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WATERBURY
Development Corporation

Memorandum

To: Board of Aldermen

From: Andrew Martelli

Date: February 12, 2016

Re: Board of Aldermen Approval Request / Executive Summary - *Construction* Contract for Chase Brass Brownfield Redevelopment Site – Area 6 Renovation Project between the City of Waterbury and JCS Construction, Inc.

WATERBURY CITY CLERK
2016 FEB 12 PM 12 43

The Waterbury Development Corporation respectfully requests your approval of the above-referenced contract for a total amount not to exceed Three Million Six Hundred Seventy Two Thousand Eight Hundred and Four DOLLARS ($3,672,804) for Chase Brass Brownfield Redevelopment Site – Area 6 Renovation Project between the City of Waterbury and JCS Construction, Inc.

This contract was initiated under the Invitation to Bid process (ITB #5334). There were several bidders for this project with JCS Construction, Inc.'s name being the lowest responsible bidder (see attached Bid Summary).

The Project consists of specific plans and specifications bid via City of Waterbury Invitation to Bid 5334 for the demolition, selective demolition and renovation of a portion of an existing building located at 2121 Thomaston Avenue. The work is located on the west side of the Building. Approximately 12,300 square feet of the building will be selectively demolished and renovated. An attached structure of approximately 1,000 square feet will be completely demolished. The work includes all activities necessary to complete pre-demolition asbestos abatement, and removal of utilities, equipment, fixtures, contaminated, unsuitable, and excess soil and hazardous building materials.

The renovation work includes construction of new exterior walls and roof, and a concrete floor slab. It includes repair of existing structural elements, interior walls, and a portion of the existing roof. Work also includes construction of associated utilities and equipment. The renovated area will be leased to the sites anchor tenant Luvata for a wire coating operation.

The work will be supervised by the project's engineering consultant: Woodard & Curran.

There are additional warranties to the one year Contractor Warranty for materials, workmanship and installation. Additional information regarding these warranties will be provided.

83 Bank Street, 3rd Fl. • Waterbury, CT 06702 • Tel: 203-346-2607 • Fax: 203-346-3910 • Web: www.wdconline.org

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The Contract Term is 160 calendar days and the project is being funded entirely by City of Waterbury Bond Funds.

Accordingly, attached for your review and consideration are 17 copies of the proposed contract, plus the Bid Summary, the Successful Bidder's Final Bid Form and Disclosure and Certification of Obligations Affidavit Regarding Outstanding Obligations Form plus a copy of the Tax Clearance issued by the Office of Tax Collections.

Please note further that one complete set of Construction Documents, including Contract, Plans and Specifications, has been placed on file with the City Clerk's Office.

Thank you.

Andrew Martelli

Andrew Martelli

cc: Attorney Jean Perry Phillips, via email, w/o attachment.

CONSTRUCTION CONTRACT
ITB: 5334

For

Chase Brass Brownfield Redevelopment Site
Area 6 Renovation Project

By and Between

The Waterbury Development Corporation acting on behalf of the City of Waterbury

And

JCS Construction Group, Inc.

THIS CONTRACT, (the "Contract") effective on the date signed by the Mayor is by and between The Waterbury Development Corporation located at 83 Bank Street, Waterbury, Connecticut 06702 ("WDC") acting on behalf of the City of Waterbury located at 235 Grand Street, Waterbury, Connecticut 06702 (the "City") and JCS Construction, Inc., located at 9 West Broad Street, Stamford, Connecticut 06902, a State of Connecticut duly registered domestic corporation (the "Contractor").

WHEREAS, the City has designated the Waterbury Development Corporation as its Program Administrator and Project Manager for the Waterbury Industrial Commons Remediation & Redevelopment Project;

WHEREAS, the Contractor submitted a bid to the City in response to Invitation to Bid ("ITB") No. 5334 for the Chase Brass Brownfield Redevelopment Site – Area 6 Renovation Project;

WHEREAS, the City accepted the Contractor's bid for ITB No. 5334 for the Chase Brass Brownfield Redevelopment Site – Area 6 Renovation Project, which is part of the Waterbury Industrial Commons Remediation & Redevelopment Project; and

WHEREAS, the Waterbury Development Corporation acting on behalf of the City desires to obtain the Contractor's services for the Chase Brass Brownfield Redevelopment Site – Area 6 Renovation Project pursuant to the terms set forth in this Contract (the "Project").

NOW THEREFORE, THE PARTIES AGREE AND COVENANT AS FOLLOWS:

1. Scope of Services. The Contractor shall furnish all of the labor, services, equipment, materials, supplies, transportation, and incidentals necessary to complete the Project as specified in this agreement (also referred to herein as the "Agreement" or the "Contract") and such shall be completed in a

satisfactory manner, as reasonably determined by the City and WDC. All labor, services, equipment, materials, supplies, transportation, and incidentals shall comply with **(i)** any and all applicable local, state and federal laws, statutes, ordinances, rules and regulations, including without limitation all notice requirements thereunder, and **(ii)** generally accepted professional standards.

1.1. The Project consists of demolition, selective demolition and renovation of a portion of an existing building located at 2121 Thomaston Avenue, Waterbury, Connecticut. The work is located on the west side of the Building. Approximately 12,300 square feet of the building will be selectively demolished and renovated. An attached structure of approximately 1,000 square feet will be completely demolished. The work includes all activities necessary to complete pre-demolition asbestos abatement, and removal of utilities, equipment, fixtures, contaminated, unsuitable, and excess soil, potentially hazardous and hazardous materials, special waste, construction and demolition debris, and other debris, equipment, fixtures, furnishings, and materials from the space to be renovated. The renovation work includes construction of new exterior walls and roof, and a concrete floor slab. It includes repair of existing structural elements, interior walls, and a portion of the existing roof. Work also includes construction of associated utilities and equipment. The Project also includes disposal of contaminated soil that will be, or has been stockpiled at the Project site by others, either north or south of the Project work area, and soil excavated from inside the Project work area during the course of demolition and renovation activities. The Contractor shall identify the disposal facility, prepare the disposal documentation, including but not limited to manifests, properly characterize, handle, load, transport, dispose, and manage and submit post-disposal documentation for all materials. Contractor is responsible for all required characterization of the contaminated soils in accordance with the specifications contained in ITB No. 5334. The cost for any required laboratory analytical characterization is WDC' s responsibility and will be paid to the Contractor from the City controlled contingency allowance in accordance with Section 6.3.2 of this Contract.

The Project work as just described is detailed and described in the Bid Documents in Attachment A which are hereby made material provisions to and are part of this Contract. Attachment A shall consist of the following attached hereto and acknowledged by the Contractor as having been received or otherwise made available to and which are hereby incorporated by reference and made a part hereof:

1. ITB No. 5334

2. Bid Addenda, dated September 21, 2015 and September 30, 2015

3. Contractor's original Bid submitted in response to ITB No. 5334 dated October 8, 2015 and associated Bid Forms including Statement of Qualifications.

4. Revised Contractor's Bid dated December 4, 2015 submitted in response to ITB No. 5334.

5. Annual Statement of Financial Interests; Disclosure and Affidavit Re: Outstanding Obligations to the City; Debarment Certification; Corporate Resolution

6. Certificates of Insurance

7. Performance Bond and Payment Bond

8. Technical Specifications:

- DIVISION 1 - GENERAL REQUIREMENTS,
- DIVISION 2 – SITE CONSTRUCTION,
- DIVISION 3 – CONCRETE,
- DIVISION 4 – MASONRY,
- DIVISION 5 – METALS,
- DIVISION 6 – WOOD AND PLASTICS,
- DIVISION 7 - THERMAL AND MOISTURE PROTECTION,
- DIVISION 8 – DOORS AND WINDOWS,
- DIVISION 9 – FINISHES,
- DIVISION 10 – SPECIALTIES,
- DIVISION 13 – SPECIAL CONSTRUCTION,
- DIVISION 15 – MECHANICAL,
- DIVISION 16 – ELECTRICAL.

9. List of Contract Drawings September 30, 2015 (2 pages)

10. Federal Wage rates (9 pages)

11. Electronic Code of Federal Regulations, Title 29 Labor, Part 5, Subpart A—Davis-Bacon and Related Acts Provisions and Procedures (7 pages)

12. Contractor's Wage Rate Certification Form (2 pages)

13. State Wage Rates and Related Information (52 pages)

14. Sample Payment Application (4 pages)

15. Any and all amendment(s) and Change Orders issued by the City after execution of Contract.

16. All applicable Federal, State and local statutes, regulations, charter and ordinances.

17. All permits (including, but not limited to, City of Waterbury Building permit(s)) and licenses.

1.2. The entirety of **Attachment A** plus this executed instrument are together deemed the Contract Documents (hereinafter collectively referred to as "Contract Documents"). WDC's record copy of the Contract Documents shall control and shall be effective and binding on the Contractor. In the event that any provision in the Contract Documents conflict with any other provision therein,

the provision in the component part of the Contract Document first enumerated below shall govern over any other component part which follows it numerically.

- **i.** Contract Amendment(s) and Change Orders
- **ii.** Contract
- **iii.** Bid Addenda to ITB 5334, dated September 21, 2015 and September 30, 2015
- **iv.** ITB Number 5334
- **iv.** Federal, State, and local laws, regulations, charter and ordinances
- **v.** Technical Specifications
- **vi.** Drawings

2. Representations Regarding Qualification and Accreditation. The Contractor represents that its employees are licensed to perform the scope of work set forth in this Contract. The Contractor further represents that its employees have the requisite skill, expertise and knowledge necessary to perform the scope of work required under the terms of this Contract, including any supplementary work. The Contractor acknowledges that WDC and the City are entitled to rely upon Contractor's representations regarding qualification and accreditation.

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

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

3. Responsibilities of the Contractor. The Contractor agrees to properly implement the services required in the manner herein provided. The Contractor shall, in addition to any other responsibilities set forth in this Contract and the Schedules and Attachments hereto, perform the following coincident with the performance of this Contract:

3.1. Due Diligence Obligation. The Contractor acknowledges its responsibilities to examine and to be thoroughly familiar with the WDC and the City's bid documents, including, but not limited to the plans, specifications, drawings and any addenda thereto. The Contractor hereby warrants and represents that prior to the submission of its proposal during the bid process it reviewed or was afforded opportunity, by WDC and the City, to review all physical items,

facilities, services and functions essential to the satisfactory performance of the services required ("Due Diligence") and thereby certifies that all such items facilities, services and functions are included in this Contract and thereby warrants that:

3.1.1 it conducted or had opportunity to conduct all due diligence prior to the submission of its bid and, accordingly, any additional costs, services or products resulting from the failure of the Contractor to complete Due Diligence prior to submission of its bid proposal shall be borne by the Contractor. Furthermore, the Contractor had the opportunity during the bid process to ask questions it saw fit and to review the responses from WDC and the City;

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

3.1.3 it is solely responsible for resolving any issues resulting from its failure to conduct due diligence and it shall assume any and all resulting costs it incurs during the Project;

3.1.4 it was responsible for specifying any changes and disclosing any associated new costs prior to submittal of its bid. In the event the Contractor failed to disclose any such new cost prior to the sub of its bid, the Contractor hereby covenants that it shall remain solely responsible for, and shall absorb, those non-disclosed costs;

3.1.5 it has familiarized itself with the nature and extent of the Contract Documents, Project, locality, and with all local conditions and Federal, State and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Project;

3.1.6 it has given WDC and the City written notice of any conflict, error or discrepancy that the Contractor discovered in the City's bid documents and other documents for **ITB Number 5334** (collectively "Bid Documents");

3.1.7. it agrees that the Bid Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Project;

3.1.8. it has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Scope of Services which were utilized in the preparation of the plans and specifications;

3.1.9 it has made or caused to be made examinations, investigations, measurements and tests and studies of any applicable reports and related data as it deems necessary for ensuring performance of the Scope of Services at the Contract Price within the Contract Time and in accordance with the other terms and conditions of the Contracts; and certifies

no additional examinations, investigations, tests, reports or similar data are or will be required by Contractor for such purposes; and

3.1.10 The Contractor shall not take advantage of any obvious error or apparent discrepancy in the Contract. Notice of any error or discrepancy discovered shall be given immediately in writing to WDC, who shall make such corrections and interpretations as it may deem necessary for the completion of the Project in a satisfactory and acceptable manner.

3.2. Safety. Contractor shall perform all work in a safe manner in full compliance with local, state and federal health and safety regulations. Contractor shall immediately correct any dangerous condition caused by or resulting from its work. If it fails to correct, or to act diligently to correct, any condition which WDC or the City reasonably believes to be a hazard to persons or property, then immediately upon oral or written notice to any supervisory or similar personnel of Contractor, WDC or the City may, but shall not be required to, correct same at Contractor's expense. WDC or the City shall confirm in writing any oral notice given within five (5) business days thereafter.

3.3. Storage. In the event the Project site has insufficient, inadequate, and/or improper storage space, it shall be the responsibility of the Contractor to secure, provide and maintain at the Contractor's sole cost and expense **(i)** adequate off-site storage space for equipment, materials, incidentals, etc., and **(ii)** all associated delivery and transportation services. In either event, the Contractor shall assume full responsibility for equipment, materials, incidentals, etc. until both title and risk of loss pass to WDC or the City pursuant to Section 8 of this Contract.

3.4. Working Hours. To the extent the Contractor is required to be on City property to render the Contractor's services hereunder, the Contractor shall coordinate its schedule so that work on and at the Project site is performed during the hours of 7:00 a.m. and 7:00 p.m. unless more exactly specified elsewhere in this Contract or **Attachment A** or unless prior written permission is obtained from WDC to work during other times. This provision shall not excuse the Contractor from timely performance under the Contract.

3.5. Cleaning Up. The Contractor shall at all times keep the Project site free from accumulation of waste materials or rubbish caused by Contractor's employees or subcontractors, and at the completion of the work shall remove all rubbish from and about the Project and all tools, scaffolding and surplus materials and shall leave the Project site "broom clean" or its equivalent, unless more exactly specified. In case of dispute, WDC or the City may remove the rubbish and charge the cost to the Contractor.

3.6. Publicity. Contractor agrees not to deliberately disclose the fact that WDC has entered into or terminated this Contract or disclose any of the terms of the Contract or use WDC or the City's name in connection with any publicity, unless the City or WDC, as the case may be, gives prior written consent to such use of their name in each instance.

3.7. Standard of Performance. All Contractor labor, materials, supplies, components, equipment, reports, plans, specifications, drawings, deliverables, incidentals, etc., required to be furnished or delivered under this Contract shall conform in all respects with the requirements set forth in this Contract and shall meet or exceed those standards generally recognized in the Contractor's craft and trade in the State of Connecticut. WDC or the City specified manufacturer and/or brand name substitution desired by the Contractor shall be made only with the prior written consent of an authorized representative of the WDC.

3.7.1 In carrying out the Project, the Contractor must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor, nor with the normal routine of the institution or agency operating at the Project site.

3.7.2 Contractor acknowledges that the Project site and activities are located in close physical proximity to current occupants and tenants at the site. In carrying out the Project, Contractor must employ such methods or means as will not cause material interruption of or interference with the operations or work of any occupant or tenant located in close proximity to the Project site.

3.8. Contractor's Employees. The Contractor shall at all times enforce strict discipline and good order among its employees, and shall not employ on the work any unfit person or anyone not skilled in the work assigned. The Contractor shall not, without the prior written approval of WDC, substitute, terminate, replace or otherwise remove any Contractor employee expressly named, identified or required in this Contract.

3.9. Subsurface/Unknown Site Conditions. If Project site conditions are encountered which are (i) subsurface or otherwise concealed physical conditions or other conditions which differ materially from those indicated in the Contract Documents, or (ii) unknown conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent or common in construction activities on a property of this type or of the character provided for in this Contract, then prompt notice by the observing party shall be given to the other party to this Contract before Project site conditions may be disturbed. The Contractor shall thereafter wait for written instructions from WDC before proceeding with regard to such conditions.

3.10. Surveys. All surveys required under this Contract shall be performed by a State of Connecticut duly licensed land surveyor. Unless expressly stated to the contrary in Section 1 of this Contract and **Attachment A**, the Contractor shall perform all layout work, all field measurements and all construction staking required, necessary or prudent for the satisfactory prosecution of the Contractor's obligations under this Contract.

3.11. Permits and Licenses. Unless expressly stated to the contrary in Section 1 of this Contract and **Attachment A**, the Contractor shall secure and obtain all permits and all licenses required, or necessary, or prudent for the performance of the Contractor's obligations under this Contract, and for the City or its tenants or lessees occupancy, use, and operation of the Project.

Contractor is responsible for all fees or other costs associated with obtaining the permits and licenses required except City of Waterbury local building fees which will be waived.

3.12. Manufacturer's Directions. Where it is required in this Contract that materials, products, processes, equipment or the like be installed or applied in accord with manufacturer's directions, specifications or instructions, it shall be construed to mean that the said application or installation by the Contractor shall be in strict accord with printed instructions furnished by the manufacturer of the material concerned for use under conditions similar to those at the Project site. One (1) copy of such instructions shall be furnished to the City and one (1) copy shall be furnished to WDC.

3.13. Review by WDC. The Contractor shall permit the City and WDC and their duly authorized representatives and agents to review, at any time, all work performed under the terms of this Contract at any stage of the Project.

3.14. Records Maintenance. The Contractor shall maintain or cause to be maintained all records, books or other documents relative to charges, costs, expenses, fees, alleged breaches of the Contract, settlement of claims or any other matter pertaining to the Contractor's demand for payment.

4. Responsibilities of WDC and WDC Reservation of Rights. Upon WDC's receipt of Contractor's written request for specific information, WDC will provide the Contractor with existing documents, data and other materials WDC agrees are necessary and appropriate to the services to be performed by the Contractor hereunder and WDC will endeavor to secure, where feasible and where WDC agrees it is necessary and appropriate, materials or information from other sources requested by the Contractor for the purpose of carrying out the services under this Contract.

4.1. WDC may, in its sole discretion, designate person(s) to act as WDC's Project Engineer(s) and/or Manager(s) and WDC may, in its sole discretion, define such person(s) authority and responsibilities.

4.2. WDC reserves the right to **(i)** perform work related or unrelated to the Project with the City or WDC's own forces adjoining, adjacent to, or in the vicinity of, the Project site and/or **(ii)** let separate contracts related or unrelated to the Project for work and services adjoining, adjacent to, or in the vicinity of, the Project site. In such event, the Contractor shall afford all such parties reasonable opportunity for storage of materials and equipment and for the uninterrupted provision and delivery of such parties' work and/or services. The Contractor shall cooperate with such parties and in the case of a dispute the decision of WDC shall be complied with by all.

5. Contract Time. The Contractor shall complete all work and services required under this Contract within **ONE HUNDRED AND SIXTY (160) consecutive calendar days** of WDC's written Notice to Proceed ("Contract Time").

5.1. The Parties recognize that time is and shall be of the essence for the Project and all Project milestones and that WDC and the City will suffer financial loss if the Project is not

completed within the times specified in the Contract documents, plus any extensions of such deadlines thereof allowed by WDC. The Contractor agrees that any such extensions made by WDC shall be in writing or shall be deemed ineffective. The Contractor further agrees that the Project shall be prosecuted regularly, diligently and uninterruptedly and at such rate of progress as will insure full completion thereof within the Contract Time stated above. It is expressly understood and agreed, by and between the Contractor and WDC that the Contract Time is reasonable for the completion of the Project.

5.2. Within one (1) week of WDC's issuance of its written notice to proceed, and prior to the commencement of any work on the Project site, the Contractor shall submit for WDC's written approval a construction progress schedule including Project milestones as contained in Contractor's critical path. On a monthly basis, the Contractor shall deliver to WDC a written status report setting forth an analysis and critique of the Contractor's compliance with said schedule.

5.3. The Contractor acknowledges and recognizes that the delays, expense, and difficulties involved in proving the actual loss suffered by WDC and the City if the project is not completed on time. Accordingly, instead of requiring any such proof, the Contractor agrees that as liquidated damages for delay (but not as a penalty) the Contractor shall pay WDC the sum of ONE THOUSAND FIVE HUNDRED Dollars ($1,500) per calendar day for each and every calendar day for which the Contractor is in default in completing the work beyond the Contract Time as set forth in this Article 5 until the project is determined in good faith to be complete by WDC.

6. Compensation. WDC shall compensate the Contractor for satisfactory provision of all of the goods and services set forth in this Contract as follows in this Section 6. No claims for additional compensation will be considered for conditions made known to the Contractor prior to bidding. No claims for additional compensation will be considered on account of failure of the Contractor to completely inform itself as required herein above.

6.1. Fee Schedule. Subject to retainage, limitations, etc. set forth below in this Section 6, the fee payable to the Contractor shall not exceed **Three Million Six Hundred Seventy Two Thousand Eight Hundred and Four DOLLARS ($3,672,804)** (hereafter referred to as "Total Compensation") with the basis for payment being Contractor's Bid set forth in **Attachment A's** "Contractor's Bid dated December 4, 2015 in response to ITB No. 5334" which is summarized below:

i. A fee up to but not to exceed $3,103,170 for bid items 1 – 5 including Item A-1, inclusive, as set forth in Contractor's Bid dated December 4, 2015 in response to ITB No. 5334 which is included in Attachment A to this Contract; plus

ii. A contingency allowance up to, but not to exceed, $569,634 which shall be used at the sole discretion of WDC and only upon delivery to Contractor of a written WDC authorization detailing the scope, necessity, and cost of the expenditures for which the

contingency allowance may be used as described in Special Condition Article 21 which is included in Attachment A to this Contract.

6.2. Retainage. At WDC's sole discretion, it hereby reserves the right to withhold as retainage five (5%) percent of any payment (or monetary sum otherwise required by law) owed to the Contractor to be withheld from payments to the Contractor otherwise payable to the Contractor until such time as the Contractor's work and services to be provided under this Contact are fully completed and accepted in writing by WDC. The retainage does not include additional sums that WDC may withhold due to the Contractor's failure to comply with provisions of this Contract.

6.3. Limitation of Payment. Compensation to the Contractor is limited to those fees set forth in Section 6.1. of this Contract and is further limited to work **(i)** performed in fact, **(ii)** conforming with this Contract, and **(iii)** accepted in writing by a duly authorized WDC employee. Such compensation shall be paid by WDC upon its review and approval of the Contractor's invoices for payment and review of the Contractor's work.

6.3.1 Funding. In the event this Contract is funded, in whole or in part, by Federal and/or State monies, grants, loans, etc., all WDC payment(s) shall fully comply with all relevant Federal and State statutes and regulations. In the event this Contract is 100% funded by Federal and/or State monies, grants, loans, etc., the aggregate sum of all WDC payments shall not exceed the aggregate sum of such funding. As of the date of execution this Contract is not funded, in whole or in part, by Federal and/or State monies as described in this paragraph 6.3.1. In the event such funding is or will be utilized WDC will provide notice of the funding and any relevant information pertaining thereto to Contractor within five (5) business days.

6.3.2 Allowances and Contingency. The use of any Allowances and Contingency included in this Contract shall require written approval by the WDC CEO or his designee prior to use. At the sole discretion of the WDC, Contractor may be required to submit three (3) quotes to the WDC for any Allowance or Contingency Tasks. Use of the Contingency shall be subject to provisions regarding change orders as found in Section 27 below. Any Allowance, Contingency or Remaining Task Costs that remain unspent at the completion of this Contract shall revert to WDC.

6.3.3 Offset. The Contractor and its affiliates are hereby provided with notice that WDC reserves the right, in WDC's sole discretion, to offset, withhold, or otherwise reduce WDC payment(s) to the Contractor, in an amount equaling the sum or sums of money the Contractor and/or its affiliates is/are, or become delinquent or in arrears on, regarding the Vendor's and/or its affiliates real and personal property taxes and other payment obligations to the City or WDC.

6.4. Bid Costs. All costs of the Contractor in preparing its bid for **ITB Number 5334** shall be solely borne by the Contractor and are not included in the compensation to be paid by WDC to the Contractor under this Contract or any other agreement.

6.5. Payment for Services, Materials, Appliances, Employees. The Contractor shall be responsible to WDC for the suitability of services, materials and equipment furnished to comply fully with the requirements set forth in this Contract. The Contractor shall promptly pay all employees as their pay falls due, shall pay promptly as they fall due all bills for subcontractors, materials, supplies and services going into the work, and all bills for insurance, bonds, Worker's Compensation coverage, Federal and State Unemployment Compensation, and Social Security charges applicable to this Project. Before final payment is made, the Contractor shall furnish to WDC a sworn, notarized, affidavit stating that all of the foregoing payment obligations have been fully completed.

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

6.7. Project Completion. Upon the Contractor's **(i)** completion of all Project milestones, and **(ii)** Substantial Completion of the Project and **(iii)** Final Completion of the Project, the Contractor shall, in each instance, file with WDC a written, notarized affidavit setting forth the amount of Project work performed. WDC reserves the right to verify or challenge by any reasonable means the accuracy of said affidavit.

6.8. Final Payment. All prior estimates and WDC payments, including those relating to extra or additional work, retainage(s), and holdback(s), shall be subject to correction by this final payment which is throughout this Contract called "Final Payment". No payment, final or partial, shall act as a release to the Contractor or its surety from any Contractor obligation(s) under this Contract.

7. Warranty of the Contractor. The Contractor warrants to WDC that all materials, supplies, components, equipment, etc. furnished under this Contract shall be new and of good quality, except as otherwise expressly stated and permitted by WDC elsewhere in this Contract. The Contractor warrants that none of its work shall be defective. The Contractor shall be liable to repair and install and/or replace without charge any service, component, equipment or part thereof which is defective or does not conform with this Contract within the greater of **(i)** 365 calendar days after WDC delivers its written notice of its acceptance of the Project and statement therein establishing the Final Completion date, or **(ii)** that time period or date expressly stated elsewhere in this Contract or **Attachment A**.

7.1. The Contractor further warrants that all Contractor procured or prepared materials, supplies, services, components, equipment, reports, plans, drawings, deliverables, incidentals, etc., shall be free from any and all defects caused by faulty design, faulty material or poor workmanship. The Contractor shall supply to WDC copies of any written manufacturer's

warranties and guarantees. The Contractor's foregoing warranty obligations are in addition to, and not a limitation of, all manufacturer's warranties and guarantees, and any other remedy stated in this contract or otherwise available to WDC under applicable law.

8. Passing of Title and Risk of Loss.

8.1. WDC or the City's beneficial use of Project equipment, materials, site-work, etc. prior to the Contractor's Final Completion of the Project or prior to WDC's final payment for the Project shall neither act to vest title in WDC or the City nor act to transfer risk of loss from the Contractor to WDC or the City. Said title and risk shall pass to WDC or the City upon issuance of a temporary or final Certificate of Occupancy.

8.2. Contractor and its insurer shall assume the risks of loss or damage to the equipment up to and including the date title passes, except that WDC or the City shall be responsible for loss or damage caused by WDC or the City's gross negligence.

8.3. After Project equipment, materials, etc. are delivered to the Project work-site and become operable or functional, the Contractor shall not thereafter remove any such equipment, materials, etc. from the Project work-site without securing the prior written consent of an authorized WDC employee.

9. Indemnification.

9.1. The Contractor shall indemnify, defend, and hold harmless WDC and the City and their agents, officials and employees from and against all claims, suits, damages, losses, judgments, costs and expenses including attorney's fees arising out of or resulting from the performance of the services, provided that any such claims, suits, damages, losses, judgments, costs or expenses **(i)** are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the services itself) including the loss of use resulting therefrom, and **(ii)** are caused in whole or in part by any willful or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

9.2. In the event this Contract and/or the Contractor's, or its subcontractor, work and services provisioned hereunder is/are subject to the provisions of any Federal or State statute or regulations, or WDC Charter or City Ordinance, the Contractor shall indemnify, defend and hold harmless WDC and the City from any fine, penalty or other amounts imposed on WDC or the City under said statutes, regulations, Charter or Ordinances, if caused by Contractor, or its subcontractor, omission or commission.

9.3. In any and all claims against WDC, the City or any of their boards, agents, employees or officers by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraphs 9.1 and 9.2, above, shall not be limited in any way

by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under Worker's Compensation Acts, disability benefit acts or other employee benefit acts.

9.4. The Contractor expressly understands and agrees that any performance bond or insurance protection required by this Contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend WDC, the City and their boards, agents, employees or officers as provided herein.

9.5. Royalties and Patents. The Contractor shall, for all time, secure to WDC and the City the free and undisputed right to the use of any and all patented articles and methods used in the work and shall defend at Contractor's own expense any and all suits for infringement or alleged infringement of such patents, and in the event of adverse award under patent suits, the Contractor shall pay such awards and hold WDC and the City harmless in connection with any patent suits that may arise as a result of installations made by the Contractor and as to any award made thereunder.

10. Contract Bonds. The Contractor shall furnish to the City and WDC, prior to the execution of this Contract by WDC, a performance bond and a payment bond, each bond written for a penal sum equaling the Section 6 "Total Compensation" amount in a form and with a surety acceptable to the City and WDC. The bonds shall continue in effect for the greater of **(i)** the warranty period set forth in Section 7 of this Contract, or **(ii)** 365 calendar days after the Final Completion date referenced elsewhere in this Contract.

11. Contractor's Insurance.

11.1. The Contractor shall not commence work under this Contract until all insurance required under this Section 11 has been obtained by the Contractor and such insurance has been approved by WDC and the City. The Contractor shall not allow any subcontractor to commence work on any subcontract until all insurance required of any such subcontractor has been obtained. Insurance shall be provided by insurers, satisfactory to WDC and the City and authorized to do business in the State of Connecticut, with an "A-" Best's Rating and at least a Class V3 or better financial size category as shown in the most current A.M. Best Company ratings.

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

11.3. All Insurance policies, except Workers Compensation, shall be endorsed to add the City and the WDC as additional insureds. The insurance afforded the City and WDC as additional insureds shall be primary insurance and the coverage and limits provided under the Contractor's policies shall not be reduced or prorated by the existence of any other insurance applicable to any

loss the City or WDC as an additional insured may have suffered. Each insurance policy shall state that the insurance company shall agree to investigate and defend the insured against all claims for damages, even if groundless. If any policy is written on a "Claims Made" basis, the policy must be continually renewed for a minimum of two (2) years from the completion date of the contract. If the policy is replaced and/or the retroactive date is changed, then the expiring policy must be endorsed to extend the reporting period for claims for the policy in effect during the contract for two (2) years from the completion date

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

11.4.1 Commercial General Liability Insurance:
$1,000,000.00 per occurrence
$2,000,000.00 general annual aggregate and
$2,000,000.00 Products/Completed operations aggregate.

11.4.2 Automobile Liability: $1,000,000 per accident covering both bodily injury and property damage with coverage for "any Auto."

11.4.3. Workers Compensation: Statutory Limits within the State of Connecticut
Employer Liability (EL):
$1.000,000 EL Each Accident
$1,000,000 EL Disease Each Employee
$1,000,000 EL Disease Policy Limit

11.4.5 Excess Liability Insurance: $10,000,000.00 each Occurrence
$10,000,000.00 Aggregate

11.4.6 Contractors Pollution Liability Insurance:
$1,000,000.00 per Claim
$2,000,000.00 Aggregate with no exclusion for Lead or Asbestos

11.4.7 Property Insurance: The City maintains its own Special Form Builder's Risk coverage; however, the Contractor shall be responsible for any losses up to the deductible of $250,000. Contractor may carry and maintain its own Builders Risk Policy coverage of no less than $250,000. The City of Waterbury and WDC shall be an additional insured on any such policy procured by the Contractor.

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

11.6 Cancellation: THE CITY OF WATERBURY AND WATERBURY DEVELOPMENT CORPORATION SHALL RECEIVE WRITTEN NOTICE OF CANCELLATION FROM THE CONTRACTOR AT LEAST 30 CALENDAR DAYS

PRIOR TO THE DATE OF ACTUAL CANCELLATION, REGARDLESS OF THE REASON FOR SUCH CANCELLATION.

11.7 Certificates of Insurance: Prior to the execution of a contract by WDC, the Contractor shall furnish to the City and to WDC, subject to approval, certificate(s) of insurance verifying the above coverages, including the naming of WDC and the City of Waterbury, as follows: "The City of Waterbury and the Waterbury Development Corporation are listed as additional insureds as their interest may appear" on all policies except Workers Compensation, on a primary/non-contributory basis. Waiver of subrogation is provided on all policies.. The Contractor must supply replacement/renewal certificates to both the City and WDC at least 30 days prior to the expiration of the policy(ies). Said certificates shall contain a provision that coverage afforded under the policies shall not be cancelled or reduced for any reasons unless notice of more than 30 calendar days has been mailed to the Office of Corporation Counsel, 235 Grand Street, Waterbury, CT 06702 and to Mr. Todd M. Montello, CEO, The Waterbury Development Corporation 83 Bank Street, 3rd Floor, Waterbury, CT 06702.

11.8 Contractor's costs. Contractor's costs for all contractor insurance required by the contract shall be included in its Total Bid Price and shall include only the contractor's direct and actual costs for such insurance, without any mark-ups by either the contractor or subcontractors of any tier. Subcontractors may require pre-approval by the WDC. Subcontractors are required to provide the same Insurance Coverages and Limits as the Contractor, as applicable to the services they are providing. Any proposed variance from the coverage described in Section 11.4 must be approved in writing by WDC. Subcontractors must provide Contractor with certificates of insurance as described in Section 11.7 of this Contract. Contractor shall maintain a file containing all subcontractor certificates of insurance and shall provide copies of the certificates of insurance to the City or WDC immediately upon request by either party.

11.9 Provision of Policies. Upon request by either the City or WDC the Contractor shall immediately deliver a copy of the Contractor's insurance policies and endorsements and riders.

12. Conformance with Federal, State and Other Jurisdictional Requirements. By executing this Contract, the Contractor represents and warrants that, at all pertinent and relevant times to the Contract, it has been, is and will continue to be in full compliance with all applicable statutes, acts, ordinances, guidelines, resolutions, orders, judgments, decrees, injunctions, rules, and regulations of all government authorities applicable to performance by the Contractor of services hereunder, including those having jurisdiction over its registration and licensing to perform services hereunder; including, but not limited to, the following: EQUAL EMPLOYMENT OPPORTUNITY; COPELAND ANTI-KICKBACK ACT, as supplemented in the Department of Labor Regulations (29 CFR, Part 3); DAVIS BACON ACT as supplemented by Department of Labor Regulations (29 CFR Part 5); Section 103 and 107 of the Contract Work Hours and Safety Standards Act, as supplemented by the Department of Labor Regulations (29 CFR Part 5); the HOUSING and COMMUNITY DEVELOPMENT ACT of 1974, as

amended; TITLE 31 and Section 12-430(7) of the State of Connecticut General Statutes. All applicable sections of City Charter and Code of Ordinances are incorporated by reference made a part hereof.

12.1. Taxes-Federal, State and Local. WDC and the City are exempt from Federal Excise and Transportation, State and Local Sales and Use Taxes, including without limitation, taxes that would otherwise be imposed upon the Contractor for transactions required or necessitated hereunder between it and its subcontractors, suppliers, etc. The Contractor remains liable, however, for any applicable tax obligations it incurs. Moreover, the Contractor represents that the bid and pricing contained in this Contract do not include the amount payable for said taxes.

12.2. Labor and Wages-Federal and State. The Contractor and its subcontractors shall conform to Federal and State of Connecticut labor laws, and all other laws, ordinances, and legal requirements affecting the work in Connecticut.

12.2.1 The Contractor is aware of, and shall comply with, the provisions of Title 31, §53 of the Connecticut General Statutes, latest revision (the "Act"), concerning the payment of minimum wages for work on public facilities. The provisions of the Act are hereby incorporated by reference and made a part of this Contract. The Act provides that the Connecticut prevailing wage law applies to certain remodeling, refurbishing, alteration, repair and new construction. The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or worker on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in Conn.Gen.Statute 31-53(i), shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.

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

12.3. Compliance with Chapters 34, 38, and 39 of the Code of Ordinances of the City. By executing this Contract, the Contractor represents and warrants that, at all pertinent and relevant times to the Contract, it has been, is and will continue to be in full compliance with the provisions of Chapters 34, 38, and 39 of the Code of Ordinances of the City as well as any other relevant provisions of the Charter and the Code of Ordinances.

12.4. Compliance with CONN. GEN. STAT. § 4a-60g, as amended by June 2015 Special Session Public Act 15-5.

12.4.1 Definitions – For purposes of this paragraph:

i. "Small contractor" means any contractor, subcontractor, manufacturer, service company or nonprofit corporation (A) that maintains its principal place of business in the state, (B) that had gross revenues not exceeding fifteen million dollars in the most recently completed fiscal year prior to such application, and (C) that is independent. "Small contractor" does not include any person who is affiliated with another person if both persons considered together have a gross revenue exceeding fifteen million dollars.

ii. "Minority business enterprise" means any small contractor (A) fifty-one per cent or more of the capital stock, if any, or assets of which are owned by a person or persons who (i) exercise operational authority over the daily affairs of the enterprise, (ii) have the power to direct the management and policies and receive the beneficial interest of the enterprise, (iii) possess managerial and technical competence and experience directly related to the principal business activities of the enterprise, and (iv) are members of a minority, as such term is defined in subsection (a) of section 32-9n, or are individuals with a disability, or (B) which is a nonprofit corporation in which fifty-one per cent or more of the persons who (i) exercise operational authority over the enterprise, (ii) possess managerial and technical competence and experience directly related to the principal business activities of the enterprise, (iii) have the power to direct the management and policies of the enterprise, and (iv) are members of a minority, as defined in this subsection, or are individuals with a disability.

iii. "Municipal public works contract" means that portion of an agreement entered into on or after October 1, 2015, between any individual, firm or corporation and a municipality for the construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, which is financed in whole or in part by the state, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees but excluding any project of an alliance district, as defined in section 10-262u, as amended by this act, financed by state funding in an amount equal to fifty thousand dollars or less.

12.4.2 The Contractor and subcontractor shall comply with the specific requirements of the State of Connecticut Set Aside Program, CONN. GEN. STAT. § 4a-60g, as amended by June 2015 Special Session Public Act 15-5, if the municipal public works contact awarded to the Contactor is funded in whole or in part by state funds.

12.4.3 The Contactor shall be subject to the following set-aside requirements if the municipal public works contact, is funded in whole or in part by the State of Connecticut, and is in excess of FIFTY THOUSAND DOLLARS ($50,000.00), for the construction, rehabilitation, conversion, extension, demolition, or repairing of a public building or highway, or other changes or improvements in real property.

12.4.4 Set-Aside requirements – Any contractor awarded a municipal public works contract, on the basis of competitive bidding procedures, shall comply with the following Set – Aside requirements:

i. set aside at least twenty-five per cent (25%) of the total value of the state's financial assistance for such contract for award to subcontractors who are small contractors, and

ii. of that portion to be set aside in accordance with Subparagraph i. of this subdivision, reserve a portion equivalent to twenty-five per cent (25%) of the total value of the contract or portion thereof to be set aside for awards to subcontractors who are minority business enterprises.

12.4.5 Failure of the Contractor or subcontractor to comply with the State of Connecticut Set-Aside requirements shall be a material breach of this Contract.

13. Discriminatory Practices. In performing this Contract, the Contractor shall not discriminate against any employee or applicant for employment, with respect to his or her hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, sex, age, religious creed, disability, national origin or ancestry, marital status, family status, prior psychiatric treatment, health care, military status or source of income or because of a handicap that is unrelated to the employee's or the applicant's ability to perform the duties of a particular job or position. Subcontracts with each subcontractor shall contain a provision requiring non-discrimination in employment as herein specified. This covenant is required pursuant to §93.04 of the Code of Ordinances of the City and any breach thereof may be regarded as a material breach of this Contract. Said provisions with subcontractors shall require conformity and compliance with all local, state and federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements.

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

13.2. Equal Opportunity. In its execution of the performance of this Contract, the Contractor shall not discriminate and shall comply with applicable laws prohibiting discrimination on the grounds of race, color, religion, sex, national origin or citizenship status, age or handicap. The Contractor agrees to comply with all local, state and federal laws, rules and regulations and Executive orders pertaining to discrimination and equal opportunity requirements, and will require the same of all subcontractors

13.3. Affirmative Action.

13.3.1. Pursuant to CONN. GEN. STAT. § 4a-60, as amended by June 2015 Special Session Public Act 15-5, the following are required for every Municipal Public Works Contract:

(a) Every contract to which an awarding agency is a party, every quasi-public agency project contract and every municipal public works contract shall contain the following provisions:

(1) The Contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such 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 on Human Rights and Opportunities;

(3) 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;

(4) The Contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, as amended by this act, 46a-68e, 46a-68f and 46a-86; 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 section 46a-56, as amended by this act.

(b) If the contract is a public works contract, municipal public works contract or contract for a quasi-public agency project, the Contractor agrees and warrants that he or she will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works or quasi-public agency project.

13.3.2. Pursuant to CONN. GEN. STAT. § 4a-60a, as amended by June 2015 Special Session Public Act 15-5, the following are required for every Municipal Public Works Contract:

(a) Every contract to which an awarding agency is a party, every contract for a quasi-public agency project and every municipal public works contract shall contain the following provisions:

(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 of 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 section 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 section 46a-56.

14. Good Jobs Ordinance

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

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

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

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

14.1.4 Definitions. For purposes of this paragraph:

i. "Administrator" shall be defined as it is in the Good Jobs Ordinance.

ii. "Apprentice" shall be defined as it is in the Good Jobs Ordinance.

iii. "Basic Skilled Worker" shall be defined as it is in the Good Jobs Ordinance.

iv. "Contractor" shall be defined as it is in the Good Jobs Ordinance.

v. "Covered Project" shall be defined as it is in the Good Jobs Ordinance.

vi. "Hiring Goal" shall be defined as it is in the Good Jobs Ordinance.

vii. "Resident" shall be defined as it is in the Good Jobs Ordinance.

viii. "Subcontractor" shall be defined as it is in the Good Jobs Ordinance and shall include the Contractor's direct subcontractor providing construction work and all lower tiered (level) providers of construction work.

14.1.5 Hiring Goals. If this Agreement requires the Contractor to perform work on a Covered Project, the Contractor and each Subcontractor shall have as its hiring goals:

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

ii. at least twenty-five percent (25%) of construction trade jobs shall go to Apprentices and/or Basic Skilled Workers, and

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

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

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

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

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

14.1.6 Good Faith Efforts. The Contractor and each Subcontractor shall engage in Good Faith Efforts to comply with the Hiring Goals. For the purposes of this paragraph, the term "Good Faith Efforts" shall have the same meaning as it does in the Good Jobs Ordinance.

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

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

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

i. The Contractor shall meet with the Administrator no less than four (4) weeks prior to the commencement of construction on a Covered Project and provide the Administrator with the number of job positions to be created by the project by trade and the qualifications by job tile.

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

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

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

14.2 Liquidated Damages Applicable To Section 14.1

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

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

ii. if the Good Faith documentation is not provided or, if provided, it fails to demonstrate compliance with Good Faith Efforts, the Contractor shall, for each failure by the Contractor or a Subcontractor to achieve the Hiring Goals during a full five day work period, pay to the City one thousand dollars ($1,000.00) as liquidated damages.

14.2.2 If the City finds that the Contractor, or a Subcontractor, has failed to deliver weekly certified payroll records to the City within five (5) working days of the end of each payroll period the Contractor shall, as liquidated damages pay one thousand dollars ($1,000.00) to the City for each week of ongoing violation.

14.2.3 The City shall provide the Contractor with an invoice identifying all sums due the City, as liquidated damages, as a result of the Contractor or a Subcontractor's failure to comply with the Good Jobs Ordinance as set forth above.

14.2.4 No portion of any invoice submitted by a Contractor that is subject to liquidated damages shall be paid by WDC until such time as all liquidated damages relating to that invoice have been paid to WDC.

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

compliance in such Contracts with Subcontractors.

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

16. Termination.

16.1. Termination of Contract for Cause. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, WDC or the City shall thereupon have the right to terminate this Contract by either **(i)** giving written notice to the Contractor of a date certain by which Contractor shall, to the written satisfaction of WDC, cure after which and without further action by any party, such termination shall automatically become effective and binding, or **(ii)** giving written notice to the Contractor specifying the effective date of such termination at least five (5) business days before the effective date of such termination.

16.1.1 In the event of a termination, all finished or unfinished documents, data, studies, reports, plans, specifications, drawings, supplies, services, etc. prepared by the Contractor under this Contract shall, at the option of WDC or the City, become WDC or the City's property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed for such.

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

16.2. Termination for Convenience of WDC or the City. WDC or the City may terminate this Contract at any time for the convenience of WDC or the City, by a notice in writing from WDC or the City to the Contractor. If this Contract is terminated by WDC or the City as provided herein, the Contractor will be paid an amount which bears the same ratio to the Total Compensation as the services actually performed bear to the total services of the Contractor covered by this Contract, less payments of compensation previously made.

16.3. Termination for Non-Appropriation or Lack of Funding. The Contractor acknowledges that the City is a municipal corporation and further acknowledges that the Waterbury Development Corporation is a non-profit 501(c) (3) Corporation and that this Contract is subject to the appropriation and disbursement of funds by the City and WDC sufficient for this Contract for each budget year in which this Contract is in effect. The Contractor therefore agrees that WDC shall have the right to terminate this Contract in whole or in part without penalty to WDC in the event that sufficient funds to provide for City payment(s) under this Contract is not appropriated, not authorized, or not made available, or such funding has been reduced. In the event this Contract is subject, in whole or in part, to the appropriation

and disbursement of Federal and/or State funds and those Federal and/or State funds are not appropriated or are not disbursed to WDC, the Contractor hereby agrees that WDC shall have the right to terminate this Contract in whole or in part without penalty to WDC.

16.3.1 Effects of Non-Appropriation. If funds to enable WDC or the City to effect continued payment under this Contract are not appropriated, authorized or otherwise made available by law, WDC or the City shall have the right to terminate this Contract without penalty at the end of the last period for which funds have been appropriated, authorized or otherwise made available by law by giving written notice of termination to the Contractor.

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

16.3.3 No Payment for Lost Profits. In no event shall WDC or the City be obligated to pay or otherwise compensate the Contractor for any lost or expected future profits.

16.4. Rights Upon Termination.

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

16.4.2 Termination for Lack of Funding or Convenience. In the event of termination by WDC or the City for lack of funding or convenience, WDC shall pay the Contractor for all labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc.(including any holdbacks) installed and delivered to WDC or the City as of the Termination Date and the Contractor shall relinquish to WDC or the City any applicable interest, title and ownership including, but not limited to perpetual use of any proprietary rights in and to said labor, services, equipment, materials, reports,

plans, specifications, drawings, deliverables, incidentals, etc. delivered to, in possession of and paid for by WDC (except to the extent any invoiced amount is disputed). The Contractor shall be required to exercise commercially reasonable efforts to mitigate damages. In the event of a termination for Lack of Funding or Convenience WDC, the City and the Contractor may negotiate a mutually acceptable payment to the Contractor for reasonable demobilization expenses. Said demobilization expenses, if any, shall be handled in accordance with the provision of this Contract pertaining to changes in the Project.

16.4.3 Assumption of Subcontracts. In the event of termination, WDC shall have the right to assume, at its option, any and all subcontracts for products, services and functions provided exclusively under this Contract.

16.4.4 Delivery of Documents. In the event of termination, **(i)** the Contractor shall promptly deliver to WDC, in a manner reasonably specified by WDC, all documents and other tangible items furnished by, or owned, leased, or licensed by, WDC or the City, and **(ii)** WDC shall pay the Contractor for all services performed and deliverables completed and accepted (pro-rated for deliverables partially completed) prior to the effective date of the termination (except to the extent any invoice amount is disputed).

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

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

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

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

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

18.1. The Contractor shall be as fully responsible to WDC and the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by the Contractor.

18.2. The Contractor is responsible for and shall control activities of its subcontractors, and the subcontractors shall consult and cooperate with one another and other contractors working on the Project site. Each subcontractor shall furnish all necessary information to other subcontractors and shall lay out and install its own work so as to avoid any delays or interferences with the work of another. Any cost for changes, cutting and/or repairing, made necessary by failure to observe the above requirements shall be borne by the Contractor or subcontractor responsible for such failure or neglect.

18.3. The Contractor shall not, without the prior written approval of WDC, substitute, terminate, replace or otherwise remove a subcontractor.

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

20. Audit. The City and WDC reserve the right to audit the Contractor's books of account in relation to this Contract any time during the period of this Contract or at any time during the twelve month period immediately following the closing or termination of this Contract. In the event WDC or the City elect to make such an audit, the Contractor shall immediately make available to WDC or the City as the case may be, all records pertaining to this Contract, including, but not limited to, payroll records, bank statements and canceled checks.

21. Interest of City Officials. No member of the governing bodies of either the City or WDC, and no other officer, employee, or agent of WDC or the City who exercises any functions or responsibilities in connection with the carrying out of the Project to which this Contract pertains, shall have any personal interest, direct or indirect, in this Contract.

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

23. Entire Contract. This Contract shall constitute the complete and exclusive statement of the contract between the parties as it relates to this transaction and supersedes all previous agreements and understandings, whether written or oral, relating to such subject matter. Any amendment to this Contract must be in writing and agreed to and executed by WDC and the Contractor, and must comply with the City's Charter and Code of Ordinances.

24. Independent Contractor Relationship. The relationship between WDC, the City and the Contractor is that of client and independent contractor. No agent, employee, or servant of the Contractor shall be deemed to be an employee, agent or servant of WDC or the City. The Contractor shall be solely

and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

25. Severability. Whenever possible, each provision of this Contract shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Contract, however, is held to be prohibited or invalid under applicable law, such provision shall be deemed restated to reflect the original intentions of the parties, as nearly as possible in accordance with applicable law, and if capable of substantial performance, the remaining provisions of this Contract shall be enforced as if this Contract was entered into without an invalid provision. If the ruling and/or controlling principle of law or equity leading to the ruling is subsequently overruled, modified or amended by legislation, judicial or administrative action, then the provision(s) in question as originally set forth in this Contract shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principal of law or equity.

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

27. Changes in the Project: Change Orders.

27.1. Requests for Change Orders. WDC reserves the right on its own volition, or based upon a proposal for a Change Order submitted in written form with a thorough explanation by the Contractor, to request from time to time any changes to the requirements and specifications of this Contract and the products to be provided and the functions and services to be performed by the Contractor under this Contract. Such changes must be authorized by WDC or its authorized agent. WDC will not approve of any change orders, deletions, additions, or additional work items to the Scope of Services or any change in the terms and conditions of this Contract except by means of a WDC authorized amended Scope of Services, applicable and restricted to those items set forth in §1, above, or Change Order issued as set forth in this section, except in the event of an emergency endangering life or property.

27.2. Procedures.

27.2.1 The Contractor's Response to a Change Request.

i. Within fourteen (14) calendar days after receipt of a request by WDC for any such change or such other period of time as the Parties may mutually agree to in writing, the Contractor shall submit to WDC a proposal describing any changes in Contract milestones or Contract completion dates, products, functions, timing of delivery, assignment of personnel, and the like, and any associated price adjustment. The Contractor's proposal shall describe, in detail, the basis for the proposed price adjustment, including the charges for any products required to implement the change request.

ii. To the extent that additional cost or cost savings result from a change in required products, the Contractor shall obtain any additional products and provide them to WDC at a negotiated price acceptable to WDC and the Contractor.

Similarly, if the change request is expected to result in a reduction in products required to perform the services, the Contractor's charges shall be reduced by the cost savings resulting from the products eliminated by the change request.

27.2.2 WDC's Acceptance of Change Request. If WDC accepts the Contractor's proposal, WDC shall issue a change order referencing the Contractor's proposal and both parties shall sign the change order. The Contractor shall not implement any change request until WDC has issued a valid, properly executed, change order. WDC shall respond to any such proposal within fourteen (14) calendar days after receipt by WDC or such other period of time as the Parties may mutually agree to in writing,

27.2.3 WDC's Rejection of Change Request. If WDC does not accept the Contractor's proposal, WDC may within fourteen (14) calendar days of such non-acceptance: **(i)** withdraw its change request; or, **(ii)** modify its change request, in which case the procedures set forth above shall apply to the Contractor's response to the modified change request.

27.2.4 Submittals WDC and its representatives shall respond to all Contractor submittals required by the Contract within fourteen (14) calendar days, or such other period of time as the Parties may mutually agree to in writing, of actual receipt.

27.3. WDC Discretion. WDC may, in its sole discretion, approve the proposed Change Order and shall forward same for additional signatures under the following conditions: **(i)** If it conforms to provisions of applicable laws, and **(ii)** if it is consistent with this Contract, and **(iii)** if the time of performance of this Contract will not be unreasonably delayed, **(iv)** the completion date is not changed, **(v)** if the Change Order requires a change to the completion date, such change has been authorized by an approved, executed, written Amendment to this Contract, and **(vii)** if the Change Order requires an increase in the price of the Contract, WDC **(1)** has sufficient funds, and **(2)** if a budget transfer is required to cover the cost of the proposed Change Order, such transfer has secured the written approval of the WDC Board of Directors and any other required regulatory agencies.

27.4. Change Orders Governed by the Provisions of this Contract. All work performed under a Change Order is governed by the provisions of this Contract.

28. Conflicts or Disputes. This Contract represents the concurrence between WDC and the Contractor and governs all disputes between them. In the instance of a conflict or dispute over issues not specifically referenced within the Contract, the following documents shall be used as historical documents, without regard to the order of precedence, to resolve such conflicts or disputes, as follows: **(i)** The City's **ITB Number 5334 and addenda** and **(ii)** the Contractor's Bid response to **ITB Number 5334,** dated December 4, 2015. Said historical documents are attached hereto as part of **Attachment A.**

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

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

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

30. Binding Contract. WDC and the Contractor each bind themselves, and their successors, assigns and legal representatives to the other party to this Contract and to the successors, assigns and legal representatives of such other party with respect to all covenants of this Contract.

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

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

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

Contractor:	Mr. Justin Shaw JCS Construction, Inc. 9 West Broad Street Stamford, Connecticut 06902
WDC:	Mr. Todd M. Montello, CEO The Waterbury Development Corporation 83 Bank Street, 3rd Floor Waterbury, CT 06702
City:	City of Waterbury City Hall Building 235 Grand Street Waterbury, CT 06702 Attention: Corporation Counsel

34. City Code of Ordinances, Ethics and Conflict of Interest Code, Provisions.
The Person (the term "Person" shall herein be as defined in Section 38 of the City's Code of Ordinances) supplying the labor, services, equipment, materials, reports, plans, specifications, drawings, deliverables, incidentals, etc. under this Contract shall comply with all applicable Federal, State and Municipal statutes, regulations, charters, ordinances, rules, etc., whether or not they are expressly stated in this Contract, including but not limited to the following:

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

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

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

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

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

34.6. It shall be a material breach of this Contract and it shall be a violation of the City's Code of Ordinances for a Person to be retained, or to retain a Person, to solicit or secure a contract with the City upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee; and every Person, before being awarded a City Contract, shall deliver to the City, on a City authored form, a representation that such Person has not retained anyone in violation of this subsection 34.6, the failure to deliver said form being a material breach of this Contract and a violation of the City's Code of Ordinances. Note, however, this subsection 34.6 shall not apply to full-time Employees who, as a condition of their employment, may be entitled to bonuses or other fees in accordance with their employment relationship.

34.7. The Person hereby expressly represents that he/she/it has complied with those sections of the City's Code of Ordinances requiring that said Person has **(i)** delivered to the City an affidavit, on a City authored form, stating that the Person and its affiliates have no delinquent taxes or other financial obligations owned to the City; **(ii)** filed the City authored financial disclosure statement form as set forth in the City's Code of Ordinances regarding disclosure of financial interests; **(iii)** delivered to the City a written acknowledgement, on a City authored form, evidencing receipt of a copy of the "Ethics and Conflict of Interest" ordinance for the City of Waterbury and hereby expressly represents that said Person is in full compliance with the entirety of said Code of Ordinances; and **(iv)** filed a current list of all taxable personal and real property as required by the State of Connecticut General Statutes. Any violation of this subsection 34.7 shall be deemed a material breach of this Contract and shall be a violation of the City's Code of Ordinances.

34.8. The definitions set forth in the City's Code of Ordinances shall be the primary source for interpretation of the forgoing subsections 34.1-34.7.

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

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

34.11. The Contractor is hereby charged with the requirement that it shall have knowledge of, and shall fully comply with, the City's Ordinance Sections 34.15 through 34.99 entitled,

"Ordinance Concerning the Hiring of Waterbury Residents on Certain Publicly-Funded Construction Projects," and the State of Connecticut Legislature's Special Act No. 01-1.

34.12. Every Person who conducts business with, contracts, with or provides commodities or services to the City, is charged with notice of the extent of the powers and authority, and the limitations thereon, of the Public Officials and Employees of the City, as set forth in the charter of the City, the Code of Ordinances and any Regulations or Policies pertaining thereto. In particular, and without implying any limitation as to its applicability, it applies to all Persons who participate in the procedures pertaining to the Centralized Procurement System as set forth in Chapter 38, and the Ethics and Conflict of Interest provisions set forth in Chapter 39 of the Code of Ordinances.

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

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

34.15. FREEDOM OF INFORMATION ACT NOTICE. Pursuant to State statute, in the event the Total Compensation payable to the Contractor set forth in Section 6 of this Contract is greater than $2,500,000.00, the City is entitled to receive a copy of any and all Contractor records and files related to the performance of this Contract and those records and files are subject to the Freedom of Information Act ("the Act") and may be disclosed by the City pursuant to the Act.

35. Definitions. Whenever the following words, terms, etc. appear in this Contract, the intent and meaning shall be as follows:

35.1 Additional Work: Work required by WDC that involves a substantial addition to, deduction from or modification of the Contract Documents.

35.2 Bid or Proposal: The form on which the bidder is to submit a bid for the Work contemplated.

35.3 Bidder: A person, partnership, corporation or other business organization submitting a bid on the form for the Work contemplated.

35.4 City: City of Waterbury, acting directly or through specifically authorized personnel.

35.5 Construction Supervisor: An employee of WDC or of the City of Waterbury, or other City duly authorized person.

35.6 Contract Time: The number of days as stated in the Contract to: (i) achieve Substantial Completion, and (ii) Final Completion.

35.7 Equal: The recognized equivalent in substance and function; considering quality, workmanship, economy of operation, durability and suitability for purposes intended, and not constituting a change in the Work specified. Whenever the words "equal" or "equals" or words of like import are used, it shall be understood they mean "equal" in the opinion of WDC.

35.8 Final Completion: The time at which the Project has progressed to the point where, in the opinion of WDC, the Project is complete such that it is ready for final payment as evidenced by WDC's, or its duly authorized WDC representative's, written recommendation of final payment. The terms "finally complete" and "finally completed" as applied to the Project refer to Final Completion.

35.9 Notice to Proceed: A letter from WDC which shall state the date of execution of the Contract and specifically advise the Contractor to begin work on the Contract.

35.10 Plans: All drawings or reproductions of drawings pertaining to the construction of the work contemplated and its appurtenances.

35.11 Project Engineer or Manager: An employee of WDC or a person, partnership, corporation or other business organization under contract with WDC, commissioned to perform construction administration and inspection duties during construction.

35.12 Shop Drawings: Drawings, diagrams, schedules, performance charts, brochures and other materials prepared by the Contractor or subcontractors, manufacturers or distributors which illustrate some portion of the work.

35.13 Specifications or Technical Specifications: The description, provisions and other requirements pertaining to the materials, methods and manner of performing the Project.

35.14 Subcontractor: A person, partnership, corporation or other business organization supplying labor and/or materials for work at the site of the Project to and under agreement with the Contractor.

35.15 Substantial Completion: The time at which, in the opinion of the Engineer, the Project (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Project (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Project mean Substantial Completion thereof.

35.16 Substitution: A replacement of specified material, device or equipment which is sufficiently different in substance, function, quality or workmanship to become the subject of a Change Order.

35.17 Supplementary General Conditions: An extension to the terms, conditions, and provisions set forth in this document as additional, material, provisions of this Contract.

35.18 WDC: The Waterbury Development Corporation, acting directly or through specifically authorized personnel.

35.19 Work: All plant, labor, materials, services, supplies, equipment and other facilities and items necessary for, or incidental to, the completion of the terms of the Contract.

[Signature page follows]

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

WITNESSES:

_____

_____

CITY OF WATERBURY

By:_____
Neil M. O'Leary
Its Mayor, Duly Authorized

Date: _____

WITNESSES:

_____

_____

JCS Construction Group, Inc.

By:_____

Its _____

Date: _____

ATTACHMENT A
(the following are all incorporated by reference)

1. ITB No. 5334
2. Bid Addenda, dated September 21, 2015 and September 30, 2015
3. Contractor's Bid dated December 4, 2015 in response to ITB No. 5334
4. Annual Statement of Financial Interests; Disclosure and Affidavit Re: Outstanding Obligations to the City; Debarment Certification; Corporate Resolution
5. Certificates of Insurance
6. Performance Bond and Payment Bond
7. Technical Specifications:
   - DIVISION 1 - GENERAL REQUIREMENTS,
   - DIVISION 2 – SITE CONSTRUCTION,
   - DIVISION 3 – CONCRETE,
   - DIVISION 4 – MASONRY,
   - DIVISION 5 – METALS,
   - DIVISION 6 – WOOD AND PLASTICS,
   - DIVISION 7 - THERMAL AND MOISTURE PROTECTION,
   - DIVISION 8 – DOORS AND WINDOWS,
   - DIVISION 9 – FINISHES,
   - DIVISION 10 – SPECIALTIES,
   - DIVISION 13 – SPECIAL CONSTRUCTION,
   - DIVISION 15 – MECHANICAL,
   - DIVISION 16 – ELECTRICAL.
8. List of Contract Drawings September 30, 2015 (2 pages)
9. Federal Wage rates (9 pages)
10. Electronic Code of Federal Regulations, Title 29 Labor, Part 5, Subpart A—Davis-Bacon and Related Acts Provisions and Procedures (7 pages)
11. Contractor's Wage Rate Certification Form (2 pages)

12. State Wage Rates and Related Information (52 pages)

13. Sample Payment Application (4 pages)

14. Any and all amendment(s) and Change Orders issued by the City after execution of Contract.

15. All applicable Federal, State and local statutes, regulations, charter and ordinances.

16. All permits (including, but not limited to, City of Waterbury Building permit(s)) and licenses.

City of Waterbury
Chase Brass Brownfield Redevelopment Site
Area 6 Renovation Project ITB #5334
Bid Tabulation

				Montagno		JCS Revised		LaRossa	
				unit	total	unit	total	unit	total
Bid Item 1	Soil on Lot 10	3000	Tons	$ 118.74	$ 356,220.00	$ 75.00	$ 225,000.00	$ 86.00	$ 258,000.00
Bid Item 2	Soil from Area 6	500	Tons	$ 118.08	$ 59,040.00	$ 85.00	$ 42,500.00	$ 89.00	$ 44,500.00
Bid Item 3	Column Base Repairs	3	Each	$ 550.00	$ 1,650.00	$ 1,890.00	$ 5,670.00	$ 1,800.00	$ 5,400.00
Bid Item 4	Utility Trenchs	1	LS	$ 49,590.00	$ 49,590.00	$ 110,000.00	$ 110,000.00	$ 59,000.00	$ 59,000.00
Bid Item 5	Demo/Reno	1	LS	$ 3,173,570.00	$ 3,173,570.00	$ 2,465,000.00	$ 2,465,000.00	$ 3,121,000.00	$ 3,121,000.00
Bid Item 6	20% Contingency	1	LS	$ 728,013.00	$ 728,014.00	$ 569,634.00	$ 569,634.00	$ 697,580.00	$ 697,580.00
Total					$ 4,368,084.00		$ 3,417,804.00		$ 4,185,480.00
A1	Soil Lot 6	3000	Tons	$ 207.23	$ 621,690.00	$ 85.00	$ 255,000.00	**$ 1,515.00**	$ 4,545,000.00
TOTAL w/A1					$ 4,989,774.00		**$ 3,672,804.00**		$ 8,730,480.00

City of Waterbury
Chase Brass Brownfield Redevelopment Site
Area 6 Renovation Project
SPECIFIED WARRANTIES

Specification Section	Warranty Description	Warranty Period (minimum)
01600-Complete project	General Contractor -materials and workmanship	1 year
Warranties listed below are specified to supplemental the Complete Project 1 year material and workmanship warranty		
07414-Insulated Wall Panels	Mfgr - materials and workmanship	2 year
	Installer - materials and workmanship	1 year
	Mfgr - ext. paint finish adhesion to metal substrate	40 year
	Mfgr - ext. paint finish chalk and fade	30 year
07500-Elastomeric Roofing System	Mfgr-free from blistering, seam separation & delamination of components	20 year
	Installer - workmanship	3 year
07520-SBS Modified Bituminous Roofing	Mfgr-free from blistering, seam separation & delamination of components	20 year
	Installer - workmanship	3 year
07550-Restoration roofing	Installer - inspection and maintenance	3 year
08700-Door Hardware	Mfgr-non-electronic door closers	10 year
	Mfgr-elecronic door closers	2 year
	Mfgr-non-electrified Exit Devices	3 year
	Mfgr-electrified exit devises	1 year
	Mfgr-non-electrified locksets	3 year
	Mfgr-electrified locksets	1 year
	Mfgr - Other door hardware	1 year
08950-Translucent Sandwich Wall Panels	Mfgr-& installer - panel system material and workmanship	1 year
	Mfgr-& installer - extended warranty panel system material and workmanship	10 year
15535-Forced Air Furnaces	Mfgr-solid state ignition modules	1 year
	Mfgr-Heat Exchangers	10 year
16145-Lighting Control Devices	Mfgr -occupancy sensors	5 year
16510-Interior Luminaires	Products warranteed to be listed and classified by Underwriters Laboratories, Inc., as suitable for purpose specified and indicated.	

BID ITEMS:

Item No.	Est. Qty.	Brief Description of Items With Prices in Words	Unit Price (In Figures)	Total Amount (In Figures)
1	3,000 TONS	Manage, Load, Transport, and Dispose of Non-RCRA, Non-TSCA, Contaminated Soil, Characterized, for the Unit Price of Seventy Five Dollars and Cents per Ton	$ 75	$ 225,000
2	500 TONS	Characterize, Manage, Load, Transport, and Dispose of Non-RCRA, Non-TSCA Contaminated Soil from the Area 6 Project Area for the Unit Price of Eighty Five Dollars and Cents per Ton	$ 85	$ 42,500
3	3 Each	Repair Column Base for the Unit Price of One Thousand Eight Hundred Ninety Dollars and Cents per Each	$ 1,890	$ 5,670
4	1 Lump Sum	Construction of utility trench and sump pit as set forth in the Contract Documents for the Lump Sum Price of One Hundred and Ten Thousand Dollars and Cents	Lump Sum $ 110,000	$ 110,000
5	1 Lump Sum	Complete Demolition and Selective Demolition and Renovation of portions of the Area 6 Project Area, as set forth in the Contract Documents for the Lump Sum Price of Two Million Four Hundred Sixty Five Dollars and Cents	Lump Sum $ 2,465,000	$ 2,465,000
6	1 Lump Sum	Contingency Allowance Twenty Percent (20 %) of the Total Bid Price for Bid Items 1 through 5 of Five Hundred Sixty Nine Thousand Six Hundred Thirty Four Dollars and Cents (Special Condition Article 21)	Lump Sum $ 569,634	$ 569,634
Total Base Bid Price – (Sum of Total Amounts for Base Bid Items 1 - 6 Above):				
Dollars and Cents Three Million Four Hundred Seventeen Thousand Eight Hundred and Four (Words)			$ 3,417,804 (Figures)	

ALTERNATE BID ITEM #1

A-1	3,000 TONS	Manage, Load, Transport, and Dispose of non-RCRA Contaminated Soil, Unknown Characteristics, for the Unit Price of Eighty Five. Dollars and Cents per Ton	$ 85	$ 255,000

The undersigned hereby declares and certifies under the penalties of perjury that this Bid is in all respects bona fide and fair; that the only persons or parties interested in this Bid as principals are as stated; that the Bid is made without any collusion with other persons, firms, or corporations, and that the Bid prices shall cover all expenses incurred in providing the specified Bid Items, performing and completing all Work and/or Services, and furnishing all equipment, labor and materials, etc. as required by the Bid Documents, of which this Bid Form is a part. As used in this section, the word "person" shall mean any natural person, joint venture, partnership, corporation, or other business or legal entity.

In the event of mathematically incorrect calculations of individual items or totals, the mathematically correct amount using the estimated quantities and unit prices (in words), where applicable, shall govern in determining the Total Bid Price.

The undersigned also agrees that any quantities indicated are for Bid comparison purposes only and are not represented to be actual quantities to be procured and/or required for completion of the Work.

Respectfully submitted by:

45-4965987
Social Security Number or Federal Identification Number (Print or Type)

JCS Construction Group Inc.
Business Name of Bidder (Print or Type)

Signature of Authorized Official

Justin Shaw
Name of Authorized Official (Print or Type)

President
Title of Authorized Official (Print or Type)

Bidder shall provide Bidder's Contact Information below:

9 West Broad Street (4th Floor)
Business Address: (Print or Type)

203-724-3884
Business Fax Number: (Print or Type)

Stamford, CT 06902
City, State, Zip Code: (Print or Type)

914-661-4088
Mobile Contact Number: (Print or Type)

CITY OF WATERBURY

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

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

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

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

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

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

State of_____)

) SS

County of_____)

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

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

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

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

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

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

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

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

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

Name	Title	Affiliated Company	Service or Material	DOB
1				
2				
3				
4				

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

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

Name	Title	Affiliated Company	Service or Material	DOB
1				
2				
3				
4				

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

Organization Name	Address	Type of Ownership
1		
2		
3		
4		

(c) The following persons possess an ownership interest in the Contractor. If the Contractor is a corporation, list all of the officers of the corporation and the names of each stockholder whose shares exceed twenty-five (25) percent of the outstanding stock. Use additional sheet if necessary (Must be on company letterhead and notarized): **(NOTE: IF NONE, STATE NONE)**

Name	Title	DOB	Stock %
1			
2			
3			
4			

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

Name	Title	Affiliated Company	Address	DOB
1				
2				
3				
4				

(e) If the Contractor conducts business under a trade name, the following additional information is required: the place where such entity is incorporated or is registered to conduct such business; and the address of its principal place of business. **(NOTE: IF NONE, STATE NONE)**

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

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

CITY OF WATERBURY

Certification For Partnership

In presence of:

_____ _____
(Name of Partnership)

_____ By: _____
(Name of General Partner)

Business Address: _____

_____

Certification For Corporation

_____ Justin Shaw
Attest (Corporate Principal)

Business Address: 9 West Broad Street
Stamford CT 06902

Affix
Corporate
Seal

JS Construction Group Inc
(Name of Corporation)

By: _____
(Name of Authorized Corporate Official)

Its: President.
(Title)

Notarization of Certification for Partnership or Corporation

State of_____)

) SS

County of_____)

_____, being first duly sworn, deposes and says that he/she is _____ of _____ and that his/her answers to the foregoing questions and all statements therein are true and correct.

Subscribed and sworn to before me this _____ day of _____, 20_____

_____
(Notary Public)

My Commission Expires: _____

THE CITY OF WATERBURY
MEMORANDUM

From: Delinquent Tax Office **Date: January 7, 2016**

To: **Waterbury Development Corporation**
Andrew Martelli, Project Manager

Subject: Tax Clearance

As of this date, the records in the Tax Collector's Office indicate that the following ***is not*** delinquent.

JCS Construction Group Inc.
9 West Broad Street 4th Floor
Stamford, CT 06902

JCS Construction Group Inc.
680 Fifth Avenue, 26th Floor
New York, New York 10019

If you have any questions regarding this matter, please do not hesitate to call our office at (203) 574-6815.

Very truly yours,

FC/td

Frank A. Caruso, Jr. CCMC
Revenue Collection Manager
City of Waterbury