, request for information or request for quotes. A Solicitation in the form of a request for proposals is not incorporated into the Contract in its entirety, but, rather, it is incorporated into the Contract only to the extent specifically stated in Exhibit A.
15. State: The State of Connecticut, including the Agency and any office, department, board, council, commission, institution or other agency or entity of the State.
16. 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.
17. Title: all ownership, title, licenses, rights and interest, including, but not limited to, perpetual use, of and to the Goods or Services.

18. 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.
19. The definitions set forth herein this Article shall not apply to the Nondiscrimination provisions in Exhibit C.

**EXHIBIT B**

**Property Known As**

**525 Russell Road (Cedarcrest Hospital), Newington, CT**

**MONTHLY REPORTS**

The contractor shall generate and submit the following, using formats approved by the Agency:

1. Management report
2. Operating statement
3. Budget variance analysis
4. Itemized invoice requesting payment
5. Copies of all invoices paid

## EXHIBIT C

### 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.

### DISCLOSURE OF RECORDS

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

### 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.

### TANGIBLE PERSONAL PROPERTY

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

- (1) For the term of the Contract, the Contractor and its Affiliates shall collect and remit to the State of Connecticut, Department of Revenue Services, any Connecticut use tax due under the provisions of Chapter 219 of the Connecticut General Statutes for items of tangible personal property sold by the Contractor or by any of its Affiliates in the same manner as if the Contractor and such Affiliates were engaged in the business of selling tangible personal property for use in Connecticut and had sufficient nexus under the provisions of Chapter 219 to be required to collect Connecticut use tax;
  - (2) A customer's payment of a use tax to the Contractor or its Affiliates relieves the customer of liability for the use tax;
  - (3) The Contractor and its Affiliates shall remit all use taxes they collect from customers on or before the due date specified in the Contract, which may not be later than the last day of the month next succeeding the end of a calendar quarter or other tax collection period during which the tax was collected;
  - (4) The Contractor and its Affiliates are not liable for use tax billed by them but not paid to them by a customer; and
  - (5) Any Contractor or Affiliate who fails to remit use taxes collected on behalf of its customers by the due date specified in the Contract shall be subject to the interest and penalties provided for persons required to collect sales tax under chapter 219 of the general statutes.
- (b) For purposes of this section of the Contract, the word "Affiliate" means any person, as defined in section 12-1 of the general statutes, that controls, is controlled by, or is under common control with another person. A person controls another person if the person owns, directly or indirectly, more than ten per cent of the voting securities of the other person. The word "voting security" means a security that confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business, or that is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. "Voting security" includes a general partnership interest.
- (c) The Contractor represents and warrants that each of its Affiliates has vested in the Contractor plenary authority to so bind the Affiliates in any agreement with the State of Connecticut. The Contractor on its own behalf and on behalf of its Affiliates shall also provide, no later than 30 days after receiving a request by the State's contracting authority, such information as the State may require to ensure, in the State's sole determination, compliance with the provisions of Chapter 219 of the Connecticut General Statutes, including, but not limited to, §12-411b.

### 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. 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.

- (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 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 name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the Contract. The Contractor shall not begin Performance until the delivery of the policy to the Agency. The Agency shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the Agency or the State is contributorily negligent.
- (f) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.
- (g) This section shall survive the Termination of the Contract and shall not be limited by reason of any insurance coverage.

#### **SOVEREIGN IMMUNITY**

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

#### **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.

#### **AUDIT AND INSPECTION OF PLANTS, PLACES OF BUSINESS AND RECORDS**

- (a) The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.

- (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) All audits and inspections shall be at the State's expense.
- (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 Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
- (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.

#### **CAMPAIGN CONTRIBUTION RESTRICTION**

For all State contracts as defined in P.A. 07-1 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 Agreement 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. See Exhibit C-1 attached hereto and made a part hereof.

#### **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. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. If Executive Orders 7C and 14 are applicable, they are deemed to be incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Agency shall provide a copy of these orders to the Contractor.

#### **NONDISCRIMINATION**

- (a) For purposes of this Section, the following terms are defined as follows:
  - i. "Commission" means the Commission on Human Rights and Opportunities;
  - ii. "Contract" and "contract" include any extension or modification of the Contract or contract;

- iii. "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
- iv. "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- v. "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;
- vi. "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced;
- vii. "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;
- viii. "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
- ix. "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, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice

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

- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and

accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

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

EXHIBIT C-1

SEEC FORM 11

**NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION BAN**

This notice is provided under the authority of Connecticut General Statutes 9-612(g)(2), as amended by P.A. 07-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

**Campaign Contribution and Solicitation Ban**

*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, or solicit contributions 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.*

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (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.

**Duty to Inform**

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

**Penalties for Violations**

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

**Civil penalties**--\$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of \$2000 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 \$5000 in fines, or both.

**Contract Consequences**

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

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, 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 will 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 and the entire text of P.A. 07-1 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 "State Contractor Contribution Ban."

#### 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 or a loan to an individual for other than commercial purposes.

"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.