

A G R E E M E N T

THIS AGREEMENT dated the _____ day of _____, 2022, is by and between the **CITY OF STAMFORD** (hereinafter the “City”), a municipal corporation organized and existing pursuant to the laws of the State of Connecticut with a principal place of business located at 888 Washington Boulevard, Stamford, Connecticut, and acting herein by Caroline Simmons, its duly authorized Mayor, and **AFFINECO, LLC d/b/a UNITED SERVICES OF AMERICA** (hereinafter the “Consultant”), a domestic limited liability company with a principal place of business located at 855 Main Street, Suite 900, Bridgeport, Connecticut, and acting herein by Paul Senecal, its duly authorized Manager.

W I T N E S S E T H

WHEREAS, The City issued Request for Proposals No. 851 for Janitorial Services for Government Center and Police Headquarters on November 18, 2021 (hereinafter the “City’s RFP No. 851”);

WHEREAS, The Consultant submitted a proposal in response to the City’s RFP No. 851 on January 6, 2022 (hereinafter the “Consultant’s Proposal”); and

WHEREAS, The City has accepted the Consultant’s Proposal pursuant to the terms hereinafter set forth;

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. INCORPORATION OF RECITALS. The above terms and conditions are contractual in nature and not merely recitals and are hereby incorporated into this Agreement;

2. CONTRACT DOCUMENTS AND SCOPE OF SERVICES. The Contract Documents consist of this Agreement and the following Exhibits that, combined, define the duties, functions, obligations, responsibilities, and tasks of the Scope of Services:

Exhibit A – The City’s RFP No. 851;
Exhibit A-1 – Addendum No. 1, dated December 13, 2021, to the City’s RFP No. 851;
Exhibit A-2 – Addendum No. 2, dated December 22, 2021, to the City’s RFP No. 851;
Exhibit B – The Consultant’s Proposal;
Exhibit B-1 – The Consultant’s Fee Proposal & Pricing Notes-Assumptions;
Exhibit B-2 – The Consultant’s Byrd Anti Lobbying Certification; and
Exhibit B-3 – The Consultant’s Approved Certificate of Insurance (COI);

all attached hereto and hereby made a part hereof as if fully set forth herein;

3. NO EXCLUSIVE RIGHT TO WORK. Nothing contained herein shall grant the Consultant an exclusive right to perform the Scope of Services. The City may enter into similar agreements with other consultants at its sole discretion on an as-needed basis;

4. COMPENSATION. The Consultant shall be compensated for the Scope of Services pursuant to the prices set forth in greater detail in the Consultant's Fee Proposal & Pricing Notes-Assumptions;

5. TERM. The Term of this Agreement shall commence on July 1, 2022, and terminate three (3) years thereafter. The parties may, by mutual agreement, extend the Term of this Agreement for two (2), additional years, provided that all other terms of this Agreement remain the same. No such extension shall be for greater than one (1) year and, under no circumstances, shall the entire Term of this Agreement, including any extension years, exceed five (5) years;

6. CONSULTANT'S REPRESENTATIVE AND KEY PERSONNEL. The following representative of the Consultant is hereby authorized to act on behalf of the Consultant with respect to the Scope of Services and shall have full authority to accept instructions, make decisions, communicate for and act on behalf of the Consultant at all times.

Consultant Representative: Paul Senecal, CBSE Managing Partner

In addition to the Consultant's Representative, the following Key Personnel of the Consultant shall be assigned to, participate in and be available to the City for the Scope of Services.

Key Personnel:

Government Center – Jorge Jimenez, CBSE Vice President/General Manger
Police HQ & Old Town Hall – Carlos Nique, Assistant Vice President

Neither the Consultant's Representative nor the Key Personnel shall be replaced by the Consultant without fifteen (15) days prior written consent of the City:

7. REPRESENTATIONS. The Consultant represents that it is qualified in relation to the Scope of Services and further represents that it has the requisite skill, expertise, and knowledge necessary to perform the Scope of Services, including any supplementary work. The Consultant hereby acknowledges that the City has relied upon said representations in entering into this Agreement;

8. CAPACITY/INDEPENDENT CONTRACTOR. Consultant is acting as an independent contractor and is not an employee of the City. This Agreement is for services only and does not create a partnership or joint venture between the Consultant and the City. The City shall not be required to pay, or make any contribution to, any social security, local, state of federal tax, unemployment compensation, workers' compensation,

insurance premium, profit-sharing, pension or any other employee benefit for the Consultant during the Term of this Agreement. The Consultant is responsible for paying, and complying with reporting requirements for, all state, local, and federal taxes related to payments made to the Consultant under this Agreement;

9. INDEMNIFICATION. The Consultant shall indemnify, hold harmless and, at the City's option, defend the City, its officers, agents and employees, from third party claims for loss, cost, damage, liability, and/or injury to or death of a person, including the agents and employees of the Consultant, or loss of or damage to property, resulting directly or indirectly from the Consultant's negligent performance pursuant to this Agreement, or by any negligent omission to perform some duty imposed by law or this Agreement upon the Consultant, its officers, agents and employees. The foregoing indemnity shall include reasonable attorneys' fees and costs of suit, if applicable, and shall survive the termination of this Agreement;

10. INSURANCE. The Consultant shall procure, at its sole expense, and maintain for the entire term of this Agreement, including any extensions, insurance coverages as set forth in the Consultant's Approved Certificate of Insurance (COI) attached hereto as Exhibit B-3. The Consultant agrees that it will be solely responsible for ensuring that its agents, including contractors and subcontractors, maintain insurance coverage at levels no less than those required of the Consultant pursuant to this section;

11. LIMITATION OF LIABILITY. The Consultant's sole remedy for City delays shall be an extension of time to complete the Scope of Services and the Consultant hereby waives any claims for consequential damages, including, but not limited to, principal office expense, loss of financing, reputation and/or lost profit;

12. ASSIGNMENT. The Consultant shall not assign or transfer any portion of the Scope of Services set forth herein without the prior written approval of the City;

13. SUBCONTRACTING/SUBCONSULTING. Aside from those subconsultants or subcontractors disclosed in the Consultant's Proposal, the Consultant is prohibited from further subconsulting or subcontracting the Scope of Services or any part of it unless the City first approves such subconsulting or subcontracting in writing and approves, in writing, of the specific subconsultant(s) or subcontractor(s) the Consultant proposes to be used. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void. Should the City approve of a proposed subconsultant or subcontractor, the Consultant agrees to comply with the City of Stamford Code of Ordinances § 103.4;

14. REVIEW OF WORK. The Consultant shall permit the City, its agents and/or employees to review, at any time, all work performed pursuant to the terms of this Agreement at any stage of the work;

15. BOOKS AND RECORDS. The Consultant shall maintain or cause to be maintained all records, books, or other documents relative to charges, costs, expenses, fees, alleged breaches of this Agreement, settlement of claims, or any other matter

pertaining to the Consultant's demand for compensation by the City for a period of not less than three (3) years from the date of the final payment for work performed pursuant to this Agreement;

16. CONTRACT EXTRAS. Pursuant to the City of Stamford Code of Ordinances, Section 23-18.4 C., it is specifically understood and agreed by the Consultant that all contract extras regarding this Agreement shall be governed by the City of Stamford Charter and/or Code of Ordinances. The City shall not be liable for payment of any additional costs, except as otherwise expressly set forth in this Agreement, unless the provisions of the City of Stamford Charter and/or Code of Ordinances are fully complied with. The City of Stamford Charter and Code of Ordinances can be found at www.municode.com;

17. COMPLIANCE WITH CITY OF STAMFORD CODE PROVISIONS. The Consultant hereby agrees to fully comply, to the extent applicable, with the requirements of the City of Stamford Code of Ordinances, Sections 103-1 through 103-10, regarding consultants in general. The provisions of the City of Stamford Code of Ordinances can be found at www.municode.com;

18. COMPLIANCE WITH LAWS. The Consultant shall be responsible for compliance with all applicable federal, state and local laws, rules, regulations, codes, orders, ordinances, charters, statutes, policies and procedures related to the Scope of Services.

19. CONFIDENTIALITY. During and after the term of this Agreement, the Consultant, including, without limitation, its employees, agents, servants and representatives, shall not directly or indirectly disclose or make available to any person, firm, corporation, association or other entity for any reason or purpose whatsoever, or use or cause to be used in any manner adverse to the interest of the City, any financial, administrative or other confidential business information, except as is necessary to perform the Scope of Services or as may be require by law;

20. GIFTS. During the Term of this Agreement, including any extensions, the Consultant shall refrain from making gifts of money, goods, real or personal property or services to any appointed or elected official or employee of the City of Stamford or the Stamford Board of Education or any appointed or elected official or employee of their Boards, Commissions, Departments, Agencies or Authorities. All references to the Consultant shall include its members, officers, directors, employees, and owners of more than 5% equity in the Consultant;

21. CODE OF ETHICS. The Consultant is prohibited from using its status as a consultant to the City to derive any interest(s) or benefit(s) from other individuals or organizations and the Consultant shall comply with the prohibitions set forth in the Stamford Municipal Code of Ethics as codified in Chapter 19 of the City of Stamford Code of Ordinances;

22. MORALS CLAUSE. Neither the Consultant, the Consultant’s Representatives nor the Consultant’s key personnel shall commit any act or do anything which might reasonably be considered: (i) to be immoral, deceptive, scandalous or obscene; or (ii) to injure, tarnish, damage or otherwise negatively affect the community and/or the reputation and goodwill associated with the City. If the Consultant, the Consultant’s Representative or the Consultant’s key personnel is accused of any act involving moral or ethical issues, dishonestly, theft or misappropriation, under any law, or any act which casts an unfavorable light upon its association with the community and/or the City or the Consultant is accused of performing or committing any act which could adversely impact the Consultant’s events, programs, services, or reputation, the City shall have the right to terminate this contract upon fifteen (15) days written notice specifying the reason, within which period the Consultant may cure such offense. The determination of whether and to what extent the offense is cured shall be made by the City at its sole discretion;

23. PROVISIONS FOR CITY OF STAMFORD CONTRACTS WITH FEDERAL AWARDS – NON-CONSTRUCTION.

Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Clean Air Act. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.* The contractor agrees to report each violation to the City of Stamford and understands and agrees that the City of Stamford will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate [Environmental Protection Agency Regional Office](#). The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.

Federal Water Pollution Control Act. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.*

The contractor agrees to report each violation to the City of Stamford and understands and agrees that the City of Stamford will, in turn, report each violation as required to assure notification to the (insert name of the pass-through entity, if applicable), Federal Emergency Management Agency (FEMA), and the appropriate [Environmental Protection Agency Regional Office](#).

The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.”

Suspension and Debarment. This contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the contractor is required to verify that none of the contractor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The contractor must comply with 2 C.F.R. Part 180, subpart C and 2C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the City of Stamford. If it is later determined that the contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to the City of Stamford, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

Procurement of Recovered Materials. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

- Competitively within a timeframe providing for compliance with the contract performance schedule;
- Meeting contract performance requirements; or
- At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage:

<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Prohibition on Contracting for Covered Telecommunications Equipment or Services.

(a) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(b) *Prohibitions.*

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) *Exceptions.*

(1) This clause does not prohibit contractors from providing:

- (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (2) By necessary implication and regulation, the prohibitions also do not apply to:
- (i) Covered telecommunications equipment or services that:
 - Are *not used* as a substantial or essential component of any system;
and
 - Are *not used* as critical technology of any system.
 - (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.
- (3) *Reporting requirement.*
- (i) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
 - (ii) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered

telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(4) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.”

Domestic Preference for Procurements. As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.”

Access to Records. The Contractor agrees to provide the City of Stamford, (insert name of pass-through entity, if applicable), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

In compliance with section 1225 of the Disaster Recovery Reform Act of 2018, the City of Stamford and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

DHS Seal, Logo, and Flags. The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The contractor shall include this provision in any subcontracts.

Compliance with Federal Law, Regulations, And Executive Orders and acknowledgement of Federal Funding. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

No Obligation by Federal Government. The federal government is not a party to this contract and is not subject to any obligations or liabilities to the non-federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Program Fraud and False or Fraudulent Statements or Related Acts. The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms:

(a) The City of Stamford shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps shall include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) The Contractor, if subcontracts are to be let, shall take the affirmative steps listed in paragraphs (1) through (5) of this section.

License and Delivery of Works Subject to Copyright and Data Rights. The Contractor grants to the City of Stamford, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the City of Stamford or acquires on its behalf a license of the same scope as for data first produced in the performance of this

contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the City of Stamford data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the City of Stamford.

Never contract with the enemy. Federal awarding agencies and recipients are subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

24. TERMINATION.

- A. **TERMINATION FOR CAUSE, SANCTIONS AND PENALTIES.** If, through any cause, the Consultant shall fail to fulfill, in a timely and proper manner, its obligations under this Agreement, or if the Consultant shall violate any laws or any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement for cause by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished reports, documents, data, studies, photographs, or other material prepared by the Consultant pursuant to its performance under this Agreement shall, at the option of the City, become the City's property. The Consultant shall be entitled to receive just and equitable compensation for any satisfactory services completed up to the effective date of termination. The Consultant shall not be responsible for any claims resulting from the City's use of the documents on another project or changes made to the documents without the Consultant's express written permission;

The term "cause" includes, without limitation the following:

- 1) If the Consultant furnished any statement, representation, warranty or certification in connection with this Agreement, which is materially false, deceptive, incorrect, or incomplete;
- 2) If the Consultant fails to perform to the City's satisfaction any material requirement of this Agreement or is in violation of any specific provision thereof or any State or Federal law or requirement; or

- 3) If the City reasonably determines that satisfactory performance of this Agreement is substantially endangered or can reasonably anticipate such an occurrence or default.

Should the City terminate this Agreement for cause, the Consultant shall not be relieved of liability to the City for any damages sustained by the City by virtue of any breach of this Agreement by the Consultant and the City may withhold any payment to the Consultant for the purposes of setoff until such time as the exact amount of damages due the City from the Consultant is determined. Further, if applicable, the City shall have the right to:

- 1) Complete the Scope of Services, or any part thereof, either by itself or by other consultants, at the expense of the Consultant;
- 2) Purchase the products or services that are the subject of this Agreement elsewhere and hold the Consultant responsible for any increase in cost;
- 3) Pursue any equitable remedy, including, but not limited to, specific performance or injunction; and/or
- 4) Disqualify the Consultant from bidding on, submitting proposals for, or being awarded any City contract for a period not to exceed two (2) years from the date of such termination;

B. **TERMINATION FOR CONVENIENCE.** The City may terminate this Agreement at any time the City determines that the purposes of the distribution of monies under the Agreement would no longer be served by the services provided. The City shall effect such termination by giving written notice of termination to the Consultant and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described Subsection A shall, at the option of the City, become property of the City. If the Agreement is terminated by the City as provided herein, the Consultant shall be paid an amount which bears the same ratio to the total compensation as the services actually and satisfactorily performed to the effective date of termination bear to the total services of the Consultant pursuant to the terms of the Agreement, less payments of compensation previously made, and subject to the City's right of set off for any damages pursuant to the terms of the Agreement;

25. CLAIMS FOR DAMAGES. Should either party to this Agreement suffer injury or damage to person or property because of any act or omission of the other party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage;

26. DISPUTE RESOLUTION.

- A. EXECUTIVE MEETING. The parties shall endeavor to resolve all claims, disputes, or other matters in controversy arising out of or related to this Agreement (“Claims”) through a meeting of the chief executives of each party, or their respective designees (“Executive Meeting”).

A request for an Executive Meeting shall be made by a party in writing and delivered to the other party. The request may be made concurrently with the filing of a non-binding mediation as set forth herein. The Executive Meeting shall be a condition precedent to mediation unless 30 days have passed after the Executive Meeting has been requested with no meeting having been held.

The Executive Meeting shall be held in the place where the Project is located, unless another location is mutually agreed upon.

- B. MEDIATION. Any Claim subject to, but not resolved by, an Executive Meeting shall be subject to mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its applicable rules and procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation.

The request may be made concurrently with the filing of arbitration but, in such event, mediation shall proceed in advance of arbitration, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

The parties shall share the mediator’s fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

- C. ARBITRATION. Any Claim subject to, but not resolved by, mediation shall, in the sole discretion of the City, be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its applicable rules and procedures in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the

institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law.

Any judgment will be entered or court action will be brought in a court of competent jurisdiction within the State of Connecticut.

D. PERFORMANCE DURING DISPUTE. Unless otherwise directed by the City, the Consultant shall continue performance under this Agreement while matters in dispute are being resolved.

27. SETOFF OF PROPERTY TAXES OWED TO THE CITY OF STAMFORD.

Pursuant to the City of Stamford Code of Ordinances Section 23-18.4.1 and Section 12-146b of the Connecticut General Statutes, as amended, the Consultant hereby acknowledges that the City shall have the right to set-off or withhold any payment, or portion thereof, due to the Consultant pursuant to this Agreement if any taxes levied by the City of Stamford against any property, both real and personal, owned by the Consultant are delinquent and have been so delinquent for a period of not less than one year. Any amount withheld from the Consultant pursuant to this section shall be applied to the Consultant's delinquent taxes, provided, however, that no such amount withheld shall exceed the amount of tax, plus penalty, lien fees and interest, outstanding at the time of withholding;

28. NON-APPROPRIATION. The Consultant acknowledges that the City is a municipal corporation, that the City's obligation to make payments under this Agreement is contingent upon the appropriation by the City of Stamford Board of Representatives of funds sufficient for such purposes for each budget year in which the Agreement is in effect;

29. GOVERNING LAWS AND VENUE. The parties deem this Agreement to have been made in the City of Stamford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Agreement to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Fairfield, at Stamford, only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court. The Consultant hereby waives any objection which it may now have or will have to the laying of venue of any claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding;

30. INTERPRETATION. The City, in its sole discretion, shall determine the terms and/or document(s) which shall prevail and take precedence in the event of any ambiguity between the terms of this Agreement and any of the incorporated Exhibits;

31. NON-WAIVER. The failure of the City to insist upon strict performance of any of the terms, conditions or covenants herein shall not be deemed a waiver of any rights or remedies that the City may have; and shall not be deemed a waiver of any subsequent breach or default of the terms, conditions or covenants herein contained. The City reserves the right to require strict compliance therewith at any time, with or without notice, except as may be otherwise required herein; and

32. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. The counterparts shall together constitute but one Agreement. Any signature on a copy of this Agreement or any document necessary or convenient thereto sent by facsimile, PDF or other electronic format shall be binding upon such transmission and the facsimile, PDF or other electronic format copy shall be deemed an original for the purposes of this Agreement.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written. Signed, sealed and delivered in the presence of:

CITY OF STAMFORD

Print:
Witness

By: _____
Caroline Simmons, Mayor

Date: _____

Print:
Witness

AFFINECO, LLC d/b/a
UNITED SERVICES OF AMERICA

Agneszwa Fijalkowska
Print: AGNIESZWA FIJALKOWSKA
Witness

By: _____
Paul Senecal, Manager

Date: 4/26/22

Michael Zapata
Print: Michael Zapata
Witness

Approved as to Form:

Chris Dellaselva
Chris Dellaselva
Asst. Corp. Counsel

Date: April 29, 2022

Approved as to Insurance:

David Villalva
David Villalva
Risk Manager

Date: MAY 2, 2022