



**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

CHARLES J. VOLPE, JR  
PURCHASING AGENT

(203) 797-4571 PHONE  
(203) 796-1527 FAX  
c.volpe@danbury-ct.gov

December 8, 2016

**ADDENDUM #1**

**To**

**Bid #11-16-17-04 "RFP – Energy Services Provider"**

This addendum shall be part of the Purchasing documents for the above captioned Bid. This addendum is to be acknowledged by the bidder by signing as provided below and returning with the bidder's proposal.

**SEE ATTACHED:** Questions / Answers, 1-page - and the following referenced documents:

Listing of Facilities, 3-pages  
RFP Evaluation Form, 2-pages  
Professional Consulting Agreement, 10-pages

**BID DUE DATE:** Has been changed to: no later than 2:00 PM Wednesday, December 21, 2016

Receipt of the addendum is hereby acknowledged.

Bidder \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Charles J. Volpe, Jr.  
Purchasing Agent  
City of Danbury

## ADDENDUM #1

### Bid #11-16-17-04 “RFP – Energy Services Provider”

#### Questions / Answers

- Q. Is the City looking for a firm to provide guaranteed savings typical of an Energy Savings Performance Contract? Or is the City soliciting for a consultant to set up an energy savings plan which includes the scope of ensuring an ESCO meets all of the objectives listed herein?**
- A. The City of Danbury is seeking an advisor/consultant to prepare an energy playbook – to include an energy savings plan and provision of oversight for any contracted services
- Q. Can the City provide a summary of its buildings to help in understanding the size of the opportunity?**
- A. see attached
- Q. How does the City propose to pay for the implementation of the energy saving projects the consultant identifies? Will it use its own capital, or borrow money?**
- A. Dependent on projects undertaken
- Q. Does the City have an Energy Manager?**
- A. No
- Q. What is the term of the contract?**
- A. The contract will be for three (3) years, with the option to renew for up to two (1) additional one (1) year periods by mutual consent
- Q. What are the relative weights of each criteria under the Evaluation Process?**
- A. see attached RFP Evaluation Form
- Q. Without detailed knowledge of the City’s energy needs and opportunities, lump sum costing cannot be provided. How should cost proposal be handled?**
- A. It is understood that a lump sum cost cannot be provided for this RFP. Complete and return the Proposal Page included in the RFP document – include any additional fees that may be relative to the work – and provide an explanation (brief narrative ) as to the pricing methodology used by your firm
- Q. Many sections under “Instructions to Bidders” are applicable to acquisition of goods, not consulting services. How does the City treat these clauses that are not applicable?**
- A. See attached Professional Consulting Agreement that has been prepared for this RFP. The contract shall be substantially in this format – and only subject to agreement by the Office of the Corporation Counsel (terms contained in this document will supersede any of the same contained in the Instructions to Bidders)

# **CITY FACILITIES MAINTAINED BY PUBLIC BUILDINGS**

Revised:

SEPTEMBER 2016

<b><u>General Listing of Public Buildings</u></b>	<b><u>Address</u></b>	<b><u>Square ft living/gross</u></b>
Airport Administration	Wibling Road	2880/ 3150
Airport Complex	Miry Brook Road	11840/ 11840
City Hall	155 Deer Hill Avenue	64524/ 73497
Civil Preparedness Building	Miry Brook Road	5641
Fish & Game Club	(33) 21 Hayestown Road	1422/ 3412
Homeless Shelter	41 New Streets	3687/ 4305
Innovation Center & Tech Center	158 Main Street	9555/ 14675
Library	(164) 170 Main Street	34524/ 39511
McLean House	(15) 13 Main Street	1802/ 2484
Old Library	254 Main Street	6977/ 10881
(Music Cntr/Welfare/Social Serv)		
Old Quarry Nature Center	5 Maple Avenue	1440/ 1440
WIC/Old Jail	80 Main Street	7334/ 9282
Senior Center/ Elmwood Hall	4-6 Elmwood Place	7836/ 8565
Veterans Hall (140 South St)	23 Memorial Drive	3129/ 5863
<b><u>Fire Department</u></b>		
Fire Department Headquarters	19 New Street	15283/ 15580
Engine Company #23	208 Osborne Street	4092/ 6138
Engine Co. #24	36 Eagle Rd./Commerce Park	3026/ 3026
Engine Co. #25	171 South King Street	7740/ 7874
Engine Co. #26	75 Kenosia Ave	2578/ 5308
Fire Dept. Training School	Plumtrees Road	5550/ 6216
<b><u>Volunteers:</u></b>		
Citizen Hose - Eng Co. #6	65 Jefferson Avenue	1606/ 3094
Independent Hose - Eng Co. #4	35 Hoyt Street	2752/ 3136
Padanaram Hose - Eng Co. #3	17 North Street	2527/ 2592
Phoenix Hose - Eng Co. #8	14 Well Avenue	1000/ 2032
Water witch Hose - Eng Co. #7	37 Locust Avenue	2144/ 3604
Wooster Hose - Eng Co. #5	7 Coal Pit Hill Road	2284/ 3416
<b><u>Park &amp; Recreation:</u></b>		
Bear Mountain	(19) 9A Bear Mountain Road	1123/ 1486
Reservation Ranger Cottage		
Candlewood Park Complex	23 Hayestown Road	900/ 900
Hatters Park Hall & Bowling Alley	7 E. Hayestown Road	16492/ 16989
Hatters Park Picnic	7 E. Hayestown Road	5609/ 4884 + 725
Pavilion & Lav		
Kenosia Park Complex	Kenosia Avenue	1296
Parks & Recreation	Lions Way/23 Memorial Drive	11920/ 11920
Maintenance Buildings		

Union Carbide Park  
 Rogers Park/Playing Fields/ Spray Scape  
 Highland Avenue/Play Ground/ Spray Scape  
 Kaplanis Field

**Farrington Property –**

6 Buildings	125 Mill Plain Rd #133246/A14001	
Main house		2050/ 3579
Chow house		1158/ 1260
Guest house		1747/ 3412
Ice house, 2 car and 5 car garage, grease pit		

**Police Department**

Canine Shelter	Plumtrees Road	1566/ 1566
Police Headquarters	375 Main Street	66245/ 143780

**Public Works**

Equipment Maint (Bldg. #4)	53A Newtown Road	12064/ 12064
Forestry Div (Bldg. #2)	53 Newtown Road	50125/ 50199
Highway Div (Bldg. #1)- tim	53 Newtown Road	“
Public Buildings Div (Bldg. #5)	53 Newtown Road	“
Equipment Maint (Bldg.#6)	53 Newtown Road	22920/ 23340

Metro-North Railroad Station	Patriot Drive	1815/ 1815
Union Station Railway	126-130 White Street	7657/ 7657
Museum		

**Board of Education**

Beaver Brook Admin Building	63 Beaver Brook Road	15286/ 17678
Educational Services Center (Old VFW)	49 Osborne Street	9852/ 17224

**Schools**

A.I.S. Magnet School	21 University Blvd	71755/ 78574
Alternative Center	26 Locust Avenue	15071/ 17679
Broadview Middle School	2 Hospital Avenue	153611/ 162878
Danbury High School	43 Clapboard Ridge Rd	298643/ 310665
DHS Addition		15901/ 16449
DHS Auto Garage	43 Clapboard F Bldg	5880/ 5880
Ellsworth Ave	Ellsworth Ave	55229/ 55435
Great Plain School	10 Stadley Rough Road	49320/ 49863
Hayestown Avenue School	42 Tamarack Avenue	52832/ 61184
Headstart	37 Foster Street	20450/ 20450
King Street Intermediate	151 South King Street	39225/ 39225
King Street Primary	151 South King Street	56929/ 56929

Mill Ridge Primary School	High Ridge Road	42473/ 55893
Morris Street School	28 Morris Street	51203/ 54905
Park Avenue School	82 Park Avenue	68150/ 73307
Pembroke School	34 1/2 Pembroke Road	56453/ 58034
Rogers Park Middle School	21 Memorial Drive	154516/ 158981
Shelter Rock (Shelter Rock Rd)	2 Crows Nest Ln	154516/ 158981
South Street School	(125) 129 South Street	52037/ 61452
Stadley Rough School (73-79 Stadley Rough Rd)	24 Karen Road	60766/ 75514
Westside Academy	1 School Ridge Road	69868/ 72154

G/publdgs/citybldgsmaintainedbypbsqftseptember2016

## REQUEST FOR PROPOSALS – EVALUATION FORM

RFP # and Title:	
Evaluator's Name and Title:	

Vendor Name:	
--------------	--

Instructions to Evaluator: Complete a separate evaluation form for each proposal reviewed. Each criterion must be assigned a score unless you are instructed otherwise on the form. Make additional notes in the comments section for reference and discussion during meetings of the full evaluation panel.

### Section 1: Price (35%)

Evaluation Criterion	Points Awarded											Weight Factor	Score (Points x Weight)
	0	1	2	3	4	5	6	7	8	9	10		
Proposed Fee Schedule/Pricing Method												35	
<b>Total Score Section 1:</b>													
Comments:													

### Section 2: References (20%)

Evaluation Criterion	Points Awarded											Weight Factor	Score (Points x Weight)
	0	1	2	3	4	5	6	7	8	9	10		
References provided meet the criteria requested in the RFP												5	
Responses of the references												15	
<b>Total Score Section 2:</b>													
Comments:													

### Section 3: Technical Merit (30%)

Evaluation Criterion	Points Awarded											Weight Factor	Score (Points x Weight)
	0	1	2	3	4	5	6	7	8	9	10		
Experience												15	
Qualifications												15	

<b>Total Score Section 3:</b>	
Comments:	

**Section 4: Responsiveness to the RFP Criteria (15%)**

Evaluation Criterion	Points Awarded											Weight Factor	Score (Points x Weight)
	0	1	2	3	4	5	6	7	8	9	10		
Proposal Outline/Format followed												5	
Requested elements of proposal were addressed												10	
<b>Total Score Section 4:</b>													
Comments:													

<b>Total Score:</b>	
---------------------	--

\_\_\_\_\_  
Evaluator's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Evaluator's Department / Division

**PROFESSIONAL CONSULTING AGREEMENT**  
**Energy Services Provider Agreement**



**City of Danbury, Connecticut**

\_\_\_\_\_, 2016

**AGREEMENT FOR PROFESSIONAL ENERGY EFFICIENCY SERVICES  
CONSULTANT PROVIDED BY**

This Professional Consulting Agreement (“Agreement”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the City of Danbury, a municipal corporation created and existing under the laws of the State of Connecticut, with its office at 155 Deer Hill Avenue, Danbury, CT (“City”) and \_\_\_\_\_ (“\_\_\_\_\_”) a duly formed \_\_\_\_\_ corporation organized and existing under the laws of the State of \_\_\_\_\_ with an address of \_\_\_\_\_.

WHEREAS, City desires to engage a professional consulting firm to provide consulting services to develop a performance based energy savings operation plan for various City and Board of Education facilities; and

WHEREAS, “\_\_\_\_\_” is a professional consulting firm which provides such energy efficiency consulting services, inclusive of the development of a performance based energy savings operations plan and other related services which will reduce costs and upgrade City owned facilities; and

WHEREAS; City sent out a “Request for Proposals” for provision of “Energy Services Provider,” Bid #11-16-17-04 dated November 15, 2016, requesting proposals from qualified vendors. This Request for Proposals, together with all attachments and amendments, is referred to herein as the “RFP” and;

WHEREAS, in response to the RFP, “\_\_\_\_\_” submitted to City a proposal dated \_\_\_\_\_ 2016, and;

WHEREAS, the response contains a scope of services be provided by “\_\_\_\_\_”, which scope of services is referred to hereafter as “SOW” and;

WHEREAS, City and “\_\_\_\_\_” now desire to enter into an agreement for “\_\_\_\_\_” to provide the energy savings and energy efficiency consulting services as set forth in the RFP. A copy of the minutes of the Board of Awards of the City regarding the award is attached hereto and incorporated herein as Exhibit D; and;

WHEREAS, “\_\_\_\_\_” shall perform the services set forth in the RFP and the responses to the request; and

WHEREAS, “\_\_\_\_\_” agrees to perform the proposed work in the manner and under the requirements specified in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the covenants and conditions contained in this Agreement, the parties hereto agree as follows:

Exhibits: The following Exhibits are attached to this Agreement and incorporated into and made a part of this Agreement by reference:

- Exhibit A: RFP
- Exhibit B: Response to RFP and updated response
- Exhibit C: SOW
- Exhibit D: Minutes of City Board of Awards
- Exhibit E: Change Order format
- Exhibit F: Fee Schedule

Each reference herein to the Agreement shall be deemed to include all Exhibits. Any conflict between language in an Exhibit to this Agreement and the Agreement shall be resolved in favor of the Agreement and the terms of the Agreement shall prevail.

#### 1. \_\_\_\_\_ Obligations of Consultant and Statement of Work.

“\_\_\_\_\_” shall perform the work and furnish the services necessary or proper for performing and completing the work required by this Agreement within the allowed time specified. “\_\_\_\_\_” shall be available to City and shall provide City with professional services as requested. The work and services described in Exhibits A, B and C are to be performed is solely at the discretion of the General Supervisor(s), or his designee, and the professional consulting services shall include, but are not limited to those specifically enumerated in Exhibits A, B and C. “\_\_\_\_\_” shall use its best efforts to perform all work in a prudent manner. “\_\_\_\_\_” shall complete the entire work to the satisfaction of the \_\_\_\_\_, or his/her designee, in his/her sole discretion and the directions of the \_\_\_\_\_, or his/her designee, (“General Supervisor”) as provided during the progress of the work at the prices agreed upon and fixed therefore. The work and services described in Exhibits A, B and C is to be performed is solely at the discretion of the \_\_\_\_\_, or his/her designee. “\_\_\_\_\_” will observe that degree of care and skill as is generally exercised by members of such professions in the same locale acting under similar circumstances and conditions.

“\_\_\_\_\_” shall provide, or cause to be provided, all such services set forth in the RFP, Response to the RFP and SOW attached hereto as Exhibits A, B, and C and the services set forth in agreement addendums as may be submitted and provided from time to time by “\_\_\_\_\_” (the “Services”). The Services provided shall include all services set forth in the SOW. SOW’s may be added to this Agreement upon written agreement of the parties hereto, and shall be in a form that specifies the scope, duration, and fees for the services. Changes to any SOW shall be undertaken pursuant to a properly

executed change order, which format is attached as Exhibit E, and agreed to in writing by both “\_\_\_\_\_” and City. Any future SOW’s shall be referred to sequentially as Exhibit C-1, C-2 going forward.

## 2. Compensation.

The total compensation for services related to the work will be in accordance with the rates set forth in Exhibit C and the fee schedule attached hereto as Exhibit F, and will in no event exceed such amount set forth in said Exhibits. “\_\_\_\_\_” shall submit its invoices to City and City shall make periodic payments to “\_\_\_\_\_” within forty-five (45) days from when City or its authorized representative approves a final, submitted invoice. All invoices are to include employee names, pay rates and hours worked during the pay period. Direct costs billed to City shall be accompanied by receipts and back up data. City will not pay direct costs related to air travel, hotel stays or meals, unless previously approved by the City in extraordinary circumstances.

## 3. Independent Contractor.

Nothing herein shall be construed to create an employer-employee relationship between the City and “\_\_\_\_\_”. “\_\_\_\_\_” is an independent contractor and not an employee of the City. “\_\_\_\_\_” will report to the \_\_\_\_\_ or his/her designee. All final decisions on implementation recommended by “\_\_\_\_\_” remains with the City and any disagreements pertaining to work will be resolved in favor of the City. The consideration set forth in Section 2 shall be the sole consideration due “\_\_\_\_\_” for the services rendered hereunder. It is understood that the City will not withhold any amounts for payment of taxes from the compensation of “\_\_\_\_\_” hereunder. “\_\_\_\_\_” will not represent to be or hold himself out as an employee of the City.

## 4. Confidentiality.

In the course of performing Consulting Services, the parties recognize the “\_\_\_\_\_” may come in contact with or become familiar with information which the City may consider confidential and proprietary. This information may include, but is not limited to, information pertaining to the City systems, which information may be of value to a competitor. “\_\_\_\_\_” agrees to keep all such information confidential and not to discuss or divulge it to anyone other than appropriate City personnel or their designees. The obligations of this Section 4. will survive the termination of this agreement.

## 5. Insurance.

“\_\_\_\_\_” shall not commence work under this Agreement until it has obtained all insurance required under this article and such insurance has been approved by City, nor shall “\_\_\_\_\_” allow any subcontractors to commence work on its subcontract until all similar insurance required of the subcontractors has been so obtained and approved. At the commencement of this Agreement “\_\_\_\_\_” shall provide to City proof from its insurance carrier that it is able to meet City’s insurance requirements as specified below. Certificates of insurance shall be filed with City ten (10) days prior to the services described in the exhibits attached hereto as required by Section 1. of this agreement and incorporated herein, are commenced and shall be subject to the approval of City for adequacy of protection before the execution of this Agreement. All policies relating to this shall be so written that City shall be notified of cancellation or change at least thirty (30) days prior to the effective date of such cancellation or change.

Certificates from the insurance carrier shall be filed in triplicate with City and shall state the limits of liability and the expiration date for each policy and type of coverage. City of Danbury shall be named as an additional insured. Renewal certificates covering the renewal of all policies expiring during the life of this Agreement shall be filed with City not less than ten (10) days before the expiration of such policies.

A. Comprehensive General Liability Insurance

“\_\_\_\_” shall take out and maintain during the entire time that the services described in the exhibits attached hereby as required by Section 1. of this agreement and incorporated herein, are provided, such Comprehensive General Liability Insurance as will protect “\_\_\_\_”, City, and any subcontractors performing work covered by this Agreement, from any claims for damages for personal injury, including accidental or wrongful death, as well as claims for property damages, claims for cyber damages, which may arise from operations under this Agreement whether such operations be by itself or by any subcontractors or by anyone directly or indirectly employed by either of them and the amounts of insurance shall be in the following minimum limits:

Bodily Injury Liability and Property Damage Liability \$ 1,000,000 (combined) each occurrence

“\_\_\_\_” agrees that in the event that one or more claims are paid under the policies containing an aggregate coverage limit it shall immediately notify City thereof and at the same time shall seek either to reinstate the limits of said policy or policies, or alternatively to seek to obtain a new policy providing for full coverage in accordance with the limits established within. Said replacement coverage shall be obtained within twenty-four (24) hours and City shall be notified thereof.

B. Comprehensive Auto Liability Insurance

“\_\_\_\_” shall take out and maintain during the entire time that the services described in the exhibits attached hereto as required by Section 1. of this agreement and incorporated herein, are provided, such Comprehensive Auto Liability Insurance which shall cover the operation of all motor vehicles owned by “\_\_\_\_” or used by “\_\_\_\_” in the prosecution of the work under this Agreement and the amounts of such insurance shall be in the following minimum limits:

Bodily Injury Liability and Property Damage Liability \$ 1,000,000 (combined) each occurrence

C. Excess Liability Insurance

The Excess Liability Policy coverage is **in addition** to the limits expressed in A. and B. above

Bodily Injury, Property Damage and Auto \$ 5,000,000 (combined) each occurrence

D. Workers’ Compensation Insurance and Employer’s Liability

“\_\_\_\_” shall take out and maintain during the entire time that the services described in the exhibits attached hereby as required by Section 1. of this agreement and incorporated herein, are provided, such Workers’ Compensation Insurance for all of its employees, employed at the site and in case any work is sublet, “\_\_\_\_” shall require the subcontractors similarly to provide Workers’ Compensation Insurance for all employees of the latter unless such employees are covered by the protection afforded by “\_\_\_\_”.

Workers’ Compensation and Employer’s Liability - Statutory Limits

E. Professional Liability

“\_\_\_\_” shall take out and maintain during the entire time that the services described in the exhibits attached hereby as required by Section 1. of this agreement and incorporated herein, are provided, such

Professional Liability Insurance, which shall include cyber liability insurance and the amounts of such insurance, shall be in the following minimum limits:

\$2,000,000 Aggregate

6. Indemnity and Limitation of Liability.

“\_\_\_\_\_” assumes responsibility and liability for any and all bodily injury to, or death of any and all persons, including “\_\_\_\_\_” agents, servants and employees and, for any and all damages to property caused by or resulting from or arising out of any negligence, gross negligence or willful misconduct of “\_\_\_\_\_” in connection with this Agreement or the prosecution of work hereunder. “\_\_\_\_\_” shall indemnify and hold harmless the City from and against any and all loss, expense or liability it may suffer or pay as a result of third party claims or suits due to, because of, or arising out of any and all such injuries, death and/or damage. “\_\_\_\_\_”, if requested shall assume and defend at “\_\_\_\_\_” own expense, any suit, action and other legal proceedings arising therefrom, and “\_\_\_\_\_” hereby agrees to satisfy, pay and cause to be discharged of record any judgment which may be rendered against the owner, the City, arising therefrom.

7. Damage, Suits and Claims.

“\_\_\_\_\_” covenants and agrees to and shall at all times indemnify, protect and save harmless and defend the City from and against all costs or expenses resulting from any and all losses, damages, detriment, suits, claims, demands, costs and charges, including attorneys’ fees, if any, which the City may directly or indirectly suffer, sustain or be subjected to by reason or on account of the work to be performed pursuant to this Agreement or any activities in connection with said Agreement, or on account of any claim for patent, trademark or copyright infringement, whether such losses and damages be suffered or sustained by the City directly or by its employees, licensees or invitees or be suffered or sustained by other persons or corporations who may seek to hold the City liable therefor. The City may withhold such portions of any payments that may be due hereunder as may be considered necessary to cover any suits and claims until they have been settled and satisfactory evidence to that effect has been furnished to the City. This section shall also apply to “extra work” and all other operations by “\_\_\_\_\_” in connection with this Agreement.

8. Warranties.

“\_\_\_\_\_” warrants that the services and equipment provided under this Agreement will be performed and delivered according to the specifications set forth in the RFP and will meet or exceed the service level standards in the RFP, the Response to the RFP and the SOW, will meet manufacturers’ specifications, will conform to the specifications and functions set for in the RFP and the SOW and will be performed in a good and professional manner. In the event of a failure of this warranty, City shall have the termination rights, the right to receive credits, refunds, and discounts, and the other rights set forth in the SOW and in Section 10. Term and Termination of this Agreement.

Additional Warranties.

“\_\_\_\_\_” further represents and warrants that:

- (a) It is a LLC duly incorporated, validly existing and in good standing under the laws of the State of Connecticut, and is authorized to do business in the State of Connecticut;

- (b) It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;
- (c) The execution, delivery, and performance of this Agreement have been duly authorized by "\_\_\_\_\_";
- (d) No approval, authorization or consent of any governmental or regulatory authority is required to be obtained by "\_\_\_\_\_" in order for it to enter into and perform its obligations under this Agreement;
- (e) In connection with its obligations under this Agreement, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses; and

"\_\_\_\_\_" shall not violate any agreement with any third party by entering into or performing this Agreement.

9. The Immigration Reform and Control Act of 1986, Employee Discrimination and Affirmative Action, and Employment Practices.

"\_\_\_\_\_" shall comply with the provisions of the Immigration Reform and Control Act of 1986 as subsequently amended, which Act makes unlawful the hiring for employment or subcontracting of individuals failing to provide documentation of legal eligibility to work in the United States.

"\_\_\_\_\_" agrees and warrants that in the performance of this Agreement it will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religion, national origin, sex, or physical disability, including, but not limited to, blindness, and further agrees to provide the Connecticut Commission on Human Rights and Opportunities with such information requested by the Commission concerning the employment practices and procedures of "\_\_\_\_\_" as related to the provisions of this section.

"\_\_\_\_\_" further agrees and warrants that in the performance of this Agreement it will comply with the following and any subsequent executive orders concerning employee discrimination and affirmative action:

- Executive Order No. 3 of Governor Thomas J. Meskill promulgated June 16, 1971.
- Executive Order No. 17 of Governor Thomas J. Meskill promulgated February 15, 1973.
- Executive Order No. 16 of Governor John J. Rowland promulgated August 4, 1999.
- Executive Order No. 7C of Governor M. Jodi Rell promulgated July 13, 2006.

In addition, "\_\_\_\_\_" further certifies that it is an affirmative action employer meeting both in policy and practices the principles of the Affirmative Action Program.

"\_\_\_\_\_" shall at all times comply with all applicable laws, ordinances, statutes, rules, including those relating to wages, hours, fair employment practices, anti-discrimination and safety and working conditions. "\_\_\_\_\_" shall at all times itself observe and comply with, all such laws, ordinances, statutes, and rules; and shall protect and indemnify City, its officials and agents against any claim or liability arising from or based upon violation of any such law, ordinance, regulation, order or decree, whether by "\_\_\_\_\_" or its employees.

10. Term and Termination.

The term of this Agreement (the "Term") shall commence on the date of last signature (the "Effective Date") and shall continue for \_\_\_\_\_ year, unless extended or truncated as provided hereinafter. This Agreement may be extended by mutual consent to up to two (2) additional successive one (1) year periods. Notwithstanding, "\_\_\_\_\_" or the City may terminate this Agreement or cancel any SOW hereunder for convenience upon sixty (60) days prior written notice to the other party. Unless otherwise

agreed in writing by the parties, if the Agreement or any SOW hereto is terminated for convenience, City agrees to pay “\_\_\_\_\_”, all sums due for work completed by “\_\_\_\_\_” up through the effective date of such termination and any termination fees specified in any active SOWs, but shall owe no further fees for such termination unless specifically stipulated in any SOW.

10.A. Termination for Default by Either Party.

By giving written notice to the other party, either party may terminate this Agreement upon the occurrence of one or more of the following events:

- (a) The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Agreement, provided that, unless otherwise stated in this Agreement, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party; or
- (b) The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, becomes acquired by or is merged into another entity, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Agreement shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of its assets or properties, or if there is a change in control as defined below.

Any notice of default pursuant to this Section shall identify this Section of this Agreement and shall state the party’s intent to terminate this Agreement if the default is not cured within the specified period (as applicable).

10.B. Additional Grounds for Default Termination by the City.

By giving written notice to “\_\_\_\_\_”, the City may also terminate this Agreement upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

“\_\_\_\_\_” makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Agreement, “\_\_\_\_\_”s response to the RFP, or any covenant, agreement, obligation, term or condition contained in this Agreement; or

“\_\_\_\_\_” takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Agreement, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Agreement, or failure to provide the proof of insurance as required by this Agreement, or breach of its obligations regarding confidential or proprietary information; or

10.C. Obligations Upon Expiration or Termination.

Upon expiration or termination of this Agreement, “\_\_\_\_\_” shall promptly (a) return to the City all files, documentation, data, media, related material and any other material and equipment that is owned by the City; and (b) deliver to the City all deliverables, programs and other items.

10.D. Authority to Terminate.

The Mayor is authorized to terminate this Agreement on behalf of the City.

11. General Provisions.

11.1 Force Majeure. Neither party will be liable to the other party by reason of any failure in performance of this Agreement if the failure arises out of acts of God, acts of the other party, acts of governmental authority, fires, strikes, delays in transportation, riots or war, or any cause beyond the reasonable control of that party. If any such event delays performance, the time allowed for such performance will be appropriately extended.

11.2 Governing Law. This Agreement shall in all respects be interpreted, enforced and governed under the laws of the State of Connecticut. "\_\_\_\_\_" consents to personal jurisdiction over it by federal and state courts in Connecticut.

11.3 Assignment. Neither party may assign or transfer the Agreement without the other party's prior written consent. If either party assigns its rights or obligations in accordance with this Agreement, such party shall provide to the other party a copy of the assignment document within five (5) days after such assignment.

11.4 Survival upon Termination or End of Term. Expiration or termination of this Agreement will not relieve the parties of any obligation accruing prior to such expiration or termination. Those sections of the Agreement and Exhibits which by their nature would reasonably be expected to survive after the termination of this Agreement shall survive the termination of this Agreement, including but not limited to those sections which expressly state that they survive termination.

11.5 Severability. If a court holds any provision of this Agreement to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect and the parties will amend the Agreement to give effect to the stricken clause to the maximum extent possible.

11.6 Waiver of Breach. No waiver of any breach of this agreement shall be a waiver of any other breach, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.

11.7 Signatures. By signing below, each of the parties to this Agreement represents that the information provided in this document and any attached forms is accurate, and agrees to be bound by the terms and conditions set forth in this agreement.

12. Notices.

All communication required or allowed by this Agreement shall be sent to:

For the City:

For "\_\_\_\_\_" :

\_\_\_\_\_  
City of Danbury  
155 Deer Hill Avenue  
Danbury, CT 06810  
Phone  
Mobil:  
Fax:  
E-Mail:

With Copy To:  
Office of Corporation Counsel

13. Change in Control.

In the event of a change in "Control" of "\_\_\_\_\_" (as defined below), the City shall have the option of terminating this Agreement by written notice to "\_\_\_\_\_". "\_\_\_\_\_" shall notify the City within ten days of the occurrence of a change in control. As used in this Agreement, the term "Control" shall mean the

possession, direct or indirect, of either (i) the ownership of or ability to direct the voting of, as the case may be, fifty-one percent (51%) or more of the equity interests, value or voting power in “\_\_\_\_\_”, or (ii) the power to direct or cause the direction of the management and policies of “\_\_\_\_\_” whether through the ownership of voting securities, by contract, or otherwise.

14. Taxes.

Except as specifically stated elsewhere in this Agreement, “\_\_\_\_\_” shall pay all applicable federal, state and local taxes which may be chargeable against the performance of the Services.

15. Titles of Sections.

The section headings inserted herein are for convenience only, and are not intended to be used as aids to interpretation and are not binding on the parties.

16. Construction of Terms.

Each of the parties has agreed to the use of the particular language of the provisions of this Agreement and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the drafters, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights to be conferred upon the parties.

17. Costs to Prevailing Party.

In the event of a dispute arising out of or relating to this Agreement, the party found by a court of competent jurisdiction to be liable for default shall reimburse the prevailing party for the prevailing party's costs in litigating the dispute, including reasonable attorney's fees.

18. NON-APPROPRIATIONS OF FUNDS CLAUSE.

In the event that no funds or insufficient funds are appropriated and budgeted for payment of City's obligations under all or part of this Agreement, and funds are otherwise available by any means whatsoever for any fiscal period in which payments are due under this Agreement, then City shall, not less than sixty (60) days prior to the end of the fiscal period for which funds have been appropriated, notify “\_\_\_\_\_” in writing of such occurrence. This Agreement shall thereafter terminate and be rendered null and void on the last day of the fiscal period for which appropriations were made, without penalty, liability or expense to City of any kind, except as to (i) the portion of the payments herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available and (ii) City's other obligations and liabilities under this Agreement relating to, or accruing or arising prior to such termination.

~~~ *Signatures on next page* ~~~

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seal the day and year first above written.

**WITNESS:**

**CITY OF DANBURY**

\_\_\_\_\_

By: \_\_\_\_\_  
Mark D. Boughton, Mayor

\_\_\_\_\_

**WITNESS:**

**CONSULTANT:**

\_\_\_\_\_

By: \_\_\_\_\_  
, Its President  
duly authorized

\_\_\_\_\_