AGENDA

CITY COUNCIL MEETING

MONDAY, DECEMBER 19, 2016

7:00 P.M.
CITY COUNCIL CHAMBERS, CITY HALL – 45 LYON TERRACE
BRIDGEPORT, CONNECTICUT

Prayer

Pledge of Allegiance

Roll Call

Mayoral Proclamation and City Council Citation: In Recognition of Frances M. Rabinowitz, Interim Superintendent of Schools, for her meritorious services and accomplishments during her tenure in the City.

Mayoral Citation(s) and City Council Citation(s): Recognizing the Members of the League of Urban Gentlemen (L.U.G.) for creating positive change with events and donations for the homeless and children, while working to improve the lives of young urban males.

MINUTES FOR APPROVAL:

Approval of City Council Minutes: November 21, 2016

COMMUNICATIONS TO BE REFERRED TO COMMITTEES:

08-16 Communication from City Attorney re: Twenty Day Notice to Settle Pending Litigation Pursuant to Municipal Code Section 2.10.130 with Edwin Quiles, **ACCEPTED AND MADE PART OF THE RECORD.**

09-16 Communication from City Attorney re: Twenty Day Notice to Settle Pending Litigation Pursuant to Municipal Code Section 2.10.130 with Lucila A. Ford, **ACCEPTED AND MADE PART OF THE RECORD.**

10-16 Communication from Central Grants re: Grant Submission: Leary Firefighters Foundation Grant Program, referred to Public Safety and Transportation Committee.

11-16 Communication from Central Grants re: Grant Submission: State of Connecticut Office of Policy and Management, Criminal Justice Policy and Planning Division for the Project Longevity Grant, referred to Public Safety and Transportation Committee.

MATTERS TO BE ACTED UPON (CONSENT CALENDAR):

***216-15** Ordinance Committee Report re: Amendments to the Municipal Code of Ordinances, Chapter 3.08 – City Contracts and Purchasing Procedures, amend Section 3.08.070 – Purchasing Procedure.

MATTERS TO BE ACTED UPON (CONSENT CALENDAR) CONTINUED:

***218-15** Public Safety and Transportation Committee Report re: Honorary Designation of "Jimmie W. Jones Way" be created with appropriate signage on Bishop Avenue at the intersection of Connecticut Avenue and Barnum Avenue.

***93-15** Contracts Committee Report re: Master State/Municipality Agreement for the Readjustment, Relocation and/or Removal of Municipal Facilities on Highway Projects.

***196-15** Contracts Committee Report re: Administrative Services Agreement with Stirling Benefits, Inc.

***199-15** Contracts Committee Report re: Sixth Amendment to Stadium License, Management and Operations Agreement with Past Time Partners, LLC., owner of the Bridgeport Bluefish Professional Baseball Team.

***213-15** Contracts Committee Report re: Resolution re: State of Connecticut Department of Transportation (DOT) Master Municipal Agreement for Design Projects.

***214-15** Contracts Committee Report re: Resolution re: State of Connecticut Department of Transportation (DOT) Master Municipal Agreement for Rights of Way Activities.

***215-15** Contracts Committee Report re: Resolution re: State of Connecticut Department of Transportation (DOT) Master Municipal Agreement for Construction Projects.

***227-15** Contracts Committee Report re: Resolution re: Professional Services Agreement with GIS, Inc., Bowne AE&T Group and Prime AE for On-Call GIS Services.

MATTERS TO BE ACTED UPON:

228-15 Contracts Committee Report re: Professional Services Agreement with Freeman Companies regarding the Black Rock Streetscape Project for Design and Engineering Services, **DENIED**.

UNFINISHED BUSINESS:

200-15 Miscellaneous Matters Committee Report re: Appointment of Rosalina Roman Christy to the Library Board of Directors.

201-15 Miscellaneous Matters Committee Report re: Appointment of Donald W. Greenberg to the Library Board of Directors.

202-15 Miscellaneous Matters Committee Report re: Appointment of Kenya Osborne-Gant to the Library Board of Directors.

THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, DECEMBER 19, 2016 AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.

NAME	SUBJECT
Ernest E. Newton 190 Read Street Bridgeport, CT 06607	Purchasing Ordinance.
Bob Keeley 2156 Park Avenue Bridgeport, CT 06604	Renaming/defining the City and public – private partnerships.

UNFINISHED BUSINESS CONTINUED:

203-15 Miscellaneous Matters Committee Report re: Reappointment of Attorney James E. O'Donnell to the Library Board of Directors.

204-15 Miscellaneous Matters Committee Report re: Reappointment of Judge William Holden to the Library Board of Directors.

205-15 Miscellaneous Matters Committee Report re: Appointment of Phylicia R. Brown to the Library Board of Directors.

CITY COUNCIL MEETING
PUBLIC SPEAKING
MONDAY, DECEMBER 19, 2016
6:30 PM
City Council Chambers, City Hall
45 Lyon Terrace
Bridgeport, CT

CALL TO ORDER

Council President McCarthy called the Public Session to order at 6:35 p.m.

City Clerk Lydia Martinez called the roll.

The following members were present:

130th District: Kathryn Bukovsky
131st District: Denese Taylor-Moye, Jack O. Banta
132nd District: John Olson, M. Evette Brantley
133rd District: Thomas McCarthy, Jeanette Herron
134th District: Michelle Lyons
135th District: Mary McBride-Lee, Richard Salter
136th District: Jose Casco, Alfredo Castillo
137th District: Aidee Nieves
138th District: Anthony Paoletto, Nessah Smith
139th District: Eneida Martinez, James Holloway

A quorum was present. Council President McCarthy announced that Council Member Burns, Vizzo-Paniccia and Feliciano were not able to attend due to family obligations.

THE FOLLOWING NAMED PERSON HAS REQUESTED PERMISSION TO ADDRESS THE CITY COUNCIL ON MONDAY, DECEMBER 19, 2016 AT 6:30 P.M., IN THE CITY COUNCIL CHAMBERS, CITY HALL, 45 LYON TERRACE, BRIDGEPORT, CT.

NAME	SUBJECT
Ernest E. Newton 190 Read Street Bridgeport, CT 06607	Purchasing Ordinance.

Mr. Newton came forward and said that he would like to speak about the Purchasing Ordinance. He said that he had come forward a few months earlier regarding the transfer Station and the fact that he could not be hired because he had committed a crime. He said that he did not want to see that happen to anyone else. Mr. Newton said that he would like to thank Council Member

Martinez and the Ordinance Committee for adjusting the Ordinances and clarifying the issues around felons. This was about fairness. Today, once the Council votes on this, the Ordinance will change for the better.

Bob Keeley
2156 Park Avenue
Bridgeport, CT 06604

Renaming/defining the City and public – private partnerships.

Council President McCarthy said that Mr. Keeley was not able to attend the meeting and that Mr. Charles Covello would be reading a letter from Mr. Keeley.

Mr. Covello came forward and read the following statement into the record:

After having spent a lifetime working with and for Bridgeport people, especially poor families, and their kids, I now find myself deeply pained by the ever growing lack of caring for Bridgeport families and their problems from our elected officials. I am more afraid for the future of our visionless city than I have ever been.

I was sincerely hoping that things would be different in Bridgeport after the results of the last municipal election. I thought we could begin to define collectively who and what we as a community are presently or who and what we want to be.

Unfortunately, my hopes were soon dashed when our new administration re-introduced political machine patronage and as a result losing out on hundreds of millions of dollars in federal and state grants, without even applying, overseeing a sad public housing/mixed income federally funded debacle, not recapturing formerly funded city bridges, located in the inner city, and not working to find key funding flowing into the city, resulting in a large tax increase. I do not believe that some of our elected officials tell the truth. Even as our city has become so violent, all these elected officials offer is a press release and a photo opportunity for themselves to indulge in. The Federal Government, State of Connecticut and the private sector need to step in, form a partnership with our city representatives and residents, stamp out the local patronage in which unqualified personnel hiring practices are literally costing Bridgeport residents and families much needed monies to make living life easier in this City. It has become ugly, when I have to fight adults in City Hall just to help kids from "Orcutt", to release old money to fix our roof. We are only as strong a community as our weakest link. I will continue to fight our weakest links (Mayor's Office-Planning Offices-State and Federal elected officials) in order to help Bridgeport families and kids. Other non-profits and resident groups have stated to me that we need to act differently than in the past, for our residents to be afforded the same opportunities, as other town/city residents enjoy. Bridgeport's system of government is broken and city planning efforts have proven catastrophic. We must invest in spending on infrastructure, leading to a special Pleasure Beach, (can you imagine New York without the Statue of Liberty?), a beautiful waterfront and a gorgeous Remington Woods (can you imagine New York without Central Park?). Infrastructure monies will be available in the 2017 legislative session. Someone please wake City Hall up and ask what would make Bridgeport unique and special given the proper money to spend. For once, let's design a system where our families are at the center of our planning efforts. This will make the difference as ideas will flow from residents to local elected officials, up to State elected officials, and then to Federal elected

officials, as well as to private financing partnership opportunities. First, we need to reach consensus on who we are as a community. Next we need to devise a blueprint for change and not rely on City Hall to lead us further into our downward spiral.

Sincerely,
Bob Keeley
City of Bridgeport resident.

Council President McCarthy called Mr. John Marshall Lee forward to speak.

Mr. John Marshall Lee came forward to read the following statement into the record:

Message to City Council gathered December 19, 2016

Within the past two weeks Dr. Bartley Danielson, a Professor at North Carolina State University shared results of his study of 100 US metropolitan areas. By looking at census data for families with children 0-4 and 5-9 his findings showed that middle-class families whose children reach school age relocated out of areas with poor performing schools. And Bridgeport is identified as the City with the highest rate of 'family flight'. Again we see the City with a # 1 ranking out of 100 areas!

I have watched flight take place among young homeowners with infants. Large taxes, reduced home values, and private school tuition is not realistic for them. And we have just seen what the latest tax jump, which you approved with little budget reduction as fiscal watchdogs, is doing to our senior population. They find that our safeguards are of little practical significance to them.

In many places Mayor Ganim's election was seen to usher in not only a "second chance" for him to sit in that seat, receive the compensation and photo-ops, but also a chance for the City to have honest, open, accountable and transparent governance. Speaking directly to you, as one observer, I suggest that not much has changed in the last year.

"Our worst enemies are not the ignorant and the simple, however cruel. Our worst enemies are the intelligent and the corrupt." Have you ever read or heard that quote before? Are you satisfied with City plans? Can you articulate them and measure resolutions you review by City priorities? What are they? Where are they posted by the Mayor or by the President of your Council?

As a Council member, are you tired of seeing #1 ranking for highly property taxed cities? Or as ranking high for communities where students depart school without earning a diploma? Why do so many Bridgeport youth enter kindergarten with little alphabet knowledge, no sense of sounds, and limited oral vocabulary and expect them to meet State reading standards 10 months later? When they start behind, or later slip behind, do they receive saving support? I know that you are not the Board of Education, but you are the group that did not respond in any material sense to the $15 Million gap told to you last year, aren't you?

We coach youth that 95% of success in life comes from showing up, on time, dressed to play. I am sure that you have heard that hopeful statement. Perhaps some of you even live by it. However, if we consider the meetings that are not held by your sub-committees where new ideas

might be solicited from tax-paying voter citizens, but you don't? And some meetings are not held because something else is more important to the majority of your members? Or what about the meetings that waste time of fellow members who show up on time and must wait for the fourth member? Where is your representation of the people?

How many have you held meetings in your neighborhoods about the problems and concerns of the people there? It has worked in a couple places already. Do you respect your hard working, taxpaying owners and renters who elected you? Do you have enough personal time for them? As you reflect on my questions that are deadly serious, set aside your anger at me, please. I am not out to skewer one or two persons. I am out to ask you to admit or deny your responsibility to the public for creating better City governance.

Council Member McBride-Lee joined the meeting at 6:47 p.m.

You may be only one person, but you have a voice, and you can listen, and you have financial resources of stipends and operating expense fund that you have not used wisely along with the Council calendar. Why delay? Some people are getting the benefits of City dollar resources, but so many are not, and in so many serious but unnecessary ways. You are big brother or sister fiscally to the Board of Education. You left them to survive alone last year, and for many years past, by having no priorities except those coming out in staggered fashion (or out of public eye) from the Mayor's office. And he was the one who talked about accountability, wasn't he?

Again I repeat the quote: "Our worst enemies here are not the ignorant and the simple, however cruel, our worst enemies are the intelligent and the corrupt." When you stand in the way of better governance, annually, what type of enemy of the public are you? Time will tell.

ADJOURNMENT

Council President McCarthy adjourned the public speaking portion of the Council meeting at 6:47 p.m.

Respectfully submitted,

S. L. Soltes
Telesco Secretarial Services

CITY OF BRIDGEPORT

CITY COUNCIL MEETING

MONDAY, DECEMBER 19, 2016

7:00 PM

City Council Chambers, City Hall - 45 Lyon Terrace

Bridgeport, Connecticut

CALL TO ORDER

Mayor Ganim called the meeting to order at 7:06 p.m.

PRAYER

Mayor Ganim requested Council Member Lyons lead those present in prayer.

PLEDGE OF ALLEGIANCE

Mayor Ganim requested Council Member Brantley to lead those present in reciting the Pledge of Allegiance.

ROLL CALL

City Clerk Lydia Martinez called the roll.

The following members were present:

130th District: Kathryn Bukovsky
131st District: Jack O. Banta, Denese Taylor-Moye
132nd District: M. Evette Brantley, John Olson
133rd District: Thomas McCarthy, Jeannette Herron
134th District: Michelle Lyons
135th District: Richard Salter
136th District: Jose Casco, Alfredo Castillo,
137th District: Aidee Nieves
138th District: Anthony Paoletto, Nessah Smith
139th District: Eneida Martinez, James Holloway

A quorum was present.

Council President McCarthy announced that Council Member Burns, Vizzo-Paniccia and Feliciano were not able to attend due to family obligations.

Council Member McBride-Lee thanked everyone for the flowers and cards regarding the recent passing of her brother.

Council Member Martinez then read a brief biography about Jimmie W. Jones, whose story she was familiar with and announced that there was an item on the consent calendar naming Bishop Avenue as "Jimmie W. Jones Way".

Council Member Lyons said that she would like to thank Council Member Brantley, Council President McCarthy and all the others who honored her on behalf of her retirement from the Board of Education. She spoke about how rewarding the work that she had done with her students was to her.

Council President McCarthy asked for a moment of silence in honor Council Member McBride-Lee brother.

Mayoral Proclamation and City Council Citation: In Recognition of Frances M. Rabinowitz, Interim Superintendent of Schools, for her meritorious services and accomplishments during her tenure in the City.

Council President McCarthy requested that Mrs. Rabinowitz and her family come forward to receive the City Citation. Council President McCarthy then spoke about Ms. Rabinowitz's contributions to the City in her work leading the Public School System. He and all the Council Members present gave Ms. Rabinowitz a standing ovation and presented her with a City Council Citation.

Mayor Ganim concurred with all that Council President McCarthy had said and announced that December 19th, 2016 was Frances M. Rabinowitz Day in Bridgeport, Connecticut. He then presented her with the Mayoral Proclamation.

Mayoral Citation(s) and City Council Citation(s): Recognizing the Members of the League of Urban Gentlemen (L.U.G.) for creating positive change with events and donations for the homeless and children, while working to improve the lives of young urban males.

Council President McCarthy greeted all those present from League of Urban Gentlemen (L.U.G.) and thanked them for all the work they have done for the homeless and children, while working to improve the lives of young urban males. Council President McCarthy presented them with a City Council Citation of appreciation.

Mayor Ganim concurred with all that Council President McCarthy had said and distributed Mayoral Citations to those present.

MINUTES FOR APPROVAL:

Approval of City Council Minutes: November 21, 2016

**** COUNCIL MEMBER BRANTLEY MOVED THE MINUTES OF NOVEMBER 21, 2016.**

** COUNCIL MEMBER TAYLOR-MOYE SECONDED.
** THE MOTION TO APPROVE THE MINUTES OF NOVEMBER 21, 2016 AS SUBMITTED PASSED UNANIMOUSLY.

COMMUNICATIONS TO BE REFERRED TO COMMITTEES:

** COUNCIL MEMBER BUKOVSKY MOVED THE FOLLOWING ITEMS TO BE REFERRED TO COMMITTEES:

08-16 COMMUNICATION FROM CITY ATTORNEY RE: TWENTY DAY NOTICE TO SETTLE PENDING LITIGATION PURSUANT TO MUNICIPAL CODE SECTION 2.10.130 WITH EDWIN QUILES, ACCEPTED AND MADE PART OF THE RECORD.

09-16 COMMUNICATION FROM CITY ATTORNEY RE: TWENTY DAY NOTICE TO SETTLE PENDING LITIGATION PURSUANT TO MUNICIPAL CODE SECTION 2.10.130 WITH LUCILA A. FORD, ACCEPTED AND MADE PART OF THE RECORD.

10-16 COMMUNICATION FROM CENTRAL GRANTS RE: GRANT SUBMISSION: LEARY FIREFIGHTERS FOUNDATION GRANT PROGRAM, REFERRED TO PUBLIC SAFETY AND TRANSPORTATION COMMITTEE.

11-16 COMMUNICATION FROM CENTRAL GRANTS RE: GRANT SUBMISSION: STATE OF CONNECTICUT OFFICE OF POLICY AND MANAGEMENT, CRIMINAL JUSTICE POLICY AND PLANNING DIVISION FOR THE PROJECT LONGEVITY GRANT, REFERRED TO PUBLIC SAFETY AND TRANSPORTATION COMMITTEE.

** COUNCIL MEMBER HERRON SECONDED.
** THE MOTION PASSED UNANIMOUSLY.

MATTERS TO BE ACTED UPON (CONSENT CALENDAR):

Mayor Ganim then asked if there was any Council Member who would like to remove the item from the Consent Calendar for discussion. No one wished to remove the item. City Clerk Martinez read the item into the record.

** COUNCIL MEMBER PAOLETTO MOVED THE FOLLOWING ITEMS AS THE CONSENT CALENDAR:

*216-15 ORDINANCE COMMITTEE REPORT RE: AMENDMENTS TO THE MUNICIPAL CODE OF ORDINANCES, CHAPTER 3.08 – CITY CONTRACTS AND PURCHASING PROCEDURES, AMEND SECTION 3.08.070 – PURCHASING PROCEDURE.

***218-15 PUBLIC SAFETY AND TRANSPORTATION COMMITTEE REPORT RE: HONORARY DESIGNATION OF "JIMMIE W. JONES WAY" BE CREATED WITH APPROPRIATE SIGNAGE ON BISHOP AVENUE AT THE INTERSECTION OF CONNECTICUT AVENUE AND BARNUM AVENUE.**

***93-15 CONTRACTS COMMITTEE REPORT RE: MASTER STATE/MUNICIPALITY AGREEMENT FOR THE READJUSTMENT, RELOCATION AND/OR REMOVAL OF MUNICIPAL FACILITIES ON HIGHWAY PROJECTS.**

***196-15 CONTRACTS COMMITTEE REPORT RE: ADMINISTRATIVE SERVICES AGREEMENT WITH STIRLING BENEFITS, INC.**

***199-15 CONTRACTS COMMITTEE REPORT RE: SIXTH AMENDMENT TO STADIUM LICENSE, MANAGEMENT AND OPERATIONS AGREEMENT WITH PAST TIME PARTNERS, LLC., OWNER OF THE BRIDGEPORT BLUEFISH PROFESSIONAL BASEBALL TEAM.**

***213-15 CONTRACTS COMMITTEE REPORT RE: RESOLUTION RE: STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION (DOT) MASTER MUNICIPAL AGREEMENT FOR DESIGN PROJECTS.**

***214-15 CONTRACTS COMMITTEE REPORT RE: RESOLUTION RE: STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION (DOT) MASTER MUNICIPAL AGREEMENT FOR RIGHTS OF WAY ACTIVITIES.**

***215-15 CONTRACTS COMMITTEE REPORT RE: RESOLUTION RE: STATE OF CONNECTICUT DEPARTMENT OF TRANSPORTATION (DOT) MASTER MUNICIPAL AGREEMENT FOR CONSTRUCTION PROJECTS.**

***227-15 CONTRACTS COMMITTEE REPORT RE: RESOLUTION RE: PROFESSIONAL SERVICES AGREEMENT WITH GIS, INC., BOWNE AE&T GROUP AND PRIME AE FOR ON-CALL GIS SERVICES.**

**** COUNCIL MEMBER LYONS SECONDED.**
**** THE MOTION PASSED UNANIMOUSLY.**

MATTERS TO BE ACTED UPON:

228-15 Contracts Committee Report re: Professional Services Agreement with Freeman Companies regarding the Black Rock Streetscape Project for Design and Engineering Services, DENIED.

Council Member Bukovsky said that while she was not on the committee but would like to speak on the item. She said that this had been proposed in 2010 and unfortunately, there were some issues with the original application to the State.

**** COUNCIL MEMBER BUKOVSKY MOVED TO APPROVE AGENDA ITEM 228-15, THEREBY REJECTING THE CONTRACTS RECOMMENDATION OF DENIAL.**
**** COUNCIL MEMBER PAOLETTO SECONDED.**

Council Member Holloway said that he would like say something positive, but would like to point out that Black Rock was not the only section that leads to downtown.

Council Member Banta said that he was in support of this item. With the new train station, it would be important to have the area looking well-kept.

Council Member Brantley said that she would like to echo her colleagues and support this item. People have worked very hard to get this project moved through the process. She said that she could not wait to see the project completed.

Council Member Lyons said that she hoped that all parts of the City would get to be where they need to be. This is money from the State, so she would be supporting this.

Council Member Paoletto said that he was on the Contracts committee and supported it then and would support it now. He said that if the State Representatives aren't bringing the money, then the City needs to change the Representatives, not the planning.

Council President McCarthy said that he would like to thank everyone who has worked on this and recognized State Representative Steve Stafstrom. Mayor Ganim called Representative Stafstrom forward to address the Council.

Representative Stafstrom came forward and spoke about the project and how it would benefit Bridgeport.

Council Member Olson asked for clarification on what a YES vote would mean. Mayor Ganim explained that a YES vote would be to approve the project and a NO vote would be to support the Contracts Committee recommendation of a denial.

Council Member Castillo said that he would like to support Black Rock, but everyone needed to pull together for the benefit of the City.

Council Member Holloway said that the Congress Street bridge on the East side has been down for a number of years and the traffic on the East Side has been very heavy. He thanked Representative Stafstrom for his work, but that the Bridge needs to be fixed so that the traffic flows through the East Side.

Council Member Casco asked Mr. Coleman to come forward and speak about the item. Mr. Coleman said that this would be used to put in crosswalks and more shelter in the station. He said that this was a chance to see public dollars support public dollars.

Council Member Nieves said that she was in support of the reject and all the gateways to the city were important. She also noted that the Congress Street Bridge was an important part of the East Side and traffic was horrible with only one bridge open.

**** THE MOTION TO APPROVE PROFESSIONAL SERVICES AGREEMENT WITH FREEMAN COMPANIES REGARDING THE BLACK ROCK STREETSCAPE PROJECT FOR DESIGN AND ENGINEERING SERVICES PASSED UNANIMOUSLY.**

**** COUNCIL MEMBER HERRON MOVED TO SUSPEND THE RULES TO REFER TO MISCELLANEOUS MATTERS A "RESOLUTION REGARDING ESTABLISHMENT OF A FORMAL SISTER CITY RELATIONSHIP WITH THE PALESTINIAN CITY OF BETHLEHEM".**
**** COUNCIL MEMBER PAOLETTO SECONDED. (ITEM #12-16)**
**** THE MOTION PASSED UNANIMOUSLY.**

**** COUNCIL PRESIDENT MCCARTHY MOVED TO ENTER INTO CAUCUS.**
**** COUNCIL MEMBER PAOLETTO SECONDED.**
**** THE MOTION PASSED UNANIMOUSLY.**

The Council Members entered into caucus at 7:55 p.m.

Mayor Ganim left the meeting at 8:00 p.m.

Council Member Holloway and Council Member Bukovsky left the meeting at 8:26 p.m.

The remaining Council Members returned from Caucus at 8:32 p.m. Council President McCarthy chaired the remainder of the meeting.

UNFINISHED BUSINESS:

200-15 Miscellaneous Matters Committee Report re: Appointment of Rosalina Roman Christy to the Library Board of Directors.

Council President McCarthy explained that the Council had gone into caucus to discuss the minority party representation on the Library Board. There were seven members of the Board from the Democratic Party, but State law only allows six members from any given party.

**** COUNCIL MEMBER PAOLETTO MOVED TO APPROVE THE APPOINTMENT OF ROSALINA ROMAN CHRISTY TO THE LIBRARY BOARD OF DIRECTORS FOR A TERM EXPIRING ON JUNE 30, 2017.**
**** COUNCIL MEMBER BRANTLEY SECONDED.**
**** THE MOTION PASSED UNANIMOUSLY.**

201-15 Miscellaneous Matters Committee Report re: Appointment of Donald W. Greenberg to the Library Board of Directors.

**** COUNCIL MEMBER PAOLETTO MOVED TO DENY THE APPOINTMENT OF DONALD W. GREENBERG TO THE LIBRARY BOARD OF DIRECTORS.**
**** COUNCIL MEMBER BRANTLEY SECONDED.**
**** THE MOTION PASSED UNANIMOUSLY.**

202-15 Miscellaneous Matters Committee Report re: Appointment of Kenya Osborne-Gant to the Library Board of Directors.

**** COUNCIL MEMBER PAOLETTO MOVED TO APPROVE THE APPOINTMENT OF KENYA OSBORNE-GANT TO THE LIBRARY BOARD OF DIRECTORS FOR A TERM EXPIRING ON JUNE 30, 2019.**
**** COUNCIL MEMBER SMITH SECONDED.**
**** THE MOTION PASSED UNANIMOUSLY.**

203-15 Miscellaneous Matters Committee Report re: Reappointment of Attorney James E. O'Donnell to the Library Board of Directors.

**** COUNCIL MEMBER PAOLETTO MOVED TO APPROVE THE APPOINTMENT OF ATTORNEY JAMES E. O'DONNELL TO THE LIBRARY BOARD OF DIRECTORS FOR A TERM EXPIRING ON JUNE 30, 2019.**
**** COUNCIL MEMBER BRANTLEY SECONDED.**
**** THE MOTION PASSED UNANIMOUSLY**

204-15 Miscellaneous Matters Committee Report re: Reappointment of Judge William Holden to the Library Board of Directors.

**** COUNCIL MEMBER PAOLETTO MOVED TO APPROVE THE APPOINTMENT OF JUDGE WILLIAM HOLDEN TO THE LIBRARY BOARD OF DIRECTORS FOR A TERM EXPIRING ON JUNE 30, 2019.**
**** COUNCIL MEMBER BRANTLEY SECONDED.**
**** THE MOTION PASSED UNANIMOUSLY.**

205-15 Miscellaneous Matters Committee Report re: Appointment of Phylicia R. Brown to the Library Board of Directors.

**** COUNCIL MEMBER PAOLETTO MOVED TO APPROVE THE APPOINTMENT OF PHYLICIA R. BROWN TO THE LIBRARY BOARD OF DIRECTORS FOR A TERM EXPIRING ON JUNE 30, 2017.**
**** COUNCIL MEMBER BRANTLEY SECONDED.**
**** THE MOTION PASSED UNANIMOUSLY.**

Council President McCarthy was asked why the various appointments had terms that expired at different times. He explained that it was so that the various terms would be staggered and the Board would only be appointing or re-appointing new three members at a time.

ADJOURNMENT

**** COUNCIL MEMBER PAOLETTO MOVED TO ADJOURN.**
**** COUNCIL MEMBER BRANTLEY SECONDED.**
**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned 8:47 p.m.

Respectfully submitted,

S. L. Soltes
Telesco Secretarial Service

CITY OF BRIDGEPORT
OFFICE OF THE CITY ATTORNEY
999 Broad Street
Bridgeport, Connecticut 06604-4328

CITY ATTORNEY
R. Christopher Meyer

DEPUTY CITY ATTORNEY
John P. Bohannon, Jr.

ASSOCIATE CITY ATTORNEYS
Mark T. Anastasi
Richard G. Kascak, Jr.
Bruce L. Levin
Russell D. Liskov
John R. Mitola
Lawrence A. Ouellette, Jr.
Ronald J. Pacacha
Tyisha S. Toms
Lisa R. Trachtenburg

ASSISTANT CITY ATTORNEYS
Eroll V. Skyers
Tamara J. Titre

Telephone (203) 576-7647
Facsimile (203) 576- 8252

Comm. #08-16 ACCEPTED AND MADE PART OF THE RECORD
On 12/19/2016

RECEIVED
CITY CLERK'S OFFICE
2016 DEC -9 P 3:33

ATTEST _____
CITY CLERK

December 6, 2016

The Honorable City Council
City of Bridgeport
45 Lyon Terrace
Bridgeport, CT 06604

RE: Settlement of Claim
Edwin Quiles v. City of Bridgeport, et al.

Dear Honorable Members:

The Office of the City Attorney proposes to settle the above referenced litigation in the amount of $18,600.00 payable to Law Offices of Charles Kurmay, 1995 Main Street, Stratford, CT 0661, Trustees for Edwin Quiles. The action alleges excessive force claims and personal injuries to Mr. Quiles when on October 22, 2011 he was arrested during a motor vehicle stop.

Pursuant to the City Council's Ordinance Section 2.10.130, this office hereby provides notice of its intent to settle this matter in accordance with the terms set forth in said Section 2.10.130.

If you wish to discuss the details of this case or have any questions, please feel free to contact me. If I am not immediately available, please speak with paralegal, Danielle Kripps, who will then follow-up with me. Further, if I do not hear from you within the twenty (20) day time period provided by the Ordinance, I will proceed to finalize settlement of this matter.

Very truly yours,

R. Christopher Meyer
City Attorney

RCM/dk

CITY OF BRIDGEPORT
OFFICE OF THE CITY ATTORNEY
999 Broad Street
Bridgeport, Connecticut 06604-4328

CITY ATTORNEY
R. Christopher Meyer

DEPUTY CITY ATTORNEY
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Telephone (203) 576-7647
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Comm. #09-16 ACCEPTED AND MADE PART OF THE RECORD
On 12/19/2016

ATTEST
CITY CLERK

RECEIVED
CITY CLERK'S OFFICE
2016 DEC -5 P 3:50

December 2, 2016

The Honorable City Council
City of Bridgeport
45 Lyon Terrace
Bridgeport, CT 06604

RE: Settlement of Claim
Lucila A. Ford v. City of Bridgeport

Dear Honorable Members:

The Office of the City Attorney proposes to settle the above referenced litigation in the amount of $15,000.00 payable to Goldstein & Peck, P.C., Trustees for Lucila Ford. The action was claiming personal injuries to Ms. Ford when, on April 19, 2015, she sustained a closed fracture of the middle phalanges with traumatic capsulitis of her right hand and a contusion of her head as a result of a trip and fall on the broken sidewalk on the northwest corner of the intersection or Orland Street and Belmont Street.

Pursuant to the City Council's Ordinance Section 2.10.130, this office hereby provides notice of its intent to settle this matter in accordance with the terms set forth in said Section 2.10.130.

If you wish to discuss the details of this case or have any questions, please feel free to contact me. If I am not immediately available, please speak with legal secretary, Kim Laue, who will then follow-up with me. Further, if I do not hear from you within the twenty (20) day time period provided by the Ordinance, I will proceed to finalize settlement of this matter.

Very truly yours,

R. Christopher Meyer
City Attorney

RCM/kl

CITY OF BRIDGEPORT
CHIEF ADMINISTRATIVE OFFICE
999 Broad Street
Bridgeport, Connecticut 06604
Telephone (203) 576-3964 Fax (203) 332-5652

JOSEPH P. GANIM
Mayor

JOHN M. GOMES
A. Chief Administrative Officer

Comm. #10-16 Ref'd to Public Safety and Transportation Committee On 12/19/2016

December 14, 2016

Office of the City Clerk
City of Bridgeport
45 Lyon Terrace, Room 204
Bridgeport, Connecticut 06604

Re: Resolution – **Leary Firefighters Foundation Grant Program**

Attached, please find a Grant Summary and Resolution for the **Leary Firefighters Foundation Grant Program** to be referred to the **Committee on Public Safety and Transportation** of the City Council.

Grant: City of Bridgeport application to the **Leary Firefighters Foundation Grant Program**

If you have any questions or require any additional information please contact me at 203-332-5664 or autumn.hurst@bridgeportct.gov.

Thank you,

Autumn Hurst
Central Grants Office

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2016 DEC 14 P 4:51

ATTEST
CITY CLERK

GRANT SUMMARY

PROJECT TITLE: **Leary Firefighters Foundation Grant Program**

NEW x RENEWAL CONTINUING

DEPARTMENT SUBMITTING INFORMATION: **Central Grants Office**

CONTACT NAME: **Autumn Hurst**

PHONE NUMBER: **203-332-5664**

PROJECT SUMMARY/DESCRIPTION: The City of Bridgeport **Fire Department** is seeking a donation of a brand new 2017 Ford F-250 Crew Cab (pickup truck) from the Leary Firefighters Foundation.

CONTRACT PERIOD: N/A

IF APPLICABLE
FUNDING SOURCES (include matching/in-kind funds):
Federal: $0
State: $0
City: $0
Other: $0 (EQUIPMENT DONATION)

A Resolution by the Bridgeport City Council

Regarding the

Leary Firefighters Foundation

Grant Program

WHEREAS, the **Leary Firefighters Foundation** is authorized to extend financial assistance to municipalities in the form of grants; and

WHEREAS, this funding has been made possible through its **Grant Program**; and

WHEREAS, funds under this grant will be used to acquire a pickup truck; and

WHEREAS, it is desirable and in the public interest that the City of Bridgeport **Fire Department** submits an application to the **Leary Firefighters Foundation** to acquire a pickup truck.

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL:

1. That it is cognizant of the City's grant application to and contract with **Leary Firefighters Foundation** for the purpose of its **Grant Program**; and

2. That it hereby authorizes, directs and empowers the Mayor or his designee, the **Central Grants Director**, to execute and file such application with the **Leary Firefighters Foundation** and to provide such additional information and to execute such other contracts, amendments, and documents as may be necessary to administer this program.

CITY OF BRIDGEPORT
CHIEF ADMINISTRATIVE OFFICE
999 Broad Street
Bridgeport, Connecticut 06604
Telephone (203) 576-3964 Fax (203) 332-5652

JOSEPH P. GANIM
Mayor

JOHN M. GOMES
A. Chief Administrative Officer

Comm. #11-16 Ref'd to Public Safety and Transportation Committee On 12/19/2016

December 14, 2016

Office of the City Clerk
City of Bridgeport
45 Lyon Terrace, Room 204
Bridgeport, Connecticut 06604

Re: Resolution – **State of Connecticut Office of Policy and Management Criminal Justice Policy and Planning Division Project Longevity Grant**

Attached, please find a Grant Summary and Resolution for the **State of Connecticut Office of Policy and Management Criminal Justice Policy and Planning Division Project Longevity Grant** to be referred to the **Committee on Public Safety and Transportation** of the City Council.

Grant: City of Bridgeport application to the **State of Connecticut Office of Policy and Management Criminal Justice Policy and Planning Division Project Longevity Grant**

If you have any questions or require any additional information please contact Isolina DeJesus at 203-576-7134 or isolina.dejesus@bridgeportct.gov.

Thank you,

Autumn Hurst
Central Grants Office

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2016 DEC 14 P 3:01

ATTEST _____
CITY CLERK

GRANT SUMMARY

PROJECT TITLE: **State of Connecticut Office of Policy and Management Criminal Justice Policy and Planning Division Project Longevity Grant**

NEW x RENEWAL CONTINUING

DEPARTMENT SUBMITTING INFORMATION: **Central Grants Office**

CONTACT NAME: **Isolina DeJesus**

PHONE NUMBER: **203-576-7134**

PROJECT SUMMARY/DESCRIPTION: The City of Bridgeport **Police Department** is seeking funds to support its partnership with Project Longevity. Project Longevity is a community and law enforcement initiative to reduce serious violence using community involvement, social services, and focused policing. The program supports current, former, or potential group or gang members by connecting them to community resources, raising their awareness of existing services, and guiding them toward opportunities and successful outcomes. Grant funds will be used to contract with a Crime Data Analyst and Community Outreach Specialist and to fund staff travel to conferences, program equipment and supplies, and to support client direct services (i.e. cost of living expenses, job readiness and skills development, and other individual costs associated with direct services provided through Project Longevity's support and outreach efforts. Examples include fees for: OSHA certification, state ID/Driver's license, vocational training course, temporary shelter or housing, transportation, and other basic needs items).

CONTRACT PERIOD: March 1, 2017 – June 30, 2017

IF APPLICABLE
FUNDING SOURCES (include matching/in-kind funds):
Federal: $0
State: $59,000
City: $0
Other: $0

A Resolution by the Bridgeport City Council

Regarding the

State of Connecticut Office of Policy and Management Criminal Justice Policy and

Planning Division Project Longevity Grant

WHEREAS, the **State of Connecticut Office of Policy and Management** is authorized to extend financial assistance to municipalities in the form of grants; and

WHEREAS, this funding has been made possible through the **Project Longevity Grant**; and

WHEREAS, funds under this grant will be used to support Project Longevity programming; and

WHEREAS, it is desirable and in the public interest that the City of Bridgeport **Police Department** submits an application to the **State of Connecticut Office of Policy and Management** to support Project Longevity programming.

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL:

1. That it is cognizant of the City's grant application to and contract with **the State of Connecticut Office of Policy and Management** for the purpose of its **Project Longevity Grant**; and

2. That it hereby authorizes, directs and empowers the Mayor or his designee, the **Central Grants Director**, to execute and file such application with the **State of Connecticut Office of Policy and Management** and to provide such additional information and to execute such other contracts, amendments, and documents as may be necessary to administer this program.

Item# *216-15 Consent Calendar

Amendments to the Municipal Code of Ordinances, Chapter 3.08 – City Contracts and Purchasing Procedures, amend Section 3.08.070 – Purchasing Procedure.

Report of Committee on Ordinances

City Council Meeting Date: DECEMBER 5, 2016
Tabled by City Council and Ref'd back to Committee on: DECEMBER 5, 2016
Resubmitted on: DECEMBER 19, 2016

Attest: Lydia N. Martinez
Lydia N. Martinez, City Clerk

Approved by: _____
Joseph P. Ganim, Mayor

Date Signed: 12/27/16

RECEIVED
CITY CLERK'S OFFICE
2017 JAN -6 P 12:08
ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport:

The Committee on **Ordinances** begs leave to report; and recommends for adoption the following resolution:

Item No. *216-15 Consent Calendar

BE IT ORDAINED: By the City Council of the City of Bridgeport that the Bridgeport Municipal Code of Ordinances, Chapter 3.08 – City Contracts and Purchasing Procedures, amended Section 3.08.070 – Purchasing Procedure be and hereby is rescinded and the following Section 3.08.070, Purchasing Procedure be substituted in lieu thereof:

Purpose. The city recognizes the importance of adopting a comprehensive purchasing ordinance that authorizes the use of modern procurement practices, provides for electronic processing and monitoring of purchasing activities, and establishes responsibility for oversight and reporting within city government.

A. Definitions. For the purpose of this section, the following definitions shall apply:

"Approved communication methods" means any communication required or desired to be made in connection with a purchase provided, however, that such communication is by hand, by overnight or guaranteed delivery service, by deposit in a depository of the United States Postal Service properly addressed and postage prepaid, by facsimile transmission delivered to the intended addressee, or by electronic communication including but not limited to e-mail or other electronic means delivered to the intended addressee, or otherwise approved by official policy of the board of public purchases.

"Audit rights" means the city's independent right to audit charges, costs, expenses, payments, setoffs, change orders and other expenditures under any purchase arrangement whether or not such right is specifically included in the bid package or other documents related to the purchase.

"Award" means the purchasing agent's announcement of the selection of a vendor for the procurement.

"Best value" means, during a competitive bidding process or request for proposal process, the purchasing agent, after considering the recommendations of the contracting officer, if any, may consider the following factors in determining to make an award to a bidder other than the apparent lowest responsible bidder: (a) the bidder's price; (b) the bidder's business reputation; (c) the quality of the bidder's goods or services; (d) the extent to which the goods or services meet the city's needs; (e) the bidder's current or past relationship with the city; (f) the impact on the city's ability to comply with laws and rules relating to contracting with historically underutilized businesses and non-profit organizations employing persons with disabilities; (g) the total long-term cost to the city to acquire the bidder's goods or services; and (h) any relevant criteria specifically listed in the solicitation documents. The city reserves the right to make an award either to the lowest responsible bidder or to the bidder that provides goods or services having the best value to the city.

"Bidder" means any person, sometimes referred to herein as a vendor, seeking to do business with the city pursuant to this section under a sealed competitive bid for goods and general services, including any individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, limited liability partnership, limited liability company, or any other private legal entity, each of which shall be required to disclose prior to award, the names of the bidder's officers, directors, members and owners holding five percent or more in ownership of the bidder or its parent at the time of the submission of its bid, which obligation to disclose shall continue for the duration of the bidder's relationship with the city.

"Bidder list" means a mailing or notification list, maintained by the city, of all suppliers, vendors, contractors or service providers or proposers who have made a request by an approved communication method to receive notice of the city's intent to make particular purchases, which bidder list does not imply that those parties on it have been pre-qualified or pre-approved to do business with the city. The city reserves the right to charge a nominal maintenance fee to those parties that desire to be included on the bidder list to cover the city's cost of making and keeping the same.

"Board of public purchases" or "BPP" means the board created by charter responsible to discharge the duties described therein and herein with respect to the city's purchasing process, including, but not limited to, hearing and determining appeals taken from decisions made by the purchasing agent, preparing reports of its activities in overseeing the city's purchasing practices, establishing purchasing policies, rules and regulations in furtherance of this section, publishing annual purchasing statements, and reviewing QBS selection processes. The official policies, working rules and regulations adopted shall, on their respective effective dates, be published, applicable to and used in the implementation

and interpretation of this section, and shall not otherwise be contrary to or in derogation of the rights, duties and responsibilities of city officials, executives and administrators set forth in the charter and ordinances, as the same may be amended from time to time.

"Consolidated purchasing" means a centralized purchasing method whereby the purchasing agent determines annually, based upon the anticipated purchases projected by contracting officers and his/her own experience, that the purchase of items or categories of items in bulk or pursuant to price agreements on a city-wide basis from one or more vendors will result in economies of scale and cost-savings to the city.

"Competitive bidding" or "competitive bid" means the city's procedure for obtaining goods or general services anticipated to be in excess of Twenty Five Thousand dollars ($25,000.00) in which sealed bids are submitted in response to solicitation documents. This process does not permit any negotiation with the apparent winning bidder after the receipt and opening of bids. Competitive bidding may be accomplished as a result of public advertisement or other electronic public notice methods adopted as official policy by the BPP.

"Contract" means any type of written agreement or documented arrangement involving a purchase, regardless of what the evidence of such arrangement may be called or how it may be referred to, which is approved by the contracting officer, contain terms and conditions protecting the city's legal interests, is properly funded and, where required by charter or ordinance, has been approved by the city council or its designee; provided, however, that so-called letters of intent, letters of interest, memoranda of agreements, and other examples of latent, potential, unilateral or executory documents or arrangements that otherwise may not be binding upon the city, may become a binding legal obligation of the city only if and to the extent that any such document or arrangement has been approved by the city council or its designee.

"Contracting officer" means any director or deputy of a city department, any president or chief executive of a city agency, board, or commission, including the board of education, the WPCA and any other similar duly-constituted agency of city government as defined by Charter or ordinance, or contained in the city's table of organization, including his/her respective designee set forth in writing to the purchasing agent, having direct authority or due authorization to initiate purchases.

"Critical emergency purchase" means a purchase of goods or services that, if not purchased or ordered immediately, can result in injury to human life or significant property damage, or result in consequences detriment to the health, safety and welfare of the citizens of the city or to the city's best interests. The purchasing agent should use the informal competitive quotation process for critical emergency purchases, if possible, but shall not be limited by the applicable threshold dollar amounts set forth herein due to the emergency nature of the purchase.

"Energy Commodities" means a purchase of a service or good which with regularity provides the public with some commodity or service which is of public consequence or need and subject to or capable of short term market fluctuations. Examples include, but are not limited to, electricity generation and distribution, oil, natural gas, gasoline, and public water supplies.

"General services" means all services that result in a measurable end product as defined by solicitation documents, including but not limited to all services used in the process of building, altering, maintaining, improving or demolishing any city-owned property, structure, building or public infrastructure, but excluding architectural, engineering and other design services, and construction consulting services. Examples of general services include, but are not limited to, electrical work, road resurfacing, sewer repair, building demolition, equipment maintenance and waste disposal services.

"Goods" means supplies, material, equipment and articles, whether purchased or leased, including, but not limited to, fuels, furniture, computers, paper products, food products, sand, and high-tech hardware and software, telecommunications equipment and office equipment.

"Informal competitive proposal process" or "Informal competitive quote process" means the allowable process for the purchase of services pursuant to a QBS process or the purchase of goods or general services, respectively, when the purchase is reasonably anticipated to exceed one thousand dollars ($1,000.00) but not to exceed Twenty Five Thousand dollars ($25,000.00).

"Lowest responsive, responsible bidder" or the "Lowest responsive, responsible proposer" means the bidder or proposer whose submission is (a) a complete response to the invitation and (b) the lowest of those bidders or proposers possessing the skill, ability, financial capacity, business integrity and experience necessary for faithful performance of the described work based on objective criteria. Evaluation of a vendor shall include best value considerations only if set forth in the solicitation documents. Bidders and proposers shall be excluded from consideration entirely if they are listed on the disqualified vendor list at the time the invitation is the subject of public advertisement or at the time the city otherwise seeks to make a purchase as described herein. In a request for proposals process, a bidder may be chosen as lowest responsible bidder from among those bidders that are pre-qualified or based upon recognized industry standards that the contracting officer responsible for the purchase has certified in writing to the purchasing agent as commercially relevant.

"Mayoral bid waiver" means the mayor's authority to grant a written waiver of the requirements for public advertisement, and the need for a competitive bidding or competitive proposal process in connection with critical emergency purchases, after receiving (a) the contracting officer's written statement of the need for such waiver with all appropriate backup information, and (b) the purchasing agent's written recommendation of the need for such waiver.

"Multiple Vendor Bid" or "Multiple Vendor QBS" means the procurement of goods, general services, special or professional services which are regularly procured by the city throughout the course of a year but the frequency of which and/or the ability of the vendor to tender the goods and/or services cannot be readily determined. Examples may include but are not limited to the procurement of tires, ITS consultants, demolitions, licensed environmental professionals, landscapers, towing, etc.

"Proposer" means any person seeking to do business with the city pursuant to this section under a QBS selection process, including any individual, corporation, partnership, sole proprietorship, joint stock company, joint venture, limited liability company, or any other legal entity, each of which shall be required to disclose prior to any award, the names of the proposer's officers, directors, members and owners holding five percent or more in ownership of the proposer or its parent at the time of submission of its proposal, which obligation to disclose shall continue with the proposer's relationship with the city.

"Public advertisement" or "publicly advertised" means the advertisement in one or more media of the city's desire to make a purchase expected to cost in excess of Twenty Five Thousand dollars ($25,000.00) placed (a) in a newspaper of general circulation in the Bridgeport area, (b) in other print media designated to encourage a greater number of bids,

(c) on the city's internet website, (d) on other electronic media available to the general public, or (e) in other media authorized by the BPP. The content and location of public advertisements shall be determined as set forth herein or as otherwise authorized by official policy of the BPP.

"Qualified purchase" means a purchase of goods or services where either there is only one source for such purchase a purchase from a special source will provide a lower cost than would result from competitive bidding, time is critical and the purchase could not have been planned, or the purchase involves items whose prices are controlled by federal or state regulation.

"Quality-based selection" or "QBS selection" means a method for purchasing special or professional services anticipated to be in excess of Twenty Five Thousand dollars ($25,000.00) by either initially pre-qualifying bidders prior to obtaining a price proposal or making a final selection without a price proposal. Such process initially requires the submission of professional qualifications, demonstrated business experience, specific project experience, evidence of business integrity, and professional competence. Where qualifications alone are paramount in the selection process and price is not a factor, a final selection is made based on qualifications alone. In other QBS processes where price is not a factor initially in the selection process, or only one of a number of factors to be considered in making a final decision, a final selection is made based upon the submission of requests for proposals, or price proposals following pre-qualification.

"QBS selection panel" means a group of individuals qualified by knowledge, training and experience in purchases of the type contemplated and having no real or apparent conflict of interest in the outcome of the QBS selection, consisting of at least three city employees selected by the contracting officer and supplemented where possible by other similarly qualified individuals from the general public having no real or apparent conflict of interest in the outcome of such selection, or otherwise as specified by official policy of the BPP. Such panels shall use uniform, objective selection criteria established in advance for the particular purchase or criteria otherwise specified in writing by the BPP. The QBS selection panel shall make a written report of its selection, the criteria used and its recommendation to the board of public purchases, which shall approve or deny the selection process.

"Request for proposals" means a form of QBS selection process that includes a request for professional qualifications where such qualifications are important but not paramount, and where price is a factor to be considered in making an award. A request for proposals may or may not follow a request for qualifications from pre-qualified proposers.

"Request for qualifications" means a form of QBS selection that includes a request for professional qualifications where such qualifications are paramount in the selection and price is not a factor.

"Self-perform" means that an awarded contractor, whether a prime contractor or a subcontractor, performs thirty (30%) percent of the value of its work (exclusive of materials and equipment) by using its own forces and resources as determined by monthly payrolls.

"Solicitation documents" means the totality of the documents put forth to the public to solicit a particular procurement, including but not necessarily limited to the invitation, requests for qualifications, requests for proposals, any and all specifications, any and all scopes of work, any and all particular instructions, any and all contract documents, and any and all addenda.

"Single Source" means that there is one vendor, among others that provide similar goods or services, from which it would be in the best interest of the city to procure because: a) Such vendor provides a unique service or set of services that distinguish it from and cannot be provided by other vendors; b) Maintenance on a particular piece of equipment is required by such vendor in order to preserve a warranty; or c) Such vendor is uniquely qualified to provide a set of services, such as having Apple® technician make repairs to Apple® computers.

"Sole Source" means that there is only one vendor that can provide a particular good or service for the city, such that any attempt to obtain bids or proposals could only result in that one vendor submitting a bid or proposal.

"Special or professional services" means the furnishing of judgment, expertise, design, advice or effort by persons other than city employees, not involving the delivery of a specific end product defined by the solicitation documents. These types of services include, but are not limited to, consulting, legal, financial, technical, audit, appraisal, architecture, design, engineering and other similar professional services not contemplated as general services. Such services shall also include unique, warranty or single-source services not generally available for specific city-owned property, equipment, building systems and equipment, and vehicles where the nature of the required services cannot be defined in advance by the solicitation documents and the professional or proprietary knowledge and expertise of the service provider is paramount to the lowest cost and otherwise in the city's best interests.

"Summary bid process" means a competitive bid process described herein that the city may elect to utilize among the selected responsible, qualified bidders for a purchase when all bids exceed any budget appropriation.

"Vendor" means any person seeking to do business with the city pursuant to this section, regardless of the method of solicitation, and may include, but is not limited to proposers and bidders.

B. General Provisions.

1. Awards. Except as expressly set forth otherwise herein, Awards should be made to (a) the responsive, responsible low bidder in a competitive bid process; (b) the most qualified, responsive and responsible proposer in a QBS selection process; (c) the most responsive, responsible low bidder(s) in a consolidated purchasing process; or (d) responsive, responsible bidder or proposer in any other selection process authorized herein; provided, however, that an award or notification of intent to make an award does not create a legal right in the bidder regarding the subject matter of the bid or entitlement to a contract, but is intended to inform the bidder that additional obligations of the bid must be met, such as the posting of surety and evidence of insurance, negotiation of a contract, and securing proper approval of the party authorized to enter into a contract or obligation binding upon the city.

2. City Reservation. The city reserves the right to reject any and all bids and to waive informalities in a solicitation to the extent that such informalities are not material and do not give one bidder an unfair advantage over other responsive and responsible bidders or proposers.

3. Responsiveness. The city shall not accept as responsive or review any bid or proposal received that is not in strict compliance with material provisions of the solicitation documents or which were not stamped in at the place and by the time set forth in the solicitation.

4. Split Purchases. Purchases shall not be deliberately split in amount, artificially staggered over time, or otherwise be the subject of any other artifice designed to avoid the requirement to utilize competitive bidding or other purchasing methods required herein.

5. Appropriations. For purchases that require an additional funding appropriation, the solicitation documents shall clearly state that the award of a contract is contingent upon the appropriation of funds.

6. Contract term. Unless circumstances warrant that the best interest of the city is served with a shorter term contract, contracts resulting from a competitive bid or a QBS selection process shall be for a term of three (3) years, or two (2) years with a one year extension. This does not apply to any solicitation for a deliverable (i.e. a professional design) or a task required to be performed in a lesser or greater amount of time.

7. Anti-Pass Through. For all City contracts having a labor component, the contracting entity (whether prime or subcontractor) must self-perform at least 30% of the labor (which may and should include site management) or obtain a written waiver from the Purchasing Agent and City's Chief Administrative Officer.

C. Purchase of goods and general services.

1. Informal competitive proposals. For purchases of goods and/or general services reasonably anticipated to cost in excess of one thousand dollars ($1,000.00) but not to reasonably anticipated to exceed Twenty Five Thousand dollars ($25,000.00), the Contracting Officer may obtain quotes from no less than three (3) vendors that provide such goods or general services. The Contracting Officer must document the process for the Purchasing Agent. The failure of a vendor which has been requested to provide a quote to respond, shall count toward an attempt to get three (3) quotes. With the approval of the Purchasing Agent, the contract shall then be awarded to the lowest responsive, responsible vendor. Contracting Officers are encouraged to utilize the city's internet bidding company's informal service when the purchase is reasonably anticipated to exceed five thousand dollars ($5,000.00).

2. Purchases requiring competitive bidding. Competitive bidding shall be used for all purchases of goods and general services anticipated to exceed the sum of Twenty Five Thousand dollars ($25,000.00) (See C.G.S. § 7-148v, as amended); provided, however, that purchases shall not be deliberately split in amount, artificially staggered over time, or be the subject of any other artifice in order to avoid the requirement to utilize the competitive bidding process. The purchasing agent shall reasonably monitor purchases and report any questionable practices to the BPP and the city's finance director within five days of becoming aware of such practices.

D. Competitive bidding process. For each purchase of goods or general services made by competitive bidding, the following shall apply:

1. All requirements, terms and conditions sought by the city, including quality, delivery terms and vendor or contractor qualifications, as well as vendor or contractor status as either a MBE, WBE or DBE, shall be contained in the solicitation documents. For purchases requiring a contract, as opposed to a standard purchase order, the contracting officer shall include a draft contract as part of the bid package whenever possible, or other provision shall be made to protect the legal interests of the city. If pre-qualification of bidders is sought prior to bids being accepted or prior to award, the criteria to be met shall also be set forth in the solicitation documents.

2. The purchasing agent shall publish a notice inviting sealed competitive bidding at least once by public advertisement. The notice shall, to the extent practicable, be published not less than fifteen (15) working days before the final date for submitting bids. Said notice shall contain a general description of the goods or general services desired, the place where the solicitation documents may be obtained, the day, hour, place and manner for bid opening, and other pertinent information.

3. The purchasing agent may, in addition to the public advertisement, solicit and receive sealed bids by approved communication methods from all qualified, responsive and responsible bidders on the bidder, list, whose goods and services comply with the purchases sought according to the city's then-current commodity codes, by sending them copies of the public advertisement promptly after publication. Such communication notices shall be solely for the convenience of suppliers. Any failure to provide or delay in providing any supplier with such notice shall not invalidate the bid process, incur liability to the city or prejudice it in any manner.

4. The purchasing agent may revise the bidder list(s) by deleting bidders who have not responded to three consecutive bids sent to them, who have not registered or re-registered electronically, or have not otherwise given written notice to the city by an approved communication method of their interest in remaining on such bidding list.

5. All bids shall be submitted sealed, to the extent that the purchasing method used permits sealing, to the purchasing agent and shall be accompanied by bid security in the form of certified check, or bond in the amount stated in the public advertisement or solicitation documents. A bid is non-responsive unless such security is received prior to bid opening. Each bidder is solely responsible for submitting all bid requirements in strict compliance with the solicitation documents. The bids shall be opened in public at the time and place stated.

6. For each purchase made by competitive bidding, a record of all bids submitted, giving the names of the bidders and amounts of the bids and indicating the successful bidder, together with the originals of all competitive bids and any other pertinent documents, shall be preserved by the purchasing agent in accordance with state law or the city's record retention practices, whichever shall be longer in duration. All bids shall be submitted sealed, to the extent that the purchasing method used permits sealing, to the purchasing agent and shall be accompanied by bid security in the form of certified check, or bond in the amount stated in the public advertisement or solicitation documents. A bid is non-responsive unless such security is received prior to bid opening. Each bidder is solely responsible for submitting all bid requirements in strict compliance with the solicitation documents. The bids shall be opened in public at the time and place stated.

7. For each purchase made by competitive bidding, a record of all bids submitted, giving the names of the bidders and amounts of the bids and indicating the successful bidder, together with the originals of all competitive bids and any other pertinent documents, shall be preserved by the purchasing agent in accordance with state law or the city's record retention practices, whichever shall be longer in duration.

8. The purchase shall be awarded to the lowest responsive, responsible, and qualified bidder or pre-qualified bidder who meets the requirements, terms and conditions contained in the solicitation documents and represents the best value to the city, supported in writing by the contracting officer. A best value bid shall be indicated as such in the original solicitation documents. In the case of a purchase by competitive bidding where the public advertisement indicates that bidders will be pre-qualified, the purchasing agent has the authority to make an award exclusively from the list of pre-qualified bidders.

E. Awarding of contracts that contain alternates.

1. All solicitation documents for a purchase for which alternates are to be included shall have the alternates listed in their order of priority, provided, however, that the contracting officer may change the priority of such alternates during a summary bid process.

2. Prior to making an award for which the solicitation documents list alternates to be included, the contracting officer shall inform the purchasing agent as to which alternates are to be included in the award.

F. Purchasing special or professional services.

1. Purchases of special or professional services may be procured as provided herein.

2. Purchases exempt from formal public advertisement include those purchases of special or professional services anticipated to cost less than or equal to twenty five thousand dollars shall be made in the manner specified in Section G below.

3. Informal competitive proposal process. For the purchase of special or professional services reasonably anticipated to exceed one thousand dollars ($1,000.00) but not reasonably anticipated to exceed Twenty Five Thousand dollars ($25,000.00), the Contracting Officer may obtain proposals from no less than three (3) vendors that provide such special or professional services. The Contracting Officer must document the process for the Purchasing Agent. The failure of a vendor which has been requested to provide a proposal to provide one, shall count toward an attempt to get three (3) proposals. With the approval of the Purchasing Agent, the contract shall then be awarded to the lowest responsive, responsible proposer. Contracting Officers are encouraged to utilize the city's internet bidding company's informal service when the purchase is reasonably anticipated to exceed five thousand dollars ($5,000.00).

4. Purchases requiring a QBS selection process. In cases where the contracting officer intends to purchase special or professional services that are anticipated to exceed Twenty Five Thousand dollars ($25,000.00), a QBS selection process as defined below shall be used for such purchase and the process shall be presented to the BPP for approval.

G. Quality-based selection processes: Requests for Qualifications, Requests for Proposals and Requests for Qualifications followed by a Request for proposals.

1. General application of QBS Processes.

a. A QBS selection process, being a Request for Qualifications, a Request for Proposals, or a Request for Qualification followed by a Request for Proposals may be utilized to pre-qualify bidders for the purchase of special or professional services reasonably anticipated to be in an amount greater than Twenty Five Thousand dollars ($25,000.00), where the contracting officer determines that such services are unique or that the nature of the project requires selection criteria primarily influenced by the bidder's knowledge and experience in similar or related projects. The contracting officer's recommendation to conduct a QBS process shall be set forth in writing and submitted to the purchasing agent for approval. A QBS selection panel shall be formed by the contracting officer or otherwise in accordance with official policy of the BPP.

b. The contracting officer shall prepare the public advertisement containing necessary and desirable information for those who might respond to a QBS selection process and the criteria to be used for selection. The advertisement shall be published to the general population in accordance with an Approved Communication Method no less than fifteen (15) days prior to the deadline to submit proposals unless the contracting officer gets approval from the purchasing agent that a shorter time frame is required. A QBS selection panel shall be formed to evaluate the responses, determine the qualified respondents and proceed to make a selection.

c. The QBS selection panel shall review all qualifications submitted and shall, where necessary and practical, interview not less than three respondents (or such lesser number as shall have submitted qualifications so long as the purposes of competitive procurement meeting the best interests of the city is achieved). The QBS selection panel shall evaluate the responses, identify the qualified or pre-qualified respondents. The QBS selection panel shall make a written report of its selection, the criteria used and its recommendation to the board of public purchases, which shall approve or disapprove of the selection process conducted. The use of such QBS processes shall be included in the purchasing agent's quarterly report to the BPP.

d. The city reserves the right to refuse to award or approve a contract with, or purchase from, a proposer as a result of prior facts and circumstances that resulted in increased costs, additional risks or liabilities, or other damage harmful to the best interests of the city for reasons, including, but not limited having been disqualified.

2. Quality-based selection as a final selection process (Request for Qualification).

A Request for Qualification selection process may be utilized in the purchase of special or professional services without seeking price proposals when the contracting officer determines that such services are unique or that the nature of the project requires selection criteria where the knowledge and experience of a bidder in similar or related projects are paramount, and the best interests of the city will be served by the use of such process without considering price as a determining factor in selection. The contracting officer shall then negotiate a proposed contract with the selected bidder with the assistance of the office of the city attorney, at compensation determined by the contracting officer to be fair and reasonable to the city, considering the estimated value, scope, complexity and professional nature of the services to be rendered. Such selection shall be conducted, documented and recommended to the BPP for approval.

a. After selection, the contracting officer shall then enter into negotiation of a contract, preferably on a form included with the solicitation documents, with the selected vendor with the assistance of the office of the city attorney, using a formula for compensation determined by the contracting officer to be fair and reasonable to the city, considering the scope of the work, the delivery or completion requirements, the complexity and specialized nature of the services to be rendered, and other relevant factors. Such formulas may include, but are not limited to, time and materials with or without a not-to-exceed price, cost of the work plus a fee, lump sum, guaranteed maximum price, and the like. The contracting officer's rationale for selection of a compensation formula shall be made in writing to the purchasing agent prior to entering into negotiations; and

b. Should the contracting officer be unable to negotiate a satisfactory contract with the selected vendor, negotiations shall be terminated in writing; and

c. The contracting officer shall then enter into negotiations with the next most qualified firm identified in the selection process and still interested in the project. Should the contracting officer be unable to negotiate a satisfactory contract with such vendor, negotiations shall be terminated in writing and shall proceed to negotiate with the next most qualified firm, and so on.

3. Quality Based Selection (Requests for proposals).

Except as otherwise authorized in this section, for each purchase of special or professional services in excess of Twenty Five Thousand dollars ($25,000.00) where professional qualifications and experience are important but where price remains a factor to be considered in making a selection, such purchase shall be made by Request for Proposal process, as follows:

a. Preparation of the request for proposals. The contracting officer shall prepare a request for proposals. All requirements, terms and conditions, including proposer qualifications desired by the city shall be included in the request for proposals. Whenever possible, a draft contract shall be made a part of the request for proposals or other solicitation documents. The purchasing agent shall assist in the preparation if needed.

b. Solicitation of Requests for Proposals. The purchasing agent shall, in cases where such Request for Proposal was not preceded by a Request for Qualifications by public advertisement, make notice of the request for proposals no less than fifteen (15) working days prior to the deadline to submit proposals, unless the contracting officer determines

that a shorter response time is required. Whenever the service requested is so specialized that few appropriate proposers can reasonably be expected to respond to said notice, a public advertisement may also be made in other media appropriate to the nature of the service requested and calculated to result in a greater number of proposals.

c. Evaluation of proposals.

i. The contracting officer and the QBS selection committee shall evaluate all proposals based upon the criteria and requirements stated in the request for proposals, or otherwise in accordance with BPP official policy. For purchases exceeding one hundred thousand dollars ($100,000.00) the QBS selection panel shall, if possible and practical, conduct personal interviews with the most qualified proposers and in accordance with BPP official policy.

ii. A QBS selection panel shall be formed to review the proposals and make a selection according to pre-established selection criteria and a price proposal. Such selection shall be conducted, documented and recommended to the BPP for approval in the same manner as described above for a Request for Qualifications. The issuance of requests for proposal shall be included in the purchasing agent's quarterly report to the BPP.

iii. The contracting officer or QBS selection panel, as the case may be, shall select the proposer whose proposal is deemed to best provide the services desired, taking into account the requirements, terms and conditions contained in the request for proposals and the criteria for evaluating proposals and, if in excess of Twenty Five Thousand dollars ($25,000.00) make application to the BPP for approval or denial of the selection process.

iv. For each purchase of services by Request for Proposal, the contracting officer or QBS selection panel, as the case may be, shall make a written record of all proposals submitted, giving the names of the proposers, indicating the successful proposer, clearly stating the basis for the selection made, and including copies of all proposals and any other documents pertaining to the selection process, and shall submit the same to the purchasing agent for keeping in accordance with the city's records retention policy.

4. Quality Based Selection (Request for qualifications process followed by request for proposals process).

A QBS selection process may be utilized to pre-qualify proposers for the purchase of special or professional services reasonably expected to be in an amount greater than Twenty Five Thousand dollars ($25,000.00), where the contracting officer determines that such services are unique or that the nature of the project requires selection criteria primarily influenced by the proposer's knowledge and experience in similar or related projects but that price is also an important factor in making a selection subsequent to pre-

qualifying the RFQ respondents. The contracting officer's recommendation to conduct a request for qualifications process followed by a request for proposals process with pre-qualified proposers shall be set forth in writing and submitted to the purchasing agent for approval. A QBS selection panel shall be formed and shall attempt to select a minimum of three qualified respondents to receive a request for proposals. The QBS selection panel shall make a written report of its selection following review of responses to the request for proposals, the criteria used and its application to the board of public purchases for approval of the selection process. The issuance of such pre-qualification process followed by a request for proposal process shall be included in the purchasing agent's quarterly report to the BPP.

H. Multiple Vendor Procurements.

1. Selection Process:

With the prior approval of the Purchasing Agent, goods, general services, special or professional services that are known to be frequently purchased or utilized by the city throughout the course of a year, but the actual frequency of which and/or the ability of the vendor to render goods or services cannot be determined, may be procured through a Multiple Vendor Bid or a Multiple Vendor Quality Based Selection Process. A Multiple Vendor Bid or a Multiple Vendor Quality Based Selection Process shall follow the procurement guidelines for a general bid or Quality Based Selection Process with the following exceptions:

a) The bid or request shall specify an exact number of vendors (3 unless the Purchasing Agent agrees otherwise) that are anticipated to be chosen in the solicitation;

b) That exact number of vendors shall not be altered unless a lesser amount of vendors respond or a lesser number of vendors are deemed responsive, responsible or qualified.

2. Utilization Process:

Once the exact number of vendors are selected and are awarded contracts or purchase orders based upon the solicitation, the Purchasing Agent shall produce for the relevant departments the list of selected vendors and their reflective pricing. The vendor with the lowest reflective pricing shall be the first contacted by any Contract Officer wishing to procure those goods or services pursuant to this solicitation. Only for good cause shown and as approved by the Purchasing Agent (good cause includes vendor's inability in time or resources to satisfy the city's needs), the Contract Officer then may proceed, in price order, up the list of the selected vendors.

I. Waivers of competitive processes.

1. Waiver of competitive bidding for critical emergency purchases.

Critical emergency purchases shall be limited to those purchases reasonably necessary, and only for such duration, as may be required to meet the emergency circumstances as defined above. The mayor shall consider the matter and issue a mayoral bid waiver if appropriate, or in his/her absence the council president shall consider and decide such matter. Time permitting and if appropriate, the contracting officer shall set forth in writing to the purchasing agent the reasons why public advertising and competitive bidding or other competitive process otherwise required by this section should be waived. Time permitting, the purchasing agent shall consider the request and the reasons therefore and if deemed reasonable, make written recommendation to the mayor to grant such a waiver. Due to the critical nature of these types of purchases, if time does not allow the contracting officer to set forth the reasons in writing or the purchasing agent to make a written recommendation to the mayor in advance, such shall be done in writing within five (5) business days after the purchase is made.

2. Waiver of competitive bidding for qualified purchases.

a. Purchases other than critical emergency purchases may be made without competitive bidding or other competitive processes otherwise required by this section for the following reasons:

i. Only one qualified or available vendor or sole source can be identified through reasonable efforts, for example, where only one vendor is authorized or certified to do such work, where parts are available only through a single dealer or distributor, or where the work is proprietary or relates to products that are proprietary and cannot be substituted without adverse effects or complications.

ii. Single source procurements are not subject to the provisions of this ordinance when documented by the contract officer and approved by the purchasing.

iii. Purchase from a special source, including but not limited to a sale, purchasing plan, government discount or trade-in allowance, will provide a lower cost than that which would result from a competitive process.

iv. Time is a critical factor and such purchase could not have been previously anticipated through proper advance planning.

v. The purchase involves items the prices of which are federal or state regulated.

vi. The purchase is required to come immediately into compliance with federal, state or local laws or codes.

vii. The purchase is necessary to avoid complete loss of funds made available by non-city public and private funding sources.

b. The contracting officer shall request a waiver of competitive bidding for a qualified purchase in writing and submit it to the purchasing agent. Such request shall indentify any/all reasons as described above as to why such purchase shall be done as a qualified purchase, the selection of the particular vendor or contractor, and any other pertinent details. In addition, the contracting officer shall also submit an "Integrity Affidavit" to the purchasing agent which attests that the contracting officer has no personal or business relationship with the vendor or contractor being selected for the qualified purchase and attesting to all reasonable attempts to receive best value for the city.

c. The purchasing agent shall review the written request of the contracting officer and determine whether a qualified purchase is appropriate and, if so, shall make a written recommendation to the Chief Administrative Officer ("CAO") to grant such waiver. The CAO shall review the recommendation of the purchasing agent and shall provide his/her approval of such waiver to the purchasing agent.

d. If the purchasing agent denies the qualified purchase, he/she must provide a written explanation to the contracting officer and the CAO. The contracting officer has the right to appeal such decision to the BPP within thirty (30) days of such denial.

e. Purchasing agent will report on all approved qualified purchases quarterly to the BPP, Mayor, City Council, Director of Finance, and Office of Policy and Management.

J. Duties of the purchasing agent; contracting officers; board of public purchases.

1. Purchasing agent. The purchasing agent has the primary responsibility for working with contracting officers concerning the content of public advertisements and the general content of all solicitation documents and specific city requirements, issuance of public advertisements for all competitive bids and QBS selection processes and such other responsibilities set forth in the charter or ordinances or established by the BPP. The purchasing agent is responsible for reporting all material exceptions, deviations from or violations of this section to the mayor, the city council, the director of finance, the office of policy and management and the BPP within fourteen (14) days of learning of such matter.

The purchasing agent has the responsibility to provide quarterly reports as defined in Section N herein. The purchasing agent also has the responsibility to make recommendations on approvals for mayoral bid waivers or qualified purchase waivers as described above. It is also the responsibility of the purchasing agent to receive and open all sealed bids within the established timeframes and to exclude any vendors that miss such deadlines.

2. Contracting officer. The contracting officer, directly or through his/her designee, has primary responsibility for protecting the legal interests of the city by ensuring that, with the advice of the city attorney, the city's legal rights and remedies are protected in connection with such purchase. The contracting officer also has the primary responsibility to develop the technical requirements and other project-specific needs for inclusion in the solicitation documents, to disclose the selection process and criteria to be used, to specify the legal requirements for the contractual relationship with the bidder including, wherever possible, the form of contract to be entered into, and the like. The contracting officer is further responsible to ensure that he/she has authority to make the subject purchase, the resulting contract has received all city approvals required and, upon the execution of any contract, original executed documents or true and complete copies are distributed promptly to the finance department and the city attorney. It is also the primary responsibility of the contracting officer or his/her designee to attend to the details of the purchase and the administration of the relationship with the selected vendor over time, including but not limited to ensuring that: the contract is adhered to; problems, disputes, events of default and the like are properly documented and promptly brought to the attention of the city attorney for advice or action; all insurance policies and security (e.g., cash deposits, bonds, letters of credit, guarantees) remain current, up-to-date and in place for the city' s benefit; and the contract documentation and close-out thereof, including where appropriate, obtaining all lien waivers and final releases, guarantees, operating and service manuals, employee training etc., is completed. The contracting officer has primary responsibility to follow any/all city purchasing policies and procedures, including such procedures for acquiring purchase orders and processing payments of vendor invoices. The contracting officer also has the primary responsibility to adhere to the city's code of ethics and ethics policy especially as it may relate to the full disclosure and exclusion of themselves from the procurement process in the event they have a personal or business relationship with the selected vendor or the type of procurement which may be perceived as capable of or could actually affect his/her decision making.

3. Board of public purchases. The BPP shall be familiar with purchasing department operations and other city operations involved in the purchasing process, and shall perform the responsibilities assigned to it in the Charter, ordinances and this section. Such responsibilities include, but are not limited to, hearing appeals of bid protests, hearing appeals from decisions of the purchasing agent, reviewing appeals from decisions regarding vendor disqualification, establishing official purchasing policies, working rules and regulations, evaluating periodic reports from the purchasing agent, taking appropriate action where required, and otherwise ensuring that the purchasing process operates as intended. The BPP shall circulate any proposed official policy, working rule or regulation for review and comment to the purchasing agent, the mayor, the city council, the department of finance, the office of policy and management, and the city attorney thirty (30) days in advance of its intent to adopt, and shall not vote to adopt such proposal until it has received and considered comments during such thirty (30) day period.

K. Contract requirements.

Contract required. A written contract between the city and a bidder is required for any purchase that exceeds Twenty Five Thousand dollars ($25,000.00). Such requirement may be satisfied with a contract form included in the solicitation documents and executed by the parties, a contract negotiated and executed by the parties after award, or by the standard terms set forth on the city's purchase order form acceptable to the office of the city attorney, as the same may be amended from time to time. Except for purchases where the contract is contained on the purchase order, any other contract shall be reviewed and approved as acceptable by the office of the city attorney. The contract officer, with the advice of the city attorney and/or by the city's risk manager will determine where insurance, indemnification, guarantees, bonds or other security is required, and by other appropriate city departments, and such contract shall be signed by the mayor or other designee in the manner authorized by the city council, provided, however, that, with respect to contracts resulting from a competitive bidding process, the purchasing agent is authorized to execute such contracts in consultation with the office of the city attorney.

2. Contract approval; material modifications. All contracts for material modification purchases that exceed Twenty Five Thousand dollars ($25,000.00) shall require city council approval, with the following exceptions:

a. In cases where this section allows the terms of the contract to be contained on the purchase order, which does not require the execution of additional contract document, the purchasing agent is authorized to sign all contracts that result;

b. In cases where this section authorizes the purchasing agent to sign all contracts that result from the competitive bidding process;

c. In cases involving consolidated purchasing, the purchasing agent is authorized to sign all contracts that result;

d. In cases where a critical emergency purchase is authorized, the mayor or his designee is authorized to sign all contracts that result; and

e. In cases where a qualified purchase is authorized, the mayor or his designee is authorized to sign all contracts that result.

If material modifications in the scope, time or price of the contract are desired after signing, except in the case of a construction contract or other contract that provides by its terms for the submission, consideration, rejection or approval of changes in scope, time or price, which changes are of the type that were not anticipated at the time of bid and result from unforeseen conditions, changes in law, latent defects in solicitation documents and similar changed circumstances, such material modifications shall require written approval by and signature of the mayor in consultation with the director of finance, the director of the office of policy and management, and the office of the city attorney, unless the BPP has adopted an official policy governing the procedure for dealing with material changes.

3. Contract extensions.

a. The contract time for performance in contracts having an original value of greater than one hundred thousand dollars ($100,000.00) that resulted from a QBS selection process, critical emergency purchase or qualified purchase may not be extended unless the contracting officer certifies in writing to the purchasing agent the necessity of such extension and that no significant additional cost to the city will result. If the purchasing agent approves such request, such extension may not exceed six months, except for construction contracts where the contract contains provisions for changes in schedule, including suspension of work, which shall govern the duration of any such extension.

b. Any purchase that results from competitive bidding or a QBS process may be extended beyond the contract time period for up to one additional year from the date of contract expiration without additional bidding for one or more of the following reasons;

i. The vendor is the sole qualified or available provider. This shall include sole source or proprietary service/maintenance contracts for existing equipment and vehicles.

ii. Additional competitive bidding or QBS process would result in an increase in cost or significant disruption of city operations. Employee benefits contracts with third-party providers and administrators are included in this category.

iii. An option to extend the contract term is included in the solicitation documents or the executed contract.

c. The contracting officer is responsible to give written notice to the purchasing agent of such extensions, the purchasing agent shall keep a record of every contract extension, and shall include such extensions in his/her quarterly report to the BPP.

4. Additional purchases from a vendor prohibited. The contracting officer shall not purchase any item of goods or services from a vendor that was not of the type or closely related to the goods or services described in the solicitation documents or the contract. Purchase of different goods or services from such vendor shall require a separate procurement process.

L. City right to set-off delinquent property taxes owed.

1. Right of set-off. Pursuant to C.G.S. § 12-146b, as amended, the city has the right to set-off against any payment due to a vendor or to withhold payment from any vendor if any taxes levied by the city against any vendor or its property, both real and personal, are delinquent, provided, however, that no such amount withheld shall exceed the amount of tax, plus penalties, lien fees and interest outstanding at the time such set-off or withholding of payment occurs. Any vendor that has either been selected by competitive bidding process, has signed a contract or has obtained a purchase order hereby authorizes the city to execute such set-off or to withhold such payment from amounts otherwise due to the vendor.

2. Authority to set-off. Upon the tax collector's issuance of any delinquent tax list, the contracting officer or the comptroller shall have the authority to set-off against any payment due to a vendor or to withhold payment to such vendor the amount of any delinquent taxes due, together with penalties, lien fees and interest outstanding.

M. Purchases through state and federal contracts, cooperative agreements between municipalities and the like.

1. Use of other bid lists. Procurements obtained by competitive bidding or QBS processes conducted by the State of Connecticut, the United States of America, or through cooperative associations or agreements between and among municipalities may be utilized when the purchasing agent determines, in writing to the BPP, that utilization of such procurements would be in the best interests of the city; provided, however, that either the purchasing agent shall issue guidelines for the proper utilization of such procurements or the BPP shall adopt an official policy for the proper utilization of such purchases.

The purchasing agent shall be responsible for the proper utilization of such other bid lists and cooperative agreements and shall take proper precautions to prevent misuse as he/she may deem to be in the best interests of the city.

N. Consolidated purchasing.

1. Commonly used goods, general services, special and professional services. The purchasing agent may make purchases that are commonly used by several departments, where the total annual purchase for each type of goods or services anticipated to be used by such departments in order to achieve the best price.

2. Exclusions from consolidated purchasing. The purchasing agent may exclude purchases from the requirements of consolidated purchasing, provided that the contracting officer submits a written request with justification for exclusion from consolidated purchasing and the purchasing agent makes a written determination that:

a. no significant cost savings; other efficiencies or benefits can be achieved through consolidated purchasing; or

b. the unique requirements of such purchase require that such purchase be made separately from consolidated purchasing.

3. Requirements contracts; price agreements. The purchasing agent may, at his/her discretion, purchase specific items under one procurement by procuring a master requirements contract or a price agreement under which city departments may obtain goods or services directly from the vendor. In selecting such a vendor, the total cost of all goods or services at the expected quantities or dollar values to be purchased shall be used in determining the total cost of the proposal or bid and the selection shall be made on the basis of best value.

4. Planning for anticipated needs. The purchasing agent shall solicit from the various departments and contracting officers their anticipated requirements for goods and services prior to each fiscal year and, as appropriate, shall invite representatives of various departments to determine specifications for items of goods or services to be obtained using consolidated purchasing for their common needs.

O. Exemptions from this section.

1. The sale or purchase of energy commodities are not subject to the provisions of this ordinance, however, any provider of a energy commodities that seeks to do business with the city must meet the threshold requirements of a responsive and responsible bidder under this section.

2. Procurements which are not subject to the provisions of this ordinance pursuant to express City Charter authority or funding source direction are exempt hereunder.. However, any provider must still meet the threshold requirements of a responsible vendor for the goods and/or services requested.

P. Reports.

1. Reports by the Purchasing Agent. Quarterly reports. The purchasing agent shall prepare a written and digital quarterly report within thirty (30) days after the close of each calendar quarter ending in the months of September, December, March and June in a fiscal year, and shall notice the reports' availability to the BPP, with copies to the mayor, the city council, the department of finance, and the office of policy and management. Said reports shall contain, to the extent then technology in place will allow, information about the following activities:

a. Purchases made by the competitive bidding process;
b. Purchases made by the competitive proposal process;
c. Waivers granted from competitive bidding or competitive proposal processes, including critical emergency purchases, mayoral bid waivers issued and qualified purchases;
d. Waivers granted from informal bid and proposal processes;
e. Purchases made through federal or state bid lists or through cooperative purchasing arrangements with associations or other municipalities;
f. Violations or suspected violations of this section; and
g. Other activities required to be reported to the BPP herein.
h. A list of all purchases made by the purchasing agent shall be filed annually with the city clerk.

2. For each purchase of services by QBS selection process, the contracting officer or QBS selection committee, as the case may be, shall make a written report of all such purchases to the BPP, the city council, the mayor, the office of policy and management, and the finance department. The purchasing agent shall make a record of all proposals submitted, giving the names of the proposers, indicating the successful proposer, clearly stating the

basis for the selection made, the basis for the award made by the BPP, including the originals of all proposals and any other documents pertaining to the selection process, and shall keep the same in accordance with the city's records retention policy.

Q. Audit.

The city's auditors shall conduct an audit of purchasing activities every three years or as otherwise directed by the Finance Director. Notwithstanding this requirement, the department of finance, office of policy and management or the mayor may request an independent auditor to perform an audit of city purchases.

R. Violations and penalties.

Any deliberate, willful attempt to violate or circumvent the purchasing process established by this section shall be a violation of the city's code of ethics, as the same may be amended from time to time, and shall be dealt with as appropriate by the ethics commission. Any decision by the ethics commission shall not prohibit the city from pursuing its other legal rights and remedies in connection with such violations.

S. Purchases requiring use of other procedures.

Notwithstanding the provisions of this section, with regard to any purchase that is funded in whole or in part by federal or state grant funding or other assistance where the city is the applicant or directly or indirectly benefits therefrom, or as a condition of such funding or assistance the city is required to follow the grantor's procurement rules and regulations, such other procurement rules and regulations shall be followed in lieu of the purchasing processes described in this section.

T. Records retention.

All records of purchases made and related activities shall be retained in accordance with state of Connecticut guidelines for retention of public records.

U. Mandated contract terms incorporated by reference.

All terms required by law to be inserted in a contract for particular purchases or purchases in general, including but not limited to equal employment opportunities, affirmative action goals, and the like, shall be deemed to be incorporated by reference into any contract described in this section as if fully such terms are set forth therein.

V. Criminal History Considerations

The City of Bridgeport shall not discriminate against any vendor, or any parent, affiliate or subsidiary company, or any of their respective officers, directors, owners, general partners, managing members, employees, or agents, submitting a bid or proposal on the basis of criminal history unrelated to the responsibility or qualifications to perform as a municipal contractor. Inquiries appropriately related to the responsibility or qualifications to perform as a municipal contractor include the following or substantially similar language: Within the last three (3) years, has the business, any parent, affiliate or subsidiary company, or any of their respective officers, directors, owners, general partners, or managing members ever been convicted of, entered a plea of guilty, entered a plea of nolo contendere, or otherwise admitted to or concluded a sentence imposed for:

1. The commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract?

2. The violation of any state or federal law for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a municipal contractor?

3. The violation of any state or federal antitrust, collusion or conspiracy law arising out of the submission of bids or proposals to a public or private contract or subcontract?

4. Fraudulent, criminal or other seriously improper conduct while participating in a joint venture or similar arrangement?

5. Willfully failing to perform in accordance with the terms of one or more public contracts, agreements or transactions?

6. Having a history of failure to perform or a history of unsatisfactory performance of one or more public contracts, agreements, or transactions?

7. Willfully violating a statutory or regulatory provision or requirement applicable to a public contract, agreement, or transaction?

(Rev. / /1__; Ord. dated 6/16/03). *Effective Upon Publication.*

City of Bridgeport, Connecticut
Office of the City Clerk

Report of Committee on **Ordinances**
Item No. *216-15 Consent Calendar

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
ORDINANCES

Eneida L. Martinez, D-139th, ***Co-Chair***

Jose R. Casco, D-136th, ***Co-Chair***

Michelle A. Lyons, D-134th

Mary McBride-Lee, D-135th

Kathryn M. Bukovsky, D-130th

Jack O. Banta, D-131st

Richard D. Salter, Sr., D-135th

***City Council Date*: December 5, 2016**
Tabled by Full Council and Ref'd back to Committee on: ***12/05/2016***
Resubmitted on: ***December 19, 2016***

Item# *218-15 Consent Calendar

Bishop Avenue to be honorary designated as "Jimmie W. Jones Way" with proper signage being placed above the corner street signs at the intersection of Connecticut Avenue and Barnum Avenue.

Report of Committee on

Public Safety and Transportation

City Council Meeting Date: ***December 19, 2016***

Attest: Lydia N. Martinez

Lydia N. Martinez, City Clerk

Approved by: _____

Joseph P. Ganim, Mayor

Date Signed: 12/27/16

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport:

The Committee on **Public Safety and Transportation** begs leave to report; and recommends for adoption the following resolution:

Item No. *218-15 Consent Calendar

WHEREAS, Jimmie W. Jones, the son of retired Bridgeport fire fighter Charlie Jones, was a life-long resident of the City of Bridgeport, graduate of Bullard Havens Technical High School, and followed in his father's footsteps by becoming a fire fighter in the Bridgeport Fire Department, where he served for eight years in Fire Engine Company No. 6; and

WHEREAS, a joy, great man, and hero to all who knew him this young city fire fighter tragically lost his life in an off duty car accident on Bishop Avenue in May of 2016; and

WHEREAS, Jimmie Jones was a loving son to his parents and brothers, a compassionate father to his son, a caring uncle, a loving companion, and a dedicated and hard worker for the City of Bridgeport his presence is greatly missed by his family and the community; and

WHERAS, Jimmie Jones the fire fighter was an active member of the Bridgeport Firebirds, and proud every day he put his uniform on, he will never be forgotten by his brothers in Fire Engine Company No. 6, some of whom were called to the scene of the accident; and

WHEREAS, the loss of this public servant, father, brother, son, and colleague has been a devastating blow to all and it has been difficult to determine what we can to do to help comfort the family, heal a grieving community and lift the spirits of his comrades; and

WHEREAS, we do believe that a strong and caring community shows compassion for those suffering the pain of loss by working together to help lift the heavy burden from all; and

NOW THERFORE, BE IT RESOLVED we celebrate the life of Jimmie W. Jones by coming together as a community to support the Jones family, and our fire fighters who without any second thought will risk and give their lives to protect all of us at any moment, by designating Bishop Avenue as **"Jimmie W. Jones Way"** with signage to be placed above the corner street signs at its intersection with both Connecticut Avenue and Barnum Avenue.

City of Bridgeport, Connecticut
Office of the City Clerk

Report of Committee on **Public Safety and Transportation**
Item No. *218-15 Consent Calendar

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
PUBLIC SAFETY AND TRANSPORTATION

*Michelle A. Lyons, D-134th, **Co-Chair***

*Mary McBride-Lee, D-135th, **Co-Chair***

Jack O. Banta, D-131st

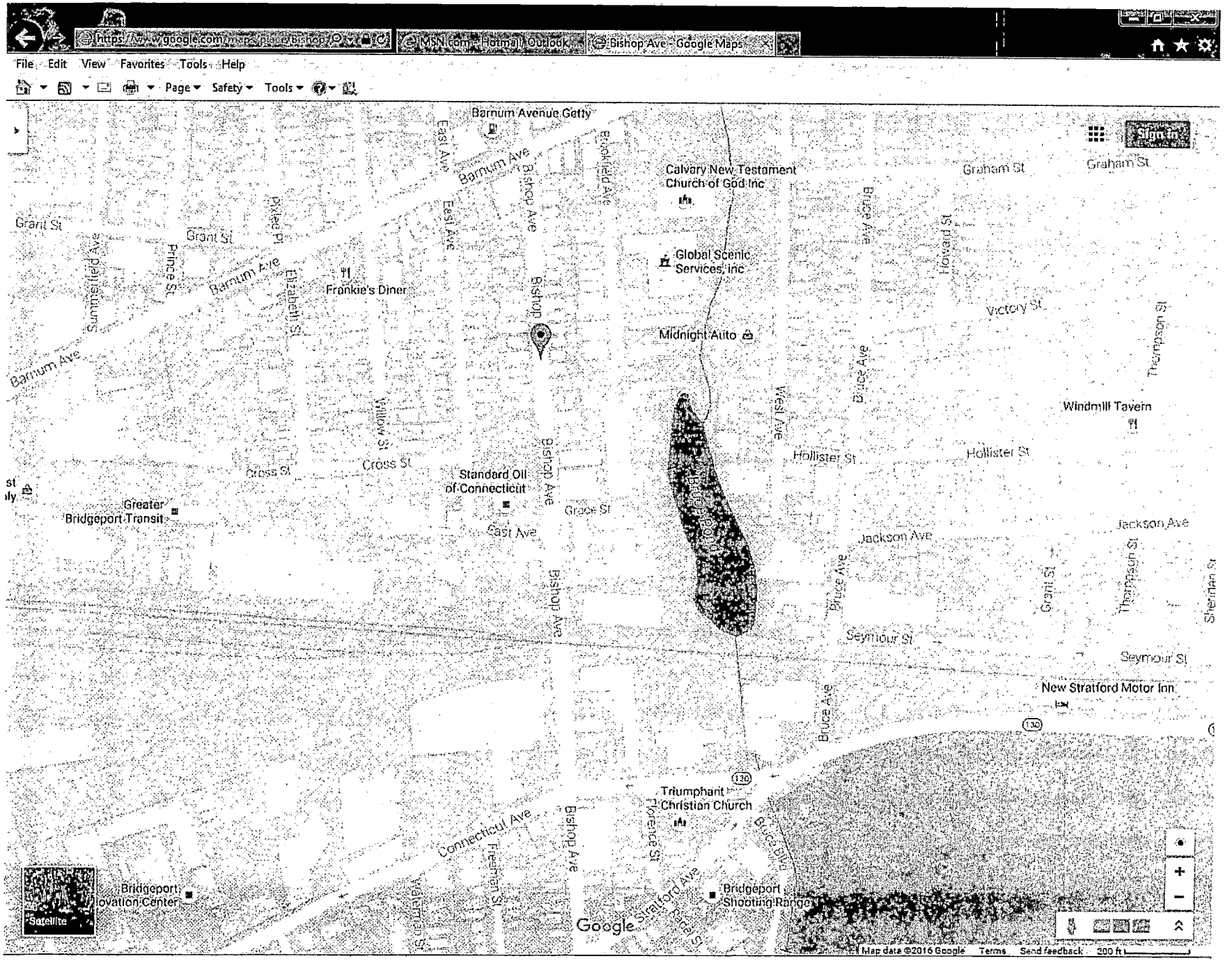
Richard D. Salter, Sr., D-135th

Kathryn M. Bukovsky, D-130th

Eneida L. Martinez, D-139th

Jeanette Herron, D-133rd

***City Council Date**: December 19, 2016*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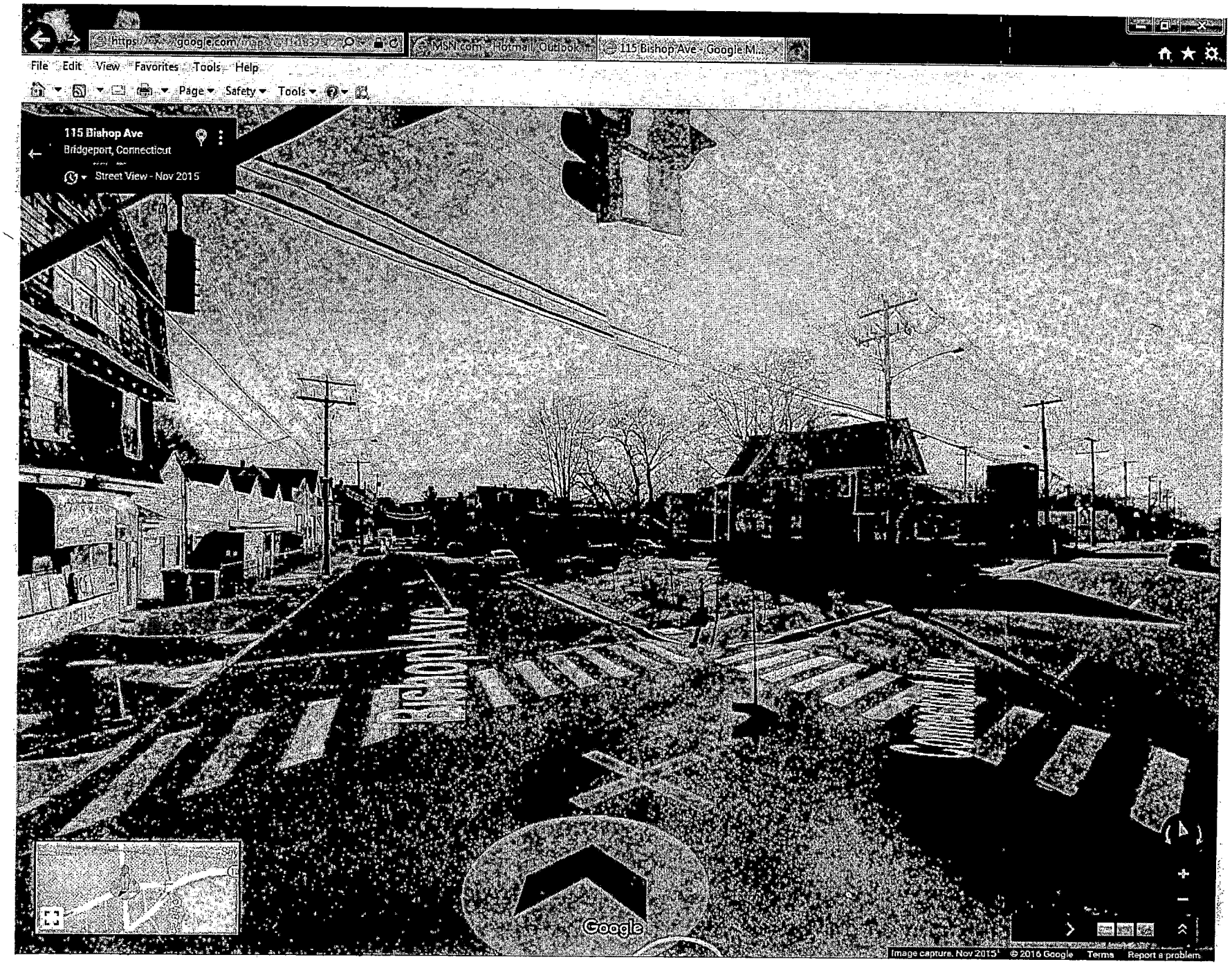
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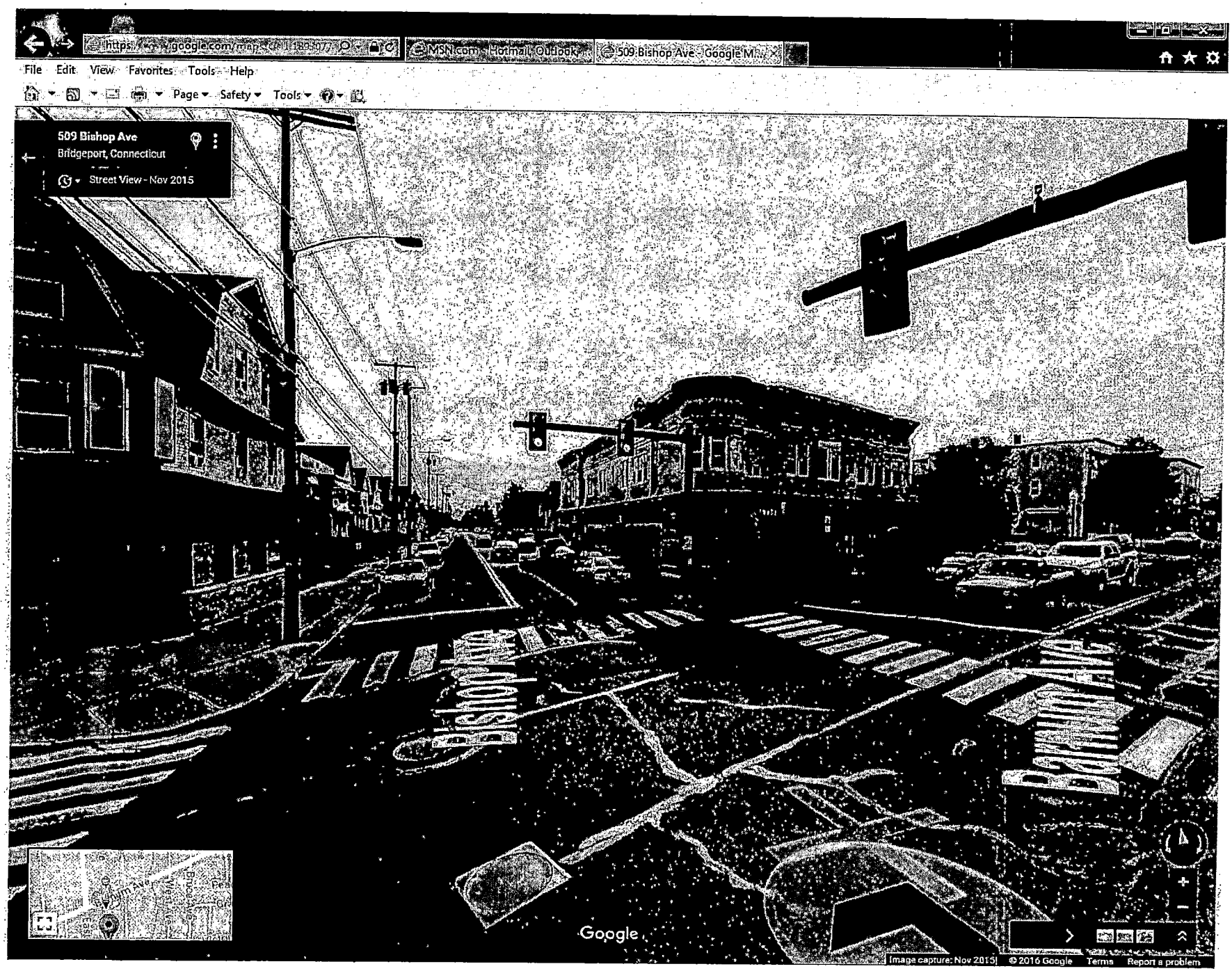
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Item# *93-15 Consent Calendar

Master State/Municipality Agreement for the Readjustment, Relocation and/or Removal of Municipal Facilities on Highway Projects.

Report of Committee on

Contracts

City Council Meeting Date: DECEMBER 19, 2016

Attest: Lydia N. Martinez

Lydia N. Martinez, City Clerk

Approved by: _____

Joseph P. Ganim, Mayor

Date Signed: 12/20/16

RECEIVED IN CITY CLERK'S OFFICE
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ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport.

The Committee on **Contracts** begs leave to report; and recommends for adoption the following resolution:

Item No. *93-15 Consent Calendar

RESOLVED, that the attached Master State/Municipality Agreement between the City of Bridgeport and the State of Connecticut Department of Transportation regarding the Readjustment, Relocation and/or Removal of Municipal Facilities on Highway Projects, be and it hereby is, in all respects, approved, ratified and confirmed.

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
CONTRACTS

*Jack O. Banta, D-131st, **Co-Chair***

*Jeanette Herron, D-133rd, **Co-Chair***

Milta I. Feliciano, D-137th

AmyMarie Vizzo-Paniccia, D-134th

James Holloway, D-139th

Alfredo Castillo, D-136th

Anthony R. Paoletto, D-138th

***City Council Date**: December 19, 2016*

Agreement No.

MASTER AGREEMENT

BETWEEN

STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION

AND

CITY OF BRIDGEPORT
~~*(THE UTILITY COMPANY'S NAME)*~~

FOR READJUSTMENT, RELOCATION, AND/OR REMOVAL OF

UTILITY FACILITIES ON HIGHWAY PROJECTS

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THIS AGREEMENT, concluded at Newington, Connecticut, this ———— day of , A.D., 20~~0~~1_, by and between the State of Connecticut, Department of Transportation, acting herein by the Commissioner of the Department of Transportation, hereinafter referred to as the State, ~~and ————~~and ~~————————————————~~, the City of Bridgeport, acting herein by ——— _____ _____ , its , hereunto duly authorized, hereinafter referred to as the Utility or collectively referred to as the "Parties".

WITNESSETH, THAT:

WHEREAS, the State and the Utility wish to memorialize their understandings concerning their respective duties, rights, liabilities, and obligations whenever the Commissioner of Transportation determines that any Utility Facility located within, on, along, over or under any land comprising the right-of-way of a state highway, or any other public highway associated with a State highway project, must be readjusted or relocated in or removed from such right-of-way due to the construction or reconstruction of such highway, and

WHEREAS, the State, acting by its Commissioner of Transportation, is authorized to

enter into this Agreement pursuant to Sections 4-8, 13a-98, 13a-98f, 13a-126, 13a-165, 13b-3 and 13b-23 of the Connecticut General Statutes, as revised, and

WHEREAS, the Utility has represented to the State that it is duly authorized to enter into this Agreement, carry out its responsibilities under this Agreement, and bind itself and its successors and assigns.

NOW, THEREFORE, in consideration of the mutual exchange of promises by and between the State and the Utility, evidenced within this Agreement, the State and the Utility mutually agree as follows:

Section 1: Definitions

The following definitions shall apply to this Agreement:

a. "Additional Construction Work" means design, engineering or construction performed by or on behalf of the State and paid by the Utility for the incorporation of a Utility Facility in a Project which is for the requirements of the Utility and not required by any physical conflict between the Utility Facility and the Project;

b. "Administrator" means the Transportation Engineering Administrator, Department of Transportation;

c. "Change in Scope Letter" means a letter from the Utility to the State describing a deviation from the statement of work contained in the Project Construction Estimate;

d. "Claims" means all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.

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e. "Construction Estimate" means the estimate prepared by or on behalf of the Utility for the cost of physically readjusting, relocating and/or removing Utility Facilities owned by the Utility for a State highway project;

f. "Deductible" means the cost of the readjusted, relocated or removed Utility Facility above the cost required to provide a Utility Facility of equal capacity, age and value showing the betterment and associated cost for which the State is not participating; (i) the value of materials salvaged from existing installations; and (ii) depreciation reserve credits as determined by the cost of the original installation,

g. "Engineer" means the District Engineer for Construction, Department of Transportation;

h. "Increased Cost Letter" means a letter from the Utility to the State describing a deviation in the cost of work contained in the Preliminary Engineering Estimate or the Project Construction Estimate;

i. "Installations and Adjustments" means the physical readjustment, relocation, and/or removal of a Utility Facility;

j. "Authorization to Order Materials Letter" means the letter from the State authorizing the Utility to acquire materials necessary for the Additional Construction Work or Installations and Adjustments;

k. "Plans" means the detailed engineering design documents prepared for the readjustment, relocation, and/or removal of the Utility Facilities necessitated by the Project;

l. "Preliminary Engineering Estimate" or "P.E. Estimate" means the estimate prepared by or on behalf of the Utility for developing the Construction

Estimate, Plans and Supporting Data;

~~l.~~

~~m.~~ "Project" means a State highway project;

~~n. "Project Authorization Letter for Construction" means the letter from the Administrator approving any and all of those construction costs listed in the Construction Estimate;~~

m. ———

n. "Reference Documents" means "Public Service Facility Policy and Procedures for Highways in Connecticut," dated November 1, 2008, as amended from time to time, "Utility Accommodation Manual," dated February 1, 2009 as amended from time to time, "State of Connecticut Department of Transportation Standard Specifications for Road, Bridges and Incidental Construction, Form 816" (Form 816) and "Supplemental Specifications" as amended from time to time, and Title 23, Code of Federal Regulations, Part 645, Subpart A and Subpart B dated April 1, 2007, as mended from time to time;

~~o.~~o. "Project Authorization Letter for P.E." means the letter from the Administrator authorizing the Utility to incur those preliminary engineering costs approved by the Administrator;

p. "Records" means all working papers and such other information and materials as may have been accumulated by the Contractor in Performing the Contract, including but not limited to, documents, data, plans, books,

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computations, drawings, specifications, notes, reports, records, estimates, summaries, memoranda and correspondence, kept or stored in any form.

q. "Reference Documents" means "Public Service Facility Policy and Procedures for Highways in Connecticut," dated November 1, 2008, as amended from time to time, "Utility Accommodation Manual," dated February 1, 2009 as amended from time to time, "State of Connecticut Department of Transportation Standard Specifications for Road, Bridges and Incidental Construction, Form 816" (Form 816) and "Supplemental Specifications" as amended from time to time, and Title 23, Code of Federal Regulations, Part 645, Subpart A and Subpart B dated April 1, 2007, as amended from time to time;

r. "Supporting Data" means the documentation that forms the basis of the Construction Estimate including utility relocation informational plan sheets, Utility timetables and any Utility specifications;

s. "Utility Facility" means either utility facilities or utilities as defined in Section 13a-98f of the Connecticut General Statutes or a public service facility as defined in Section 13a-126 of the Connecticut General Statutes.

t. "Utility Parties" means Utility's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Utility is in privity of oral or written contract and the

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Utility intends for such other person or entity to perform under the Agreement in any capacity.

~~c.~~

~~c.~~

Section 2: Utility

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2.01 Preparation of P.E. Estimate

When requested by the State or its designated agents, the Utility shall prepare and submit to the State a P.E. Estimate for which the Utility may apply to the State for reimbursement under the Connecticut General Statutes. The Utility shall not incur charges for the Project until the Utility receives written authorization from the Administrator in the form of a Project Authorization Letter for P.E. –Said authorization may be withheld at the sole discretion of the Administrator. -Any increase in the P.E. Estimate for a particular Project will require prior written authorization of the Administrator, which may be withheld at the Administrator's sole discretion.

2.02 Preliminary Engineering Performed by Consultant

In the event the Utility elects not to perform preliminary engineering with its own forces, or forces of the Utility's corporate affiliates, the Utility shall so advise the State in writing by requesting prior approval to employ the services of a consultant. The Utility agrees to clearly and accurately identify all consultant costs in its estimates and in its billings to the State.

2.03 Preparation of Plans, Construction Estimate and Support Data

Subsequent to the issuance of the Project Authorization Letter for P.E., the Utility

shall prepare: (a) Plans, (b) the Construction Estimate, and (c) Supporting Data for the changes to its facilities to accommodate the construction or reconstruction of the Project. The Plans, Construction Estimate, and Supporting Data shall all be prepared in accordance with the Reference Documents which are hereby incorporated by reference and made a part of this Agreement.

2.04 Test Pits and Borings

(a) Whenever the State, acting through the Administrator, notifies the Utility in writing that the State requires the Utility to conduct test borings or to excavate test pits to ascertain the exact location, dimensions, or the structural condition of a Utility Facility for the purposes of a Project the cost shall be shared by the State and the Utility. The State's share shall be determined in accordance with the applicable provisions of Sections 13a-98f and 13a-126 of the Connecticut General Statutes, as revised.

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(b) Whenever the State, acting through the Administrator, notifies the Utility in the Project Authorization Letter for P.E. to prepare a Plan, Construction Estimate, and Supporting Data for the relocation or adjustment of its Utility Facilities due to the requirements of the proposed Project and the Utility finds that it can comply with this request only by means of borings or test pits, the Administrator may grant permission for the borings or test pits to be done as part of the Utility's preliminary engineering design, and payment therefore shall be made under the provisions of Sections 13a-98f or 13a-126 of the Connecticut General Statutes, as revised.

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2.05 The Construction Estimate

The Construction Estimate shall include, but shall not be limited to, (a) costs required to provide a facility of equal capacity; (b) any costs in excess of the costs required to provide a Utility Facility of equal capacity clearly showing the betterment and associated costs for which the State is not participating; (c) the value of materials salvaged from existing installations; and (d) depreciation reserve credits as determined by the cost of the original installation, the life expectancy of the original Utility Facility, and the unexpired term of such life use. The Construction Estimate shall incorporate the deductible value of items (a) through (d) referenced herein subject to audit as set forth in Subsections 2.16, 2.18 and 3.04 of this Agreement after completion of the work and before final payment is made to the Utility. The depreciation reserve credit must be shown in the Construction Estimates for which the construction cost to the State is over Twenty Thousand Dollars ($20,000), and the State waives the requirement that depreciation reserve credit be shown in Construction Estimates on construction costs of Twenty Thousand Dollars ($20,000) or less.

2.06 Submission at Request of Administrator

The Utility shall submit the Plans, Construction Estimate, Supporting Data and Specifications requested by the Administrator to the State for its approval. If after review by the State the Plan, Construction Estimate and Supporting Data are acceptable, the Administrator shall provide the Utility written approval of the Plans, Construction Estimate and Supporting Data. The Project Authorization Letter for Construction shall not be construed as authorization to proceed with work in furtherance of said Installations and Adjustments.

2.07 Utility Responsibilities

The Utility shall assume full responsibility for the accuracy of all data, design, and other products of engineering work created, prepared or produced by the Utility, its agents, servants, employees, corporate affiliate or consultants, as shown on Plans, Supporting Data, Specifications or other pertinent documents relative to the Installations and Adjustments, as herein provided for under the terms of this Agreement. The Utility shall also assume full responsibility for all costs of every name and description which may be incurred by the State as a result of any errors or omissions contained in the data, design, or other products of engineering work created, prepared or produced by the Utility, its agents, servants, employees, corporate affiliate or consultants, as shown on said Plans, Supporting Data, Specifications or other pertinent documents. The Utility shall assume no responsibility for costs incurred by the State as a result of any errors or omissions contained in the data, design, or other products of engineering work created, prepared or produced by the State as shown on said Plans, Supporting Data, Specifications or other pertinent documents.

2.08 Authorization to Order Materials

Upon the Utility's receipt of the Authorization to Order Materials Letter for a Project, the Utility shall use its best efforts to promptly obtain all materials necessary for the relocation and readjustment of Utility Facilities for the Project. Within ten (10) calendar days of receiving the Authorization to Order Materials Letter, the Utility shall notify the State in writing of the date when it anticipates that the Utility will have obtained all materials necessary for the relocation and readjustment of Utility Facilities for the Project. In the event the Utility becomes aware of a change in the date that it anticipates obtaining all materials necessary for the relocation and

readjustment of Utility Facilities for the Project, the Utility shall provide the State with written notification of the change. The Utility acknowledges that the State will utilize the anticipated date provided by the Utility to plan for the Project. If the Utility fails to provide the State with a written notice required by this Subsection, the Utility shall be responsible for any and all damages incurred by the State arising from the Utility's failure to provide any such notice.

2.09 Notice to Proceed

The Utility shall not proceed with work in furtherance of the Installations and Adjustments prior to the receipt of a written notice from the Engineer. The Utility shall proceed with due diligence with the Installations and Adjustments in accordance with the approved Plans, Construction Estimates, and Supporting Data.

2.10 Diligent Performance

The Utility shall diligently perform all work necessary to complete the Installations and Adjustments of its Utility Facilities, and shall comply with all requirements of the State in connection with such work. All Installations and Adjustments shall be completed within a reasonable time. –In determining the Installations and Adjustments were completed within a reasonable time, the State may consider, among other things, any schedule submitted by the Utility to the State for the Installations and Adjustments and any other information that the Utility believes the State should consider determining whether the Installations and Adjustments were completed in a reasonable time.

2.11 Reference Documents Controlling

The actual adjustments to the Utility's Facilities shall be governed by the Reference Documents. The Reference Documents are hereby incorporated by reference and

made a part of this Agreement.

2.12 Performance of Work by Utility Forces or Contractor

Any Installations and Adjustments authorized by the State may be carried out by the Utility with its own forces and/or by the Utility's duly qualified and certified continuing contractors, but nothing in this paragraph shall be construed to authorize any work to be done by other contractors or any other utility company, except for certain minor contract work approved in advance by the Administrator. Written approval by the State of other than continuing contractors doing work under this Agreement may be granted by the State on the basis of a contract being awarded by the Utility to the lowest qualified bidder from a minimum of three bids submitted by entities unaffiliated with the Utility. If the Utility is unable to obtain three bids, the Utility shall write to the State and explain why it was unable to obtain three bids. The State may, upon the Utility demonstrating good cause for not obtaining three bids, waive the three bid requirement. Upon receipt of written approval from the State, the Utility may award a contract for such work. The State reserves the right to reject any or all bids for such work at its sole discretion.

2.13 Preparation of Progress Reports

During the construction phase of Projects, the Utility shall prepare reports required for the State's review of the Utility's billing of costs. State Form CON-40, or an approved equivalent form(s), shall be used for the daily reporting of labor, inspection, supervision, or any other related on-site work, as well as equipment and materials used in the work, and shall be prepared by the Utility and certified by representatives of the State and the Utility. Material used and recovered on temporary work, as well as permanent plant items removed, shall be reported on State Form CON-41 in the

same manner as the CON-40. The Utility shall submit CON-40's and CON-41's within fifteen (15) calendar days following the completion of its weekly activities.

2.14 Changes in Scope of Work

In the event that the statement of work contained in the approved Project Construction Estimate needs to be changed, the Utility shall provide the Engineer with a Change in Scope Letter. The Change in Scope Letter shall contain such information as the Engineer deems necessary for his review of the proposed changes, including but not limited to, the facts requiring such change, and the proposed impact upon the budget for Installations and Adjustments. In the event the Engineer authorizes the change, such authorization shall be in writing and effective upon receipt by the Utility.

2.15 Construction Cost Increases

When changes in construction are due solely to increases in cost of labor, materials and equipment, the Utility shall advise the State in an Increased Cost Letter with an explanation for this change. The Increased Cost Letter shall contain, but shall not be limited to, the facts requiring such change, and a statement that payment will be made under the provisions of the "Public Service Facility Policy and Procedures for Highways in Connecticut" as amended from time to time. The Utility shall not implement any such changes in preliminary engineering or construction until those changes have been approved in writing by the State.

2.16 Form of Payment Requests

All requests for payment shall be submitted on State Form ISP, or a DOT approved equivalent form together with pertinent vouchers and cost records, and shall be subject to audit by the State and/or the Federal Highway Administration. All billing

for preliminary engineering, test pits, construction and inspection activities shall be billed separately on State Form ISP and be on a project-by-project basis.

2.17 Waiver of Right to Payment

The failure of the Utility to submit the final bills within the time frames specified within this Agreement will constitute a waiver by the Utility of its right to reimbursement of the State's equitable share and may, at the election of the State, result in the loss of reimbursement to the Utility.

2.18 Review of Records

The Utility agrees to permit the State, the State Auditors of Public Accounts, the United States Department of Transportation and/or their duly authorized representatives to examine, review, audit and/or copy any records, books or other documents of the Utility relative to all charges, including charges for extra work, settlement of claims, alleged breaches of this Agreement, charges of continuing contractors of the Utility for work performed by the continuing contractor for the Utility on work other than State highway work or any other matter involving expense to the State.

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If applicable, the Utility receiving federal funds must comply with the Federal Single Audit Act of 1984, P.L. 98-502 and the Amendments of 1996, P.L. 104-156. If applicable, the Utility receiving state funds must comply with Connecticut General Statutes § 7-396a, and the State Single Audit Act, §§ 4-230 through 236 inclusive, and regulations promulgated thereunder.

2.19 Requirement for Encroachment Permit

The Utility shall obtain an encroachment permit pursuant to the provisions of

Sections 13a-247 and 13b-17 of the General Statutes and Sections 13b-17-1 through 42 of the Regulations of Connecticut State Agencies prior to placing any Utility Facility within, on, along, over, or under any land compromising the right-of-way of a state highway. Any Utility Facility placed within, on, along, over, or under any land compromising the right-of-way of a state highway without an encroachment permit from the State shall not be eligible for reimbursement and nothing in this Agreement shall obligate the State to reimburse the Utility for the costs associated with the readjustment, relocation, or removal of any such facility. The Utility shall reimburse the State for the costs associated with the readjustment, relocation, or removal of any facility placed within, on, along, over, or under any land compromising the right-of-way of a state highway or any other public highway without an encroachment permit.

2.20 Requirement of Encroachment Agreement for Trunk Line or Transmission Type Facilities

The Utility shall enter into an encroachment agreement with the Commissioner pursuant to the provisions of Section 13a-126c of the General Statutes for any longitudinal use of the right-of-way of a state highway to accommodate trunk line or transmission-type facilities prior to placing any trunk line or transmission-type facility within, on, along, over, or under any land compromising the right-of-way of a state highway. Any trunk line or transmission-type facility placed within, on, along, over, or under any land compromising the right-of-way of a state highway without an encroachment agreement shall not be eligible for reimbursement and nothing in this Agreement shall obligate the State to reimburse the Utility for the costs associated with the readjustment, relocation, or removal of any such facility. The Utility shall reimburse the State for the cost associated with the readjustment, relocation, or removal of any facility place, within, on, along, over, or under any land compromising the right-of-way of a state highway or any other public highway

without an encroachment agreement.

2.21 Indemnification and Hold Harmless

(a) The Utility shall indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Agreement, including the acts of commission or omission (collectively, the "Acts") of the Utility or Utility Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Agreement. The Utility shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Utility's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Utility's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance.

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(b) The Utility shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any other person or entity acting under the direct control or supervision of the State.

(c) The Utility shall reimburse the State for any and all damages to the real or personal property of the State caused by the acts of the Utility or any Utility Parties. The State shall give the Utility reasonable notice of any such Claims.

(d) The Utility's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Agreement, without being lessened or compromised in any way, even where the Utility is alleged or is found to have merely contributed in part to the acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.

(e) The Utility shall carry and maintain at all times during the term of the Agreement, and during the time that any provisions survive the term of the Agreement, sufficient general liability insurance to satisfy its obligations under this Agreement. The Utility shall name the State as an additional insured on the policy. The State shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the State or the State of Connecticut is contributorily negligent.

~~(f) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.~~

(fg) This section shall survive the termination of the Agreement and shall not be limited by reason of any insurance coverage.

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2.22 Sovereign and Governmental Immunity

The Utility shall not use the defense of Sovereign Immunity in the adjustment of claims or in the defense of any suit, including any suit between the State and the Utility, unless requested to do so by the State. If this Agreement is between the State and a Municipality, the Municipality agrees that in the event of an adjustment of claims or in the defense of any suit between the State and the Municipality, the Municipality shall not use the defense of Governmental Immunity.

2.23 Compliance with State and Federal Administrative Requirements

The Utility shall comply with all State and Federal Administrative requirements incorporated herein by reference and attached herewith as Exhibit A, as may be amended from time to time, and all Schedules, as may be amended from time to time, attached herewith, which are also hereby made part of this Agreement.

2.24 Documents Submitted With Cost Estimates

For each Project, the following documents and any documents attached thereto shall be incorporated by reference into this Agreement:

a. the Project Authorization Letter for P.E.;

b. the Project Authorization Letter for Construction;

c. the Authorization to Order Materials Letter;

d. the Notice to Proceed;

e. the State's response to any Change in Scope Letter;

f. the State's response to any Increased Cost Letter; and

g. documentation of Additional Construction Work.

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2.25 Special Provisions Disadvantaged Business Enterprises

The Utility hereby acknowledges and agrees to comply with "Special Provisions, Disadvantaged Business Enterprises As Subcontractors And Material Suppliers Or Manufacturers For Federal Funded Projects Involving Utility Adjustment &

Relocations," dated May 7, 2001, as revised, as set forth in Exhibit A, Schedule 1 (attached herewith and incorporated by reference).

2.26 Insurance

(a) With respect to the operations that the Utility performs or engages a Prime Contractor to perform, and also those that are performed by subcontractors of the Prime Contractor, in conjunction with the Project, the Utility shall carry, and/or shall require its Prime Contractor (i) to carry and (ii) to impose on its subcontractors the requirement to carry, for the duration of the Project, the insurance requirements set forth in the Form 816 at (i) Section 1.03.07 "Insurance," and (ii) specifically with respect to any working drawings prepared by a designer, Section 1.05.02(2)(a) "Plans, Working Drawings and Shop Drawings". With respect to Section 1.05.02(2)(a) , evidence of the Professional Liability Insurance Policy may be submitted on the State's Form "Certificate of Insurance DOC-001."

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(b) With respect to Design/Construction Inspection activities that the Utility performs or engages a Designer/Inspection Consultant to perform, and also those that are performed by any subconsultants of the Designer/Inspection Consultant, in conjunction with the Project, the Utility shall carry, and/or shall require its Designer/Inspection Consultant for the Project (i) to carry and (ii) to impose on its subconsultants the requirement to carry, for the duration of the Project, the insurance requirements set forth in the Form 816 at Section 1.03.07, Items (1), (2), (3), (5), (7), and (8) "Insurance." For the purposes of this subparagraph (b), any reference in the Standard Specifications to "Contractor" and "subcontractor"

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hereby refers to the Designer/Inspection Consultant and subconsultant, respectively.

(c) With respect to the Design/Construction Inspection activities that the Utility performs or engages a Designer/Inspection Consultant to perform, and also those that are performed by any subconsultants of the Design/Inspection Consultant, in conjunction with the Project, the Utility shall carry, and/or shall require its Design/Inspection Consultant (i) to carry and (ii) to impose on its subconsultants the requirement to carry, for the duration of the Project, a Professional Liability Insurance policy for errors and omissions in the minimum amount of Two Million Dollars ($2,000,000), which policy may contain a maximum Two Hundred and Fifty Thousand Dollars ($250,000) deductible clause, provided that the policy holder shall be liable to the extent of at least the deductible amount. The Professional Liability Insurance coverage shall continue for a period of three (3) years from the date of acceptance of the Project by the State, subject to the continued commercial availability of such insurance. The Professional Liability Insurance Policy must include pollution and environmental impairment coverage as part thereof, if such insurance is applicable to the work performed as part of the Design/Inspection Activities in conjunction with the Project.

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(d) With respect to the operations that the Utility performs or engages a Design/ Inspection Consultant to perform, and also those that are performed by subconsultants thereof, in conjunction with the Project, the Utility shall carry, and/or shall require its Design/Inspection Consultant (i) to carry and (ii) to impose on its subconsultants, the requirement to carry, for the duration of the Project, a Valuable Papers Insurance Policy until the work has been completed

and accepted by the State. Said policy will assure the State that all records, papers, maps, statistics, survey notes and other data shall be reestablished, recreated, or restored if made unavailable by fire, theft, flood, or other cause. This policy shall provide coverage in the amount of Fifty Thousand Dollars ($50,000) regardless of the physical location of the insured items.

(e) Said coverages must be provided by an insurance company or companies satisfactory to the State, except that, with respect to work performed directly and exclusively by the Utility, the Utility may request that the State accept coverage provided under a self insurance program. If requested by the State, the Utility must provide evidence of its status as a self-insured entity and describe its financial condition, the self-insured funding mechanism and the specific process on how to file a claim against the self insurance program. If such self-insurance coverage with respect to any insurance required herein is acceptable to the State, in its sole discretion, then the Utility shall assume any and all claims as a self-insured entity, and the respective insurance requirements stated herein will not be applicable.

(f) The Utility shall produce, within five (5) business days, a copy or copies of all applicable insurance policies when requested by the State. -In providing said policies, the Utility may redact provisions of the policy that are deemed by the insurer to be proprietary. This provision shall survive the suspension, expiration or termination of this Agreement. The Utility shall insert this required provision into its contracts or agreements with its Prime Contractor and/or Design/Inspection Consultant, if applicable, and shall require its Prime Contractor and/or Design/Inspection Consultant to insert this required provision

into its (their) contracts or agreements with its (their) subcontractors and/or subconsultants.

2.27 Maximum Fees for Architects, Engineers and Consultants (Federal Funds)

When any phase of the Project is federally funded, the Utility hereby acknowledges and agrees to comply with the guidelines ~~specif~~stipulated ~~ied~~ in "Policy No. F&A-30, dated ~~April~~July 23 ~~12,~~, 200615; Subject: Maximum Fees for Architects, Engineers and Consultants", as set forth in Exhibit A, Schedule 2 (attached herewith and incorporated by reference). ~~The Office of Policy and Management's General Letter No. 97-1, dated November 21, 1996~~Policy No. EX.O. -33, dated June 25, 2015, as ~~as~~ set forth in Exhibit A, Schedule 3 (attached herewith and incorporated by reference) and the guidelines stipulated therein are to be utilized, when applicable, in accordance with this Policy Statement.

The Utility shall submit to the State for review and approval, any proposed Agreement between the Utility and a consultant prior to its execution. ~~No~~ reimbursable costs may be incurred on the consultant agreements prior to the State's written approval.

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The Utility shall ensure that all Parties are in compliance with the audit requirements set forth in ~~Title 48, Section 31 of the Code of Federal Regulations (CFR) and Title 23, Section 172 CFR~~ Title 23, Section 172 CFR, ~~-~~as revised, when retaining consultants.

2.28 ~~Office of Policy and Management's Letter 97-1~~Policy No. EX.O. -33 (100% State Funds)

When all phases of the Project are one hundred percent (100%) state funded, the Utility hereby acknowledges and agrees to comply with the guidelines stipulated in ~~the Office of~~ Policy ~~and Management's General Letter No. 97-1, dated November 21, 1996, which~~ No. EX.O. -33, dated June 25, 2015, which is incorporated by reference, when architects, engineers, and/or consultants are retained.

Section 3: State

3.01 Payment for Increased Costs

The State's obligation to pay the cost increase shall be subject to final audit as set forth in Subsections 2.16, 2.18 and 3.04 of this Agreement.

3.02 Partial Payments

Upon the Utility's request for partial payments made on the proper form, the State may make partial payments to the Utility of ninety-seven and one half percent (97.5%) of the State's equitable share of the approved cost for all authorized actual incurred charges.

(a) The Utility's final bill to the State for the State's equitable share of all preliminary engineering costs incurred by the Utility, shall be submitted to the State within six (6) months of the date of the Administrator's written authorization to the Utility to incur charges; time being of the essence.

(b) The Utility's final bill to the State for the State's equitable share of all authorized construction costs incurred, shall be submitted to the State within a period of six (6) months after completion of the Utility's construction activities, time being of the essence.

3.03 State's Equitable Share

The State's equitable share of the cost of the Installations and Adjustments of the Utility, as herein provided and approved by the State, shall be in conformance with the provisions of the applicable Connecticut General Statutes, as revised.

3.04 No Prohibition on Additional Funding

Nothing in this Agreement shall preclude the State from requesting reimbursement from the Federal Highway Administration for a portion or all of its share of the cost of the Utility Installations and Adjustments, as provided for in this Agreement, in accordance with the provisions of Title 23, Code of Federal Regulations, Part 645; Subpart A, dated April 1, 2007, and subsequent supplements or amendments. The records and accounts of the Utility shall be made available in the Utility's office for audit, upon request, by authorized representatives of the State and/or the United States Department of Transportation. Nothing in this Agreement shall preclude the State from requesting funding from any other federal agency, municipality or any other funding source.

Section 4: State and Utility

4.01 Additional Construction Work Pursuant to Connecticut General Statutes Section 13a-98

(a) Upon request of the Utility, the State may include Additional Construction Work in a Project. The Utility agrees to accept ownership of and maintain as part of its overall system, all Additional Construction Work herein provided for, immediately upon completion of the Additional Construction Work or at such time as notified by the State.

(b) Upon demand by the State, following the advertising of a Project, the Utility shall deposit with the State, a certified check, drawn on the account of the Utility, payable to the "State Treasurer, State of Connecticut," in the amount of the estimate for the Additional Construction Work for each Project. After final audit for the Project in the event the actual cost of Additional Construction Work is more than the amount of the Utility's deposit, the Utility shall pay the difference to the State. In the event the actual cost of Additional Construction Work is less than the amount of deposit, the State shall pay the difference to the Utility. No interest shall be payable or due on the difference between the amount deposited and the final audited amount. In the event the construction of a certain Project is cancelled, all monies deposited by the Utility for said Additional Construction Work shall be returned to the Utility with no interest within ninety (90) days after receipt of notice of cancellation of the Project by the Department of Transportation's Office of Financial Management and Support or its successors, unless the State notifies the Utility in writing stating otherwise.

4.02 Incorporation of Utility Installations and Adjustments into Project

When requested to do so by the Utility, required Installations and Adjustments may be included in any Project contract for highway improvements whenever the Administrator considers it to be in the best interest of the State. If it is determined that a demand deposit is required from the Utility, it shall be accomplished as in Subsection 4.01 of this Agreement.

4.03 Audit

Final payment costs associated with each of the activities of preliminary engineering, test borings or test pits, and construction shall be made for actual authorized cost incurred, after final audit and after all exceptions have been resolved.

4.04 Jurisdiction and Forum

The parties deem the Agreement to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the 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 any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Utility 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.

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4.05 Litigation

The Utility agrees that the sole and exclusive means for the presentation of any claim against the State arising from or in connection with this Agreement shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims against the

State) and the Utility further agrees not to initiate legal proceedings in any State or Federal Court in addition to, or in lieu of, said Chapter 53 proceedings.

4.06 Preconditions to Commence Work and Reimbursement by State

This Agreement itself is not an authorization for the Utility to provide goods or begin performance in any way. The Utility may provide goods only after receiving (a) a Project Authorization Letter for Construction; and (b) an Authorization to Order Materials Letter. The Utility may begin performance only after receiving (a) a Project Authorization Letter for Construction; (b) an Authorization to Order Materials Letter; (c) a Purchase Order issued by the State against this Agreement; and (d) a Notice to Proceed as set forth in Subsection 2.09 of this Agreement. The State shall issue a Purchase Order against this directly to the Utility and to no other person. Any work performed in a state highway right of way shall require an encroachment permit. If the Installation and Adjustment or Additional Construction Work concerns a trunk line or transmission type facility in a state highway right of way, the Utility shall enter into an encroachment agreement with the State. A Utility providing goods or commencing work without the requisite items listed in this Subsection does so at the Utility's own risk.

4.07 No Third Party Beneficiaries

No person shall be deemed to be a third party beneficiary to this Agreement.

4.08 Term

This Agreement shall have a term of ten (10) years from the effective date of this Agreement. No amendment to this Agreement shall be valid unless mutually agreed upon by both Parties in writing and approved, as to form, by the Attorney General of the State of Connecticut.

(a) The State and the Utility reserve the right to terminate or propose to revise this Agreement in whole or part at any time by fifteen (15) days advance notice, in writing, to the other party. The termination of this Agreement by the Utility shall not relieve the Utility from its obligation to remove a Utility Facility from a State highway upon written notice from the State that the Utility Facility conflicts with a Project.

(b) The State, upon written notice, may, in its sole discretion, suspend, postpone, or terminate this Agreement, and such action shall in no event be deemed a breach of contract. Any such action may be taken by the State for its own convenience and shall not be deemed a breach of this Agreement.

(c) Any such suspension, postponement or termination shall be affected by delivery to the Utility of a written notice specifying the extent to which performance of work under the Agreement is being suspended or postponed or that the Agreement is being terminated, and the date upon which such action shall be effective.

(d) If the State terminates the Agreement, the State shall reimburse the Utility for items or work completed prior to the effective date of termination, or as may be agreed by the Parties for items of work partially completed.

(e) When the volume of work completed, as of the termination date, is not sufficient to reimburse the Utility under contract unit prices for its related expenses, the State may consider reimbursing the Utility for

such expenses.

(f) Materials obtained by the Utility or its contractor for the Project that have been inspected, tested as required, and accepted by the State, and that have not been incorporated into the physical Project, shall, at the option of the Utility, be purchased from the contractor at actual cost as shown by receipted bills and the State shall reimburse the Utility for same. To this cost shall be added all actual costs for delivery at such points of delivery as may be designated by the State, as shown by actual cost records.

(g) The Utility shall make payment to the State for the original costs of materials obtained by the State or its contractor for the Project that have been purchased by the Utility less an allowable handling fee and take possession of these materials in the event the Project is cancelled or the Agreement is terminated without any fault of the Utility.

(h) Termination of this Agreement shall not relieve the Utility or its contractor of its responsibilities for the completed work, nor shall it relieve the contractor, its surety or the Utility of its obligations concerning any claims arising out of the work performed or any obligations existing under bonds or insurance required by the Connecticut General Statutes or by this or any other agreement with the State or the Utility.

4.09 Official Notice

Any official notice from one such party to the other such party (or parties), in order for such notice to be binding thereon, shall:

a. Be in writing (hardcopy) addressed to:

(i) When the State is to receive such notice -

Commissioner of Transportation
Connecticut Department of Transportation
2800 Berlin Turnpike
P.O. Box 317546
Newington, Connecticut 06131-7546;

(ii) When the Utility is to receive such notice:

Bridgeport City Hall
45 Lyon Terrace
Bridgeport, CT 06604

~~(The person(s) acting herein as signatory for the Utility)~~
~~(The Utility Company's Name and Address)~~

b. Be delivered in person with acknowledgement of receipt or be mailed by the United States Postal Service – "Certified Mail" to the address recited herein as being the address of the party(ies) to receive such notice; and~~address of the party(ies) to receive such notice; and~~

c. Contain complete and accurate information in sufficient detail to properly and adequately identify and describe the subject matter thereof.

The term "Official Notice", as used herein, shall be construed to include, but not be limited to, any request, demand, authorization,

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direction, waiver, and/or consent of the Party(ies) as well as any document(s) including any electronically produced versions provided, permitted, or required for the making or ratification of any change, revision, addition to, or deletion from, the document, contract, or agreement in which this "Official Notice" specification is contained.

Further, it is understood and agreed that nothing hereinabove contained shall preclude the Parties from subsequently agreeing, in writing, to designate alternate persons (by name, title, and affiliation) to which such notice(s) is (are) to be addressed; alternate means of conveying such notice(s) to the particular Party(ies); and/or alternate locations to which the delivery of such notice(s) is (are) to be made, provided such subsequent agreement(s) is (are) concluded pursuant to the adherence to this specification.

4.10 Agent for Service of Process

In the event that the Utility is a nonresident person, partnership or voluntary association, the Utility agrees that the Secretary of the State, (including any successor thereto) is hereby appointed by the Utility as its agent for service of process for any action arising out of or as a result of this Agreement, and such appointment shall survive the expiration or termination of this Agreement.

~~The Utility agrees that the Secretary of the State of the State of Connecticut,~~

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~~(including any successor thereto) is hereby appointed by the Utility as its agent for service of process for any action arising out of or as a result of this Agreement, such appointment to be in effect throughout the life of this Agreement, including any supplements thereto and all renewals thereof, if any, and seven (7) years thereafter, except as otherwise provided by statute.~~

4.11 Sovereign Immunity

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

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~~Agreement No.~~

Agreement No.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals on the day and year indicated.

WITNESSES:

STATE OF CONNECTICUT
Department of Transportation
James Redeker, Commissioner ~~of the~~

~~Department of Transportation~~

Sign: _____
Print:

BY: _____ (Seal)
Thomas A. Harley, P.E.
Bureau Chief
Bureau of Engineering and Construction

Sign: _____
Print:

Date: _____

City of Bridgeport

~~{UTILITY COMPANY NAME}~~

Sign: _____
Print:

BY:
Sign Name: _____ (Seal)
Print Name:
Print Title:

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~~December 12, 2011~~~~March 22, 2011~~

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EXHIBIT A
and Schedules 1 Through 8
MANDATORY STATE AND FEDERAL ADMINISTRATIVE REQUIREMENTS

The following clause does not apply to Governmental Subdivisions:

1. Non-discrimination

References in this section to "contract" shall mean this Agreement and references to "contractor" shall mean the Utility.

(a) For purposes of this Section, the following terms are defined as follows:

i. "Commission" means the Commission on Human Rights and Opportunities;
ii. "Contract" and "contract" include any extension or modification of the Contract or contract;

iii. "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;

iv. "gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.

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

vi. "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;

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

viii. "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;

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

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

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

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(b) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability~~mental retardation~~, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, ~~mental retardation~~intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to

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Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

~~(c)~~ ~~(c)~~ Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

~~(d)~~ ~~(d)~~ The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.

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

(f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.

(g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

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

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~~2. Executive Orders. This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Agreement as if they had been fully set forth in it. The Agreement may also be subject to the applicable parts of Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. If Executive Orders 7C and 14 are applicable, they are deemed to be incorporated into and are made a part of the Agreement as if they had been fully set forth in it. At the Utility's request, the State shall provide a copy of these orders to the Utility.~~

2 Executive Orders. This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Agreement as if they had been fully set forth in it. The Agreement may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order No. 14 and/or Executive Order No. 49 are applicable, they are deemed to be incorporated into and are made a part of the Agreement as if they had been fully set forth in it. At the Utility's request, the Department shall provide a copy of these orders to the Utility.

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3. The Utility hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy Statement Policy No. F & A - 10 Subject: Code of Ethics Policy", June 1, 2007, as set forth in Exhibit A, Schedule 4 (attached herewith and incorporated by reference) and all state ethics laws. Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes, the summary of state ethics laws developed by the Office of State Ethics pursuant to section 1-81b of the Connecticut General Statutes is set forth in Exhibit A, Schedule 4A (attached herewith and incorporated by reference) as if the summary of state ethics laws had been fully set forth in this Agreement.

4. The Utility shall notify the State in writing when there is a change in its Certificate of Incorporation or a change in the individual(s) in actual charge of the work specified herein. This change shall not relieve the Utility of any responsibility for the accuracy and completeness of all products of the work under this Agreement, including all supplements thereto.

5. The State shall have the right to set-off against amounts otherwise due to the Utility under this Agreement or under any other agreement or arrangement that the Utility has with the State (a) any costs that the State incurs which are due to the Utility's non-compliance with this Agreement and (b) any other amounts that are due and payable from the Utility to the State. Any sum taken in set-off from the Utility shall be deemed to have been paid to the Utility for purposes of the Utility's payment obligations under Connecticut General Statutes Section 49-41c.

6. **The following clause is applicable to those contracts with an aggregate value of Five Million Dollars ($5,000,000.00) or more.** Whistleblowing. This Agreement may be subject to the provisions of Section 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Utility takes or threatens to take any personnel action against any employee of the Utility in retaliation for such employee's disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Utility shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Agreement. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the Utility.

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7. **The following clause is applicable to those contracts with an aggregate value of Two Million Five Hundred Thousand Dollars ($2,500,000.00) or more.** Disclosure of Records. This Agreement may be subject to the provisions of section 1-218 of the Connecticut General Statutes. In accordance with this statute, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.

8. For all State contracts as defined in Conn. Gen. Stat. §9-612(~~g~~f)(1) having a value in a calendar year of $50,000 or more or a combination or series of such agreements or contracts having a value of $100,000 or more, the authorized signatory to this agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice, as set forth in "Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations", Exhibit A, Schedule 5 (attached herewith).

9. The Utility shall comply with the provisions contained in Section 1-86e of the Connecticut General Statutes, which provides as follows:

(a) No person hired by the State, as a consultant or independent contractor shall:

(1) Use the authority provided to the person under the contract, or any confidential information acquired in the performance of the contract, to obtain financial gain for the person, an employee of the person or a member of the immediate family of any such person or employee;

(2) Accept another State contract which would impair the independent judgment of the person in the performance of the existing contract; or

(3) Accept anything of value based on an understanding that the actions of the person on behalf of the State would be influenced.

(b) No person shall give anything of value to a person hired by the State as a consultant or independent contractor based on an understanding that the actions of the consultant or independent contractor on behalf of the State would be influenced.

10. That suspended or debarred contractors, consulting engineers, suppliers, materialmen, lessors, or other vendors may not submit proposals for a State contract or subcontract during the period of suspension or debarment regardless of their anticipated status at the time of contract award or commencement of work.

(a) The signature on the Agreement by the Utility shall constitute certification that to the best of its knowledge and belief the Utility or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of Federal or State funds:

(i) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(ii) Has not, within the prescribed statutory time period preceding this Agreement, been convicted of or had a civil judgement rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a

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public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(iii) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(ii) of this certification; and

(iv) Have not, within a five-year period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.

(b) Where the Utility is unable to certify to any of the statements in this certification, such Utility shall attach an explanation to this Agreement.

The Utility agrees to insure that the following certification be included in each subcontract Agreement to which it is a party, and further, to require said certification to be included in any subcontracts, sub-subcontracts and purchase orders:

(i) The prospective subcontractors, sub-subcontractors participants certify, by submission of its/their proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(ii) Where the prospective subcontractors, sub-subcontractors participants are unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.

11. That as a condition to receiving federal financial assistance under the Contract/Agreement, if any, the Utility shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§§ 2000d--2000d-7 et seq.), all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the Title VI Contractor Assurances, as set forth in Exhibit A, Schedule 6 (attached herewith and incorporated by reference).

12. Certification for Federal-Aid Contracts (For contracts exceeding $100,000):

The Utility certifies, by signing and submitting this Bid, Agreement, Contract, or Proposal, to the best of his/her/its knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Utility, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Utility shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", as set forth in Exhibit A, Schedule 7 (attached herewith and incorporated by reference), in accordance with its instructions. If applicable, Disclosure Form–LLL shall be completed and submitted with the Bid, Agreement, Contract, and/or Proposal.

This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this Certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required Certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Utility also agrees by submitting its Bid, Agreement, Contract, or Proposal that it shall require that the language of this Certification be included in all subcontracts, sub-subcontracts which exceed $100,000 and that all such

subrecipients shall certify and disclose accordingly. -These completed Disclosure Forms-LLL, if applicable, shall be mailed to the Connecticut Department of Transportation, P.O. Box 317546, Newington, CT 06131-7546, to the attention of the project manager.

13. This clause applies to the Utility who is or will be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 ("Act") Public Law 101-336, during the term of the Agreement. The Utility represents that it is familiar with the terms of this Act and that it is in compliance with the Act. Failure of the Utility to satisfy this standard as the same applies to performance under this Agreement, either now or during the term of the Agreement as it may be amended, will render the Agreement voidable at the option of the State upon notice to the Utility. The Utility warrants that it will hold the State harmless and indemnify the State from any liability which may be imposed upon the State as a result of any failure of the Utility to be in compliance with this Act, as the same applies to performance under this Agreement.

The following clause does not apply to governmental subdivisions:

14. The Utility hereby acknowledges and agrees to comply with the Connecticut Required Contract/Agreement Provisions entitled "Specific Equal Employment Opportunity Responsibilities", dated March 3, 2009, as may be amended from time to time, as set forth in Exhibit A, Schedule 8 (attached herewith and incorporated by reference).

The following clause applies to governmental subdivisions:

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15. When the Utility receives State or Federal funds it shall incorporate the "Connecticut Required Contract/Agreement Provisions, Specific Equal Employment Opportunity Responsibilities" (SEEOR), dated March 3, 2009, as may be amended from time to time, as a material term of any contracts/agreements it enters into with its contractors, consulting engineers or other vendors, and shall require the contractors, consulting engineers or other vendors to include this requirement in any of its subcontracts. The Utility shall also attach a copy of the SEEOR, as part of any contracts/agreements with contractors, consulting engineers or other vendors and require that the contractors, consulting engineers or other vendors attach the SEEOR to its subcontracts.

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The following clause does not apply to governmental subdivisions:

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

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The Utility shall maintain, and shall require each of the Utility Parties to maintain, accurate and complete Records. The Utility shall make all of its and the Utility Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.

The State shall make all requests for any audit or inspection in writing and shall provide the Utility with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.

The Utility shall keep and preserve or cause to be kept and preserved all of its and Utility Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Utility shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.

The Utility shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Utility shall cooperate with an exit conference.

The Utility shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Utility's Parties.

Item# *196-15 Consent Calendar

Administrative Services Agreement with Stirling Benefits, Inc.

Report of Committee on Contracts

City Council Meeting Date: DECEMBER 19, 2016

Attest: Lydia N. Martinez

Lydia N. Martinez, City Clerk

Approved by: _____

Joseph P. Ganim, Mayor

Date Signed: 12/27/16

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ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport.

The Committee on **Contracts** begs leave to report; and recommends for adoption the following resolution:

Item No. *196-15 Consent Calendar

RESOLVED, That the attached Administrative Services Agreement between the City of Bridgeport and Stirling Benefits, Inc., be and it hereby is, in all respects, approved, ratified and confirmed.

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
CONTRACTS

*Jack O. Banta, D-131st, **Co-Chair***

*Jeanette Herron, D-133rd, **Co-Chair***

Milta I. Feliciano, D-137th

AmyMarie Vizzo-Paniccia, D-134th

James Holloway, D-139th

Alfredo Castillo, D-136th

Anthony R. Paoletto, D-138th

***City Council Date**: December 19, 2016*

STIRLING BENEFITS, INC.

ADMINISTRATIVE SERVICES AGREEMENT

FOR

CITY OF BRIDGEPORT AND BRIDGEPORT BOARD OF EDUCATION

TABLE OF CONTENTS

ADMINISTRATIVE SERVICES AGREEMENT

THIS SERVICE AGREEMENT is made and entered into this 1st day of October 2016,

by and between the **City of Bridgeport,** a Municipality duly organized and existing under the laws of the state of Connecticut with its principal place of business at **45 Lyon Terrace, Bridgeport, Connecticut 06604** (hereinafter referred to as the "Employer") and **Stirling Benefits, Inc**., a corporation duly organized and existing under the laws of the state of Connecticut with its principal place of business at **20 Armory Lane, Milford, Connecticut 06460** (hereinafter referred to as the "Third Party Administrator" or "TPA").

WHEREAS, the Employer is a corporation that sponsors a self-funded retiree welfare benefit plan (the "Plan"), as amended; and

WHEREAS, the Employer desires to make available a program of health care benefits, and/or related benefits to eligible participants under the Plan; and

WHEREAS, the Employer wishes to contract with an independent third party to perform certain services with respect to the Plan as enumerated below; and

WHEREAS, the TPA desires to contract with the Employer to perform certain services with respect to the Plan as enumerated below; and

THEREFORE, in consideration of the premises and mutual covenants contained herein, the Employer and the TPA enter into this Agreement for administrative services for the Plan.

ARTICLE I. DEFINITIONS

For the purposes of this Agreement, the following words and phrases have the meanings set forth below, unless the context clearly indicates otherwise and wherever appropriate, the singular shall include the plural and the plural shall include the singular.

1.1 **Calendar Year** means January 1st through December 31st of the same year.

1.2 **Claim** means a request by a Claimant for payment or reimbursement for Covered Services from the Plan.

1.3 **Claimant** means any person or entity submitting expenses for payment or reimbursement from the Plan.

1.4 **Claims Payment Account** means an account established by the TPA for the benefit of the Employer for payment or reimbursement for Covered Services, the fund residing in which Account shall be an asset of the Employer.

1.5 **COBRA** means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

1.6 **Covered Services** means the care, treatments, services, or supplies described in the Plan Document as eligible for payment or reimbursement from the Plan.

1.7 **Employer** means the City of Bridgeport and the Bridgeport Board of Education, acting together under a single contract with the City of Bridgeport.

1.8 **ERISA** means the Employee Retirement Income Security Act of 1974, as amended.

1.9 **Fee Schedule** means the listing of fees or charges for services provided under this Agreement. This Fee Schedule may be modified from time to time in writing by the mutual agreement of the parties. It is contained in Appendix A and is a part of this Agreement.

1.10 **Health Care Providers** means physicians, dentists, hospitals, or other medical practitioners or medical care facilities that are duly licensed and authorized to receive payment or reimbursement for Covered Services provided under the terms of the Plan.

1.11a **Medicare** means the federal health insurance program for people who are 65 or older, certain younger people with disabilities, and people with End-Stage Renal Disease (permanent kidney failure requiring dialysis or a transplant, sometimes called ESRD).

1.12 **Payor** means the entity responsible for the financial obligations of the Plan.

1.13 **Plan** means the self-funded Retiree Welfare Benefit Plan, which is the subject of this Agreement and which the Employer has established pursuant to the Plan Document for the purpose of providing certain benefits.

1.14 **Plan Document** means the instrument or instruments that set forth and govern the duties of the Plan Sponsor, and define eligibility and benefit provisions of the Plan, which provide for the payment or reimbursement of Covered Services.

1.15 **Plan Participant** is any person who is properly enrolled and entitled to benefits from the Plan. All Plan participants must be enrolled in Medicare Part A and Part B.

1.16 **Plan Sponsor** means the Employer, Board or other legal entity that creates and controls and maintains the Plan and who funds the financial obligations of the Plan.

1.17 **Plan Year** means the period of time specified as such in the Plan Document.

1.18 **Summary Plan Description** means the document required to be provided under Sec. 102 of ERISA that describes the terms and conditions under which the Plan operates.

1.19 **Vendor** means organizations or entities contracted to provide services to the Plan, either directly by the Plan or through an agreement with the TPA.

ARTICLE II. RELATIONSHIP OF PARTIES

2.1 The Employer delegates to the TPA only those powers and responsibilities with respect to development, maintenance, and administration of the Plan, which are specifically enumerated in this Agreement. Any function not specifically delegated to and assumed by the TPA pursuant to this Agreement shall remain the sole responsibility of the Employer.

2.2 The parties enter into this Agreement as independent contractors and not as agents of each other. Neither party shall have any authority to act in any way as the representative of the other, or to bind the other to any third party, except as specifically set forth herein.

2.3 The parties acknowledge that

(a) this is a contract for administrative services only as specifically set forth herein;

(b) The Plan Sponsor is responsible for all payments of claims, fees and premiums generated by or associated with the operation of the plan;

(c) the TPA shall not be obligated to disburse more in payment for Claims or other obligations arising under the Plan than the Employer shall have made available in the Claims Payment Account; and

(d) this Agreement shall not be deemed a contract of insurance under any laws or regulations. The TPA does not insure, guarantee, or underwrite the liability of the Employer under the Plan. The Employer has total responsibility for payment of Claims under the Plan and all expenses incidental to the Plan.

2.4 Except as specifically set forth herein, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives and successors; provided, however, neither party may assign this Agreement or any or all of its rights or obligations hereunder (except by operation of law) without the prior written consent of the other, which consent may not be unreasonably withheld.

2.5 In the case of disputes as to any issues that may arise in connection with the respective rights and obligations of the parties under this Agreement, arbitration will be entered into. Each party will notify the other, in writing, of the name of its representative(s) who will have primary responsibility for communications with the other party. If such representatives are unable to resolve the dispute, either party may demand submission of the dispute to arbitration before a single arbitrator in accordance with the rules of the American Arbitration Association. The party requesting such arbitration shall pay the arbitrator's fee.

2.6 The TPA will consult with the Employer or consultant at least monthly and more often if circumstances dictate through the term of this Agreement.

2.7 The work to be performed by the TPA under this Agreement may, at its discretion and with the prior approval of the Employer, be performed directly by it or wholly or in part through a subsidiary or affiliate of the TPA or under an agreement with an organization, agent, advisor, or other person of its choosing.

2.8 The TPA agrees to be duly licensed as a Third Party Administrator to the extent required under applicable law and agrees to maintain such licensure throughout the term of this Agreement. The TPA will possess throughout the term of this Agreement, an in-force fidelity bond or other insurance as may be required by state and federal laws for the protection of its clients. Additionally, the TPA agrees to comply with any state or federal statutes or regulations regarding its operations and to obtain any additional licenses or registrations, which may apply in the future.

2.9 The TPA will indemnify, defend, save, and hold the Employer harmless from and against any and all Claims, suits, actions, liabilities, losses, fines, penalties, damages, and expenses of any kind including, but not limited to, direct, indirect, consequential, or punitive expenses or fees, including court costs and attorney's fees, with respect to the Plan which directly result from or arise out of the dishonest, fraudulent,

grossly negligent, or criminal acts of the TPA or its employees, except for acts taken at the specific direction of the Employer.

2.10 The TPA shall be entitled to rely, without investigation or inquiry, upon any written or oral information or communication of the Employer or agents of the Employer.

2.11 The Employer will indemnify, defend, save, and hold the TPA harmless from and against any and all claims, suits, actions, liabilities, losses, fines, penalties, damages, and expenses of any kind including, but not limited to, direct, indirect, consequential, or punitive damages, expenses or fees, including court costs and attorney's fees, with respect to the Plan (1) which directly result from or arise out of the dishonest, fraudulent, grossly negligent or criminal acts of the Employer or its employees except from acts taken at the specific direction of the TPA, (2) from a release of Claims data by the TPA to the Employer, or if such release is at the request of the Employer, to any other entity or person, (3) an interpretation of the Plan or this Agreement, or any other written or oral communication by the Employer or any of its authorized representatives upon which the TPA relies.

ARTICLE III. THE TPA'S RESPONSIBILITIES

The TPA will provide the following Plan administrative services for the Employer:

3.1 Maintain Plan records based on eligibility information submitted by the Employer as to the dates on which a Plan Participant's coverage commences and terminates.

Maintain Plan records of Plan coverage applicable to each Plan Participant based on information submitted by the Employer.

Maintain Plan records regarding payments of Claims, denials of Claims, and Claims pended.

Respond to telephone, mail, or personal inquiries from eligible Plan Participants with respect to the requirements and procedures of the Plan. The TPA shall maintain a toll-free telephone number, which shall be made available to the Employer and eligible Plan Participants for benefit inquiries.

Respond to Claims in accordance with the Plan procedures subject to the following provisions:

ERISA Urgent and Pre service e rules do not apply to Medicare Primary plans when "If Medicare covers the service than this plan covers the service," as this plan does.

Unless Plan Claims procedures clearly provide to the contrary, a Claim will be denied if the claimant fails to respond within the applicable deadline to a request for additional information.

If a Claim cannot be determined by the TPA without an interpretation of the Plan terms by the Employer, such Claim shall be promptly referred to the Employer. Upon receipt of the Employer's response, the TPA shall process payment of the Claim or prepare a notice of adverse determination, as applicable.

If a denied Claim is appealed, the TPA may provide a copy of the file to the named fiduciary responsible for deciding the appeal. If it is necessary for the TPA to provide additional consultation with respect to the appeal, an additional fee shall apply.

3.2 Adjudicate Claims incurred by Plan Participants according to the terms of the Plan Document as construed by the Employer. These Claims will be adjudicated in accordance with industry practices and internal procedures.

Process with due diligence and according to the terms of the Plan Document as construed by the Employer, , subrogation, and coordination of benefits situations. Unless otherwise agreed by the parties, the TPA's duties with respect to subrogation situations shall be limited to notifying a third party that subrogation opportunities exist.

Decide as to the validity of a Claim or the need for additional information. If additional information is needed, the request will be sent to the appropriate person within the time required for similar types of Claims. The request will generally be sent by U.S. Mail, but in the unusual cases the request may be oral, telephonic or sent by fax or electronic means.

If a response for additional information is not received within the time specified in the Plan Document, the Claim will be deemed denied.

When all necessary documents and Claim form information have been received and the Claim has been approved, a Claim check or draft will be remitted on the next dispersal date.

3.3 Refer any doubtful or disputed Claims to Employer for a final decision in accordance with Section 4.2.

3.4 Process, issue, and distribute Claims checks or drafts as instructed by the Employer to Plan Participants, Health Care Providers, or others as may be applicable.

Claims paid in good faith but in error by the TPA shall be chargeable to the Claims Payment Account as any other Claim, but the TPA shall make good faith attempts to recover any overpayments.

Every regularly scheduled check run, the TPA will notify the Employer of the amount required to be prospectively deposited to the Employers Claims Payment Account to pay the Claims liability as these Claims occur.

3.5 Notify Plan Participants in writing through the U.S. Mail of ineligible Claims received.

3.6 Subject to privacy considerations, respond to Claims inquiries by a Plan Participant, the authorized representative of the estate of a Plan Participant, an authorized member of a Plan Participant's family unit, or an authorized Health Care Provider.

3.7 Maintain information that identifies a Plan Participant in a confidential manner. The TPA agrees to take reasonable precautions to prevent disclosure or the use of Claims information for a purpose unrelated to the administration of the Plan.

The TPA will only release this information for certificate of need reviews; for medical necessity determinations; to set uniform data standards; to update relative values scales; to use in Claims analysis; to further cost containment programs; to verify eligibility; to comply with federal, state or local laws; for coordination of benefits; for subrogation; in response to a civil or criminal action upon issuance of a subpoena; or with the written consent of the Plan Participant or his or her legal representative.

3.8 Prepare a draft Plan Document and Summary Plan Description for review and final approval by Employer and the Employer's legal counsel. A separate fee may be charged for this service based on the scope of the project.

3.9 Prepare Plan Document amendments. The TPA shall have the right to change it's fees upon written notice to the Employer in the event any amendment to the Plan changes the amount or type of processing, services, or responsibilities undertaken by the TPA. Adjusted fees will be effective as of the effective date of the amendment.

3.10 Maintain an electronic file on every Claim reported to it by the Plan Participants. Such records and all Plan related information shall be made available to the Employer for consultation, review, and audit upon reasonable notice and request, during the business day and at the office of the TPA. Any such audit will be at the sole expense of the Employer. The TPA may charge a separate fee for its time spent in cooperation with such consultation, review, and audit.

This audit shall be conducted by an auditor mutually acceptable to the Employer and the TPA, and will include, but not necessarily be limited to, a review of procedural controls, a review of system controls, a review of Plan provisions, a review of the sampled Claims, and comparison of results to performance standards and statistical models previously agreed to by the Employer and the TPA. Contingency audits, where the auditor is paid a bonus or a fee based on finding claim "errors" are specifically prohibited. The parties must mutually agree upon the audit type and audit sampling of the claims to be reviewed by the auditor.

3.11 Process Calendar Year 1099 provider reporting to IRS.

3.12 Provide the following reports:

(a) monthly electronic listing of covered employees indicating coverage and fees and a monthly electronic Claims analysis by type of Claim and total dollar amounts

(b) monthly Claims list, by Plan Participant, Health Care Provider, and Claimant

(c) monthly check register

(d) listings, with funds deposited into the Bridgeport account, for the current month's collections (if any) from providers, and any other funds received by the TPA that belong to the Plan

(e) any other reports as agreed to between the Employer and the TPA.

3.13 Maintain electronic records of all Claims, reports, filings with government agencies and Plan documentation at the principle administrative offices of the TPA, or secure storage facilities, for at least five (5) years following the end of the Plan Year. At the end of the five-year period following each Plan Year, such records may be destroyed.

Upon termination of this Agreement, all Claims, reports, filings with government agencies and plan documentation may be remitted to the Employer at the Employer's expense or may be destroyed after one year. TPA agrees to maintain electronic records of Plan activities for at least one year from the date of termination. Additional periods of retention, for the purpose of validating a late submitted claim, a claim appeal, or a Medicare Secondary Payer Claim, may be negotiated at the time of termination.

ARTICLE IV. THE EMPLOYER'S RESPONSIBILITIES

The Employer will:

4.1 Maintain current and accurate Plan eligibility and coverage records, verify Plan Participant eligibility and submit this information as needed to the TPA.

This information shall be provided in a format reasonably acceptable to the TPA and include the following for each Plan Participant: name and address, Social Security number, date of birth, type of coverage, sex, relationship to employee, Date of retirement, changes in coverage, date coverage begins or ends, information on other coverage, and any other information necessary to determine eligibility and coverage levels under the Plan.

The Employer assumes the responsibility for the erroneous disbursement of benefits by the TPA in the event of error or neglect on the Employer's part of providing eligibility and coverage information to the TPA, including but not limited to, failure to give timely notification of ineligibility of a former Plan Participant. The TPA will provide no more than three (3) months of credits for plan fees or premiums paid by the Employer for Plan Participants who ceased to be eligible under this Plan.

4.2 Resolve all Plan ambiguities and disputes relating to the Plan eligibility of a Plan Participant, Plan coverage, denial of Claims or decisions regarding appeal or denial of Claims, or any other Plan interpretation questions, within a reasonable time following the request of the TPA. The determination of a reasonable time shall be decided on a case-by-case basis between the parties, with the understanding that the TPA must receive a prompt response in order to provide a timely response under the Plan's Claims procedures.

The TPA will administer and adjudicate Claims in accordance with Article III if the Plan Document and Summary Plan Description are clear and unambiguous as to the validity of the Claims and the Plan Participants' eligibility for coverage under the Plan, but will have no discretionary authority to interpret the Plan or adjudicate Claims. If adjudication of a Claim requires interpretation of ambiguous Plan language, and the Employer has not previously indicated to the TPA the proper interpretation of the language, then the Employer will be responsible for resolving the ambiguity or any other dispute.

In any event, the Employer's decision as to any Claim (whether or not it involves a Plan ambiguity or other dispute) shall be final and binding.

4.3 Fund the Claims Payment Account every regularly scheduled check run and grant the TPA drafting authority. The TPA shall have no responsibility or liability for the adequacy or sufficiency of funds in the Plan. The TPA shall process claims for the Employer with respect to said plan only to the extent of funds made available to it by the Employer or the Plan, and then only while this agreement is in effect. If the Employer becomes voluntarily or involuntarily subject to the jurisdiction of the U.S. Bankruptcy Court, any funds held by the TPA pursuant to this agreement shall be held and disposed of in accordance with the orders of the U.S. Bankruptcy Court. The TPA may communicate, this provision, whether oral or written, to either the Plan Participants or health care providers.

The Claims Payment Account shall be set up by the TPA to receive deposits from the Employer. This account will only be used for the deposits and expenses of the Plan.

4.4 Not require the TPA, under any circumstances, to issue payment(s) for Claims or any other costs arising out of the subject matter of this Agreement, unless the Employer has so authorized and has previously deposited sufficient funds to cover such payment(s).

4.5 Provide the TPA with copies of any and all revisions or changes to the Plan within 15 working days of the effective date of the changes if adopted at the Plan renewal.

4.6 Provide and timely distribute all notices and information required to be given to Plan Participants, maintain and operate the Plan in accordance with applicable law, maintain all record keeping, and file all forms relative thereto pursuant to any federal, state, or local law, unless this Agreement specifically assigns such duties to the TPA.

4.7 Acknowledge that it is the Plan Sponsor, Plan Administrator, and Named Fiduciary, As such, Employer retains full discretionary control and authority and discretionary responsibility in the operation and administration of the Plan.

4.8 Pay any and all taxes, surcharges, licenses, and fees levied, if any, by any local, state, or federal authority in connection with the Plan.

4.9 Hold confidential information obtained that is proprietary to the TPA or information or material not generally known by personnel other than management employees of the TPA. Such information includes, but is not limited to, reasonable and customary Claims levels, and Claims administration guidelines, administration fees and rates paid to the TPA for its services, internal procedures, workflows and information relating to the operation of the TPA that generally constitute its business practices.

4.10 Pay, in accordance with the Fee Schedule, the TPA's fees, Vendor fees and premiums for services rendered under this Agreement. Unless otherwise agreed, the TPA may withdraw from the Claims Payment Account any fees or premiums then due to the TPA, Vendor or carrier prior to application of the funds in the Claims Payment Account to payment of Claims or any other costs arising out of the Plan or the subject matter of this Agreement.

4.11 Maintain any fidelity bond or other insurance as may be required by state or federal law for the protection of the Plan and Plan Participants.

4.12 The Employer may by written notice to the TPA, signed by an executive officer of the Employer, instruct the TPA to process claims not covered under the terms of the Plan Document. This instruction expressly releases and holds the TPA harmless from any liability in connection therewith. Payment of such claim shall be extra contractual to this agreement. The Employer hereby acknowledges that any such payments may be reportable as income to the Covered Participant.

4.13 Provide the TPA with prior notice regarding changes in its management team, procedures or amendment to the Documents in order to allow the TPA sufficient time to implement changes internally.

4.14 Authorize the TPA to obtain professional reviews, independent medical evaluations, and audits of hospital or other health care provider costs, expenses and credit balances in accordance with group health industry standards and practices in order to determine whether hospital and physician charges are accurate, appropriate and necessary. The Employer will be responsible for all fees and expenses, if any, associated with such reviews.

ARTICLE V. DURATION OF AGREEMENT

5.1 This Agreement shall commence on **October 15, 2016 (1/1/17) and end on December 31, 2019 (12/31/19).** This Agreement shall follow the purchasing and contracting rules established by the City of Bridgeport and may renew each year for a one-year period unless modified or terminated as described below.

5.2 At any time during the term of this Agreement, either the Employer or the TPA may amend or change the provisions of this Agreement. If any such amendment increases the anticipated Claims experience under the Plan or the TPA's cost of administering the Plan, the Employer agrees to pay any increase in Claims expenses, as well as increases in administrative fees or other costs which the TPA reasonably expects to incur as a result of such modification. Both the Employer and the TPA must agree on any amendments or changes in advance, and in writing.

5.3 This Agreement may be terminated by either the Employer or the TPA at any time, either upon giving forty-five (45) days advance written notice to the other party unless both parties agree to waive such advance notice, or with no notice, as stated below. At the option of the party initiating the termination, the other party may be permitted a cure period (of a length determined by the party initiating the termination) to cure any default.

5.4 The TPA may, at its option, terminate this Agreement effective immediately upon the occurrence of any one or more of the following events on written notice to the Employer:

(a) The Employer fails to prospectively fund the Claims Payment Account;

(b) The Employer is adjudicated as bankrupt, becomes insolvent, a temporary or permanent receiver is appointed by any court for all or substantially all of the Employer's assets, the Employer makes a general assignment for the benefit of its creditors, or a voluntary or involuntary petition under any bankruptcy law is filed with respect to the Employer and it is not dismissed within forty-five (45) days of such filing;

(c) The Employer fails to pay administration fees or other fees for the TPA's services upon presentation for payment and in accordance with the Fee Schedule;

(d) The Employer engages in any unethical business practice or conducts itself in a manner, which in the reasonable judgment of the TPA is in violation of any federal, state, or other government statute, rule, or regulation;

(e) The Employer, through its acts, practices, or operations, exposes the TPA to any existing or potential investigation or litigation; or

(f)

5.5 The Employer may, at its option, terminate this Agreement effective immediately upon the occurrence of any one or more of the following events on written notice to the TPA:

(a) The TPA is adjudicated as bankrupt, becomes insolvent, a temporary or permanent receiver is appointed by any court for all or substantially all of the TPA's assets, the TPA makes a general assignment for the benefit of its creditors, or a voluntary or involuntary petition under any bankruptcy law is filed with respect to the TPA and it is not dismissed within forty-five (45) days of such filing;

(b) The TPA engages in any unethical business practice or conducts itself in a manner which in the reasonable judgment of the Employer is in violation of any federal, state, or other government statute, rule, or regulation; or

(c) The TPA, through its acts, practices or operations, exposes the Employer to any existing or potential investigation or litigation.

5.6 Upon termination by either party, the TPA shall prepare and make available to the Employer a final monthly reporting of Plan expenses.

5.7 Upon termination by either party, the TPA may, at its option, allow the Employer access through its online web-based client portal for one (1) month following the date of termination. If the Employer has contracted with the TPA to provide claim run-out services for a specified period of time, the online portal will remain available to the Employer for that contracted period, and cease one (1) month following that period.

The TPA may provide additional access to its online web-based portal if requested in writing by the Employer within fifteen (15) days from the original termination date, and payment of a separate fee. The fee will be ten percent (10%) of the TPA's regular per capita fee at the time of termination, and billed in advance for contracted 3-month periods.

5.8 Upon termination by either party, the TPA will bill the Employer the fee(s) to be charged for run-out services, reports and/or duplication of files as described in Appendix A.

5.9 The Employer acknowledges that the change in administrator may affect run-out claims. This instruction expressly releases and holds the TPA harmless from any liability in connection therewith.

ARTICLE VI. MISCELLANEOUS

6.1 This Agreement, together with all addenda, exhibits, and appendices, including the RFP response by the TPA offering plan administration services, supersedes any and all prior representations, conditions, warranties, understandings, proposals, or other agreements between the Employer and the TPA hereto, oral or written, in relation to the services and systems of the TPA, which are rendered or are to be rendered in connection with its assistance to the Employer in the administration of the Plan.

6.2 This Agreement, together with the aforesaid addenda, exhibits, and appendices constitutes the entire Administrative Services Agreement of whatsoever kind or nature existing between or among the parties. This Agreement may be executed in two or more counterparts, each and all of which shall be deemed an original and all of which together shall constitute but one and the same instrument.

6.3 The parties hereto, having read and understood this entire Agreement, acknowledge and agree that there are no other representations, conditions, promises, agreements, understandings, or warranties that exist outside this Agreement which have been made by either of the parties hereto, which have induced either party or has led to the execution of this Agreement by either party. Any statements, proposals, representations, conditions, warranties, understandings, or agreements which may have been heretofore made by either of the parties hereto, and which are not expressly contained or incorporated by reference herein, are void and of no effect.

6.4 Except as provided in Article V. (regarding termination without advance notice), no changes in or additions to this Agreement shall be recognized unless and until made in writing and signed by all parties hereto.

6.5 In the event any provision of this Agreement is held to be invalid, illegal, or unenforceable for any reason and in any respect, such invalidity, illegality, or unenforceability shall in no event affect, prejudice, or disturb the validity of the remainder of this Agreement, which shall be in full force and effect, enforceable in accordance with its terms.

6.6 In the event that either party is unable to perform any of its obligations under this Agreement because of natural disaster, labor unrest, civil disobedience, acts of war (declared or undeclared), or actions or decrees of governmental bodies (any one of these events which is referred to as a "Force Majeure Event"), the party who has been so affected shall immediately notify the other party and shall do everything possible to resume performance.

Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of non-performance exceeds ten (10) working days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement.

6.7 All notices required to be given to either party by this Agreement shall, unless otherwise specified in writing, be deemed to have been given three (3) days after deposit in the U.S. Mail, first class postage prepaid, certified mail, return receipt requested.

6.8 This Agreement shall be interpreted and construed in accordance with the laws of the state of Connecticut except to the extent superseded by federal law.

6.9 No forbearance or neglect on the part of either party to enforce or insist upon any of the provisions of this Agreement shall be construed as a waiver, alteration, or modification of the Agreement.

6.10 The Employer understands that the TPA has a duty imposed by the Department of Labor to at all times act in the interests of the Plan Participants. As such, the TPA may be required to send a letter to all Plan Participants informing them that the employer has not funded benefits that have been processed by the plan. Such a letter will be mailed to beneficiaries if the TPA has reason to believe that the Plan Sponsor has not adequately funded the plan.

EMPLOYER ACKNOWLEDGEMENT AND APPROVAL

The Employer representative named below, as a fiduciary with respect to the Plan, declares that:

1. I am not an "affiliate" of the TPA, the agent consulting the Employer, or the insurance company contracted to provide services for the Plan;
2. I will not receive, directly or indirectly, any compensation for my own personal account in connection with the purchase by the Plan of the contract(s);
3. I acknowledge receipt of this statement prior to my approval and execution of the purchase of said contract and that I have read and understand the disclosures herein;
4. I have appropriate authority to approve the purchase by the Plan of said contract; and
5. I hereby approve the purchase by the Plan of said contract.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf by their duly authorized representatives' signatures, effective this

_____ day of _____, _____.

EMPLOYER

BY: _____

PRINTED NAME: _____

TITLE: _____

TPA

BY: _____

PRINTED NAME: _____

TITLE: _____

FULL LEGAL NAME OF EMPLOYER:

_____

AFFILIATES AND/OR SUBSIDIARIES OF EMPLOYER SUBJECT TO THIS AGREEMENT:

_____

_____

_____

_____

APPENDIX A

FEE SCHEDULE AND COMPENSATION DISCLOSURE NOTICE

The Department of Labor and the Internal Revenue Service require that certain disclosures be made to the Employer as specified in the Amendment to ERISA regulations titled Prohibited Transaction Class Exemption 84-24. Specifically, the disclosure requirement pertains to service fees, commissions and other income received by all parties relative to the Plan. TPA is compensated through the fees specified in the following exhibits. Additional compensation relative to the Plan normally is derived from commission on insurance coverages. Commissions may be paid to TPA, although this compensation may be directed to other parties (agent/producer) as specified by the Employer/Plan Sponsor.

The Bridgeport bid specifications specifically exclude payment of commissions or fees to the agent/producer/consultant.

While the Employer program does not currently include stop loss coverage. some excess loss insurance carriers offer additional compensation (monetary and trips) to agents and producers or Third Party Administrators based on the production and retention of business. While TPA may participate in this common industry practice, TPA (Stirling Benefits, Inc.) has not and will not direct business to a specific carrier to qualify for any such incentive programs. Placement of coverage is based on the decision of the Employer and on the merits of that coverage as it pertains to the Employers' needs. Additionally, TPA is not affiliated with any of the excess loss insurance companies offered to clients.

The Employer and the TPA hereby agree to the compensation schedules set forth below. A fee paid on a monthly basis through a designated plan account is considered Direct Compensation. Indirect or Shared Fees are generally paid to TPA by an external service Vendor.

TPA Direct Compensation

Medical Plan Administration:
For 2017: $7.63,
For 2018: $7.74,
For 2019: $7.86, and
For 2020: $7.98.

For future years, CPI percentage increase from previous six months, or 0%, whichever is greater.

Web Services (Client reporting): Included
CMS Annual Disclosure Filing: $50 if requested
Assistance if Requested: Annual Notice to Part D Eligibles: $3.00 /eligible participant. $75 Minimum Fee
Annual MA 1099 HC Forms to Massachusetts Residents: $100 Forms & Filing (if necessary)
Plan Document/Summary Plan Description: $0 each

Administration Fees are based on per participant per month participating in each plan unless otherwise noted.

Independent External Vendor Fee Schedule

The Employer desires to contract with independent parties to perform certain services for the Plan as enumerated below, for a specified fee, and agree to the terms and conditions of agreements between these vendors and parties to this contract. These fees are set by the vendor and are subject to change.

Pre-Certification / Utilization Review Services
Vendor shall pre-certify hospital stays that may exceed the Medicare limits to determine if such services are medically necessary and appropriate. Services requested by vendor may include, but not limited to list below.

Company Name: Hines and Associates
Charges will be based on a per hour charge at the then current Hines fee schedule.

Independent Review Organization (IRO) Medical Review Services
The Patient Protection and Affordable Care Act enacted in March, 2010 contains a requirement for plans to develop an accountable appeals process required to allow for appeals of coverage determinations and claims (includes internal appeals and external review).

An IRO must be used when the Plans appeals process has been exhausted. The TPA will contract with at least two URAC-accredited IRO's.

TPA will consult with Employer when an IRO is required to finalize an appeal for claim or coverage determination. The fees to conduct the review will be paid solely by the Employer, and will vary based on the complexity of the case and the resources needed to finalize the determination.

Subrogation Services
Vendor agrees to provide subrogation services to detect, investigate and collect funds paid by the Plan for which another party is responsible. Vendor will monitor Claims for motor vehicle accidents, general liability, workers' compensation and malpractice. TPA agrees to send claim information to the vendor in a format that complies with HIPAA, respond timely when additional information is needed, and handle the disbursement of checks received from the vendor.

NexClaim Recoveries, LLC Subrogation Services: 30% of Gross Amount Recovered.
"Amount Recovered" will include all compensatory damages, interest and attorney's fees, and costs awarded to Employer.

Administration Fees are based on a per participant per month count participating in each plan unless otherwise noted.

TPA Indirect Compensation

The TPA may receive compensation from a Plan vendor for services needed by the Employer, additional services that benefit the vendor, or for the production and retention of business.
Electronic Provider Payments:
Under the Affordable Care Act, HIPAA-covered entities must have the ability to send an electronic funds transfer (EFT) to a provider as a payment option to be in compliance. The vendor, Stone Eagle, charges a percentage of the payment which the provider agrees to pay to receive the electronic payment. Stone Eagle will pay the TPA 80 basis points (0.80%) of the total amount of dollar payments processed as authorized transactions through VPay using a virtual card electronic payment.

TPA Shared Compensation

The TPA may receive a share of compensation paid to a Vendor of the Plan. These TPA services are necessary for the Vendor to perform contracted services desired by the Employer.

TPA anticipates the following compensation for Vendor services:

Subrogation Recovery Services:
In consideration of administrative services provided to NexClaim Recoveries to assist with the return of Plan assets for the Employer, the TPA will collect a fee equal to 5% of the amount recovered by NexClaim. In the event this agreement is terminated, the TPA will collect a fee equal to 10% of the amount recovered by NexClaim, on all checks received after the date of termination. TPA will charge the fee after the subrogation check has been sent to the Employer or deduct the fee from the payment.

Compensation for Services at Termination

As of the date of termination of this Agreement or the TPA's resignation, as outlined in Article V, all other obligations of the TPA hereunder shall cease. However, upon the written request of the Employer, and on the condition that all data and information necessary to process and administer Claims remain in possession of the TPA or are provided to the TPA, the TPA may, at its option, provide twelve (12) months of run-out services on claims incurred prior to the Plan Sponsors termination date.
The TPA's duty to administer and process Claims following termination is at all times conditioned upon the presence of adequate and sufficient funds made available to the TPA by the Employer to pay all Claims and expenses for the post-termination period.

Notwithstanding the termination of this Agreement, any financial obligations or responsibilities of the Employer or Plan Sponsor in regard to payment of benefits on behalf of the Plan Participants, or payment of the TPA's invoices shall remain the obligation and responsibility of the Employer until satisfied. This shall include the obligation of the Employer to pay the TPA or Vendor fees set forth in this Agreement relating to services provided by the TPA or Vendors.

Before the date of termination of this Agreement, the TPA shall process Claims that have all the information necessary to finalize and adjudicate and were received up to 10 business days prior to the date of termination. Remaining Claims will be sent to the authorized party unless the Employer contracts with the TPA to process the claim run-out.

If claim run-out services are requested and agreed by the TPA, the Plan Sponsor will pay, before the first day of the run-out period, to the TPA and associated Vendors, an amount equal to four (4) months of the monthly compensation in effect immediately before the run-out period.

Specialty reports for census or claim information may be requested at an additional charge of $400 per report for each occurrence. Case Management Reports will be released at an additional charge of $150 per Claimant.

As of the date of termination of this Agreement, the TPA shall not destroy or otherwise dispose of any Plan records in its possession or custody after the termination of this Agreement for a period of one-year. If requested by the Employer, the final fee for forwarding Plan records will be $1,000.

Check customization, special statistical reports other than those enumerated in this contract, medical underwriting, new taxes assessed against the Plan, or other services mutually agreed upon, will be billed separately at the actual costs of such services.

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StirlingBenefits™
Evolving the Business of Benefits™

August 16, 2016

City of Bridgeport, CT
Department of Public Purchases
999 Broad Street
Bridgeport, CT 06604

Re: Bid Number BFB812178

Dear Bid Evaluation Team,

The RFP includes a mandatory submission requirement item C. that lists the following criteria:

1. Statement of Interest:
   Stirling Benefits, Inc. has extensive experience administering similar retiree plans. We have the capacity to service this case with in-state labor at above industry-standard service levels and an interest in providing this service.

2. Vendor contact information:
   James B. Stirling, CEO, is responsible for preparation of our proposal and is the officer authorized to contract with the city for the services proposed herein. He may be reached at (203) 647-0628 and by email at jstirling@stirlingbenefits.com, or via fax to (203) 876-1465, or by mail at Stirling Benefits, Inc. 20 Armory Lane, Milford, CT 06460.

3. Company History and Capabilities:
   Stirling Benefits is a full service Connecticut Third Party Administer (TPA) of group plans. We were incorporated in Fairfield County 1973 and currently serve over 300 clients composed of Boards of Education and Municipalities as well as State entities and private companies. The firm is privately held with offices in Milford CT. In 1996, the firm won the contract to administer the Connecticut State Teachers' Retirement Board retiree medical plan. That plan had just under 6,000 members when we took over from an insured arrangement. The plan has now grown to over 26,000 members.

   During these 20 years, we have developed specific expertise administering Medicare primary retiree plans, including a specially trained customer service team that understands the needs of municipal retirees and Medicare. Our staff are local residents. We do not utilize off shore CSR, clerical or programming firms. The staff who will service the Bridgeport retirees are those already trained for the CT municipal retiree programs.

4. License to provide insurance (service)
   Stirling Benefits is a Connecticut licensed TPA. Our license requires us to respond to any complaint filed with the CT DOI as if we were an insurance

carrier. We are quoting on administration of the self funded option for this program.

5. Financial Strength:
   Stirling Benefit is not an insurance company, we are a service firm, and are not rated by the recognized national rating agencies. Our CT TPA license does require us to obtain audited financial statements each year. We also obtain an annual SSAE 16 Type II (formally known as a SAS 70) annual audit. Both of these CPA certified audits are available for review.

6. Client References
   The program we administer that is closest to the scope of services requested in this RFP is the Ct Teachers' Retirement Board. That program is almost identical to the traditional program offered by the City and Board of Education.

   The contact who may serve as a reference for our services at the group level is Darlene Perez, Administrator for the TEB. Ms. Perez may be reached at (860) 241-8402 and by email at darlene.perez@po.state.ct.us. Stirling Benefits have lost no accounts of similar service in the last three years.

   At the member level, we invite you to ask any of the 26,000 retired teachers, spouses or surviving spouses covered by the TRB plan about our service level and commitment to members' satisfaction. Our goal is to properly explain every aspect of your plan to all concerned so that neither the city nor the Board ever has to deal with a service issue.

7. Strengths
   Because we are a mid-sized local firm with 20 years experience administering this type of plan, we are confident we can fulfill the services requested in this RFP. Your group will be served by a dedicated team to coordinate all aspects of your account. We have built very efficient processes for the administration of Medicare Supplement plans and that generally enables us to offer a lower price than our competitors for more integrated and local services. We have experience with and are able to administer the "new" plan designs on the same system as the traditional plan.

We appreciate the time and effort that goes into creating a fair and balanced RFP process. We are thankful for the input that RFP "scorers" put into evaluating the responses. We are available to clarify any aspect of our response, and are confident that we can provide exemplary service to the City of Bridgeport, the Bridgeport Board of Education and to the members of the plan.

Sincerely,

James B. Stirling
CEO

I. PURPOSE, GENERAL INFORMATION, BACKGROUND

A. **Purpose:** The City of Bridgeport, CT and the Bridgeport, CT Board of Education (hereinafter collectively referred to as the "City") are seeking proposals from qualified insurance carriers or third party administrators (hereinafter referred to as the "Vendor") to administer its group Medicare Insurance program for its Medicare-eligible retired employees and their eligible spouses or surviving spouses on either a fully insured or a self-funded basis. The anticipated effective date is January 1, 2017.

B. **Background**

1. Since January 1, 2015, the City has provided a fully insured Medicare Supplement Plan to approximately 2,670 Members, through United American Insurance Company. Benefits are provided pursuant to collective bargaining agreements between the City and the unions representing its employees.

2. Member contributions to the Plan vary between 0% and approximately 75%. However, most member contributions are negligible. On average, the City contributes in excess of 90% of the cost of the plan.

3. The majority of City members are covered on a plan that pays secondary to Medicare and is equivalent to a Plan F (a federally standardized Medicare Supplement plan). In 2016, the City implemented five additional Medicare Supplement plan designs that more closely mirror the plan designs being offered to pre-65 retirees. Members aging into Medicare today are subject to co-pays for office visits, emergency room visits and inpatient stays. For additional information on this subject, refer to Section II (F) under Scope of Services.

4. For budgeting, billing, administrative and reporting purposes, the City retirees are divided into four distinct groups – Civil Service & Grants, Fire & Police, Certified BOE and Non-Certified BOE.

5. Beacon Retiree Benefits Group LLC, a duly licensed broker doing business in the State of Connecticut, provides enrollment, eligibility, member communications, claim resolution, call center functions and plan consulting to the City. Beacon is deemed the broker-of-record. It is the City's desire to pay fees for Beacon's services to the proposing Vendor and the Vendor will pay Beacon directly on behalf of the City.

C. General Information

1. **Newspaper Advertisement and Electronic Posting of Invitation to Bid, Names of Responding Vendors, and Questions & Answers (see below).** The invitation to submit proposals will be posted on www.bidsync.com, the City's electronic bidding website. The names of Vendors submitting qualifications will also be posted on such website after they are opened. All Questions and Answers about the RFP (described below) will also be posted on such website.

2. **Minority Business Enterprises Are Encouraged to Respond.** The City encourages Minority Business Enterprises ("MBEs") to submit their qualifications. For further information about the MBE Ordinance, Target Groups or the assignment of Evaluation Credits, please contact Fred Gee at 203-576-8473 or by email at Fred.Gee@bridgeportct.gov.

Stirling Benefits is registers with the state as a Small Business enterprise. Our policy is that Connecticut contracts generate jobs in Connecticut. All our staff work in CT

a. **Target Groups:**

i. **Definition:** An MBE Vendor is entitled to Evaluation Credits if it is a Target Group for these services under the provisions of the Minority Business Enterprise Ordinance, Section 3.12.130 of the City Ordinances ("MBE Ordinance"). Target Groups for this procurement are: Asian Americans, Hispanic Americans, Caucasian females, MBEs, and minority female and Caucasian female minority business enterprises.

ii. **Evaluation Credits:** Vendors that demonstrate that they are Minority Business Enterprises that constitute Target Groups, as defined in the City's Minority Business Enterprise Ordinance, Chapter 3.12.130, shall be granted an additional ten points (10) as Evaluation Credits.

iii. **Obtaining Target Group Certification:** A Target Group Vendor seeking Evaluation Credits must provide a certification of its minority business status and state in its qualifications statement its desire to be recognized as a minority business enterprise and to receive Evaluation Credits.

b. **Joint Ventures between Non-Minority Vendors and Target Group Vendors.** Non-minority Vendors are encouraged to form joint ventures or partnerships with Target Group Vendors and the joint venture will be entitled

to additional points based on the extent of the Target Group's ownership interest in the joint venture/partnership as further described below.

i. **Meaning of Joint Venture**: A "joint venture" is a written contractual business undertaking by two or more parties who agree to contribute equity and to share risk, expertise, experience, and profits in the undertaking. The term "joint venture" refers to the purpose of the entity but not its type. A joint venture can be a corporation, a limited liability company, a partnership, individuals or groups of individuals, or another legal structure. It is typically established for a single business transaction. The joint venture agreement includes an agreement to form a new entity, an agreement to contribute equity, an agreement to share revenues, expenses and profits, and an agreement concerning control of the enterprise.

ii. **Evaluation Credits for Joint Ventures**: Up to five (5) points to non-MBE Vendors that have formed joint venture arrangements with Target Group Vendors determined by a formula that takes the percentage of the Target Group Vendor's ownership interest in such joint venture converted to a percentage (e.g., .25 or 25% ownership interest x 10 = 2.5 points) to arrive at the number of points not to exceed 5.

iii. **Applying for Evaluation Credits**: Evidence of the written existence and attributes of a joint venture must be submitted at the time of bid submission. The City, with the advice of the Office of the City Attorney, will determine the qualifications and entitlement to joint venture status of any such entity in the exercise of its prudent business judgment, reasonably exercised.

iv. Requirements of non-MBE Vendors seeking Evaluation Credits

(a) state the basis for seeking Evaluation Credits,
(b) identify the joint venture created with a Target Group Vendor,
(c) identify the minority Vendor as one of the Target Groups for the type of services or work sought by the bid,
(d) identify the Target Group's percentage ownership interest in the joint venture,

(e) State whether such joint venture

(i) Was created only for this particular bid,

(ii) Is now and/or will in the future be utilized for bidding,

(iii) Is currently utilized for bidding on both public and private work,

(iv) Has bid on, undertaken or completed work in the past, together with a description of such work and customer contact information.

(f) Describe the Target Group's active involvement in and dollar volume of the work that the Target Group will perform as part of the services that are the subject of the bid to ensure that its participation is reasonably similar to its percentage ownership interest in such entity. Items (a) through (f) must be supported by documentation satisfactory to the City so that the City can independently verify the basis for the claim to Evaluation Credits, determine any entitlement to the award of Evaluation Credits, and determine the amount of Evaluation Credits to be awarded.

3. **Treatment of Confidential Information.** Financial statements, proposals and other business confidential information may not be subject to disclosure under the Connecticut Freedom of Information law, Section 1-210(b)(5)(A) of the Connecticut General Statutes (FOIA), if such information constitutes "trade secrets" as defined therein. If a Vendor desires certain information to be protected from disclosure under FOIA as a trade secret, a Vendor should clearly identify such information, place such information in a separate envelope appropriately marked, and submit such information with its bid or proposal. Such information shall be retained by the Project Manager in confidence, shall only be viewed by City employees and consultants having a "need to know," and shall be returned to all unsuccessful Vendors or respondents, or will be destroyed, upon award or the termination or withdrawal of the bid. If such information is sought to be disclosed, the Project Manager will afford notice to the party or parties whose information is being sought so that each has an opportunity to dispute disclosure in a court of law at such party's sole cost and expense. The City shall protect information from disclosure or refuse to disclose such information unless it (i) is already known; (ii) is in the public domain through no wrongful act of the City; (iii) is received by the City from a third party who was free to disclose it; (iv) may be properly disclosed under FOIA; or (v) is required to be disclosed by a court of law.

4. **Vendor's Costs in responding to this RFP:** The City shall not be liable for any costs the Vendor incurs in preparation and submission of its proposal, in participating in the selection process or in anticipation of an award of contract.

5. **Questions and Answers About this RFP:** It is the responsibility of the Vendor to inquire about additional information or clarification as to any aspect of this RFP, by submitting questions to www.bidsync.com. Questions will be received until **5:00 PM on July 26, 2016**. All responses will be posted no later than **5:00 PM on July 29, 2016**. All Vendors are obligated to become familiar with such questions and responses and to submit or revise their proposals accordingly. The City assumes no responsibility for a Vendor's failure to read questions and responses or to revise their proposals accordingly.

6. **Request for Modification:** The City reserves the right to (1) request that Vendors modify their proposals to more fully meet the needs of the City, (2) negotiate modifications to the proposal with the successful Vendor, and (3) waive minor irregularities in the proposals. If it becomes necessary to revise or amend any part of this RFP, the Project Manager will post a revision by written Addendum to Bidsync and notify Vendors who submitted the "Intent to Respond" form.

7. **Proposals Become the property of the City:** Any information or materials submitted as a response to this RFP shall become the property of the City of Bridgeport and will not be returned. All submitted materials will be available for public review.

8. **Form of Agreement:** The parties will use an insurance policy/contract created by the selected Vendor with mutually agreed upon modifications. Upon the acceptance of a proposal, the City will endeavor to negotiate a mutually satisfactory contract with the successful Vendor. In the event the successful Vendor fails, neglects or refuses to reach agreement with the City on contract language within thirty (30) days after the selection procedure has been approved by the Board of Public Purchases the City may, at its option, terminate and cancel its action in awarding said contract, the City's offer of a contract shall be withdrawn and the contract shall become null and void and of no effect, and the City may consider other proposals or solicit new proposals

9. **Intent to Respond Form:** The City has excluded census information from the bid specification posted on the Internet. Vendor must submit the "Intent to Respond" form which appears in **Attachment #7 no later than August 5, 2016** in order to obtain the census data that is necessary for Vendor's RFP response.

10. **Tentative Bid Review Timetable.** Dates are subject to change

RFP Issued	Friday, July 15, 2016
Questions Due	Tuesday, July 26, 2016
Answers to Question Posted on Bid-Sync	Friday, July 29, 2016
Intent to Respond Form	Friday, August 05, 2016
Proposals Due	Wednesday, August 17, 2016
Short List	Wednesday, August 31, 2016
Interviews	Wednesday, September 07, 2016
Recommendation	Friday, September 09, 2016

11. **Conformance to RFP Specifications:** In order to assure that all proposals are evaluated on a uniform basis, Vendors must conform to the RFP specifications as described in the Scope of Services. If a Vendor's proposal does not so conform, the proposal must clearly indicate where differences exist. Vendor's proposal is presumed to conform in every respect to the Scope of Service described herein except where Vendor has expressly set forth deviations from these specifications. As the RFP and the accepted proposal are automatically part of the contract between the Plan Sponsor and the Vendor such presumption will be contractually binding on the Vendor.

12. **Right to reject submissions and/or cancel this RFP:** This RFP in no way obligates the City to select a Vendor. Moreover, the City may, at any time prior to the execution of a contract, reject any and all proposals and/or cancel this RFP without further liability therefor, when doing so is deemed to be in the City's best interests.

13. **Who Can Bid:** Proposals will only be accepted from Vendors licensed to sell, administer and adjudicate claims for self-funded and/or fully insured Group Medicare Supplement Insurance Plans for employers domiciled in the State of Connecticut with a retiree population residing in all fifty (50) states and Puerto Rico. The City has an agreement with a Broker-of-Record to perform certain services relative to this contract. Intermediaries other than the Vendor as defined herein will not be compensated by the City for their services.

14. **No Contact between Vendor and City or Beacon Retiree Benefits Group.** Once this RFP is published, no Vendor may communicate with either the City or Beacon Retiree Benefits Group, on any substantive matter covered by this RFP, except through the Q and A process described in this document. Should administrative or logistical issues arise, the Vendor may contact the Department of Public Purchases (203-576-7158) for guidance. Any unauthorized contact will be grounds for immediate rejection of a Vendor's qualification and other remedies.

15. **Duration of Proposal:** By submitting a proposal to this RFP, Vendor agrees to honor the terms of its proposal for not less than 180 days from deadline for submission.

II. SCOPE OF SERVICES.

A. **Term of contract:** The term of this contract will commence on January 1, 2017 (Effective Date) and will end on December 31, 2017. The City shall have the option of four (4) one-year contract renewals.

B. **Group Plan**: This Plan will be a group Medicare supplement plan (retiree medical plan). Individual products will not be considered.

C. **Who the Plan Will Cover**: Retired employees of the City and their spouses or surviving spouses who, at the sole discretion of the City, are deemed eligible to participate in the Plan and who are eligible for Medicare A and B by virtue of age or disability.

D. **Geographic range of coverage**: United States and Puerto Rico

E. **Provisions pertaining to pre-existing conditions or waiting periods:** There will be no exclusions, restrictions or benefit limitations for pre-existing conditions, nor will there be any waiting periods for coverage.

F. **Plan Designs**: Vendor will provide six (6) Medicare Supplement plan designs matching the following chart. Detailed designs appear in **Attachments #1-6**. There will be no prescription coverage. If Vendor cannot precisely match the requested designs, it should so specify and propose its best alternative design which the City will consider. The City will assign the participants to the applicable Medicare Supplement plan based on the retiree or spouse's pre-65 benefit.

Attachment No.	Plan No.	Benefit Design	Hospital Co-pay	Office Visit Copay	ER Copay	2017 Approximate Enrollment
Attachment #1	Plan 1	Plan F	$0	$0	$0	2630
Attachment #2	Plan 2	$15/50	$0	$15	$50	15
Attachment #3	Plan 3	$10/200/75	$200	$10	$75	52
Attachment #4	Plan 4	$20/200/75	$200	$20	$75	56
Attachment #5	Plan 5	$25/200/75	$200	$25	$75	2
Attachment #6	Plan 6	$15/200/75	$200	$15	$75	7

G. Enrollment and Billing:

1. Enrollment (initial eligibility, additions, terminations, changes) will be conducted through transmission of electronic eligibility files (in Excel) or via on-line capabilities. Vendor must have secure and HIPAA compliant data transmission capability.

   Stirling Benefits has secure and HIPAA compliant data transmission capability.

2. Vendor will provide initial eligibility file with member policy numbers or unique IDs to allow for electronic reconciliations.

   Agreed.

3. Vendor will issue monthly electronic invoices (in Excel) with applicable eligibility data for each plan design offered charging each of three divisions, as follows:
   a. City: Retired Civil Service, Police and Firefighters
   b. Board of Education: Retired Certified Employees
   c. Board of Education: Retired Non-certified Employees

   Agreed.

H. Claim Reporting Requirements:

Stirling Benefits is quoting self- funded administration.

1. **For self-funded plans,** Vendor will provide claim data illustrating incurred and paid claims on a monthly basis. Claim data should be broken down by the City's four subgroups (Retired Civil Service, Retired Police and Firefighters, Retired Certified Employees and Retired Non-Certified Employees).

   Agreed.

I. **Claims Adjudication:** Vendor will process claims with the speed and accuracy that is consistent with industry standards.

   Agreed.

J. Customer Service

1. Vendor will provide a designated toll-free member services number.
2. Vendor will design and issue custom-designed member ID cards.

3. Vendor will prepare and issue certificate booklets and summary of benefits to each member upon enrollment into the plan.
4. The plan will be identified as the City of Bridgeport/ Bridgeport Board of Education Medicare Supplement or Retiree Medical Plan.
5. Vendor will work with and communicate directly with Beacon Retiree Benefits Group, the City's Medicare Retiree Benefit Plans Administrator. A designated account representative will be assigned to the City's groups to assist Beacon in the administration and servicing of the plan(s).

Agreed.

K. Financials

1. For fully insured proposals, Vendor will provide a per-member-per-month premium quote for a period of not less than 12 months; for **self-insured proposals, per-member- per-month administrative fee.** Premiums or fees should be proposed net of commissions. If mutually agreeable, the successful Vendor will bill the City for brokerage commissions and forward same to Broker.

Agreed.

2. Guarantees beyond this proposed time frame will be viewed as a value-added component to Vendor's proposal.

We offer a multiyear fee guarantees.

3. Vendor will specify desired funding process relative to the flow of funds for self-insured claims administration.

Detailed in Q&A section

4. Premium rate or administrative fee increases may only take place on the contract anniversary (January 1) provided 90 days' notice is given before anticipated change takes effect. Vendor will describe any terms or conditions under which it would modify rates.

Agreed.

5. Vendor's proposal includes all printing and postage costs for ID cards, booklets, certificates, SPDs and any other communications required by law. On-line services for Members or City will be considered a value-added component.

All our communication material will be available to the City and BOE for online distribution. Online services including - claim lookup, online eligibility confirmation, online EOB's and member claims history - are included in our fee.

III. **MANDATORY SUBMISSION REQUIREMENTS:** Each Vendor must submit its proposal addressing the items requested below. Requested information omitted by the Vendor is done at the Vendor's peril. The City reserves the right to investigate all statements made by Vendor as to its qualifications and to request additional information it deems necessary.

A. Non-Collusion Agreement (see Bid-Sync website)
Included

B. Bidder Information (see Bid-Sync website)
Included

C. Provide a cover letter including the following items
1. Provide a statement of interest in providing this service.
2. **Vendor's name, address and contact information (telephone, fax, email and street address)** for the representative for this proposal and the signature of the officer authorized to contract with the City for services proposed herein.
3. **Company History and Capabilities:**
    a. Provide an overview of the general nature of Vendor's business, services rendered and clients served.
    b. Provide information relating to Vendor's business structure and parent ownership, if applicable.
    c. Specify location of offices that will service this account.
    d. Describe business history including experience in providing the services described in Section II, Scope of Services.
    e. Provide information regarding the qualifications of the staff who will service this contract.
4. **License to Provide Insurance:** Provide a statement that Vendor is licensed to sell and administer group Medicare Supplement Insurance plans in all fifty (50) states and Puerto Rico.
5. **Financial Strength:** Provide documentation from three recognized national rating agencies attesting to Vendor's financial strength (if applicable to your organization).
6. **Client References:** Provide names, contact information, and dates of engagement for three organizations of comparable size and complexity to the City for which Vendor has performed services comparable to that described in the Scope of Services. In addition, list account(s), if any, that Vendor has lost in the past three years. If none, state, "None."
7. **Summarization of Strengths**: Provide a statement explaining why the Vendor is the best qualified vendor for this contract.

Included at the front of this bid response package

D. **Scope of Services:** Present proposal citing all items from the Scope of Services including

1. Term of Contract proposed

We understand that this RFP response is for a one year contract with options for additional years. We have offered fee guarantees for future contract years.

2. Plan design(s)

We have experience with and ability to administer the plan designs described in this RFP.

3. Enrollment, billing and payment procedures

The RFP indicates that enrollment will be based on information supplied by Beacon Financial. We agree to work with Beacon Financial to map our input files to the data they will supply. We expect to receive at least monthly eligibility files, and provide online access for mid month eligibility changes.
We agree to the billing requirements specified in the RFP and Q&A responses. We will invoice fees to the City and Board of Ed, respectively, and separate invoiced amounts by plan. Claim payment funds will be drawn from the Plan account (whether under the City or Stirling Benefits EIN) and then reconciled by plan and division at the end of each monthly reporting period. Payment procedures and options are outlined in the Q&A section of this RFP response.

4. Implementation: Specify steps and time periods required for a trouble-free implementation on the Effective Date.

A detailed outline is included with the Q&A's

5. Customer service commitments

We are willing to affix penalties and rewards to specific customer service standards.

Telephone response
- **Wait time for first response when member enters Bridgeport Retiree service queue: Standard is between 30 seconds and 90 seconds:**
- **Abandon calls: Standard is between 2% and 5%**

Claims payment

- **Turnaround time: Standard is 75 to 85% clean claims adjudicated between 5 to 10 working days**
- **Financial Accuracy: Standard is 99% financial accuracy measured as the sum of unrecovered overpayments minus the value of underpayments, divided by total payments**
- **Coding accuracy: Standard is 97 to 98% coding accuracy**

Service levels will be measured monthly using Stirling standard reporting tools and averaged quarterly. Measurement begins after the first full quarter of plan operation when we expect multiple extra calls and claim payment clarifications.

We offer a penalty of 2% of revenue per quarter for telephone service and 2% of revenue per quarter claims payment services if we do not meet the standard and a bonus of 1% of revenue if the standards are exceeded.

6. Cost proposal

a. For self-insured proposal state the administrative fee Vendor proposes to charge on a per Member per month basis, exclusive of brokers' commissions for each plan design.

Year:	2017	2018	2019	2020
Per retiree per month fee:	$7.63	$7.74	$7.86	$7.98

This fee structure represents a 1.5% fee increase year on year. Contract extensions beyond 2020 will be based on the Consumer price index for the proceeding six months, or no change, whichever is greater.

b. Specify any guarantees in excess of a 12-month premium rate.

Contract extensions beyond 2020 will be based on the Consumer price index for the proceeding six months, or no change, whichever is greater.

c. List and explain any other expenses Vendor proposes to charge for its proposal.

(i) Any charges not stated herein, may not be submitted at a later date.

Any services that the city requests that are not specifically outlined as part of the RFP are not included in our bid price.

(ii) Quotations must be exclusive of taxes for which the City is not liable. Tax exemption certificates will be furnished upon request. **Understood.**

E. **Sample Contract:** Provide a sample contract Vendor proposes to use for this service.

Attached

F. **Answers to questions listed in Section V (below):** When answering the questions contained in Section V, please repeat the questions and provide its answers numbered to correspond to the question as indicated in Section V. Respond to all questions that relate to the proposal you are submitting. Those questions that do not apply to your proposal should be so noted in your response. Vendor is requested to respond only to the specific questions asked in this RFP.

G. **Describe Value-added services and/or innovative programs** not addressed elsewhere.

Stirling Benefits already administers the TRB retiree health program. Some municipalities are looking at ways to reduce their OPEB liability by considering shifting retirees from their municipal plan to the TRB plan. In this way the municipality leverages the contributions that active teachers make to the TRB fund while they are working. Where the TRB plan provides equal of better benefits, at least one Board of Education in the state has coordinated with Stirling to make an ACH payment to the retiree's bank account to cover the cost of TRB coverage. This may be a way to lower the Bridgeport OPEB liability.

Another opportunity that Stirling may offer is the ability to administer an integrated retiree Health Reimbursement Account. This option may offer Bridgeport some flexibility with retiree benefits, paying a fixed rate to the retiree for purchase of another plan. This is currently an option for retirees, but not, at this time, for active workers. Stirling may coordinate our services with Beacon Financial to administer such a program in the future.

H. **Evaluation Credits:** If applicable, state the basis for seeking Evaluation Credits.

See Section (I) (C) (2), above. ? No info. shown

IV. SUBMISSION OF PROPOSALS.

A. **Copies required, address and deadline for submission:**
Vendor will submit eight (8) copies of its proposal in separate, sealed envelopes containing the items listed in Section III, Mandatory Submission Requirements, to the Department of Public Purchases, 999 Broad Street, Bridgeport, CT 06604 by **2:00 PM on Wednesday, August 17, 2016** and then at said office to be publicly opened. **Note to Vendors: time is of the essence: late submissions, regardless of the reason, will not be accepted.**

B. Please mark your envelope: **RFP for Carrier/TPA for Medicare Supplement Plan – BFB 812178.** If your envelope is not marked accordingly, the City will not assume responsibility if your package is misdirected or its delivery delayed.

V. EVALUATION PROCESS

A. **SELECTION COMMITTEE.** A Selection Committee consisting of three to five employees of the Plan Sponsor including the Benefits Manager (Project Manager), Employee Services Coordinator, Supervisor of Payroll and Benefits and others with knowledge of group benefits and/or finance will be appointed to conduct a comprehensive, fair and impartial evaluation of all proposals. The composition of the Selection Committee is subject to change at the discretion of the City.

B. Evaluation Steps

1. The Project Manager will perform an initial review of the responses for compliance with the required documentation to determine responsiveness and whether to grant additional time for missing or incomplete items.

2. The responsive submittals will then be evaluated and scored by the Selection Committee using a 100-point scoring system described paragraph C, below.

3. The Selection Committee will rate and rank the Vendors to arrive at a short list of up to three (3) Vendors and will conduct interviews of such Vendors, if deemed necessary. The Selection Committee will re-score Vendor's proposal to arrive at a final selection. The Selection Committee may request additional information from Vendors at any time prior to approval of a selected bidder.

4. The selection process and decision will be reviewed by the Board of Public Purchases for compliance with the City's purchasing ordinance

5. The winning Vendor will then be invited to enter into a contract with the Plan Sponsor which is subject to approval by the City Attorney and then by the City Council and the Mayor. Prior to completion of this step, the Plan Sponsor may cancel this RFP without further liability thereto.

6. A notice to proceed will be issued upon execution of the contract.

C. **Selection Criteria**: The City will use a mandatory 100-point scoring system.

1. Qualifications of the Vendor to deliver the Scope of Services, including,
    a. Capacity to administer multiple plan designs
    b. Enrollment and billing practices
    c. Banking practices for self-insured programs
    d. Claim reporting
    e. Speed and accuracy in adjudicating claims
    f. Communication services.
    g. Customer Service support. **30 points**

2. Vendor's work experience, financial, technical, staff capabilities and client references in delivering the Scope of Services to other organizations of comparable size, complexity and nature as that of the City. **30 points**
3. Competitiveness of fee or premium proposal including guarantees, contract term, value-added services. **40 points**
4. MBE Evaluation Credits (See paragraph I(C)(3), above):

    a. For Prime Contractors That Are Target Group Members **(10 points)**

    b. Non-MBE Vendors Forming Joint Ventures with Target Groups **(maximum 5 points)**.

VI. QUESTIONS

In order for Vendor's proposal to be considered and accepted, Vendor must provide answers to the questions presented in this section. When answering the questions, please repeat the questions and provide answers numbered to correspond to the question as indicated in the RFP. All questions must be answered. Reference should not be made to a prior response, or to Vendor's contract, unless the question involved specifically provides such an option. Refer to earlier sections of this RFP before responding to any of the questions in order to have a complete understanding of City's requirements with respect to the bid. Please respond to all questions that relate to Vendor's proposal. Questions that do not apply to Vendor's proposal should be so noted.

1. Has your organization experienced a security breach whereby member PHI has been compromised at any point during the last ten years? If so, please describe what actions were taken as a result of that breach, how quickly the breach was identified, how many records were involved and what steps have been taken to avoid such breaches in the future.

    Stirling Benefits has not experienced a security breach during the last ten years whereby member PHI has been compromised.

2. Describe the rating methodology used to develop the proposed and future rates and fees (assumed claims, trend and target loss ratio).

Stirling Benefits is bidding on an ASO contract. We anticipate that Beacon Financial will provide rate equivalents for all plans. As the claims payment levels are set by Medicare, and Stirling receives electronic Medicare claims from all 50 States and Puerto Rico, the claims payment totals should be the same for any and all administrators.

3. If providing a fully insured premium proposal, will the City be pooled with other employers or rated on its own merit?

Stirling Benefits is not offering a fully insured proposal.

4. Please indicate if the risk is held entirely by Vendor's organization or shared with a reinsurer or other risk bearing entities.

N/A

5. Please provide actual renewal percentage increases for comparable groups over the last 5 years and any other information that may provide a historical benchmark.

Stirling Benefits administers the Connecticut Teachers' Retirement Board retiree health plan and their year on year medical and pharmacy plan rate of increases are:

2011	**-1%**
2012	**-6%**
2013	**-13%**
2014	**-6%**
2015	**+4%**

These rates reflect the combined impact of medical and pharmacy portions of the plan. The decreases were due in large part to changes in the prescription drug industry, with many brand name drugs available as generics.

6. In the case of a proposed self-funded arrangement, please describe the Vendor's typical process and timeline relative to the funding of claims. Describe the process in which the Vendor is reimbursed for claim dollars paid out on the City's behalf.

Stirling Benefits auditors prefer that we are not in "constructive receipt" of any client funds. We have several options available for claim funding.

Option 1: City maintains own account
The city would open a checking account at a bank of its choice and Stirling Benefits would issue payments against this account. Claim liabilities are settled either by paper check, ACH or via the MasterCard process. The City funds the account based on either the check register totals or "tops up" the account when it falls below a predetermined level. The account if funded on a claims issued basis, with funds that do clear returned to the

City's account. This option keeps all city funds in a City account.

Option 2: Stirling Benefits maintains a trust account
Stirling Benefits would open an account for the Plan. The account would be opened under the Stirling Benefits Employer Identification Number and activity would be limited to the City of Bridgeport retiree plan. The account would be pre-funded with one month's expected claim liabilities and replenished periodically based on the claim liabilities presented on Check payment registers. Funds that do not clear in a timely manner are returned to the account.

7. In the case of a fully insured arrangement, please describe the Vendor's typical billing process, when invoices are distributed, when premium payments are due and what grace periods apply.

   N/A

8. Please provide the total number of existing enrolled members in Vendor's Medicare Supplement plans and breakdown that membership between individual enrollees vs. group members.

   We currently administer approximately 27,000 retiree or spouse members under Medicare Supplement plans. Retirees, Spouses and surviving spouses are all counted as individual members.

9. Please provide the total number of employer groups or unions with 1,000 or more retirees enrolled in group plans with Vendor's organization. Please indicate whether these employer groups are enrolled in self-funded programs or fully insured arrangements.

   The CT Teachers' Retirement Board is the only retiree client with more than 1,000 lives. Theirs is a self funded program.

10. Please provide a sample of Vendor's master employer group application and any certificate, policy or schedule of benefits that would apply to the City under these proposed plans.

    We will use certificates, policies or schedule of benefits as provided by the City.

11. Please provide Vendor's standard reporting templates or sample claim reports.

    Standard reporting templates and claim reports are attached

12. For retirees who enroll after the original effective date of the plan, approximately how long does it take from the date Vendor is notified to add them to the plan until their ID card and documents are mailed?

    Enrolling, printing and mailing member ID cards takes approximately 10 business days. Expedited printing and mailing is available at cost plus handling charge.

13. Does Vendor provide any on-line enrollment capabilities or offer any on-line administration?

Yes, we provide on-line enrollment capabilities. For this contract, we expect to receive all enrollments from Beacon Financial via electronic file.

14. City retirees and spouses are all enrolled as single participants. Please confirm that this is acceptable to Vendor's organization.

This is preferred.

15. Please describe your policy regarding retroactive enrollments and cancellations.

When a member remains on the plan due to lack of proper termination notification, Stirling Benefits will continue to provide for customer services, pay per claim fees to receive electronic claims, produce and mail EOB and payment checks as thought the person was still eligible. We prefer to be compensated for those activities, since we provided that service in good faith.

However, we understand that the cost to separate "coverage months" from "eligibility months" may exceed the value to Stirling Benefits. While we prefer compensation based on coverage months, we will accept retroactive credits and debits for up to two months.

16. How do eligibility, member services and claims administration interface?

This case will be handled by a dedicated service team that is in physical proximity and includes eligibility, member services and claims administration specialists. Cross training assures that the team can provide excellent service when one team member is absent.

This approach avoids delays caused when different departments must each process a small part of a transaction. Sometimes different departments have competing priorities, limiting the ability of the entire entity to serve the client promptly and efficiently.

17. Will there be a dedicated service team for City retirees?

Yes.

18. Where will the customer service representatives for City retirees be located?

Customer Service is located in Milford, CT.

19. What is Vendor's current customer service staffing level per member?

One customer service staff per 3,000 members

20. Do customer service representatives have access to claims and eligibility?

Yes. Customer service can track all aspects of a claim life, including funding and check payment, on a single call.

21. What are the hours of operation for Vendor's customer service unit?

8:00 am to 5:00 pm, Monday through Friday, except holidays.

22. Do members reach an automated system during the hours of operation? After hours?

Yes, members are served via secure web portal or IVR. Providers may receive a HIPAA compliant fax back of member eligibility confirmation and benefits confirmation.

23. If a retiree leaves a voicemail, how long before a call is returned?

Most calls are returned the same day. Our standard is to return calls left on voicemail within 24 hours.

24. Are calls recorded and tracked electronically?

All calls are recorded and tracked electronically

25. Can retirees contact Vendor's customer service team via email?

Yes.

26. What is Vendor's telephone call response times, average speed of answer and average hold time?

Average speed of answer from prompt to reaching a CSR: 51.3 seconds
Average Abandonment rate: 3.6%

27. Please confirm Vendor is set up to receive electronic and automatic crossover of claims and eligibility from the Medicare intermediary or Medicare carrier.

Stirling Benefits receives daily files for over 27,000 Medicare secondary retirees daily. Our files come directly from GHI - COBA in a secure ANSI X12 837 formats. These claims and are translated in-house via extol translation software and loaded in secure encrypted internal drives for processing.

28. Please provide current performance goals and actual results for:

a. *Claims processing turnaround time*

Goal: 80% processed within 14 days.
Results: 68% processed within 10 days, 12% 11-15 days, 11% 16-30 days and 8% above 30 days. These numbers include claims that require additional information.

76% of clean retiree claims are processed within 48 hours of daily uploading from the national Coordination of Benefits Administrator (COBA).

b. *Payment accuracy*

Goal: 97% processed accurately (coding, payee)
Result: 99.49% of claims were processed correctly.

COBA - Coordination of Benefits Worksheet

c. Financial accuracy
   Goal: **99% financial accuracy, measured as the sum or overpayments and underpayments divided by total payments**
   Result: **99.84% financial accuracy**

29. Please provide the turnaround time distribution shown below using results from 2015 and 2016 YTD:
    a. Percentage of claims processed and paid within 5 working days
       For retiree claims, 76% of all COBA claims are auto adjudicated based on the first pass with electronic file feeds from Medicare Payers. These claims show as processed on the second business day after receipt.

    b. Percentage of claims processed and paid within 10 working days
       80%, which includes non-clean claims.

    c. Percentage of claims processed and paid within 20 working days
       91%, which includes non-clean claims.

    d. Percentage of claims processed and paid within 20+ days
       9%, which includes non-clean claims.

       Non-clean claims sometimes require the provider to respond to a request for a Form W9, information on the service provided or other secondary coverage for spouses or surviving spouses.
       For all tertiary payments, we hold processing until we have information on what the secondary carrier paid.

30. Describe fraud and abuse detection and prevention practices which will pertain to this contract, including practices to detect and avoid duplicate billing and payments?

    All claims entering the processing system are checked for duplicates with an algorithm that tests for multiple combinations of date of service, dollar amount of claim, provider type, location and cleared TIN, as well as coding of service provided. Various combinations of these factors are applied to determine if the claim is a duplicate or Medicare approved modification to an original claim.

    Claims that fail the initial edits are either flagged as duplicates, sent to a daily error file or routed for evaluation by an Analyst. Since this is a Medicare secondary plan, we will primarily rely on Medicare's fraud and abuse detection mechanisms for the front end processing. Back end processing includes audit by an internal senior staff members and third party specialty audit firm.

    Stirling contracts for a annual SSAE type 2 audit that checks our security,

fraud detection and internal processes. A copy of our most recent audit is available upon request.

31. What percentage of Vendor's Medicare claims are processed manually?
Less than 15 percent of our Medicare claims are processed manually. The majority of manual claims are adjustments to Medicare payment amounts.

32. Please provide a sample of Vendor's standard Explanation of Benefits (EOB).
Attached

33. Does Vendor have the ability to customize EOBs or Certificates of Coverage?
Yes

34. Is Vendor able to provide retirees on-line access to their claims information?
Yes

35. What is the proposed staffing for this account, including brief biographies of key Personnel?
We expect two full time staff members to initially handle this account. These members will be backed up by the full retiree claims unit that is composed of seven other members. In addition, the full resources of the firm will support the case.

36. Please share any high level performance guarantees Vendor will consider for all member services, claims administration and eligibility processing.
We will consider guaranteeing service levels for phone answering, hold and abandonment rates, claims payment accuracy and timeliness, and eligibility accuracy.

37. If Vendor has TPA partner(s) that will be involved in providing services in the administration of the City's plans, please provide the name(s) of those partners and services rendered.
We partner with specialized service firms for outsourcing check and EOB printing and mailing, electronic funds payment, and EDI claims vendors.

38. Please provide an implementation schedule based on the proposed effective date. This should include details of specific activities, target dates, data requirements and responsibilities for completion.

Date	Action
August 31	"Short List" of Finalists determined
September 7	Finalist Interviews
September 8	Answer any open questions
September 9	Recommended Vendor notified.

September 12	**Announce decision at Monday Operations meeting**
September 12-23	**Review Bridgeport contract provisions and terms, prepare contracts, obtain attorney reviews.**
September 19-23	**Stirling operational Staff meet counterparts at Bridgeport and Bridgeport operational staff meet service team in Milford**
September 19-30	**Stirling staff set up Plan payment systems, map current Beacon and Bridgeport enrollment and eligibility files to Stirling systems, build reporting package**
October 3	**Bridgeport sets up claims payment account and provides routing numbers to Stirling**
October 3-14	**Prepare communication materials for review and approval by Beacon and City officials**
October 14	**Test claim adjudication system, tweak system if necessary**
October 18-19	**Meet with City and BOE HR staff to introduce Stirling Benefits and answer questions**
October 19	**Report test results to Beacon and City officials**
October 19,	**City sets up several retiree communication meetings across Bridgeport**
November 2	**Receive current eligibility file from Beacon**
November 4	**Load eligibility data into claims system**
November 10	**Send confirming eligibility file to Beacon to compare results**
November 17	**Send eligibility file to GHI COBA to collect claims data January 1st**
November	**Hold several communication meetings at Bridgeport City and BOE locations to introduce Stirling Benefits and answer questions**
November and December	**Retiree billing mailings include information about the Change to Stirling Benefits**
December 9	**Drop date for mailing ID cards and plan information to members**
December 12-16	**Members receive new ID cards** **Members call with questions about the plan**
January 1st	**Go live date**
January 9-13	**First claims arrive**
Approximately January 17	**First check run**
January 19, 26, February 2, 16 March 2	**Regularly scheduled conference calls to evaluate processes that could improve efficiencies shorten data transit times.**
March 15, May 17	**Onsite meeting at Bridgeport to report on Plan to date**
May 17th	**Schedule future meetings, as needed**

39. What information does Vendor require from Beacon Retiree Benefits Group for implementation of its services? What data format is required?

We will need the usual data that is required for enrollment and eligibility: listing with detail for each individual, including whether the member is a retiree, spouse or surviving spouse. Interface with the national Coordination of Benefits Administrator (COBA) requires the members SSN and full Medicare Number, including Alpha characters.

We will want to thoroughly understand the methodology Bridgeport uses for group numbers and division codes so that our staff will not only understand the logic for the divisions, but will be able to make informed decisions when data does not appear to be correct. In order to do our job well, we need to go beyond just putting data where we are told and understand why the information is being provided. We seek to be integrated with Beacon's services and an extension of their service arm to the City and the Board of Education.

40. As stated in the Scope of Services, the City retirees will require customized ID cards to be distributed directly to the retiree prior to the effective date. Please confirm that Vendor can provide this service initially and on an on-going basis.

    We usually customize ID cards. Stirling Benefits will provide this service initially and on an on-going basis.

41. Does Vendor use a third party to produce and distribute ID cards? Yes.
    If so, where are they located?

    We use a third party to produce and distribute ID cards: Red Card Systems, LLC, of St. Louis, Missouri.

42. Please confirm that Vendor will assign a unique ID number for each member and that confirm what member identification number will appear on the ID card.

    Confirmed

43. Please provide a sample ID card.

    Attached

VII. ATTACHMENTS

Stirling Benefits is able to administer the plan designs offered to retirees under this program.

The following attachments may be found on the Bid-Sync website
Attachment #1: $0 Co-Pay Plan Design
Attachment #2: $15/$0/$50 Co-Pay Plan Design
Attachment #3: $10/$200/$75 Co-Pay Plan Design
Attachment #4: $20/$200/$75 Co-pay plan Design
Attachment #5: $25/$200/$75 Co-pay Plan Design
Attachment #6: $15/$200/$75 Co-pay Plan Design
Attachment #7: Intent to Respond Form

Item# *199-15 Consent Calendar

Sixth Amendment to Stadium License, Management and Operations Agreement with Past Time Partners, LLC., owner of the Bridgeport Bluefish Professional Baseball Team.

Report of Committee on Contracts

City Council Meeting Date: DECEMBER 19, 2016

Attest: Lydia N. Martinez
Lydia N. Martinez, City Clerk

Approved by: _____
Joseph P. Ganim, Mayor

Date Signed: 12/26/16

RECEIVED
CITY CLERK'S OFFICE
2017 JAN -6 P 12:08

ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport.

The Committee on **Contracts** begs leave to report; and recommends for adoption the following resolution:

Item No. *199-15 Consent Calendar

RESOLVED, that the attached Agreement between the City of Bridgeport and Past Time Partners, LLC, Owner of the Bridgeport Bluefish Professional Baseball Team regarding the Sixth Amendment to Stadium License, Management and Operations, be and it hereby is, in all respects, approved, ratified and confirmed.

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
CONTRACTS

*Jack O. Banta, D-131st, **Co-Chair***

*Jeanette Herron, D-133rd, **Co-Chair***

Milta I. Feliciano, D-137th

AmyMarie Vizzo-Paniccia, D-134th

James Holloway, D-139th

Alfredo Castillo, D-136th

Anthony R. Paoletto, D-138th

***City Council Date:** December 19, 2016*

SIXTH AMENDMENT TO STADIUM LICENSE, MANAGEMENT AND OPERATIONS AGREEMENT

BETWEEN

THE CITY OF BRIDGEPORT, CONNECTICUT

AND

PAST TIME PARTNERS, LLC

October , 2016

SIXTH AMENDMENT TO STADIUM LICENSE, MANAGEMENT AND OPERATIONS AGREEMENT

This Sixth Amendment to Stadium License, Management and Operations Agreement (together with all prior amendments, restatements, side letters, correspondence and other agreements between the parties related thereto shall be collectively referred to as the "**Agreement**") is made and entered into as of the _____ day of _____, 2016, by and between **Past Time Partners, LLC**, a Pennsylvania limited liability company, doing business as the Bridgeport Bluefish, having an address at The Ballpark at Harbor Yard, 500 Main Street, Bridgeport, CT 06604 (the "**Team**") and the **City of Bridgeport**, Connecticut, having an address at 45 Lyon Terrace, Bridgeport, CT 06604 (the "**City**").

[NOTE: All capitalized terms used herein shall have the meanings assigned to them in the Third Amended and Restated Agreement and the Fourth Amendment, or as otherwise set forth herein.]

WHEREAS, the Team (through a prior owner) and the City previously entered into that certain Stadium License, Management and Operations Agreement dated as of October 1, 1997 ("**Stadium Agreement**"), which permitted the Team to play its home baseball games as a member of the Atlantic League of Professional Baseball Clubs, Inc. ("**League**") at the municipal sports stadium constructed on Parcel A of the site plan entitled "Bridgeport Regional Sports and Entertainment Complex" as approved by the Bridgeport Planning & Zoning Commission on July 29, 1997 (the "**Stadium**") pursuant to such the initial agreement relating to the use of the Stadium, the services to be provided to the City by the Team, the operation of the Stadium, and additional rights and responsibilities of the parties hereto;

WHEREAS, the Team, under its current ownership, and the City entered into that certain Fifth Amendment to Stadium License, Management and Operations Agreement dated as of October 21, 2008 ("**Fifth Amendment**");

WHEREAS the Team has requested relief from its obligation to continue to pay past-due rent owed by Get Hooked! LLC, the prior Team owner, for the 2004 Baseball Season due to the fact that the Team no longer has the same benefits from the operation of the Broad Street parking lots; and

WHEREAS the Term of the Agreement expires at the end of the 2016 Baseball Season and the parties desire to extend the use of the Stadium for an additional baseball season under a temporary license on the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt of which is mutually acknowledged, the Team and the City agree as follows:

1. Temporary License. The City agrees to grant the Team a temporary license ("**Temporary License**") to use the Stadium for the 2017 Baseball Season commencing from the expiration of the Term through the end of the 2017 Baseball Season under the terms and conditions set forth in the Fifth Amendment except as may otherwise be modified or eliminated herein.

2. Compensation.

(a) 2016 Baseball Season. The City and the Team have resolved their differences concerning the balance of the rent due for the 2016 Baseball Season, and the Team has agreed to pay the City the sum of One hundred seventeen thousand twenty ($117,020.00) Dollars in full satisfaction of the rent for the 2016 Baseball Season.

(b) Temporary License Period. The Team agrees to pay compensation to the City during the period of the Temporary License in the amount of One hundred fifty thousand ($150,000.00) Dollars, payable in equal monthly amounts of Sixteen thousand six hundred sixty-six and 67/100 ($16,666.67) Dollars commencing January 1, 2017 through October 1, 2017, pursuant to Section 8.01(1)(A) of the Fifth Amendment. Such amount shall be secured by a surety bond in the same amount as required by Article XIV, Section 14.03, of the Fifth Amendment.

3. Relief From Prior Rent and Other Obligations of Previous Owners.

(a) Pursuant to Section 8.0l(1)(c) of the Fifth Amendment, the Team agreed to pay past-due rent from the 2004 Baseball Season owed by Get Hooked! LLC, which past-due monies were to be paid from fees generated from the Broad Street surface parking lots. Since the Team no longer is entitled to the revenue from the Broad Street surface lots that would have paid down the prior owner's past-due rent, the City has agreed to relieve the Team of the balance of such obligation. The City agrees to use reasonable efforts to improve the parking situation for the Team.

(b) The City also agrees and confirms that the Team is not responsible for the obligations of any prior owner of the Team under the Stadium Agreement.

4. No Further Obligations Regarding the Capital R&R Account. The City releases the Team of any further obligation to contribute to the Capital Repair and Replacement Account, or Capital R&R Account, during the Temporary License.

5. Ownership of Equipment. The Team and the City will perform an inventory of equipment at the Stadium and determine which equipment if Team-owned and which is City-owned.

6. Winter Shutdown Activities. The Team and the City will agree to a list of winter shutdown activities that the Team will perform, which list the City will review and approve in the exercise of its commercial business judgment, reasonably exercised.

7. Sprinkler System Repairs. The City agrees to repair the sprinkler system prior to the opening of the 2017 Baseball Season.

Except as amended by this Sixth Amendment, the Agreement between the parties as to the use and occupancy of the Stadium shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the undersigned on behalf of the City and the Team execute this Sixth Amendment as of the day and year first written above.

CITY OF BRIDGEPORT

By:_____
Joseph P. Ganim
Mayor
Duly-Authorized

PAST TIME PARTNERS, LLC

By:_____
Frank Boulton
Its: Managing Member
Duly-Authorized

Item# *213-15 Consent Calendar

Resolution re: State of Connecticut Department of Transportation (DOT) Master Municipal Agreement for Design Projects.

Report of Committee on Contracts

City Council Meeting Date: DECEMBER 19, 2016

Attest: Lydia N. Martinez
Lydia N. Martinez, City Clerk

Approved by: _____
Joseph P. Ganim, Mayor

Date Signed: 1/5/17

RECEIVED
CITY CLERK'S OFFICE
2017 JAN -5 P 12:08

ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport:

The Committee on **Contracts** begs leave to report; and recommends for adoption the following resolution:

Item No. *213-15 Consent Calendar

A Resolution by the Bridgeport City Council

Regarding the

State of Connecticut Department of Transportation (DOT)

Master Municipal Agreement for Design Projects

WHEREAS, the City of Bridgeport undertakes, and may financially participate in, rights of way activities, in conjunction with improvements to locally-maintained roadways, structures and transportation enhancement facilities that are eligible for government financial assistance from the State of Connecticut Department of Transportation, the federal government, or both; and

WHEREAS, the **State of Connecticut Department of Transportation (DOT)** is the authorized entity responsible for distributing the state and federal government financial assistance with respect to these municipal projects; and

WHEREAS, on a project-by-project basis either the City of Bridgeport or the DOT takes on responsibility for the administration of the rights of way phase of a particular municipal project, and the parties wish for a Master Agreement to address the rights of way phase of the Municipality or State's administered projects; and

WHEREAS, the DOT and the City of Bridgeport wish to set forth their respective duties, rights, and obligations with respect to these projects that are undertaken in a Master Municipal Agreement for Design Projects.

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL:

1. That it is cognizant of the City's intention to enter into the Master Municipal Agreement for Design Projects with **the State of Connecticut Department of Transportation (DOT)** and to continue to engage in transportation projects which may be DOT and/or federally funded; and

2. That it hereby authorizes, directs and empowers the Joseph P. Ganim, Mayor, or his designee to execute and file the Agreement entitled "Master Municipal Agreement for Design Projects" with the **State of Connecticut Department of Transportation (DOT)** to serve as the master backbone agreement for future transportation projects which may be DOT and/or federally funded.

City of Bridgeport, Connecticut
Office of the City Clerk

Report of Committee on Contracts
Item No. *213-15 Consent Calendar

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
CONTRACTS

Jack O. Banta, D-131st, **Co-Chair**

Jeanette Herron, D-133rd, **Co-Chair**

Milta I. Feliciano, D-137th

AmyMarie Vizzo-Paniccia, D-134th

James Holloway, D-139th

Alfredo Castillo, D-136th

Anthony R. Paoletto, D-138th

***City Council Date**: December 19, 2016*

MASTER MUNICIPAL AGREEMENT
FOR DESIGN PROJECTS

THIS MASTER MUNICIPAL AGREEMENT FOR DESIGN PROJECTS ("Master Agreement") is entered into by and between the STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION, (the "DOT"), and the City of Bridgeport, 999 Broad Street, Bridgeport, Connecticut 06604 (the "Municipality"). The DOT or the Municipality may each be referred to individually as the "Party" and collectively may be referred to as the "Parties."

WHEREAS, the Municipality undertakes, and may financially participate in, municipal projects to design improvements to locally-maintained roadways, structures and transportation facilities that are eligible for government financial assistance from the DOT, the federal government, or both; and

WHEREAS, the DOT is the authorized entity responsible for distributing the state and federal government financial assistance with respect to these municipal projects; and

WHEREAS, on a project-by-project basis the Municipality takes on the responsibility of administering the design phase of each municipal project; and

WHEREAS, the Commissioner is authorized to enter into this Master Agreement and distribute state and federal financial assistance to the Municipality for these projects pursuant to § 13a-98i or § 13a-165 of the Connecticut General Statutes; and

WHEREAS, the DOT and the Municipality wish to set forth their respective duties, rights, and obligations with respect to design projects that are undertaken pursuant to this Master Agreement.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE THAT:

Article 1. Definitions. For the purposes of this Master Agreement, the following definitions apply:

1.1 "Administer," "Administering" or "Administration" of the Design Project means conducting and managing operations required to perform and complete the Design Project, including performing (or engaging a Consulting Engineer to perform) the Design Services and undertaking all of the administrative duties related to and required for the completion of the Design Project.

1.2 "Authorization to Proceed" means the written notice from the Authorized DOT Representative to the Designated Official authorizing the Municipality to perform its obligations for the Design Project under the Project Authorization Letter (PAL), including, but not limited to, entering into an agreement with the Consulting Engineer for performance of the Design Services, if applicable.

1.3 "Authorized Department of Transportation (DOT) Representative" means the individual, duly authorized by a written delegation of the Commissioner of the DOT pursuant to Section § 13b-17(a) of the Connecticut General Statutes, to sign PALs.

1.4 "Consulting Engineer" means the person or entity engaged by the Municipality to perform the Design Services, in whole or in part, for the Design Project.

1.5 "Cumulative Costs" means the total, collective expenditure by the Municipality and the DOT to complete the Design Project (defined in section 1.7).

1.6 "Demand Deposit" means an amount of money due to the DOT from the Municipality.

1.7 "Design Project" means the design phase activities undertaken by the Municipality to design improvements to be constructed on a locally or State-maintained roadways, structure or Transportation Alternative Facilities (defined in section 1.29), or any combination of the foregoing and in accordance with the PAL and this Master Agreement.

1.8 "Design Services" include, but are not limited to, providing the survey, preliminary engineering studies, preliminary design, final design for the Design Project, and engineering services during construction for the Design Project as specifically set forth in the PAL in accordance with the "Consultant Administration and Project Development Manual, Connecticut Department of Transportation (September 2008)." Design Services may be required for the construction phase of a Municipal Project.

1.9 "Designated Official" means the municipal official or representative designated by title, who is duly authorized by the Municipality to receive PALs issued by the DOT under this Master Agreement and who submits to the DOT a Written Acknowledgment of the PAL (defined in section 2.2) binding the Municipality to the terms and conditions of the PALs issued by the DOT under this Master Agreement.

1.10 "Disadvantaged Business Enterprise (DBE)" has the meaning defined in Schedule C.

1.11 "DOT-provided Services" means the work that the DOT performs for the Design Project, as specifically set forth in the PAL and may include, but is not necessarily limited to, providing material testing, administrative oversight, technical assistance in engineering reviews, property map reviews, title searches, cost estimate reviews, environmental reviews, public hearing assistance, recording and transcription, agreement development, fee review and negotiations, and liaison activities with other governmental agencies as may be necessary for proper development of the Design Project to ensure satisfactory adherence to State and federal requirements.

1.12 "Effective Date" means the date upon which the Master Agreement is executed by the DOT.

1.13 "Extra Work" means additional work that is beyond the original scope or limits of work of the Design Project, which Funds are set aside in the PAL, but the Funds cannot be expended without

the approvals required in Section 7 of this Master Agreement.

1.14 "Funding" means funds from the state government, the federal government, or a combination of any of the foregoing, designated for a particular Design Project, as specified in the Project Authorization Letter.

1.15 "Inspection Activities" means inspection of the work during the construction phase of the Municipal Project and associated administrative duties, including, but not limited to: inspection of grading, drainage, structure, pavement, Transportation Facilities (defined in section 1.3), and rail work if applicable; the required administrative functions associated with the construction phase of the Municipal Project including, but not limited to, preparation of correspondence, construction orders, periodic payment estimates, quantity computations, material sampling and testing, Equal Employment Opportunity and DBE monitoring, final documentation, DOT and Federal reporting, construction surveys, reviews and recommendations of all construction issues, and claims analysis support; and other related functions deemed necessary by the DOT.

1.16 "Municipal Project" means a project undertaken by the Municipality for improvements on locally or State-maintained roadways, structures, or Transportation Alternatives Facilities, or any combination of the foregoing, which generally includes three phases of activities: the design phase, rights-of-way phase, and construction phase.

1.17 "Official Notice" means notice given from one Party to the other in accordance with Article 21.

1.18 "Plans, Specifications, and Estimates (PS&E)" means the final engineering documents produced during the design phase of the Municipal Project, approved and accepted by the DOT in writing, that contain all of the construction details and will be made part of the bid and contract documents for the construction phase of the Municipal Project.

1.19 "Perform" means for purposes of this Master Agreement, the verb "to perform" and the performance of the work set forth in this Master Agreement which are referred to as "Perform," "Performance" and other capitalized variations of the term.

1.20 "Project Amount" means the total estimated cost for all work for the Design Project, as estimated at the time of the DOT's issuance of the PAL.

1.21 "Project Authorization Letter (PAL)" means the written document that authorizes the distribution of Funding to the Municipality for the particular Design Project during a specified period of time.

1.22 "Project Manager" means the DOT assigned engineer in responsible charge of the Design Project, as identified in the particular PAL associated with an individual Design Project.

1.23 "Small Business Enterprise (SBE)" has the meaning defined in Schedule D.

1.24 "Small Business Participation Pilot Program (SBPPP)" has the meaning defined in Schedule E.

1.25 "Special Provisions" means specifications applicable to the particular Design Project that are required by the DOT and made part of the bid documents and the contract with the Prime Contractor.

1.26 "Standard Specifications" means, collectively, the publications entitled "Standard Specifications for Roads, Bridges, and Incidental Construction (Form 816)" Connecticut Department of Transportation (2004) and its supplemental specifications issued from time to time by the DOT, entitled the "Supplemental Specifications to the Standard Specification for Roads, Bridges, and Incidental Construction (Form 816)," Connecticut Department of Transportation (July 2010), as may be revised.

1.27 "Subconsultant" means any firm that is engaged by the Consulting Engineer to perform the Design Services, in whole or part, for the Design Project.

1.28 "Term" means the duration of this Master Agreement.

1.29 "Transportation Alternative Facilities" means the facilities provided as a result of transportation alternative activities (as defined by 23 U.S.C. § 101(a) (29), as revised).

1.30 "Transportation Facilities" means any roadway, structure, building, intangible rights or other associated facilities, including, but not limited to, traffic control signals and roadway illumination, Transportation Alternatives Facilities, including, but not limited to, pedestrian or bike trails, or any combination of the foregoing.

Article 2. Issuance and Acknowledgment of PALs for Design Projects.

2.1 The DOT shall issue to the Municipality a PAL for the applicable Design Project, in the form substantially similar to Schedule A, which will be addressed to the Designated Official and signed by the Authorized DOT Representative. PALs issued under this Master Agreement will address Design Projects and will not address construction phase or right-of-way acquisition phase activities of Municipal Projects. The issuance of the PAL itself is not final authorization for the Municipality to begin Performing work or entering into an agreement with the Consulting Engineer with respect to the Design Project. Additional required steps and approvals are set forth in this Master Agreement.

2.2 The PAL issued by the DOT to the Municipality shall set forth, at a minimum:

(a) the Funding source(s), the related government Funding authorization or program information, and the associated Funding ratio between the federal government, the DOT, and the Municipality, as applicable, for the Design Project;

(b) the maximum reimbursement to the Municipality under the PAL;

(c) an estimated cost break-down for all work under the Design Project. At DOT's discretion, the PAL will provide a line item category for Extra Work to set aside funds that may be requested later by the Municipality to fund the requested additional work if it is deemed, at the DOT's sole discretion and with the DOT's written approval, to be necessary for completion of the Design Project;

(d) the amount of the Demand Deposit(s) due to the DOT from the Municipality for the Municipality's proportionate share of applicable costs for work Performed by the DOT under the Design Project, as determined by the Funding ratio;

(e) a brief description of the Design Project; and

(f) any applicable affirmative action goal(s) assigned with respect to work on the Design Project, as follows:

(i) if the Design Project receives federal participation in Funding, the DBE goal assigned by the DOT applicable to the Consulting Engineer; or

(ii) if the Design Project receives DOT Funding, and no federal participation in Funding, the SBE goal assigned by the DOT applicable to the Consulting Engineer; or

(iii) regardless of the Funding source(s), the SBPPP goal assigned by the DOT applicable to the Consulting Engineer.

2.3 In order for the terms of the PAL to become effective and binding on both Parties, the Municipality shall return to the DOT a copy of the PAL signed by the Designated Official, hereinafter referred to as the "Written Acknowledgement of the PAL." The signature of the Designated Official on the Written Acknowledgement of the PAL constitutes the Municipality's agreement to be bound by the terms of the PAL and the Municipality's agreement to Perform the work on the Design Project in accordance with the terms of the PAL and this Master Agreement. The Municipality shall submit the Written Acknowledgement of the PAL to the Authorized DOT Representative by the deadline set forth in the PAL. By written notice to the Municipality, the DOT, in its discretion, may extend or waive the deadline set forth in the PAL for the Municipality to submit the Written Acknowledgement of the PAL. Such extension or waiver may be granted after the date set forth in the PAL for submission of the Written Acknowledgement of the PAL. Submission of the Written Acknowledgement of the PAL by facsimile or electronic transmission is acceptable. The Written Acknowledgement of the PAL shall be deemed delivered on the date of receipt by the DOT if on a business day (or on the next business day after delivery if delivery occurs after business hours or if delivery does not occur on a business day). The PAL becomes effective on the date that the Written Acknowledgement of the PAL is delivered to the DOT provided the Written Acknowledgement of the PAL is submitted by the deadline set forth in the PAL or by the date set forth by the DOT in any extension or waiver of the deadline.

2.4 The Municipality herein represents that the Mayor of Bridgeport, Connecticut is the Designated Official to whom the Municipality has granted the authority, throughout the Term of this Master Agreement, to sign and submit the Written Acknowledgement of the PAL(s) to the DOT on its behalf. The signature of the Designated Official shall bind the Municipality with respect to the terms of the PAL. Signature by the individual as the Designated Official upon any Written Acknowledgement of a PAL is a representation by such individual that he/she holds the title of the Designated Official as of the date of his/her signature. If at any time during the Term the Municipality seeks to modify which municipal official or representative by title is the authorized Designated Official, the Parties must amend this section by mutual written agreement identifying by title the new Designated Official and signed by the authorized representatives of each Party.

2.5 Upon submission of the Written Acknowledgement of the PAL to the DOT, the Master Agreement and the PAL will be incorporated into one another in their entirety and contain the legal and binding obligations of the Municipality with respect to the Design Project. By submitting the Written Acknowledgement of the PAL, the Municipality acknowledges that it understands the obligations to which it is committing itself with respect to the Design Project. Further, the Municipality agrees to proceed with diligence to Perform its obligations to accomplish the Design Project and agrees to use the Funding to complete the same.

2.6 Any modification to the scope, the allowed Funding amount, or cost breakdown related to the Design Project must be approved by the DOT, at its sole discretion, and set forth in a subsequent PAL newly-issued by the Authorized DOT Representative, hereinafter referred to as the "Revised PAL." The Revised PAL shall be acknowledged by the Municipality in accordance with the procedure set forth in section 2.2, and the Revised PAL, once acknowledged in writing by the Municipality in accordance with the procedure set forth in section 2.3, will supersede the PAL or any previously issued Revised PAL for the Design Project and will control over the PAL and any previously issued Revised PAL.

Article 3. Authorization to Proceed.

3.1 The Municipality shall not commence to Administer the Design Project until it has received from the DOT an Authorization to Proceed Notice.

3.2 The Municipality shall not have the Consulting Engineer or the Municipality's staff commence the Design Services until the Municipality has received the Authorization to Proceed Notice.

3.3 The DOT has no responsibility and incurs no liability for payments to the Municipality for Administration of the Design Project or for any Design Services Performed by the Consulting Engineer or the Municipality's staff on the Design Project prior to the issuance of the Authorization to Proceed Notice.

Article 4. Municipality to Administer the Design Project.

4.1 Upon receipt of an Authorization to Proceed Notice, the Municipality shall Administer and Perform all activities associated with the Design Project in accordance with the PAL and this Master Agreement.

4.2 The Municipality, with prior written approval of the DOT, may elect to Perform all or any part of the Design Services with its own staff. In requesting approval from the DOT, the Municipality must demonstrate, to the DOT's satisfaction, that the municipal staff Performing the Design Services are sufficiently qualified, that there is sufficient manpower, equipment, and resources available to the Municipality, and that it will be cost effective for the Municipality's staff to Perform the Design Services. The Municipality shall submit written documentation to the State indicating its criteria and/or procedures used in assigning existing municipal staff, or hiring of new municipal staff to Perform the Design Services. The Municipality shall assume responsibility for the accuracy of all products of its work generated by municipal staff Performing the Design Services, irrespective of the State's review and approval of the same, if any. The Municipality shall have its Designated Official sign the title sheet(s) of all plans and/or final work product documents generated by municipal staff in Performance of the Design Services, in addition to any applicable signing and/or sealing by professional engineers, land surveyors or architects required pursuant to State statute or regulation.

4.3 For Design Services that the Municipality does not elect to Perform with its own staff, the Municipality shall retain, using a qualifications based selection (QBS) process, a Consulting Engineer to undertake the Design Services, as more particularly described in Article 5.

4.4 With respect to any Design Project that receives federal participation in Funding, the Municipality acknowledges that any costs it incurs prior to the receipt of federal authorization for the Design Project are entirely ineligible for reimbursement with federal funds.

4.5 The Municipality agrees that it shall use the Funding for reimbursement of the Municipality's approved expenses incurred in the fulfillment of the Design Project as specified in the PAL and this Master Agreement and for no other purpose.

4.6 The Municipality shall conduct public involvement programs for the Design Project in compliance with applicable federal and State requirements and in accordance with the "Public Involvement Guidance Manual," Connecticut Department of Transportation (2009), as may be revised.

Article 5. Engaging a Consulting Engineer.

5.1 Where the Municipality retains a Consulting Engineer to Perform the Design Services, the Municipality shall use a QBS process, specifically as set forth in the current "Consultant Selection, Negotiation and Contract Monitoring Procedures for Municipally Administered Projects," Connecticut Department of Transportation (December 2011), as may be revised, which are hereinafter referred to as the "Consultant Selection Procedures" which is made a part of this Agreement and incorporated into it by reference.

5.2 The Municipality shall follow the Consultant Selection Procedures in carrying out the solicitation and selection of the Consulting Engineer and the negotiation of and entering into an agreement with the Consulting Engineer. The Municipality shall document its process for the solicitation, selection, negotiation, and contracting with any Consulting Engineer and provide such written documentation to the DOT, all in accordance with the Consultant Selection Procedures.

5.3 The Municipality shall not impose any local rules, policies, terms, conditions, or requirements on any potential Consulting Engineer in its QBS process, unless it has received prior written approval from the DOT and, if applicable, FHWA. If the Municipality imposes any local rules, policies, terms, conditions, or requirements, without all required prior written approvals, the DOT may in its sole discretion deem such imposition to be a breach of this Master Agreement and the respective PAL and may result in the Municipality losing Funding for the Design Project.

5.4 The Municipality must receive the DOT's prior written approval in order to enter into an agreement with the Consulting Engineer, or to modify or supplement any such agreement with the Consulting Engineer, prior to incurring reimbursable costs in conjunction with the PAL. Without such written approval, costs incurred by the Municipality are ineligible for reimbursement under the PAL. DOT retains the authority, at its sole discretion, to review the Municipality's proposed agreements, and modifications and supplements thereto for compliance with applicable DOT and federal requirements prior to the DOT issuing any written approval.

5.5 The Municipality shall Perform contract monitoring of the Consulting Engineer in accordance with the Consultant Selection Procedures. The Municipality agrees to assist the DOT in rating the Consulting Engineer's Performance through the DOT's Consultant Evaluation System, in accordance with the Consultant Selection Procedures.

Article 6. Required Consulting Engineer Agreement Provisions

6.1 As a condition of receiving Funding under the PAL, the Municipality may be required, at the direction of the DOT or the federal government, to obtain certain assurances from and include certain contract provisions in its agreement with the Consulting Engineer.

6.2 The Municipality shall include the following requirements in its agreement with the Consulting Engineer:

(a) "Connecticut Required Specific Equal Employment Opportunity Responsibilities," (2012), attached at Schedule B; and

(b) the DBE goal, SBE goal, or SBPPP goal, as applicable, and associated requirements set forth in the PAL; and

(c) the "Special Provision, Disadvantaged Business Enterprises" (April 2012), the "Special Provision, Small Contractor and Small Contractor Minority Business Enterprises (Set-Aside)" (April 2012) or the "Special Provision, Small Business Participation Pilot Program" (April 2012), all as may be revised by DOT from time to time, current versions of which are attached at

Schedules C, D & E, respectively (the "Affirmative Action (AA) Requirements"). The Municipality shall include a provision within its agreement with the Consulting Engineer requiring compliance with the AA Requirements and attach a copy of the applicable Schedule C, D, or E to such agreement.

6.3 The Municipality's failure to include the requirements of Article 6 in its agreement with, and to ensure compliance by, the Consulting Engineer may be deemed by DOT, at its sole discretion, to be a breach of this Master Agreement and the respective PAL, and may result in the Municipality's loss of Funding for the Design Project. Specifically, with respect to the Municipality's failure to comply with the DBE goal, SBE goal, or SBPPP goal, as applicable, as required by section 6.2(b), DOT, at its sole discretion, may withhold reimbursement to the Municipality for the Design Project in an amount up to or equaling the goal shortfall, in addition to any other remedies the DOT may have under this Master Agreement or provided by law.

6.4 The Municipality shall include in its agreement with the Consulting Engineer a completion schedule for the Design Services that is acceptable to the State.

6.5 With respect to its agreement with the Consulting Engineer, the Municipality shall comply with Policy No. F&A-30, dated July 23, 2015 ("Maximum Fees for Architects, Engineers and Consultants"), attached at Schedule F. The Municipality shall utilize the guidelines stipulated in Policy No. EX.O.-33 dated June 25, 2015, attached at Schedule G, when applicable, in accordance with Policy No. F&A-30.

6.6 The Municipality shall include any Design Services that may be required during the pre-bid, bid and construction phases of the Municipal Project in the scope of Design Services to be Performed under the agreement entered into with the Consulting Engineer, for the purposes of advising the Municipality or the State, whichever is administering the construction phase of the Municipal Project. Such Design Services shall include, but not be limited to, providing interpretations of the plans and specification prepared by the Consulting Engineer, assisting the Municipality or State in answering pre-bid questions, attending meetings including the preconstruction meeting and progress meetings, conferring with and advising the Municipality or the State as to any changed or unanticipated field conditions that will impact the work during the construction phase, visiting the jobsite at appropriate intervals to monitor critical areas of work, and responding to questions, as needed.

6.7 The Municipality may engage the Consulting Engineer who Performed Design Services to Perform subsequent Inspection Activities during the construction phase of the Municipal Project, provided that Inspection Activities were included in the QBS process when selecting the Consulting Engineer for the Design Services. The State reserves the right in the future to bar the Municipality from engaging the Consulting Engineer who Performed Design Services to also Perform Inspection Activities during the construction phase, and the State will notify the Municipality of any such change in policy.

6.8 The Municipality shall require the Consulting Engineer to assume responsibility for the accuracy of its work generated in Performing the Design Services, irrespective of the State's

review and approval of such work, if any, and shall include this requirement in its agreement with the Consulting Engineer. The Municipality shall have its Designated Official sign the title sheet(s) of all plans and/or final work product documents prepared by the Consultant Engineer, in addition to any applicable signing and/or sealing by professional engineers, land surveyors or architects required pursuant to state statute or regulation.

6.9 The Municipality may not impose any local rules, policies, terms, conditions, or requirements in its agreement with the Consulting Engineer unless the Municipality has received prior written State and/or federal approval. Imposition of local rules, policies, terms, conditions, or requirements by the Municipality may be deemed by the State in its sole discretion to be a breach of the Master Agreement and the respective PAL, and may result in the Municipality's loss of Funding for the Design Project.

Article 7. Design Standards and Administrative Standards.

7.1 The Municipality shall Perform, or require its Consulting Engineer to Perform, all Design Services to standards acceptable to the State and, if federal Funding is involved, to standards acceptable to the Federal Highway Administration (FHWA), which are contained in the documents listed in Section 7.2 below, with all work being Performed within the designated time frame set forth in the PAL for the Design Project.

7.2 In Performing the Design Services, the Municipality shall comply with, and/or if engaging a Consulting Engineer, shall require the Consulting Engineer to comply with, the current version of the following engineering publications issued by the Connecticut Department of Transportation ("Engineering Publications"), as they may be revised and as they may be applicable to the Design Project:

(a) Bridge Design Manual (2003 Edition, with revisions through February 2011);
(b) Bridge Inspection Manual, Version 2.1 (2001, with revisions through March 2008);
(c) Consultant Administration & Project Development Manual (September 2008);
(d) Digital Design Environment Guide (2007);
(e) Digital Project Development Manual, Version 3.06 (July 2014);
(f) Drainage Manual (2000, including revisions through 2003);
(g) Geotechnical Engineering Manual (2005, including revisions through February 2009);
(h) Highway Design Manual (2003 Edition, including revisions to February 2013);
(i) Utility Accommodation Manual (2009);
(j) Public Service Facility Policy and Procedures for Highways in Connecticut (2008);
(k) Traffic Control Signal Design Manual (2009); and
(l) Pamphlet for Monitoring Consultant Performance and Payment Requests, Connecticut Department of Transportation (March 2014).

The Engineering Publications referenced in this section are incorporated and made a part of this Master Agreement by reference and the Municipality shall incorporate the Engineering Publications into each agreement it enters into with a Consulting Engineer for any Design Project

undertaken pursuant to a PAL issued under this Master Agreement. The Engineering Publications shall govern the Performance of the Design Services.

7.3 With respect to Design Projects that receive federal Funding, the Municipality shall comply with, or require its Consulting Engineer to comply with, all applicable federal requirements as may be applicable to the Design Project including, but not limited to:

(a) 23 USC § 112, invoking the Brooks Act (40 USC §§ 1101-1104).
(b) 23 CFR Part 172, Administration of Engineering and Design Related Service Contracts;
(c) 48 CFR Part 31, Federal Acquisition Regulations, addressing contract cost principles and procedures and audit requirements;
(d) 49 CFR § 18.42, Records Retention Requirements.

Article 8. Additional Administration Responsibilities.

8.1 The Municipality shall Perform all other work which becomes necessary to properly Administer the Design Project in order to ensure compliance with the applicable design standards and the Municipality's contract with the Consulting Engineer. Any work Performed by the DOT in order to assist with the Municipality's Administration responsibilities for the Design Project and any associated expenses will be funded in accordance with the PAL.

8.2 The Municipality shall maintain and secure all Records for the Design Project at a single location for the DOT's review, use and approval at all times.

8.3 The Municipality shall submit to the DOT for review the PS&E and other information developed by the Municipality's staff or the Consulting Engineer, as applicable, for the Design Project, in accordance with the current Consultant Administration and Project Development Manual. Upon completion of the Design Project, the Municipality shall notify the DOT, in writing, of the completion and, upon request by the DOT, shall provide the DOT copies of the final PS&E, in the format requested by the DOT.

8.4 The Municipality shall cooperate fully with the DOT and permit the DOT, FHWA, or other federal authority, as applicable, to review all activities Performed by the Municipality with respect to any PAL issued under this Master Agreement at any time during the Design Project. Upon request of the DOT, the Municipality shall timely furnish all documents related to the Design Project so that the DOT may evaluate the Municipality's activities with respect to the Design Project, including, but not limited to, its use of the Funding as required by the PAL, this Master Agreement, and applicable law.

8.5 The Municipality may not make changes to the Design Project that will increase the cost or alter the character or scope of the Design Services without prior written approval from the Authorized DOT Representative. In addition, the Municipality shall not extend the term of any agreement with its Consulting Engineer without prior written approval from the Authorized DOT Representative. Such written approval may take the form of a Revised PAL issued by the DOT with respect to the Design Project.

8.6 If, at any time during the Design Project, the DOT in its sole discretion determines that the Administration by the Municipality is not adequate, the DOT may deem the Municipality to be in breach of this Agreement, and the DOT, in its sole discretion, may assume responsibility for or supplement the Administration of the Design Project. The additional costs associated with the DOT's Administration of the Design Project will be considered part of the Design Project costs for DOT-provided Services and will be funded in accordance with the proportionate cost sharing set forth in the PAL. Furthermore, the DOT's assumption or supplementing of the Administration of a Design Project does not waive any of the DOT's remedies under this Master Agreement, nor relieve the Municipality from any liability related to its breach.

Article 9. DOT-provided Services.

9.1 If the Design Project requires DOT-provided Services, such services shall be set forth in the PAL and funded in accordance with the proportionate cost sharing for work on the Design Project as set forth in the PAL. The DOT reserves the right to inspect all aspects of the work related to the Design Project at all times, and such inspections shall be deemed DOT-provided Services.

9.2 The PAL will specify Municipality's proportionate share of the estimated cost of the DOT-provided Services. The DOT will bill the Municipality the amount of the Municipality's proportionate share of such estimated costs in a Demand Deposit, and the Municipality shall forward to the DOT that amount in accordance with the PAL. The DOT is not required to Perform the DOT-provided Services until the Municipality pays the Demand Deposit in full.

Article 10. Costs and Reimbursement.

10.1 The Municipality shall expend its own funds to pay for costs of Administering the Design Project and then shall seek reimbursement from the DOT for approved costs.

10.2 The Municipality shall document all expenses it incurs and maintain all Records related to the Design Project costs, including, but not limited to:

(a) its payments to the Consulting Engineer;

(b) its payroll hours on time sheets for municipal staff working directly on the Design Project. Reimbursable municipal payroll costs are limited to the actual municipal payroll for work on the Design Project and fringe benefits associated with payroll;

(c) material purchases made by the Municipality; and

(d) reimbursement due to the Municipality for use of Municipality-owned or rented equipment. Rates of reimbursement for use of Municipality-owned or rented equipment will be based on an existing municipal audit, if available, completed no more than three (3) years before acknowledgment of the PAL, and provided the rates are acceptable to the DOT. In the absence of acceptable rates, or if there is no current municipal audit, the equipment rental rate will be

established in accordance with Section 1.09.04(d) of the Standard Specifications, as may be revised.

10.3 If the Municipality fails to adequately record expenses and maintain all related Records for any Design Project or promptly submit any Records to the DOT, the DOT in its sole discretion may deem such failure to be a breach by the Municipality, and the DOT may deem certain expenses to be non-eligible costs of the respective Design Project for which the Municipality will not be eligible for reimbursement pursuant to the proportional cost sharing established by the PAL. Furthermore, the DOT's determination of certain costs to be non-eligible costs of the Design Project does not waive any of the DOT's remedies for the breach by the Municipality of its obligations under this Master Agreement with respect to the respective Design Project, nor relieve the Municipality from any liability related to its breach.

10.4 The Municipality shall seek reimbursement from the DOT for the Municipality's expenditures, which have been approved by the DOT for eligible Design Project costs. Reimbursement of DOT approved expenditures will be made in the following manner:

(a) On a monthly basis, the Municipality shall submit to the DOT using the DOT-required voucher form entitled "Invoice Summary and Processing (ISP) Form" ("Voucher"), as may be revised, with supporting data, the cost of services rendered and expenses incurred for the prior month. With respect to any work that is Performed in-house by the Municipality's staff, the Municipality's reimbursable costs shall be limited to the actual payroll, fringe benefits associated with payroll, and approved direct cost charges for the staff's Performance of Design Services.

(b) Upon review and approval of the Voucher by the DOT, payment of the reimbursement portion of said costs and expenses shall be made to the Municipality, in accordance with the proportional cost sharing established by the PAL.

10.5 Notwithstanding the above, the DOT may offset any reimbursable amounts due to the Municipality with any amounts due to the DOT for DOT-provided Services.

Article 11. Extra Work.

11.1 If the PAL provides a line item category for Extra Work and the Municipality wishes to pursue any Extra Work, it must request approval in writing from the DOT's Project Manager for the type and scope of the Extra Work and the associated costs prior to the Municipality authorizing Performance of the Extra Work by the Municipality's staff or the Consulting Engineer, as applicable.

11.2 Once approved in writing by the DOT, the Extra Work will be funded as follows:

(a) If the Extra Work results in a Cumulative Cost less than or equal to the Project Amount specified in the PAL, it will be funded according to the proportional cost sharing set forth in the PAL.

(b) If the Extra Work results in a Cumulative Cost greater than the Project Amount specified in the PAL, and the DOT determines that the appropriate federal or state government

funding is available for the increased costs of the Design Project, then the DOT will issue a Revised PAL to provide for the cost increase to the Design Project for this Extra Work. If federal or state government funding is not available, the Municipality will be responsible for 100% of the additional cost.

Article 12. Funding of Additional DOT-Approved Costs upon Final Audit.

12.1 If, upon final audit by the DOT, additional costs, including, but not limited to, those resulting from Extra Work, delays, or other cost over-runs, result in a Cumulative Cost less than the original Project Amount identified in the PAL, the additional costs, if approved by the DOT, shall be funded in accordance with the PAL.

12.2 If, upon final audit by the DOT, additional costs, including, but not limited to, those resulting from Extra Work, delays, or other cost over-runs, result in a Cumulative Cost greater than the original Project Amount identified in the PAL, the DOT, at its discretion, may issue a Revised PAL in order to fund these additional costs, provided that additional Funding is available.

12.3 If, pursuant to section 12.1, the additional costs are not approved by the DOT or if, pursuant to section 12.2, a Revised PAL is not issued, the Municipality will be responsible for 100% of the additional cost.

12.4 If, during the course of the final audit, the Municipality or DOT discovers that the Municipality had been reimbursed for improper or unauthorized costs or expenses, then the Municipality shall return the amount of such improper or unauthorized costs or expenses to the DOT.

Article 13. No DOT Obligation to Third Parties. Nothing contained in this Master Agreement shall be deemed to directly or indirectly create any obligation of the DOT to creditors or employees of the Municipality or to the Municipality's Parties.

Article 14. Suspension, Postponement, or Termination of the Design Project.

14.1 Suspension, Postponement, or Termination by the DOT.

(a) For Convenience. The DOT, at its sole discretion, may suspend, postpone, or terminate a particular Design Project and its respective PAL for convenience by giving the Municipality thirty (30) days Official Notice, and such action shall in no event be deemed a breach of the Master Agreement by the DOT.

(b) For Cause. As a result of the Municipality's breach of the PAL or failure of the Municipality, or its Consulting Engineer to Perform the work required on any particular Design Project to the DOT's satisfaction in accordance with the respective PAL, the DOT may suspend, postpone or terminate the particular Design Project and its respective PAL for cause by giving the Municipality ten (10) days Official Notice, provided that the Municipality fails to cure, or begin to cure, the breach or failure, to the satisfaction of the DOT in its sole discretion, within the cure period that the DOT may, in its sole discretion, set forth in such Official Notice. Such Official Notice shall

specify the extent to which Performance of work under the PAL is being suspended, postponed or terminated and the date upon which such action shall be effective.

14.2 Termination by the Municipality, with prior DOT approval.

(a) The Municipality may request termination of the Design Project, and if determined by the DOT in its sole discretion to be in the best interests of the Parties, the DOT may agree to the request. Additionally, with respect to Design Projects receiving federal participation in Funding, receipt of written concurrence from FHWA (or other applicable federal authority) may be required prior to the DOT's approval of the request.

(b) Once any required federal concurrence is received, the DOT will send approval of termination by giving Official Notice to the Municipality specifying the extent to which Performance of work under the PAL is terminated and the date upon which termination is effective.

14.3 Upon suspension, postponement, or termination in accordance with section 14.1 or termination in accordance with section 14.2, the DOT at its sole discretion may provide the Municipality with Funding in part for its expenditures, if any, up to the percentage of acceptable work completed as of the approved date of termination, provided that the DOT finds the work to be acceptable.

14.4 If the DOT and/or FHWA (or other applicable federal authority),deems any of the work that the Municipality itself Performed, or engaged the Consulting Engineer to Perform on its behalf, to be unacceptable, then upon demand by the DOT and/or FHWA (or other applicable federal authority), the Municipality shall promptly return, in whole or in part, to the DOT and/or FHWA (or other applicable federal authority), the State or federal Funding that was disbursed to the Municipality prior to the effective date of termination to fund that unacceptable work.

14.5 If the Municipality terminates the Design Project without the DOT's prior approval, the Municipality shall incur all costs related to the Design Project without reimbursement from the DOT or FHWA (or other applicable federal authority) and shall pay the DOT for any DOT-provided Services Performed prior to termination. With respect to federal or state government Funding that was disbursed to the Municipality prior to the effective date of termination, the Municipality shall promptly return any federal or state government Funding upon demand by the DOT or FHWA (or other applicable federal authority).

14.6 Termination of a specific Design Project shall not relieve the Municipality or its Consulting Engineer of its responsibilities for the work completed as of the termination date, nor shall it relieve the Municipality or any contractor or its surety of its obligations concerning any claims arising out of the work Performed on the Design Project prior to the termination date or any obligations existing under bonds or insurance required by the Connecticut General Statutes or by this Master Agreement or any other agreement with the DOT or the Municipality.

Article 15. Utilities Relocation and Access to Highway Right-of-Way.

15.1 Where the Design Project requires readjustment or relocation of a utility facility in, or removal of a utility facility from, the state highway right-of-way or a Municipality-owned highway right-of way, the Parties shall comply with the following provisions:

(a) With respect to any utility facility located within the Municipality-owned highway right-of-way, the Municipality shall issue an appropriate order to any utility to readjust or relocate in the right-of-way, or remove from the right-of-way, its utility facility as is deemed necessary by the Municipality or by the DOT, and the Municipality shall take all necessary legal action to enforce compliance with the issuance of such order.

(b) With respect to any utility located within the state highway right-of-way, the DOT shall issue an appropriate order to any utility to readjust or relocate in the right-of-way, or remove from the right-of-way, its utility facility as is deemed necessary by the Municipality and by the DOT.

(c) With respect to a Municipality-owned utility, whether located in the state highway right-of-way or Municipality-owned highway right-of way, the Municipality shall promptly readjust or relocate in the right-of-way, or remove from the right-of-way, its utility facilities impacted by the Design Project.

15.2 With respect to any work on the Design Project that requires access to the state highway right-of-way or Municipality-owned highway right-of way, the Party with jurisdiction over the applicable right-of-way is responsible for reviewing the request and granting to the other Party, Consulting Engineer, or any Subconsultant thereof, as applicable, the right to enter into, pass over and utilize the right-of-way in accordance with all applicable requirements on a case by case basis. Nothing in this section 15.2 shall be construed as waiving any requirements under State of Connecticut laws or regulations relating to access to the highway right-of way, including but not limited to, applying for and obtaining an encroachment permit.

Article 16. Disbursement of Grant Funds.

16.1 With respect to each Design Project undertaken pursuant to this Master Agreement, the DOT shall disburse the Funding to the Municipality according to a method determined at the DOT's sole discretion, and in accordance with any applicable state or federal laws, regulations, and requirements.

16.2 The Municipality agrees that with respect to PALs that include federal participation in Funding, no PAL issued by the DOT is effective until all required federal approvals are received by the DOT for the Design Project.

16.3 Final payment to the Municipality will be based on a post-engineering final audit Performed by the DOT using the cost sharing percentages and funding procedures set forth in the respective PAL.

16.4 If the Municipality fails to commence and complete the Design Project as set forth in

the respective PAL in a timely fashion to the satisfaction of the DOT and in accordance with all applicable federal, state, and local laws, regulations, ordinances, or requirements, then:

(a) the DOT has no obligation to reimburse the Municipality for its expenses incurred;

(b) to the extent any Funding already has been disbursed to the Municipality, the Municipality shall return any disbursed funds and any interest earned to date to the DOT within ten (10) business days of receipt of a request from the DOT; and

(c) the DOT may recover from the Municipality the DOT's costs for the DOT-provided Services Performed on the Design Project. Upon receipt of written demand from the DOT, the Municipality shall provide payment for the DOT-provided Services within thirty (30) days.

16.5 Unless otherwise indicated in the respective PAL, in the event that the Municipality does not commence the subsequent phase related to the Design Project (i.e., the right-of-way acquisition phase or the construction phase of the respective Municipal Project) by the close of the tenth (10th) federal fiscal year following the federal fiscal year in which the Design Project was authorized by the DOT, regardless of the funding source of those phases, upon request by the DOT, the Municipality shall reimburse the DOT for all State and federal funding that was disbursed to the Municipality and for all expenses incurred by the DOT on the Design Project under the respective PAL, or the DOT, at its sole discretion, may assume responsibility for or supplement the Administration of the commencement and/or completion of the subsequent phase, as set forth in section 8.6.

Article 17. Records and Audit.

17.1 The Municipality shall make all of its Records and accounting procedures and practices relevant to any Funding received under this Master Agreement available for examination by the DOT and the State of Connecticut and its agents including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and the Chief State's Attorney and their respective agents for a period of time in accordance with all applicable state or federal audit requirements.

17.2 With respect to each Design Project undertaken under this Master Agreement, the Municipality shall maintain and secure all Records for a period of three (3) years after the final payment has been made to the Consulting Engineer or the termination of any litigation related to the Design Project, or three (3) years after the date of DOT's issuance of the CON-100 form, as may be revised, whereby the construction phase activities have been deemed to be substantially complete, whichever is later, or for such longer time as instructed by the DOT, the State of Connecticut and its agents, or the federal government.

Article 18. Costs Resulting from Errors or Omissions.

18.1 The Municipality shall reimburse the DOT for one hundred percent (100%) of all Municipal Project costs and costs of DOT-provided Services, which costs are the result of errors or

omissions of the Municipality, the Consulting Engineer or its Subconsultant(s), including, but not limited to, errors or omissions with respect to the PS&E, inadequate provision of the Design Services by the Municipality, the Consulting Engineer or its Subconsultant(s), or inadequate Administration by the Municipality, as applicable.

18.2 In order to determine the total cost of DOT-provided Services that were attributable to the errors and omissions of the Municipality, a percentage(s) will be derived from the ratio of the total cost of all DOT-provided Services to the total actual Design Project cost, as determined by a final audit, and this percentage will be multiplied by the amount attributable to the Municipality's error or omission, as determined by the DOT, to determine the cost of DOT-provided Services incurred as a result of the errors or omissions which the Municipality must reimburse to the DOT.

18.3 This Article 18 will survive the expiration of the PAL, the final acceptance of the PS&E, the termination of the Master Agreement, and the expiration of the Term.

Article 19. Additional Mandatory Requirements.

19.1 With respect to each PAL issued and acknowledged under this Master Agreement, the Municipality shall comply with the "Mandatory State and Federal Requirements," attached at Schedule H, as may be revised from time to time to reflect changes in law. With respect to any agreements that the Municipality enters into in order to fulfill its obligations for a particular Design Project, the Municipality agrees to pass down to its Consulting Engineer the applicable requirements set forth in the Mandatory State and Federal Requirements.

19.2 With respect to each PAL issued and acknowledged under this Master Agreement that involves Funds originating from any agency or office of the federal government, including, but not limited to the FHWA, the Municipality shall comply with that agency's contracting requirements, directives, and policies that are in place at the time the respective PAL is in effect, except to the extent that the DOT and the respective federal agency may permit otherwise in writing.

19.3 While this Master Agreement and the attached Schedules include applicable State of Connecticut and FHWA requirements (that the Municipality must comply with and must require its Consulting Engineer to comply with), the Municipality hereby acknowledges that such requirements are subject to revision by the DOT, FHWA, or other authorized federal agency, from time to time during the Term and that by accepting federal or State Funding under this Master Agreement, the Municipality agrees to be subject to such revised requirements and changes of law as in effect at any given time and, as a result thereof, shall Perform any additional obligations with respect to the particular Design Project, throughout the Term of this Master Agreement.

Article 20. Conflict & Revisions to Manuals.

20.1 In case of a conflict between the provisions of any particular PAL, the Master Agreement, the Mandatory State and Federal Requirements, or any specification, guide, manual, policy, document, or other publication referenced in the Master Agreement, the provision containing additional details or more stringent requirements will control. In case of the Municipality's inability

to determine the controlling provision or where it is not possible to comply with the requirements of multiple provisions, the DOT shall have the right to determine, in its sole discretion, which provision applies. The Municipality shall promptly request in writing the DOT's determination upon the Municipality's inability to determine the controlling provision or upon becoming aware of any such conflict. This provision shall survive the expiration or termination of this Master Agreement.

20.2 With respect to any specification, guide, manual, policy, document, or other publication referenced throughout the Master Agreement and noted to be subject to revision throughout the Term of this Master Agreement by way of the phrase "as may be revised," for the particular Design Project the Municipality agrees to comply with the version of the document or publication that is in effect on the date of the Written Acknowledgement of the PAL for the Design Project.

Article 21. Term and Termination of the Master Agreement.

21.1 The Term commences on the Effective Date and continues for ten (10) years, unless terminated earlier in accordance with this Article.

21.2 The DOT may terminate this Master Agreement for convenience, at its sole discretion, upon providing thirty (30) days Official Notice to the Municipality.

21.3 As a result of the Municipality's breach of the Master Agreement or a particular PAL or the failure of the Municipality, its Consulting Engineer, or both, to Perform the work required on any particular Design Project to the DOT's satisfaction in accordance with the respective PAL, the DOT may terminate this Master Agreement for cause by giving the Municipality ten (10) days Official Notice, provided that the Municipality fails to cure, or begin to cure, the breach or failed Performance, to the satisfaction of the DOT in its sole discretion, within the notice period that the DOT may, in its sole discretion, set forth in such Official Notice. Termination for cause by the DOT will not prejudice the right of the DOT to pursue any of its remedies for breach, including recovery of any Funding paid to the Municipality prior to termination for cause.

21.4 Upon expiration of the Term or the DOT's earlier termination for convenience of the Master Agreement, any issued PAL for a Design Project that is still in-progress will remain in full force and effect and will continue through completion and final acceptance by the DOT of the respective Design Project, and the Municipality shall be subject to all applicable terms and conditions of the PAL and this Master Agreement, unless the respective PAL is itself terminated in accordance with section 14.1.

21.5 Upon the DOT's termination of this Master Agreement for cause, any PALs in-progress at the time will automatically terminate, unless the DOT provides Official Notice stating otherwise. The DOT, at its sole discretion, will determine and state in such Official Notice to the Municipality, if any in-progress PALs will remain in effect, and in such case, the Municipality agrees that it must complete Performance of such in-progress PAL(s) through completion and final acceptance by the DOT of the respective Design Project in compliance with all applicable terms and conditions of the PAL and this Master Agreement.

Article 22. Official Notice. Any Official Notice from one Party to the other Party, in order for such notice to be binding thereon, shall:

22.1 Be in writing (as a printed hard copy or electronic or facsimile copy) addressed to:

(a) When the DOT is to receive Official Notice:

Commissioner of Transportation
Connecticut Department of Transportation
2800 Berlin Turnpike
P.O. Box 317546
Newington, Connecticut 06131-7546;

(b) When the Municipality is to receive Official Notice:

Mayor
City of Bridgeport
999 Broad Street
Bridgeport, Connecticut 06604;

22.2 Be delivered to the address recited herein in person or be mailed by United States Postal Service with return receipt requested by mail, electronic means, or any other methods of receiving the return receipt as identified by the Mailing Standards of the U.S. Postal Service, as may be revised, or by electronic transmission, including facsimile and email, provided delivery is confirmed electronically; and

22.3 Contain complete and accurate information in sufficient detail to properly and adequately identify and describe the subject matter thereof.

Article 23. Insurance.

23.1 With respect to the activities on the particular Design Project that the Municipality Performs or that the Municipality engages a Consulting Engineer to Perform, and also those that are Performed by Subconsultants of the Consulting Engineer, on the Design Project, the Municipality shall carry, and shall require its Consulting Engineer (i) to carry and (ii) to impose on its Subconsultants the requirement to carry, for the duration of the Design Project, the following insurance:

(a) Commercial General Liability Insurance, including Contractual Liability Insurance, providing for a total limit of One Million Dollars ($1,000,000) per occurrence for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, and, subject to that limit per accident, an aggregate limit of

Two Million Dollars ($2,000,000) for all damages arising out of bodily injuries to or death of all persons in all accidents or occurrences and out of injury to or destruction of property during the policy period, with the DOT being named an additional insured party;

(b) Automobile Liability Insurance with respect to the operation of all motor vehicles, including those hired or borrowed, used in connection with the Design Project, providing for a total limit of One Million Dollars ($1,000,000) per occurrence for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, with the DOT being named an additional insured party. In cases where an insurance policy shows an aggregate limit as part of the automobile liability coverage, the aggregate limit must be at least Two Million Dollars ($2,000,000);

(c) Railroad Protective Liability Insurance (when the Design Project requires work within fifty (50) feet of the railroad right-of-way or DOT-owned rail property) with coverage limits of not less than Two Million Dollars ($2,000,000) for each accident or occurrence resulting in damages from (1) bodily injury to or death of all persons and/or (2) injury to or destruction of property, and subject to that limit per accident or occurrence, an aggregate coverage of at least Six Million Dollars ($6,000,000) for all damages during the policy period, and with all entities falling within any of the following listed categories named as insured parties: (i) the owner of the railroad right-of-way, (ii) the owner of any railcar licensed or permitted to travel within that affected portion of railroad right-of-way, (iii) the operator of any railcar licensed or permitted to travel within that affected portion of the railroad right-of-way (iv) the State, and (v) any other party with an insurable interest. If such insurance is required, the Municipality shall obtain and submit evidence of the minimum coverage indicated above to the DOT prior to commencement of the rail related work and/or activities and shall maintain coverage until the work and/or activities is/are accepted by the DOT;

(d) Valuable Papers Insurance, with coverage maintained until the work has been completed and accepted by the DOT, and all original documents or data have been returned to the DOT, providing coverage in the amount of Fifty Thousand Dollars ($50,000) regardless of the physical location of the insured items. This insurance will assure the DOT that all Records, papers, statistics and other data or documents will be re-established, recreated or restored if made unavailable by fire, theft, or any other cause. The Municipality, the Consulting Engineer, or Subconsultant, as applicable, shall retain in its possession duplications of all products of its work under the contract if and when it is necessary for the originals to be removed from its work under the contract, and if and when necessary for the originals to be removed from its possession during the time that this policy is in force.

(e) Workers' Compensation Insurance, and, as applicable, insurance required in accordance with the U.S. Longshore and Harbor Workers' Compensation Act, in accordance with the requirements of the laws of the State of Connecticut, and of the laws

of the United States respectively; and

(f) Professional Liability Insurance for errors and omissions in the minimum amount of Two Million Dollars ($2,000,000), with the appropriate and proper endorsement to its Professional Liability Policy to cover the Indemnification clause in this Master Agreement as the same relates to negligent acts, errors or omissions in the work Performed by the Municipality, Consulting Engineer, or Subconsultant, as applicable. The Municipality, Consulting Engineer, or Subconsultant may, at its election, obtain a policy containing a maximum Two Hundred Fifty Thousand Dollars ($250,000) deductible clause, but if it should obtain a policy containing such a deductible clause the Municipality, Consulting Engineer, or Subconsultant shall be liable, as stated above herein, to the extent of the deductible amount. The Municipality, Consulting Engineer, or Subconsultant shall, and shall continue this liability insurance coverage for a period of three (3) years from the date of acceptance of the completed design or work subject to the continued commercial availability of such insurance. It is understood that the above insurance may not include standard liability coverage for pollution or environmental impairment. However, the Municipality, Consulting Engineer, or Subconsultant shall acquire and maintain pollution and environmental impairment coverage as part of this Professional Liability Insurance, if such insurance is applicable to the work Performed by the Municipality, Consulting Engineer, or Subconsultant under the PAL for the Design Project

23.2 In the event the Municipality, Consulting Engineer, or Subconsultant, as applicable, secures excess/umbrella liability insurance to meet the minimum coverage requirements for Commercial General Liability or Automobile Liability Insurance coverage, the DOT must be named as an additional insured on that policy.

23.3 For each Design Project, the required insurance coverage of the types and minimum limits as required by the Master Agreement must be provided by an insurance company or companies, with each company, or if it is a subsidiary then its parent company, authorized, pursuant to the Connecticut General Statutes, to write insurance coverage in the State of Connecticut and/or in the state in which it, or in which the parent company, is domiciled. In either case, the company must be authorized to underwrite the specific line coverage. Solely with respect to work Performed directly and exclusively by the Municipality, the Municipality may request that the DOT accept coverage provided under a municipal self-insurance program as more particularly described in section 23.7.

23.4 The Municipality shall provide to the DOT evidence of all required insurance coverages by submitting a Certificate of Insurance on the form(s) acceptable to the DOT fully executed by an insurance company or companies satisfactory to the DOT.

23.5 The Municipality shall produce, and require its Consulting Engineer or any Subconsultant, as applicable, to produce, within five (5) business days, a copy or copies of all applicable insurance policies when requested by the DOT. In providing said policies, the Municipality, Consulting Engineer or Subconsultant, as applicable, may redact provisions of the policy that are proprietary. This provision shall survive the suspension, expiration or termination of

the PAL and the Master Agreement. The Municipality agrees to notify the DOT with at least thirty (30) days prior notice of any cancellation or change in the insurance coverage required under this Master Agreement.

23.6 The Municipality acknowledges and agrees that the minimum insurance coverage limits set forth in this Master Agreement are subject to increase by the DOT, at its sole discretion, from time to time during the Term of this Master Agreement. The DOT will provide the Municipality with the updated minimum insurance coverage limit requirements as applicable to the particular Design Project. Upon issuance of a PAL by the DOT, and submission of the Written Acknowledgment of the PAL by the Municipality, the Municipality shall comply with the updated minimum insurance coverage limit requirements as specified by the DOT for the particular Design Project.

23.7 Self-insurance.

(a) With respect to activities Performed directly and exclusively by the Municipality with Municipal forces or staff on a particular Design Project, the Municipality may request that the DOT accept coverage provided under a self-insurance program in lieu of the specific insurance requirements set forth in section 23.1. The Municipality shall submit to the DOT a notarized statement, by an authorized representative:

(1) certifying that the Municipality is self-insured;

(2) describing its financial condition and self-insured funding mechanism;

(3) specifying the process for filing a claim against the Municipality's self-insurance program, including the name, title and address of the person to be notified in the event of a claim; and

(4) agreeing to indemnify, defend and save harmless the State of Connecticut, its officials, agents, and employees, and if the particular Design Project requires work within, upon, over or under the right of way of the National Railroad Passenger Corporation (Amtrak) also indemnify, defend and save harmless Amtrak from all claims, suits, actions, damages, and costs of every name and description resulting from, or arising out of, activities Performed by the Municipality under the PAL issued for the Design Project.

(b) If requested by the DOT, the Municipality must provide any additional evidence of its status as a self-insured entity.

(c) If the DOT, in its sole discretion, determines that such self-insurance program is acceptable, then the Municipality shall assume any and all claims as a self-insured entity.

(d) If the DOT accepts a Municipality's particular self-insurance coverage, the Municipality will not be required to obtain from an insurance company the respective insurance requirement(s) displaced by that particular self-insurance coverage.

(e) If the DOT does not approve the Municipality's request to provide coverage under a self-insurance program for the particular activities, the Municipality must comply with the respective insurance requirement(s) stated in the Master Agreement, including but not limited to, the type of coverage and minimum limits applicable to the coverage.

Article 24. Indemnification.

24.1 For the purposes of this Article, the following definitions apply.

(a) Claims: All actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.

(b) Municipality's Parties: A Municipality's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Municipality is in privity of oral or written contract and the Municipality intends for such other person or entity to Perform under the Master Agreement or the PAL in any capacity.

(c) Records: All working papers and such other information and materials as may have been accumulated by the Municipality Contractor in Performing the Master Agreement or the PAL, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries, memoranda and correspondence, kept or stored in any form.

(d) State: The State of Connecticut, including the DOT and any office, department, board, council, commission, institution or other agency or entity of the State.

24.2 The Municipality shall:

(a) Indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns and if the particular Design Project requires work within, upon, over or under the right of way of Amtrak also indemnify, defend and hold harmless Amtrak from and against any and all (1) Claims arising, directly or indirectly, in connection with the Master Agreement, including the acts of commission or omission (collectively, the "Acts") of the Municipality or Municipality Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Master Agreement. The Municipality shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Municipality's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Municipality's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or

uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance.

(b) The Municipality shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any third party acting under the direct control or supervision of the State.

(c) The Municipality shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Municipality or any Municipality Parties. The State shall give the Municipality reasonable notice of any such Claims.

(d) The Municipality's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Agreement, without being lessened or compromised in any way, even where the Municipality is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.

(e) The Municipality shall carry and maintain at all times during the term of the Master Agreement, and during the time that any provisions survive the term of the Master Agreement, sufficient general liability insurance to satisfy its obligations under this Master Agreement. The Municipality shall name the State as an additional insured on the policy. The DOT shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the DOT or the State is contributorily negligent.

(f) This section shall survive the termination of the Master Agreement and shall not be limited by reason of any insurance coverage.

Article 25. Sovereign Immunity. Nothing in this Master Agreement or any PAL issued hereunder shall be construed as a modification, compromise or waiver by the DOT of any rights or defenses of any immunities provided by federal law or the laws of the State of Connecticut to the DOT or any of its officers and employees, which they may have had, now have or will have with respect to matters arising out of this Master Agreement. To the extent that this section conflicts with any other section, this section shall govern.

Article 26. Defense of Suits by the Municipality. Nothing in this Master Agreement shall preclude the Municipality from asserting its Governmental Immunity rights in the defense of third party claims. The Municipality's Governmental Immunity defense against third party claims, however, shall not be interpreted or deemed to be a limitation or compromise of any of the rights or privileges of the DOT, at law or in equity, under this Master Agreement, including, but not limited to, those relating to damages.

Article 27. Governing Law. The Parties deem the Master Agreement to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Master 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 any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the DOT, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Municipality 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. Nothing contained in the terms or provisions of this Master Agreement shall be construed as waiving any of the rights of the DOT under the laws of the State of Connecticut.

Article 28. Obligate the DOT. Nothing contained in this Master Agreement shall be construed to directly or indirectly obligate the DOT to creditors or employees of the Municipality or to the Municipality's Parties.

Article 29. Amendment. This Master Agreement may be amended by mutual written agreement signed by the authorized representative of each Party and conditioned upon approval by the Attorney General of the State of Connecticut, and any additional approvals required by law.

Article 30. Severability. If any provision of this Master Agreement or application thereof is held invalid, that invalidity shall not affect other provisions or applications of the Master Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Master Agreement are severable.

Article 31. Waiver. The failure on the part of the DOT to enforce any covenant or provision herein contained does not waive the DOT's right to enforce such covenant or provision, unless set forth in writing. The waiver by the DOT of any right under this Master Agreement or any PAL, unless in writing, shall not discharge or invalidate such covenant or provision or affect the right of the DOT to enforce the same.

Article 32. Remedies are Nonexclusive. No right, power, remedy or privilege of the DOT shall be construed as being exhausted or discharged by the exercise thereof in one or more instances, and it is agreed that each and all of said rights, powers, remedies or privileges shall be deemed cumulative and additional and not in lieu or exclusive of any other right, power, remedy or privilege available to the DOT at law or in equity.

Article 33. Entire Agreement. This Master Agreement, when fully executed and approved as indicated, constitutes the entire agreement between the Parties and shall supersede all previous communications, representations, or agreements, either oral or written, between the Parties hereto with respect to the subject matter hereof; and no agreement or understanding varying or extending the same shall be binding upon either Party hereto unless in writing signed by both Parties hereto.

The Parties have executed this Master Agreement by their duly authorized representatives on the day and year indicated, with full knowledge of and agreement with its terms and conditions.

STATE OF CONNECTICUT
Department of Transportation
James Redeker, Commissioner

By _____
Thomas A. Harley P.E.
Bureau Chief
Bureau of Engineering and Construction

Date:_____

CITY OF BRIDGEPORT

By _____
The Honorable Joseph P. Ganim, Mayor

Date: _____

Schedule A

[Addressee – Designated Municipal Official] Local Roads

Dear [Addressee – Designated Municipal Official]:

Subject: Project Authorization Letter
For the [Project Description] (Design Project)

State Project No.
Federal Project No.
Master Agreement No.

On [date] the State of Connecticut, Department of Transportation (DOT) and the [City/Town] of [NAME OF CITY/TOWN] (Municipality) entered into the Master Municipal Agreement for Design Projects (Master Agreement) noted above. This Project Authorization Letter (PAL) is issued pursuant to the Master Agreement. The capitalized terms used in this PAL are the same as those used in the Master Agreement.

The Design Project is to provide [ENTER DESCRIPTION], beginning at a point [ ] and ending at [ ], a distance of [ ] feet.

Funding for the Design Project is provided under [identify the Federal and or State program and associated funding ratio between F/S/T] and payment will be on a reimbursement basis. The maximum reimbursement to the Municipality under this PAL is $[ENTER AMOUNT]. In addition, any reimbursement for actual expenditures will be in accordance with the terms of the Master Agreement. Costs contained in this PAL shall not be exceeded without first obtaining written permission from the DOT. Attached is an estimated engineering cost break down for Design Project activities. A Demand Deposit in the amount of $[ENTER AMOUNT] is due the DOT for [identify the purpose of the deposit, i.e. their share of DOT costs, non-federal cost of sidewalks etc.]

This Design Project has been assigned a [ENTER CORRECT DESIGNATION DBE/SBE/SBPP] goal of [ ]% and the Municipality shall comply with the requirements pertaining to the goal as stipulated in the Master Agreement.

The issuance of the PAL itself is not an authorization for the Municipality to begin performing work with respect to the Design Project. The Municipality may advance or begin work on the Design Project only after it has received from the DOT an Authorization to Proceed Notice.

Please indicate your concurrence with the PAL by signing below on or before [date] and returning a copy to the DOT's Authorized Representative. The signature of the Designated Municipal Official evidences the Municipality's concurrence with the PAL and constitutes the

Written Acknowledgement of the PAL. You may submit the Written Acknowledgement of the PAL to the DOT's Authorized Representative in hard copy or by facsimile or electronic transmission. The Master Agreement and the PAL will be incorporated into one another in their entirety and contain the legal and binding obligations of the Municipality with respect to the Design Project.

If you have any questions please contact [Mr./Ms.], the Project Manager at (860) 594-[xxxx].

Very truly yours,

Authorized DOT Representative

MUNICIPALITY'S ACKNOWLEDGEMENT OF PAL

Concurred By_____ Date_____

Print Name:
Designated Municipal Official

Schedule A

PAL ATTACHMENT
STATE PROJECT NO.XXX
FEDERAL PROJECT NO.XXXX
ESTIMATED Design COSTS

A. Municipal Design Project Cost - Consultant Services $

B. Municipal Design Project Cost – Municipal Forces $

C. Extra Work Allowance (+/-10% of A+B) – in accordance with Section 11 of the Master Agreement. $

D. Total Municipal Cost (A+B+C) $

E. DOT-provided Services – Design $

F. DOT-provided Services – Administrative Oversight $

G. DOT-provided Services – Audits $

H. Extra Work Allowance – DOT Forces (+/-10% of E+F+G) $

I. Total Design Cost – DOT Forces (E+F+G+H) $

J. Total Design Cost (D+I) $

K. Federal Proportionate Share of the Total Design Cost (80% of J) $

L. DOT Proportionate Share of the Total Design Cost (X% of J) $

M. Maximum Amount of Reimbursement to the Municipality (X% of D) $

N. Demand Deposit Required from the Municipality $

(NOTE: Depending on the federal program the cost sharing between the parties will vary and this attachment will be adjusted accordingly by the initiating unit.)

CONNECTICUT REQUIRED
SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES
(2010)

1. **General:**

a) Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by federal Executive Order 11246, federal Executive Order 11375 are set forth in Required Contract Provisions (Form PR-1273 or 1316, as appropriate) and these special provisions which are imposed pursuant to Section 140 of Title 23 U.S.C., as established by Section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these special provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.

b) "Company" refers to any entity doing business with the Connecticut Department of Transportation and includes but is not limited to the following:

Contractors and Subcontractors
Consultants and Subconsultants
Suppliers of Materials and Vendors (where applicable)
Municipalities (where applicable)
Utilities (where applicable)

c) The Company will work with the Connecticut Department of Transportation (ConnDOT) and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.

d) The Company and all his/her subcontractors or Subconsultants holding subcontracts not including material suppliers, of $10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of federal Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The Company will include these requirements in every subcontract of $10,000 or more with such modification of language as necessary to make them binding on the subcontractor or Subconsultant.

2. **Equal Employment Opportunity Policy:**

Companies with contracts, agreements or purchase orders valued at $10,000 or more will develop and implement an Affirmative Action Plan utilizing the ConnDOT Affirmative Action Plan Guideline. This Plan shall be designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex or national origin, and to promote the full realization of equal employment opportunity through a positive continuation program.

3. **Subcontracting:**

a) The Company will use his/her best efforts to solicit bids from and to utilize minority

group subcontractors or subcontractors with meaningful minority group and female representation among their employees. Companies shall obtain lists of minority-owned construction firms from the Division of Contract Compliance.

b) The Company will use its best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

4. Records and Reports:

a) The Company will keep such Records as are necessary to determine compliance with equal employment opportunity obligations. The Records kept by the Company will be designed to indicate:

1. The number of minority and non-minority group members and women employed in each classification on the project;
2. The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force);
3. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
4. The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.

b) All such Records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of ConnDOT and the Federal Highway Administration.

c) The Company will submit an annual report to ConnDOT each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form PR 1391. If on-the-job training is being required by "Training Special Provision," the Company will be required to furnish Form FHWA 1409.

SPECIAL PROVISION
DISADVANTAGED BUSINESS ENTERPRISES
AS SUBCONTRACTORS AND MATERIAL SUPPLIERS OR MANUFACTURERS
FOR FEDERAL FUNDED PROJECTS

Revised – April 2012

NOTE: Certain of the requirements and procedures stated in this Special Provision are applicable prior to the award and execution of the Contract document.

I. ABBREVIATIONS AND DEFINITIONS AS USED IN THIS SPECIAL PROVISION

A. "Administrative Agency" means the agency responsible for awarding the contract.

B. "ConnDOT" means the Connecticut Department of Transportation.

C. "DOT" means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration ("FHWA"), the Federal Transit Administration ("FTA"), and the Federal Aviation Administration ("FAA").

D. "Broker" means a party acting as an agent for others in negotiating Contracts, Agreements, purchases, sales, etc., in return for a fee or commission.

E. "Contract," "Agreement" or "subcontract" means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For the purposes of this provision, a lease for equipment or products is also considered to be a Contract.

F. "Contractor," means a consultant, second party or any other entity doing business with the Administrative Agency or, as the context may require, with another Contractor.

G. "Disadvantaged Business Enterprise" ("DBE") means a small business concern:

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock of which is owned by one or more such individuals; and

2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

3. Certified by ConnDOT under 49 CFR Part 26 or 23.

H. "DOT-assisted Contract" means any Contract between a recipient and a Contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees.

I. "Good Faith Efforts" means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. Refer to Appendix A of 49 Code of Federal Regulation ("CFR") Part 26 – "Guidance Concerning Good Faith Efforts," a copy of which is attached to this provision, for guidance as to what constitutes Good Faith Efforts.

J. "Small Business Concern" means, with respect to firms seeking to participate as DBEs in DOT-assisted Contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration ("SBA") regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26, Section 26.65(b).

K. "Socially and Economically Disadvantaged Individuals" means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is—

1. Any individual who ConnDOT finds on a case-by-case basis to be a socially and economically disadvantaged individual.

2. Any individuals in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

i. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

ii. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

iii. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

iv. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

v. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

vi. Women;

vii. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

II. GENERAL REQUIREMENTS

A. The Contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted Contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as the Administrative Agency and ConnDOT deem appropriate.

B. The Contractor shall cooperate with the Administrative Agency, ConnDOT and DOT in implementing the requirements concerning DBE utilization on this Contract in accordance with Title 49 of the Code of Federal Regulations, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs" ("49 CFR Part 26"), as revised. The Contractor shall also cooperate with the Administrative Agency, ConnDOT and DOT in reviewing the Contractor's activities relating to this Special Provision. This Special Provision is in addition to all other equal opportunity employment requirements of this Contract.

C. The Contractor shall designate a liaison officer who will administer the Contractor's DBE program. Upon execution of this Contract, the name of the liaison officer shall be furnished in writing to the Administrative Agency.

D. For the purpose of this Special Provision, DBEs to be used to satisfy the DBE goal must be certified by ConnDOT's Division of Contract Compliance for the type(s) of work they will perform.

E. If the Contractor allows work designated for DBE participation required under the terms of this Contract and required under III-B to be performed by other than the named DBE organization without the approval of the Administrative Agency, the Contractor may not be eligible for payment for those items of work.

F. In the event a DBE firm that was listed in the award documents is unable or unwilling to perform the work assigned; the Contractor shall notify the Administrative Agency immediately and make efforts to obtain a release of work from the firm. The Contractor shall use the DBE Directory to identify and contact firms certified to perform the type of work that was assigned to the unable or unwilling DBE firm. If the Contractor is unable to find a DBE replacement, then the Contractor should identify other contracting opportunities and solicit DBE firms in an effort to meet the Contract DBE goal requirement.

G. At the completion of all Contract work, the Contractor shall submit a final report to the Administrative Agency indicating the work done by, and the dollars paid to DBEs. If the Contractor does not achieve the specified Contract goals for DBE participation, the Contractor shall also submit written documentation to the Administrative Agency detailing the Good Faith Efforts made during the performance of the Contract to satisfy the goal. Documentation is to include, but not be limited to, the following:

1. A detailed statement of the efforts made to replace an unable or unwilling DBE firm, and a description of any additional subcontracting opportunities that were identified and offered to DBE firms in order to increase the likelihood of achieving the stated goal.

A detailed statement, including documentation of the efforts made to contact and solicit bids from certified DBEs, including the names, addresses, and telephone numbers of each DBE firm

contacted; the date of contact and a description of the information provided to each DBE regarding the scope of services and anticipated time schedule of work items proposed to be subcontracted and the response from firms contacted.

2. Provide a detailed statement for each DBE that submitted a subcontract proposal which the Contractor considered not to be acceptable stating the reasons for this conclusion.

3. Provide documents to support contacts made with the Administrative Agency requesting assistance in satisfying the specified Contract goal.

4. Provide documentation of all other efforts undertaken by the Contractor to meet the defined goal.

H. Failure of the Contractor, at the completion of all Contract work, to have at least the specified percentage of this Contract performed by DBEs as required in III-B will result in the reduction in Contract payments to the Contractor by an amount determined by multiplying the total Contract value by the specified percentage required in III-B and subtracting from that result, the dollar payments for the work actually performed by DBEs and verified by the Administrative Agency. In instances where the Contractor can adequately document or substantiate its Good Faith Efforts made to meet the specified percentage to the satisfaction of the Administrative Agency, no reduction in payments will be imposed.

I. All Records must be retained for a period of three (3) years following acceptance by the Administrative Agency of the Contract and shall be available at reasonable times and places for inspection by authorized representatives of the Administrative Agency, ConnDOT (when the Administrative Agency is other than ConnDOT) and Federal agencies. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the Records shall be retained until all litigation, claims, or audits findings involving the Records are resolved.

III. SPECIFIC REQUIREMENTS:

In order to increase the participation of DBEs, the Administrative Agency requires the following:

A. The Contractor shall assure that certified DBEs will have an opportunity to compete for subcontract work on this Contract, particularly by arranging solicitations and time for the preparation of proposals for services to be provided so as to facilitate the participation of DBEs regardless if a Contract goal is specified or not.

B. The DBE goal percentage will be provided as part of the Project Authorization Letter. The goal shall be based upon the total Contract value. Compliance with this provision may be fulfilled when a DBE or any combination of DBEs perform work under the Contract in accordance with 49 CFR Part 26.55 Only work actually performed by and/or services provided by DBEs which are certified for such work and/or services can be counted toward the DBE goal. Supplies and equipment a DBE purchases or leases from the prime Contractor or its affiliate cannot be counted toward the goal.

If the Contractor does not document commitments, by subcontracting and/or procurement of material and/or services that at least equal the goal, it must document the good faith efforts that outline the steps it took to meet the goal in accordance with VII.

C. Within 7 days after the bid opening, the low bidder shall indicate in writing to the Administrative

Agency, on the forms provided, the DBE(s) it will use to achieve the goal indicated in III-B. The submission shall include the name and address of each DBE that will participate in this Contract, a description of the work each will perform, the dollar amount of participation, and the percentage this is of the bid amount. This information shall be signed by the named DBE and the low bidder. The named DBE shall be from a list of certified DBEs available from ConnDOT. In addition, the named DBE(s) shall be certified to perform the type of work they will be contracted to do.

D. The prime Contractor shall submit to the Administrative Agency all requests for subcontractor approvals on the standard forms provided by the Administrative Agency.

If the request for approval is for a DBE subcontractor for the purpose of meeting the Contract DBE goal, a copy of the legal Contract between the prime contractor and the DBE subcontractor must be submitted along with the request for subcontractor approval. Any subsequent amendments or modifications of the Contract between the prime and the DBE subcontractor must also be submitted to the Administrative Agency with an explanation of the change(s). The Contract must show items of work to be performed, unit prices and, if a partial item, the work involved by all parties.

In addition, the following documents are to be attached:

1. An explanation indicating who will purchase material.

2. A statement explaining any method or arrangement for renting equipment. If rental is from a prime contractor, a copy of the rental agreement must be submitted.

3. A statement addressing any special arrangements for manpower.

E. The Contractor is required, should there be a change in a DBE they submitted in III-C, to submit documentation to the Administrative Agency which will substantiate and justify the change (i.e., documentation to provide a basis for the change for review and approval by the Administrative Agency) prior to the implementation of the change. The Contractor must demonstrate that the originally named DBE is unable or unwilling to perform in conformity to the scope of service, or is in default of its Contract. The Contractor's ability to negotiate a more advantageous Agreement with another subcontractor is not a valid basis for change. Documentation shall include a letter of release from the originally named DBE indicating the reason(s) for the release.

F. Contractors subcontracting with DBEs to perform work or services as required by this Special Provision shall not terminate such firms without advising the Administrative Agency in writing, and providing adequate documentation to substantiate the reasons for termination if the DBE has not started or completed the work or the services for which it has been contracted to perform.

G. When a DBE is unable or unwilling to perform, or is terminated for just cause, the Contractor shall make Good Faith Efforts to find other DBE opportunities to increase DBE participation to the extent necessary to at least satisfy the goal required by III-B.

H. In instances where an alternate DBE is proposed, a revised submission to the Administrative Agency together with the documentation required in III-C, III-D, and III-E, must be made for its review and approval.

I. Each quarter after execution of the Contract, the Contractor shall submit a report to the

Administrative Agency indicating the work done by, and the dollars paid to the DBE for the current quarter and to date.

J. Each contract that the Administrative Agency signs with a Contractor and each subcontract the Contractor signs with a subcontractor must include the following assurance: *The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.*

IV. MATERIAL SUPPLIERS OR MANUFACTURERS

A. If the Contractor elects to utilize a DBE supplier or manufacturer to satisfy a portion or all of the specified DBE goal, the Contractor must provide the Administrative Agency with:

1. Substantiation of payments made to the supplier or manufacturer for materials used on the project.

B. Credit for DBE suppliers is limited to 60% of the value of the material to be supplied, provided such material is obtained from a regular DBE dealer. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the Contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products, need not keep such products in stock if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as material suppliers or manufacturers.

C. Credit for DBE manufacturers is 100% of the value of the manufactured product. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Administrative Agency, or Contractor.

V. NON-MANUFACTURING OR NON-SUPPLIER DBE CREDIT:

A. Contractors may count towards their DBE goals the following expenditures with DBEs that are not manufacturers or suppliers:

1. Reasonable fees or commissions charged for providing a bona fide service such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies necessary for the performance of the Contract, provided that the fee or commission is determined by the Administrative Agency to be reasonable and consistent with fees customarily allowed for similar services.

2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is a DBE but is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fees are determined by the Administrating Agency to be reasonable and not excessive as compared with fees customarily allowed for similar services.

3. The fees or commissions charged for providing bonds or insurance specifically required for the

performance of the Contract, provided that the fees or commissions are determined by the Administrative Agency to be reasonable and not excessive as compared with fees customarily allowed for similar services.

VI. BROKERING

A. Brokering of work by DBEs who have been approved to perform subcontract work with their own workforce and equipment is not allowed, and is a Contract violation.

B. Firms involved in the brokering of work, whether they are DBEs and/or majority firms who engage in willful falsification, distortion or misrepresentation with respect to any facts related to the project shall be referred to the U.S. Department of Transportation's Office of the Inspector General for prosecution under Title 18, U.S. Code, Section 10.20.

VII. REVIEW OF PRE-AWARD GOOD FAITH EFFORTS

A. If the Contractor does not document pre-award commitments by subcontracting and/or procurement of material and/or services that at least equal the goal stipulated in III-B, the Contractor must document the Good Faith Efforts that outline the specific steps it took to meet the goal. The Contract will be awarded to the Contractor if its Good Faith Efforts are deemed satisfactory and approved by the Administrative Agency. To obtain such an exception, the Contractor must submit an application to the Administrative Agency, which documents the specific Good Faith Efforts that were made to meet the DBE goal. An application form entitled "Review of Pre-Award Good Faith Efforts" is attached hereto.

The application must include the following documentation:

1. A statement setting forth in detail which parts, if any, of the Contract were reserved by the Contractor and not available for bid by subcontractors;

2. A statement setting forth all parts of the Contract that are likely to be sublet;

3. A statement setting forth in detail the efforts made to select subcontracting work in order to likely achieve the stated goal;

4. Copies of all letters sent to DBEs;

5. A statement listing the dates and DBEs that were contacted by telephone and the result of each contact;

6. A statement listing the dates and DBEs that were contacted by means other than telephone and the result of each contact;

7. Copies of letters received from DBEs in which they declined to bid;

8. A statement setting forth the facts with respect to each DBE bid received and the reason(s) any such bid was declined;

9. A statement setting forth the dates that calls were made to ConnDOT's Division of Contract

Compliance seeking DBE referrals and the result of each such call; and

10. Any information of a similar nature relevant to the application.

The review of the Contractor's Good Faith Efforts may require an extension of time for award of the Contract. In such a circumstance, and in the absence of other reasons not to grant the extension or make the award, the Administrative Agency will agree to the needed extension(s) of time for the award of the Contract, provided the Contractor and the surety also agree to such extension(s).

B. Upon receipt of the submission of an application for review of pre-award Good Faith Efforts, the Administrative Agency will review the documents and determine if the package is complete, accurate and adequately documents the Contractor's Good Faith Efforts. Within fourteen (14) days of receipt of the documentation, the Administrative Agency shall notify the Contractor by mail of the approval or denial of its Good Faith Efforts.

C. If the Contractor's application is denied, the Contractor shall have seven (7) days upon receipt of written notification of denial to request administrative reconsideration. The Contractor's request for administrative reconsideration should be sent in writing to the Administrative Agency. The Administrative Agency will forward the Contractor's reconsideration request to the ConnDOT Division of Contract Compliance for submission to the DBE Screening Committee. The DBE Screening Committee will schedule a meeting within fourteen (14) days from receipt of the Contractor's request for administrative reconsideration and advise the Contractor of the date, time and location of the meeting. At this meeting, the Contractor will be provided with the opportunity to present written documentation and/or argument concerning the issue of whether it made adequate Good Faith Efforts to meet the goal. Within seven (7) days following the reconsideration meeting, the chairperson of the DBE Screening Committee will send the Contractor, a written determination on its reconsideration request, explaining the basis of finding either for or against the request. The DBE Screening Committee's determination is final. If the reconsideration is denied, the Contractor shall indicate in writing to the Administrative Agency within fourteen (14) days of receipt of the written notification of denial, the DBEs it will use to achieve the goal indicated in III-B.

D. Approval of pre-award Good Faith Efforts does not relieve the Contractor from its obligation to make continuous good faith efforts throughout the duration of the project to achieve the DBE goal.

Connecticut Department of Transportation
Application for Review of Pre-award Good Faith Efforts

Directions: A Contractor who is unable to meet the percentage goals set forth in the Special Provisions Disadvantaged Business Enterprises as Subcontractors and Material Suppliers or Manufacturers - Part III-B shall submit the attached application requesting a review of its Good Faith Efforts to meet the goal.

The Contractor must show that it took all necessary and reasonable steps to achieve the DBE goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation. Appendix A of 49 CFR Part 26 - "Guidance Concerning Good Faith Efforts" will be generally but not exclusively, utilized in evaluating Good Faith Efforts. All applications must be in writing, signed and dated and include the following:

1. a statement setting forth in detail which parts, if any, of the contract were reserved by the contractor and not available for bid from subcontractors;

2. a statement setting forth all parts of the contract that are likely to be sublet;

3. a statement setting forth in detail the efforts made to select subcontracting work in order to likely achieve the stated goal;

4. copies of all letters sent to DBEs;

5. a statement listing the dates and DBEs that were contacted by telephone and the result of each contract;

6. a statement listing the dates and DBEs that were contacted by other means other than telephone and the result of each contact;

7. copies of letters received from DBEs in which they declined to bid;

8. a statement setting forth the facts with respect to each DBE bid received and the reason(s) any such bid was declined;

9. a statement setting forth the dates that calls were made to ConnDOT's Division of Contract Compliance seeking DBE referrals and the result of each such call; and

10. any information of a similar nature relevant to the application.

All applications shall be submitted to the Manager of Contracts. Upon receipt of the submission requesting a review of pre-award Good Faith Efforts, ConnDOT's Manager of Contracts shall submit the documentation to the Division of Contract Compliance who will review the documents and determine if the package is complete and accurate and adequately documents the Contractor's Good Faith Efforts. Within fourteen (14) days of receipt of the documentation, the Division of Contract Compliance shall notify the Contractor by certified mail of the approval or denial of its Good Faith Efforts.

If the Contractor's application is denied, the Contractor shall have seven (7) days upon receipt of written notification of denial to request administrative reconsideration. The Contractor's request for administrative reconsideration should be sent in writing to: Manager of Contracts, P.O. Box 317546, Newington, CT 06131-7546. The Manager of Contracts will forward the Contractor's reconsideration request to the DBE Screening Committee. The DBE Screening Committee will schedule a meeting within fourteen (14) days from receipt of the Contractors request for administrative reconsideration and advise the Contractor of the date, time and location of the meeting. At this meeting, the Contractor will be provided with the opportunity to present written documentation and/or argument concerning the issue of whether it made adequate good faith efforts to meet the goal. Within seven (7) days following the reconsideration meeting, the chairperson of the DBE Screening Committee will send the contractor, via certified mail, a written determination on its reconsideration request, explaining the basis of finding either for or against the request. The DBE Screening Committee's determination is final.

Schedule C

Connecticut Department of Transportation
Application for Review of Pre-award Good Faith Efforts

Name of Company: _____

Address: _____

Project# _____

Contract goal as set forth in Special Provisions Part III-B._____ %

Total DBE commitments obtained, by subcontracting and/or procurement of material and/or services. (Attach DBE Participation Approval Request(s)) $ _____ _____ % of Total Contract

1. Items of Contract not available for subletting. (Attach additional sheets, if necessary.)

Item #	Description of Item	$ Bid Amount	% of Total Contract

2. Items of Contract likely to be sublet. (Attach additional sheets, if necessary)

Item #	Description of Item	$ Bid Amount	% of Total Contract

3. Items of Contract DBEs solicited to bid. If partial item, indicate work, materials, and/or services bids were solicited for. (Attach additional sheets, if required.)

Item #	Description of Item	$ Bid Amount	% of Total Contract

4. Names of DBEs contacted. (Attach additional sheets, if necessary. Attach copies of all correspondence.)

Name of DBE	Items Contacted for	Date of Contact	Phone/Cert.Mail Other	Result

5. Names of DBEs who were quoted on contract (be very specific and include items and amounts; attach documentation).

Name of DBE	Item of Work Quoted	Date of Quote	Reason(s) for Rejection of Bid

6. Names of DBEs contacted who did not bid. (Attach copies of all supporting correspondence and phone logs.)

Name of DBE	Items of Work	Date DBE Declined	Reason for Refusal to Bid

7. Date(s) contractor contacted ConnDOT Division of Contract Compliance seeking DBE referrals. (Provide complete documentation, including phone logs.)

Date and Name of Contact: _____

_____

_____

Name of DBE Referred by ConnDOT

8. Any additional information that should be considered in this application.

_____
Contractor Signature

_____
Title

Date: _____

SPECIAL PROVISION
SMALL CONTRACTOR AND SMALL CONTRACTOR MINORITY BUSINESS ENTERPRISES (SET-ASIDE)

April, 2012

NOTE: Certain of the requirements and procedures stated in this Special Provision are applicable prior to the execution of the Contract.

I. GENERAL

A. The municipality shall cooperate with the Connecticut Department of Transportation (ConnDOT) in implementing the required contract obligations concerning Small Contractor and Small Contractor Minority Business Enterprises utilization on this Contract in accordance with Section 4a-60g of the Connecticut General Statutes, as revised. References, throughout this Special Provision, to Small Contractor are also implied references to Small Contractor Minority Business Enterprises as both relate to Section IIA of these provisions. The municipality shall also cooperate with ConnDOT in reviewing the contractor's activities relating to this provision. This Special Provision is in addition to all other equal opportunity employment requirements of this Contract.

B. For the purpose of this Special Provision, the Small Contractor named to satisfy the set-aside requirements must be certified by the Department of Administrative Services, Supplier Diversity Program (860)713-5236; www.das.state.ct.us as a Small Contractor as defined by Section 4a-60g of the Connecticut General Statutes, as revised, and is subject to approval by ConnDOT to do the work for which it is nominated.

C. Contractors who allow work which they have designated for Small Contractor participation in the pre-award submission required under Section IIC to be performed by other than the approved Small Contractor organization and prior to concurrence by ConnDOT, will not be paid for the value of the work performed by organizations other than the Small Contractor designated.

D. If the contractor is unable to achieve the specified contract goals for Small Contractor participation, the contractor shall submit written documentation to the municipality indicating his/her good faith efforts to satisfy set-aside requirements. Documentation is to include but not be limited to the following:

1. A detailed statement of the efforts made to select additional subcontract opportunities for work to be performed by each Small Contractor in order to increase the likelihood of achieving the stated goal.

2. A detailed statement, including documentation of the efforts made to contact and solicit contracts with each Small Contractor, including the names, addresses,

dates and telephone numbers of each Small Contractor contacted, and a description of the information provided to each Small Contractor regarding the scope of services and anticipated time schedule of items proposed to be subcontracted and the nature of response from firms contacted.

3. For each Small Contractor that placed a subcontract quotation which the contractor considered not to be acceptable, provide a detailed statement of the reasons for this conclusion.

4. Documents to support contacts made with the municipality and/or ConnDOT requesting assistance in satisfying the Contract specified or adjusted Small Contractor dollar requirements.

5. Document other special efforts undertaken by the contractor to meet the defined set-aside requirement.

E. Failure of the contractor to have at least the specified dollar amount of this Contract performed by a Small Contractor as required in Section IIA of this Special Provision will result in the reduction in the Contract payment to the contractor by an amount equivalent to that determined by subtracting from the specific dollar amount required in Section IIA, the dollar payments for the work actually performed by each Small Contractor. The deficiency in Small Contractor achievement, will therefore, be deducted from the final Contract payment. However, in instances where the contractor can adequately document or substantiate its good faith efforts made to meet the specified or adjusted dollar amount to the satisfaction of ConnDOT, no reduction in payments will be imposed.

F. All Records must be retained for a period of three (3) years following completion and acceptance of the work performed under the Contract and shall be available at reasonable times and places for inspection by authorized representatives of ConnDOT or the United States Department of Transportation.

G. Nothing contained herein, is intended to relieve any contractor or subcontractor from compliance with all applicable Federal and State legislation or provisions concerning equal employment opportunity, affirmative action, nondiscrimination and related subjects during the term of this Contract.

II. SPECIFIC REQUIREMENTS

In order to increase the participation of Small Contractors, ConnDOT requires the following:

A. The Small Business Enterprise (SBE) set-aside percentage will be provided as part of the Project Authorization Letter. Compliance with this provision may be fulfilled when a SBE or any combination of SBEs perform work. Not less than the set-aside

percentage assigned to the project shall be subcontracted to and performed by, and/or supplied by, manufactured by and paid to Small Contractors and/or Small Contractors Minority Business Enterprises.

B. The contractor shall assure that each Small Contractor will have an equitable opportunity to compete under this Special Provision, particularly by arranging solicitations, time for the preparation of fee proposals, scope of work, and delivery schedules so as to facilitate the participation of each Small Contractor.

C. The contractor shall provide to the municipality within seven (7) days after the bid opening the following items:

1. Certification (Exhibit I) signed by each named Small Contractor [subcontractor listing a description of the work and] certifying that the dollar amount of all contract(s) and/or subcontract(s) that have been awarded to him/her for the current State Fiscal Year (July 1 - June 30) does not exceed the Fiscal Year limit of $15,000,000.00.

2. A certification of work to be subcontracted (Exhibit I) signed by both the contractor and the Small Contractor listing the work items and the dollar value of the items that the nominated Small Contractor is to perform on the project to achieve the minimum percentage indicated in Section IIA above.

3. It is the responsibility of the contractor to ensure that the Small Contractor and Small Contractor Minority Business Enterprises named are qualified to perform the designated scope of work.

D. After the contractor signs the Contract, the contractor will be required to meet with the municipality to review the following:

1. What is expected with respect to the Small Contractor set aside requirements.

2. Failure to comply with and meet the requirement can and will result in monetary deductions from payment.

3. Each quarter after the start of the Small Contractor the contractor shall submit a report to the municipality indicating the work done by, and the dollars paid to each Small Contractor to date.

4. What is required when a request to sublet to a Small Contractor is submitted.

E. The contractor shall submit to the municipality all requests for subcontractor approvals on standard forms provided by the municipality.

If the request for approval is for a Small Contractor subcontractor for the purpose of

meeting the Contract required Small Contractor percentage stipulated in Section IIA, a copy of the legal agreement between the contractor and the Small Contractor subcontractor must also be submitted at the same time. Any subsequent amendments or modifications of the contract between the contractor and the Small Contractor subcontractor must also be submitted to the municipality with an explanation of the change(s). The contract must show items of work to be performed, phases/tasks and, if a partial item, the work involved by both parties.

In addition, the following documents are to be attached, if applicable:

(1) A statement explaining any method or arrangement for renting equipment. If rental is from a contractor, a copy of rental agreement must be submitted.

(2) A statement addressing any special arrangements for manpower.

F. In instances where a change from the originally approved named Small Contractor (see Section IB) is proposed, the contractor is required to submit, in a reasonable and expeditious manner, a revised submission, comprised of the documentation required in Section IIC, Paragraphs 1 and 2 and Section IIE together with documentation to substantiate and justify the change (i.e., documentation to provide a basis for the change) to the municipality for its review and approval prior to the implementation of the change. The contractor must demonstrate that the originally named Small contractor is unable to perform in conformity to specifications, or unwilling to perform, or is in default of its contract, or is overextended on other jobs. The contractor's ability to negotiate a more advantageous contract with another Small Contractor is not a valid basis for change. Documentation shall include a letter of release from the originally named Small Contractor indicating the reason(s) for the release.

G. Contractors subcontracting with a Small Contractor to perform work or services as required by this Special Provision shall not terminate such firms without advising the municipality, in writing, and providing adequate documentation to substantiate the reasons for termination if the designated Small Contractor firm has not started or completed the work or the services for which it has been contracted to perform.

III. BROKERING

For the purpose of this Special Provision, a Broker is one who acts as an agent for others in negotiating contracts, purchases, sales, etc., in return for a fee or commission. Brokering of work by a Small Contractor is not allowed and is a Contract violation.

IV. PRE-AWARD WAIVERS:

If the contractor's submission of the Small Contractor listing, as required by Section IIC, indicates that it is unable, by subcontracting to obtain commitments which at least equal

the amount required by Section IIA, it may request, in writing, a waiver of up to 50% of the amount required by Section IIA. To obtain such a waiver, the contractor must submit a completed "Application for Waiver of Small Contractor Goals" to the municipality which must also contain the following documentation:

A. Information described in Section IVB.

B. For each Small Contractor contacted but unavailable, a statement from each Small Contractor confirming its unavailability.

Upon receipt of the submission requesting a waiver, the municipality shall submit the documentation to the Manager of Contract Compliance who shall review it for completeness. After completion of the Director of Contract Compliance's review, he/she should write a narrative of his/her findings of the application for a waiver, which is to include his/her recommendation. The Manager of Contract Compliance shall submit the written narrative to the Chairperson of the Screening Committee at least five (5) working days before the scheduled meeting. The contractor shall be invited to attend the meeting and present his/her position. The Screening Committee shall render a determination on the waiver request within five (5) working days after the meeting. The Screening Committee's determination shall be final. Waiver applications are available from ConnDOT.

SPECIAL PROVISION
SMALL BUSINESS PARTICIPATION PILOT PROGRAM SBPPP
AS SUBCONTRACTORS AND MATERIAL SUPPLIERS OR MANUFACTURERS

Revised – April, 2012

NOTE: Certain of the requirements and procedures stated in this Special Provision are applicable prior to the award and execution of the Contract document.

I. ABBREVIATIONS AND DEFINITIONS AS USED IN THIS SPECIAL PROVISION

A. "ConnDOT" means the Connecticut Department of Transportation.

B. "DOT" means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration ("FHWA"), the Federal Transit Administration ("FTA"), and the Federal Aviation Administration ("FAA").

C. "Broker" means a party acting as an agent for others in negotiating Contracts, Agreements, purchases, sales, etc., in return for a fee or commission.

D. "Contract," "Agreement" or "Subcontract" means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For the purposes of this provision, a lease for equipment or products is also considered to be a Contract.

E. "Contractor," means a consultant, second party or any other entity doing business with the Municipality or, as the context may require, with another Contractor.

F. "Disadvantaged Business Enterprise" ("DBE") means a small business concern:

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock of which is owned by one or more such individuals; and

2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

G. "DOT-assisted Contract" means any Contract between a recipient and a Contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees.

H. "Good Faith Efforts" means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. Refer to Appendix A of 49 Code of Federal Regulation ("CFR") Part 26 – "Guidance Concerning Good Faith Efforts," a copy of which is attached to this provision, for guidance as to what constitutes good faith efforts.

I. "Small Business Concern" means, with respect to firms seeking to participate as DBEs in DOT-assisted Contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration ("SBA") regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26, Section

26.65(b).

J. "Small Business Participation Pilot Program" ("SBPPP") means small businesses certified as a Disadvantaged Business Enterprise (DBE) firm by ConnDOT; or firms certified as a Small Business Enterprise or Minority Business Enterprise by the Connecticut Department of Administrative Services; or firms certified by the United States Small Business Administration (USSBA) as an 8(a) or SDB or HUBZone firm; or firms that are a current active recipient of a United States Small Business Administration Loan (loan must be documented).

K. "Socially and Economically Disadvantaged Individuals" means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is—

1. Any individual who ConnDOT finds on a case-by-case basis to be a socially and economically disadvantaged individual.

2. Any individuals in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

i. "Black Americans," which includes persons having origins in any of the black racial groups of Africa;

ii. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

iii. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

iv. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;

v. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

vi. Women;

vii. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

II. GENERAL REQUIREMENTS

A. The Contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract

or such other remedy, as the Municipality and ConnDOT deem appropriate.

B. The Contractor shall cooperate with the Municipality, ConnDOT and DOT in implementing the requirements concerning SBPPP utilization on this Contract. The Contractor shall also cooperate with the Municipality, ConnDOT and DOT in reviewing the Contractor's activities relating to this Special Provision. This Special Provision is in addition to all other equal opportunity employment requirements of this Contract.

C. The Contractor shall designate a liaison officer who will administer the Contractor's SBPPP program. Upon execution of this Contract, the name of the liaison officer shall be furnished in writing to the Municipality.

D. For the purpose of this "Special Provision", the SBPPP contractor(s) named to satisfy the requirements must meet one of the following criteria;

1. Certified as a Disadvantaged Business Enterprise (DBE) firm by ConnDOT;
2. Certified as a Small Business Enterprise or Minority Business Enterprise by the Connecticut Department of Administrative Services;
3. Certified by the USSBA as an 8(a) or SDB firm;
4. Certified by the USSBA as a HUBZone firm; or
5. A current active recipient of a United States Small Business Administration Loan (loan documentation required).

E. If the Contractor allows work designated for SBPPP participation required under the terms of this Contract and required under III-B to be performed by other than the named SBPPP firm without concurrence from the Municipality, the Municipality will not pay the Contractor for the value of the work performed by firms other than the designated SBPPP.

F. In the event a SBPPP firm that was listed in the award documents is unable or unwilling to perform the work assigned; the Contractor shall notify the Municipality immediately and make efforts to obtain a release of work from the firm. If the Contractor is unable to find a SBPPP replacement, then the Contractor should identify other contracting opportunities and solicit SBPPP firms in an effort to meet the contract SBPPP goal requirement.

G. At the completion of all Contract work, the Contractor shall submit a final report to the Municipality indicating the work done by, and the dollars paid to SBPPPs. If the Contractor does not achieve the specified Contract goals for SBPPP participation, the Contractor shall also submit written documentation to the Municipality detailing its good faith efforts to satisfy the goal throughout the performance of the Contract. Documentation is to include, but not be limited to the following:

1. A detailed statement of the efforts made to select additional subcontracting opportunities to be performed by SBPPPs in order to increase the likelihood of achieving the stated goal.

2. A detailed statement, including documentation of the efforts made to contact and solicit bids with SBPPPs, including the names, addresses, dates and telephone numbers of each SBPPP contacted, and a description of the information provided to each SBPPP regarding the scope of services and anticipated time schedule of work items proposed to be subcontracted and nature of response from firms contacted.

3. Provide a detailed statement for each SBPPP that submitted a subcontract proposal, which the

Contractor considered not to be acceptable stating the reasons for this conclusion.

4. Provide documents to support contacts made with ConnDOT requesting assistance in satisfying the Contract specified goal.

5. Provide documentation of all other efforts undertaken by the Contractor to meet the defined goal.

H. Failure of the Contractor, at the completion of all Contract work, to have at least the specified percentage of this Contract performed by SBPPPs as required in III-B will result in the reduction in Contract payments to the Contractor by an amount determined by multiplying the total Contract value by the specified percentage required in III-B and subtracting from that result, the dollar payments for the work actually performed by SBPPPs. However, in instances where the Contractor can adequately document or substantiate its good faith efforts made to meet the specified percentage to the satisfaction of the Municipality and ConnDOT, no reduction in payments will be imposed.

I. All Records must be retained for a period of three (3) years following acceptance by the Municipality of the Contract and shall be available at reasonable times and places for inspection by authorized representatives of the Municipality, ConnDOT and or Federal agencies. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the Records shall be retained until all litigation, claims, or audits findings involving the Records are resolved.

J. Nothing contained herein, is intended to relieve any Contractor or subcontractor or material supplier or manufacturer from compliance with all applicable Federal and State legislation or provisions concerning equal employment opportunity, affirmative action, nondiscrimination and related subjects during the term of this Contract.

III. SPECIFIC REQUIREMENTS:

In order to increase the participation of SBPPPs, the Municipality requires the following:

A. The Contractor shall assure that certified SBPPPs will have an opportunity to compete for subcontract work on this Contract, particularly by arranging solicitations and time for the preparation of proposals for services to be provided so as to facilitate the participation of SBPPPs regardless if a Contract goal is specified or not.

B. The SBPPP goal percentage will be provided as part of the Project Authorization Letter. The goal shall be shall be based upon the total contract value. Compliance with this provision may be fulfilled when a SBPPP or any combination of SBPPPs perform work. Only work actually performed by and/or services provided by SBPPPs which are certified for such work and/or services can be counted toward the SBPPP goal. Supplies and equipment a SBPPP purchases or leases from the prime Contractor or its affiliate cannot be counted toward the goal.

If the Contractor does not document commitments, by subcontracting and/or procurement of material and/or services that at least equal the goal, it must document the good faith efforts that outline the steps it took to meet the goal in accordance with VII.

C. Within seven (7) days after the bid opening, the low bidder shall indicate in writing to the Municipality, on the forms provided, the SBPPPs it will use to achieve the goal indicated in III-B. The submission shall include the name and address of each SBPPP that will participate in this Contract, a description of the

work each will perform, the dollar amount of participation, and the percentage this is of the bid amount. This information shall be signed by the named SBPPP and the low bidder.

D. The prime Contractor shall submit to the Municipality all requests for subcontractor approvals on the standard forms provided by the Municipality.

If the request for approval is for a SBPPP subcontractor for the purpose of meeting the Contract SBPPP goal, a copy of the legal contract between the prime and the SBPPP subcontractor must be submitted along with the request for subcontractor approval. Any subsequent amendments or modifications of the contract between the prime and the SBPPP subcontractor must also be submitted to the Municipality with an explanation of the change(s). The contract must show items of work to be performed, unit prices and, if a partial item, the work involved by all parties.

In addition, the following documents are to be attached:

1. An explanation indicating who will purchase material.

2. A statement explaining any method or arrangement for renting equipment. If rental is from a prime, a copy of the rental agreement must be submitted.

3. A statement addressing any special arrangements for manpower.

4. Requests for approval to issue joint checks.

E. The Contractor is required, should there be a change in a SBPPP they submitted in III-C, to submit documentation to the Municipality which will substantiate and justify the change (i.e., documentation to provide a basis for the change for review and approval by the Municipality) prior to the implementation of the change. The Contractor must demonstrate that the originally named SBPPP is unable to perform in conformity to the scope of service or is unwilling to perform, or is in default of its contract, or is overextended on other jobs. The Contractor's ability to negotiate a more advantageous contract with another subcontractor is not a valid basis for change. Documentation shall include a letter of release from the originally named SBPPP indicating the reason(s) for the release.

F. Contractors subcontracting with SBPPPs to perform work or services as required by this Special Provision shall not terminate such firms without advising the Municipality in writing, and providing adequate documentation to substantiate the reasons for termination if the SBPPP has not started or completed the work or the services for which it has been contracted to perform.

G. When a SBPPP is unable or unwilling to perform, or is terminated for just cause, the Contractor shall make good faith efforts to find other SBPPP opportunities to increase SBPPP participation to the extent necessary to at least satisfy the goal required by III-B.

H. In instances where an alternate SBPPP is proposed, a revised submission to the Municipality together with the documentation required in III-C, III-D, and III-E, must be made for its review and approval.

I. Each quarter after execution of the Contract, the Contractor shall submit a report to the Municipality indicating the work done by, and the dollars paid to, the SBPPP for the current quarter and to date.

J. Each contract that the Municipality signs with a Contractor and each Subcontract the Contractor signs with a subcontractor must include the following assurance: *The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.*

IV. MATERIAL SUPPLIERS OR MANUFACTURERS

A. If the Contractor elects to utilize a SBPPP supplier or manufacturer to satisfy a portion or all of the specified SBPPP goal, the Contractor must provide the Municipality with substantiation of payments made to the supplier or manufacturer for materials used on the project.

B. Credit for SBPPP suppliers is limited to 60% of the value of the material to be supplied, provided such material is obtained from a regular SBPPP dealer. A "regular dealer" is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the Contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products, need not keep such products in stock if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as material suppliers or manufacturers.

C. Credit for SBPPP manufacturers is 100% of the value of the manufactured product. A "manufacturer" is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Municipality, ConnDOT or Contractor.

V. NON-MANUFACTURING OR NON-SUPPLIER SBPPP CREDIT:

A. Contractors may count towards their SBPPP goals the following expenditures with SBPPPs that are not manufacturers or suppliers:

1. Reasonable fees or commissions charged for providing a bona fide service such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies necessary for the performance of the Contract, provided that the fee or commission is determined by the Municipality to be reasonable and consistent with fees customarily allowed for similar services.

2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is a SBPPP but is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fees are determined by the Municipality to be reasonable and not excessive as compared with fees customarily allowed for similar services.

3. The fees or commissions charged for providing bonds or insurance specifically required for the performance of the Contract, provided that the fees or commissions are determined by the Municipality to be reasonable and not excessive as compared with fees customarily allowed for similar services.

VI. BROKERING

A. Brokering of work by SBPPPs who have been approved to perform Subcontract work with their own workforce and equipment is not allowed, and is a Contract violation.

B. SBPPPs involved in the brokering of Subcontract work that they were approved to perform may be decertified.

C. Firms involved in the brokering of work, whether they are SBPPPs and/or majority firms who engage in willful falsification, distortion or misrepresentation with respect to any facts related to the project shall be referred to the U.S. Department of Transportation's Office of the Inspector General for prosecution under Title 18, U.S. Code, Section 10.20.

VII. REVIEW OF PRE-AWARD GOOD FAITH EFFORTS

A. If the Contractor does not document pre-award commitments by subcontracting and/or procurement of material and/or services that at least equal the goal stipulated in III-B, the Contractor must document the good faith efforts that outline the specific steps it took to meet the goal. The Contract will be awarded to the Contractor if its good faith efforts are deemed satisfactory and approved by ConnDOT. To obtain such an exception, the Contractor must submit an application to the Municipality, which documents the specific good faith efforts that were made to meet the SBPPP goal. An application form entitled "Review of Pre-Award Good Faith Efforts" is attached hereto.

The application must include the following documentation:

1. A statement setting forth in detail which parts, if any, of the Contract were reserved by the Contractor and not available for bid by subcontractors;

2. A statement setting forth all parts of the Contract that are likely to be sublet;

3. A statement setting forth in detail the efforts made to select subcontracting work in order to likely achieve the stated goal;

4. Copies of all letters sent to SBPPPs;

5. A statement listing the dates and SBPPPs that were contacted by telephone and the result of each contact;

6. A statement listing the dates and SBPPPs that were contacted by means other than telephone and the result of each contact;

7. Copies of letters received from SBPPPs in which they declined to bid;

8. A statement setting forth the facts with respect to each SBPPP bid received and the reason(s) any such bid was declined;

9. A statement setting forth the dates that calls were made to ConnDOT's Division of Contract Compliance seeking SBPPP referrals and the result of each such call; and

10. Any information of a similar nature relevant to the application.

The review of the Contractor's good faith efforts may require an extension of time for award of the Contract. In such a circumstance, and in the absence of other reasons not to grant the extension or make the award, the Municipality will agree to the needed extension(s) of time for the award of the Contract, provided the Contractor and the surety also agree to such extension(s).

B. Upon receipt of the submission of an application for review of pre-award good faith efforts, the Municipality shall submit the documentation to ConnDOT's initiating unit for submission to the ConnDOT Division of Contract Compliance. The ConnDOT Division of Contract Compliance will review the documents and determine if the package is complete, accurate and adequately documents the Contractor's good faith efforts. Within fourteen (14) days of receipt of the documentation, the ConnDOT Division of Contract Compliance shall notify the Contractor by certified mail of the approval or denial of its good faith efforts.

C. If the Contractor's application is denied, the Contractor shall have seven (7) days upon receipt of written notification of denial to request administrative reconsideration. The Contractor's request for administrative reconsideration should be sent in writing to the Municipality. The Municipality will forward the Contractor's reconsideration request to the ConnDOT initiating unit for submission to the Screening Committee. The Screening Committee will schedule a meeting within fourteen (14) days of receipt of the Contractor's request for administrative reconsideration and advise the Contractor of the date, time and location of the meeting. At this meeting, the Contractor will be provided with the opportunity to present written documentation and/or argument concerning the issue of whether it made adequate good faith efforts to meet the goal. Within seven (7) days following the reconsideration meeting, the chairperson of the Screening Committee will send the Contractor, via certified mail, a written determination on its reconsideration request, explaining the basis of finding either for or against the request. The Screening Committee's determination is final. If the reconsideration is denied, the Contractor shall indicate in writing to the Municipality within fourteen (14) days of receipt of the written notification of denial, the SBPPPs it will use to achieve the goal indicated in III-B.

D. Approval of pre-award good faith efforts does not relieve the Contractor from its obligation to make additional good faith efforts to achieve the SBPPP goal should contracting opportunities arise during actual performance of the Contract work.

CONNECTICUT DEPARTMENT OF TRANSPORTATION

POLICY STATEMENT

POLICY NO. F&A-30

July23, 2015

SUBJECT: Maximum Fees for Architects, Engineers, and Consultants

It is Department policy that maximum fees for architects, engineers, and consultants shall be in accordance with the provisions of Chapter 11 of United States Code Title 40, Part 36 of Title 48 of the Code of Federal Regulations (CFR) and 23USC 11 2(b)2:

> Under the terms of these federal regulations, the Department "shall accept indirect cost rates established in accordance with the Federal Acquisition Regulations for 1-year applicable accounting periods by a cognizant Federal or State government agency...." and "....shall apply such rates for the purpose of contract estimation, negotiation, administration, reporting and contract payment and shall not be limited by administrative or defacto ceilings of any kind."
>
> If a project, part of a project or, a new task based assignment (project) is federal funded, then the above stated requirements shalt apply.

All new agreements that do not have federal funding will apply the requirements of Policy Statement No. EX.O.-33, dated June 25, 2015.

The below listed agreement and assignments **which contain the reference of GL 97-1** in their language shall be completed using the maximum limits contained in OPM's GL 97-1:

- Existing agreements that are supplemented after June25, 2015
- Existing task based agreements
- New task based assignments (projects) that have no federal funding
- Extra work claims on existing agreements

This policy also applies to those entities (i.e., towns, utilities, etc.) that receive federal funding for any phase of a project.

(This Policy Statement supersedes Policy Statement No. F&A-30 dated April 12, 2006)

James Redeker
Commisioner

CONNECTICUT DEPARTMENT OF TRANSPORTATION

POLICY STATEMENT

POLICY NO. EX.O.-33
June 25, 2015

SUBJECT: Policy on Non-Federally Funded Contract Fees for Architects, Engineers and Consultants performing services for the Department

On May, 4 2015 the Office of Policy and Management (OPM) rescinded OPM General Letter No.
97-1. OPM is currently working, in consultation with DOT, to establish revised guidelines regarding the reasonableness and allow-ability of various cost factors related to engineering consultant services as required by Section 13b-20m of the Connecticut General Statutes.

In the interim, the Department will utilize the following Policy on Non-Federally Funded Contract Fees for Architects, Engineers and Consultants performing services for the Department:

All contracts for architects, engineers and consultants shall be negotiated and awarded on the following basis:

1. Burden, Fringe, Overhead and Profit -Actual but not to exceed 165% for work utilizing a Home Office rate and 130% for work utilizing a Field Office rate.

2. Travel - Maximum is established per the State Travel Regulations (Manager's Agreement).

Each such contract must contain appropriate language to clearly acknowledge the parameters of this letter.

James Redeker
Commisioner

Mandatory State and Federal Requirements

1. **Executive Orders.** This Master Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Master Agreement as if they had been fully set forth in it. The Master Agreement may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order No. 14 and/or Executive Order No. 49 are applicable, they are deemed to be incorporated into and are made a part of the Master Agreement as if they had been fully set forth in it. At the Municipality's request, the State shall provide a copy of these orders to the Municipality.

2. **Code of Ethics.** The Municipality shall comply with the policies set forth in Policy Statement Policy No. F&A-10 ("Code of Ethics Policy"), Connecticut Department of Transportation, June 1, 2007, attached hereto as **Schedule I.**

3. **Suspension or Debarment.** The Municipality agrees and acknowledges that suspended or debarred contractors, consulting engineers, suppliers, materialmen, lessors, or other vendors may not submit proposals for a State contract or subcontract during the period of suspension or debarment regardless of their anticipated status at the time of contract award or commencement of work.

4. **Certification** .

A. The signature on the Master Agreement by the Municipality shall constitute certification that to the best of its knowledge and belief the Municipality or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of Federal or State funds:

(i) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(ii) Has not, within the prescribed statutory time period preceding this Master Agreement, been convicted of or had a civil judgment rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of Records, making false statements, or receiving stolen property;

(iii) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph A(ii) of this certification; and

(iv) Has not, within a five-year period preceding this Master Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.

B. Where the Municipality is unable to certify to any of the statements in this certification, such Municipality shall attach an explanation to this Master Agreement.

C. The Municipality agrees to insure that the following certification be included in each subcontract agreement to which it is a party, and further, to require said certification to be included in any subcontracts, sub-subcontracts and purchase orders:

(i) The prospective subcontractors, sub-subcontractors participants certify, by submission of its/their proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(ii) Where the prospective subcontractors, sub-subcontractors participants are unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.

5. **Title VI Contractor Assurances.** The Municipality agrees that as a condition to receiving federal financial assistance, if any, under the Master Agreement, the Municipality shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§2000d -2000d-7), all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the "Title VI Contractor Assurances", attached hereto at **Schedule J,** all of which are hereby made a part of this Master Agreement.

6. **Certification for Federal-Aid Contracts** (Applicable to contracts exceeding $100,000):

A. The Municipality certifies, by signing and submitting this Master Agreement, to the best of his/her/its knowledge and belief, that:

(i) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Municipality, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Municipality shall complete and submit a Disclosure of Lobbying Activities form (Form SF-LLL) available at the Office of Budget and Management's ("OMB") website at

http://www.whitehouse.gov/omb/grants_forms/, in accordance with its instructions. If applicable, Form SF–LLL shall be completed and submitted with the Master Agreement.

B. This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this Certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required Certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

C. The Municipality shall require that the language of this Certification be included in all subcontracts, sub-subcontracts which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly. These completed Disclosure Forms-LLL, if applicable, shall be mailed to the Connecticut Department of Transportation, P.O. Box 317546, Newington, CT 06131-7546, to the attention of the project manager.

7. **Americans Disabilities Act of 1990**. This clause applies to municipalities who are or will be responsible for compliance with the terms of the Americans Disabilities Act of 1990 ("ADA"), Public Law 101-336, during the term of the master Agreement. The Municipality represents that it is familiar with the terms of this ADA and that it is in compliance with the ADA. Failure of the Municipality to satisfy this standard as the same applies to performance under this Master Agreement, either now or during the term of the Master Agreement as it may be amended, will render the Master Agreement voidable at the option of the State upon notice to the Municipality. The Municipality warrants that it will hold the State harmless and indemnify the State from any liability which may be imposed upon the State as a result of any failure of the Municipality to be in compliance with this ADA, as the same applies to performance under this Master Agreement.

8. The Municipality receiving federal funds must comply with the Federal Single Audit Act of 1984, P.L. 98-502 and the Amendments of 1996, P.L. 104-156. The Municipality receiving state funds must comply with the Connecticut General Statutes § 7-396a, and the State Single Audit Act, §§ 4-230 through 236 inclusive, and regulations promulgated thereunder.

FEDERAL SINGLE AUDIT: Each Municipality that expends a total amount of Federal awards: 1) equal to or in excess of $500,000 in any fiscal year shall have either a single audit made in accordance with OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" or a program-specific audit (i.e. an audit of one federal program); 2) less than $500,000 shall be exempt for such fiscal year.

STATE SINGLE AUDIT: Each Municipality that expends a total amount of State financial assistance: 1) equal to or in excess of $300,000 in any fiscal year shall have an audit made in accordance with the State Single Audit Act, Connecticut General Statutes (C.G.S.) §§ 4-230 to 4-236, hereinafter referred to as the State Single Audit Act or a program audit; 2) less than $300,000 in any fiscal year shall be exempt for such fiscal year.

The contents of the Federal Single Audit and the State Single Audit (collectively, the "Audit Reports") must be in accordance with Government Auditing Standards issued by the Comptroller

General of the United States.

The Audit Reports shall include the requirements as outlined in OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" and the State Single Audit Act, when applicable.

The Municipality shall require that the Records of an independent Certified Public Accountant ("CPA") be maintained for a minimum of five (5) years from the date of the Audit Reports and shall require that the CPA provide the State with access to any Records of the CPA pertaining to the Master Agreement so that the State may audit or review all such Records.

9. When the Municipality receives State or Federal funds it shall incorporate the "Connecticut Required Specific Equal Employment Opportunity Responsibilities" ("SEEOR"), dated 2010, attached at **Schedule B**, as may be revised, as a material term of any contracts/agreements it enters into with its contractors, consulting engineers or other vendors, and shall require the contractors, consulting engineers or other vendors to include this requirement in any of its subcontracts. The Municipality shall also attach a copy of the SEEOR, as part of any contracts/agreements with contractors, consulting engineers or other vendors and require that the contractors, consulting engineers or other vendors attach the SEEOR to its subcontracts.

CONNECTICUT DEPARTMENT OF TRANSPORTATION
POLICY STATEMENT

POLICY NO. F&A-10
June 1, 2007

SUBJECT: Code of Ethics Policy

The purpose of this policy is to establish and maintain high standards of honesty, integrity, and quality of performance for all employees of the Department of Transportation ("DOT" or "Department"). Individuals in government service have positions of significant trust and responsibility that require them to adhere to the highest ethical standards. Standards that might be acceptable in other public or private organizations are not necessarily acceptable for the DOT.

It is expected that all DOT employees will comply with this policy as well as the Code of Ethics for Public Officials, and strive to avoid even the appearance of impropriety in their relationships with members of the public, other agencies, private vendors, consultants, and contractors. This policy is, as is permitted by law, in some cases stricter than the Code of Ethics for Public Officials. Where that is true, employees are required to comply with the more stringent DOT policy.

The Code of Ethics for Public Officials is State law and governs the conduct of all State employees and public officials regardless of the agency in which they serve. The entire Code, as well as a summary of its provisions, may be found at the Office of State Ethics' web site:www.ct.gov/ethics/site/default.asp. For formal and informal interpretations of the Code of Ethics, DOT employees should contact the Office of State Ethics or the DOT's Ethics Compliance Officer or her designee.

All State agencies are required by law to have an ethics policy statement. Additionally, all State agencies are required by law to have an Ethics Liaison or Ethics Compliance Officer. The DOT, because of the size and scope of its procurement activities, has an Ethics Compliance Officer who is responsible for the Department's: development of ethics policies; coordination of ethics training programs; and monitoring of programs for agency compliance with its ethics policies and the Code of Ethics for Public Officials. At least annually, the Ethics Compliance Officer shall provide ethics training to agency personnel involved in contractor selection, evaluation, and supervision. A DOT employee who has a question or is unsure about the provisions of this policy, or who would like assistance contacting the Office of State Ethics, should contact the Ethics Compliance Officer or her designee.

The DOT Ethics Compliance Officer is:

Denise Rodosevich, Managing Attorney
Office of Legal Services

For questions, contact the Ethics Compliance Officer's Designee:

Alice M. Sexton, Principal Attorney
Office of Legal Services
2800 Berlin Turnpike
Newington, CT 06131-7546

To contact the Office of State Ethics:

Office of State Ethics
20 Trinity Street, Suite 205
Hartford, CT 06106
Tel. (860) 566-4472
Facs. (860) 566-3806
Web: www.ethics.state.ct.us

Tel. (860) 594-3045

Enforcement

The Department expects that all employees will comply with all laws and policies regarding ethical conduct. Violations of the law may subject an employee to sanctions from agencies or authorities outside the DOT. Whether or not another agency or authority imposes such sanctions, the Department retains the independent right to review and respond to any ethics violation or alleged ethics violation by its employees. Violations of this policy or ethics statutes, as construed by the DOT, may result in disciplinary action up to and including dismissal from State service.

Prohibited Activities

1. ***Gifts:*** DOT employees (and in some cases their family members) are prohibited by the Code of Ethics and this Policy from accepting a gift from anyone who is: (1) doing business with, or seeking to do business with, the DOT; (2) directly regulated by the DOT; (3) prequalified as a contractor pursuant to Conn. Gen. Stat. §4a-100 by the Commissioner of the Department of Administrative Services (DAS); or (4) known to be a registered lobbyist or a lobbyist's representative. These four categories of people/entities are referred to as "restricted donors." A list of registered lobbyists can be found on the web site of the Office of State Ethics (www.ct.gov/ethics/site/default.asp). A list of prequalified consultants and contractors, *i.e.,* those seeking to do business with the DOT, can be found on the DOT's Internet site under "Consultant Information" and "Doing Business with ConnDOT," respectively.

   The term "gift" is defined in the Code of Ethics for Public Officials, Conn. Gen. Stat. §1-79(e), and has numerous exceptions. For example, one exception permits the acceptance of food and/or beverages valued up to $50 per calendar year from any one donor and consumed on an occasion or occasions while the person paying or his representative is present. Therefore, such food and/or beverage is not a "gift." Another exception permits the acceptance of items having a value up to ten dollars ($10) provided the aggregate value of all things provided by the donor to the recipient during a calendar year does not exceed fifty dollars ($50). Therefore, such items are not a "gift." Depending on the circumstances, the "donor" may be an individual if the individual is bearing the expense, or a donor may be the individual's employer/group if the individual is passing the expense back to the employer/group he/she represents.

   This policy requires DOT employees to immediately return any gift (as defined in the Code of Ethics) that any person or entity attempts to give to the employee(s). If any such gift or other item of value is received by other than personal delivery from the subject person or entity, the item shall be taken to the Office of Human Resources along with the name and address of the person or entity who gave the item. The Office of Human Resources, along with the recipient of the item of value, will arrange for the donation of the item to a local charity (e.g., Foodshare, local soup kitchens, etc.). The Office of Human Resources will then send a letter to the gift's donor advising the person of the item's donation to charity and requesting that no such gifts be given to DOT employees in the future.

2. ***Contracting for Goods or Services for Personal Use With Department Contractors, Consultants, or Vendors:*** Executive Order 7C provides that: "Appointed officials and state employees in the Executive Branch are prohibited from contracting for goods and services, for personal use, with any person doing business with or seeking business with his or her agency, unless the goods or services are readily available to the general public for the price which the official or state employee paid or would pay."

3. ***Gift Exchanges Between Subordinates and Supervisors/Senior Staff:*** A recent change in the Code of Ethics prohibits exchanges of gifts valued at $100 or more between (*i.e.,* to and from) supervisors and employees under their supervision. The Citizen's Ethics Advisory Board has advised that: (1) the monetary limit imposed by this provision is a per-gift amount; (2) gifts given between supervisors and subordinates (or *vice versa)* in celebration of a "major life event," as defined in the Code of Ethics, need not comply with the $100 limit; and (3) the limitations imposed by this provision apply to a direct supervisor and subordinate and to any individual up or down the chain of command. The Citizen's Ethics Advisory Board has also advised that supervisors or subordinates may not pool their money to give a collective or group gift valued at $100 or more, even though each of the individual contributions is less than $100.

4. ***Acceptance of Gifts to the State:*** A recent change to the Code of Ethics for Public Officials modified the definition of the term "gift" to limit the application of the so-called "gift to the State" exception. In general, "gifts to the State" are goods or services given to a State agency for use on State property or to support an event and which facilitate State action or functions. Before accepting any benefit as a "gift to the State," DOT employees should contact the Ethics Compliance Officer.

5. ***Charitable Organizations and Events:*** No DOT employee shall knowingly accept any gift, discount, or other item of monetary value for the benefit of a charitable organization from any person or entity seeking official action from, doing or seeking business with, or conducting activities regulated by, the Department.

6. ***Use of Office/Position for Financial Gain:*** DOT employees shall not use their public office, position, or influence from holding their State office/position, nor any information gained in the course of their State duties, for private financial gain (or the prevention of financial loss) for themselves, any family member, any member of their household, nor any "business with which they are associated." In general, a business with which one is associated includes any entity of which a DOT employee or his/her immediate family member is a director, owner, limited or general partner, beneficiary of a trust, holder of 5 percent or more stock, or an officer (president, treasurer, or executive or senior vice president).

   DOT employees shall not use or distribute State information (except as permitted by the Freedom of Information Act), nor use State time, personnel, equipment, or materials, for other than State business purposes.

7. ***Other Employment:*** DOT employees shall not engage in, nor accept, other employment that will either impair their independence of judgment with regard to their State duties or require or induce them to disclose confidential information gained through their State duties.

   Any DOT employee who engages in or accepts other employment (including as an independent contractor), or has direct ownership in an outside business or sole proprietorship, shall complete an Employment/Outside Business Disclosure Form (see attached) and submit it to the Department's Human Resources Administrator. Disclosure of other employment to the DOT Human Resources Administrator shall not constitute approval of the other employment for purposes of the Code of Ethics for Public Officials.

   Inquiries concerning the propriety of a DOT employee's other employment shall be directed to the Office of State Ethics to assure compliance with the Code of Ethics for Public Officials. Employees anticipating accepting other employment as described above should give ample time (at least one

month) to the Office of State Ethics to respond to such outside employment inquiries. No employee of the DOT shall allow any private obligation of employment or enterprise to take precedence over his/her responsibility to the Department.

8. ***Outside Business Interests:*** Any DOT employee who holds, directly or indirectly, a financial interest in any business, firm, or enterprise shall complete an Employment/Outside Business Disclosure Form (see attached) and submit it to the Department's Human Resources Administrator. An indirect financial interest includes situations where a DOT employee's spouse has a financial interest in a business, firm, or enterprise. A financial interest means that the employee or his spouse is an owner, member, partner, or shareholder in a non-publicly traded entity. Disclosure of such outside business interests to the DOT Human Resources Administrator shall not constitute approval of the outside business interest under this Policy or the Code of Ethics for Public Officials. DOT employees shall not have a financial interest in any business, firm, or enterprise which will either impair their independence of judgment with regard to their State duties or require or induce them to disclose confidential information gained through their State duties. Inquiries concerning the propriety of a DOT employee's outside business interests shall be directed to the Office of State Ethics to assure compliance with the Code of Ethics for Public Officials.

9. ***Contracts With the State*:** DOT employees, their immediate family members, and/or a business with which a DOT employee is associated, may not enter into a contract with the State, other than pursuant to a court appointment, valued at $100 or more unless the contract has been awarded through an open and public process.

10. ***Sanctioning Another Person's Ethics Violation*:** No DOT official or employee shall counsel, authorize, or otherwise sanction action that violates any provision of the Code of Ethics.

11. ***Certain Persons Have an Obligation to Report Ethics Violations:*** If the DOT Commissioner, Deputy Commissioner, or "person in charge of State agency procurement" and contracting has reasonable cause to believe that a person has violated the Code of Ethics or any law or regulation concerning ethics in State contracting, he/she must report such belief to the Office of State Ethics. All DOT employees are encouraged to disclose waste, fraud, abuse, and corruption about which they become aware to the appropriate authority (see also Policy Statement EX.O.-23 dated March 31, 2004), including, but not limited to, their immediate supervisor or a superior of their immediate supervisor, the DOT Office of Management Services, the Ethics Compliance Officer, the Auditors of Public Accounts, the Office of the Attorney General, or the Office of the Chief State's Attorney.

12. ***Post-State Employment Restrictions:*** In addition to the above-stated policies of the Department, DOT employees are advised that the Code of Ethics for Public Officials bars certain conduct by State employees ***after they leave State service. Upon leaving State service:***

    - ***Confidential Information*:** DOT employees must never disclose or use confidential information gained in State service for the financial benefit of any person.

    - ***Prohibited Representation*:** DOT employees must never represent anyone (other than the State) concerning any "particular matter" in which they participated personally and substantially while in State service and in which the State has a substantial interest.

    DOT employees also must not, for one year after leaving State service, represent anyone other than the State for compensation before the DOT concerning a matter in which the State has a substantial interest. In this context, the term "represent" has been very broadly defined. Therefore, any former

DOT employee contemplating post-State employment work that might involve interaction with any bureau of DOT (or any Board or Commission administratively under the DOT) within their first year after leaving State employment should contact the DOT Ethics Compliance Officer and/or the Office of State Ethics.

- ***Employment With State Vendors:*** DOT employees who participated substantially in, or supervised, the negotiation or award of a State contract valued at $50,000 or more must not accept employment with a party to the contract (other than the State) for a period of one year after resigning from State service, if the resignation occurs within one year after the contract was signed.

13. ***Ethical Considerations Concerning Bidding and State Contracts:*** DOT employees also should be aware of various provisions of Part IV of the Code of Ethics that affect any person or firm who: (1) is, or is seeking to be, prequalified by DAS under Conn. Gen. Stat. §4a-100; (2) is a party to a large State construction or procurement contract, or seeking to enter into such a contract, with a State agency; or (3) is a party to a consultant services contract, or seeking to enter into such a contract, with a State agency. These persons or firms shall not:

    - With the intent to obtain a competitive advantage over other bidders, solicit any information from an employee or official that the contractor knows is not and will not be available to other bidders for a large State construction or procurement contract that the contractor is seeking;

    - Intentionally, willfully, or with reckless disregard for the truth, charge a State agency for work not performed or goods not provided, including submitting meritless change orders in bad faith with the sole intention of increasing the contract price, as well as falsifying invoices or bills or charging unreasonable and unsubstantiated rates for services or goods to a State agency; and

    - Intentionally or willfully violate or attempt to circumvent State competitive bidding and ethics laws.

Firms or persons that violate the above provisions may be deemed a nonresponsible bidder by the DOT.

In addition, no person with whom a State agency has contracted to provide consulting services to plan specifications for any contract, and no business with which such person is associated, may serve as a consultant to any person seeking to obtain such contract, serve as a contractor for such contract, or serve as a subcontractor or consultant to the person awarded such contract.

DOT employees who believe that a contractor or consultant may be in violation of any of these provisions should bring it to the attention of their manager.

Training for DOT Employees

A copy of this policy will be posted throughout the Department, and provided to each employee either in hard copy or by e-mail. As set forth above, State law requires that certain employees involved in contractor/consultant/vendor selection, evaluation, or supervision must undergo annual ethics training coordinated or provided by the Ethics Compliance Officer. If you believe your duties meet these criteria, you should notify your Bureau Chief to facilitate compilation of a training schedule. In addition, the DOT Ethics Compliance Officer can arrange for periodic ethics training provided by the Office of State Ethics. Finally, the Department will make available, on its web site or otherwise, a copy of this policy to all vendors, contractors, and other business entities doing business with the Department.

Important Ethics Reference Materials

It is strongly recommended that every DOT employee read and review the following:

- Code of Ethics for Public Officials, Chapter 10, Part 1, Conn. General Statutes Sections 1-79 through 1-89a found at: www.ct.gov/ethics/site/default.asp

- Ethics Regulations Sections 1-81-14 through 1-81-38, found at: www.ct.gov/ethics/site/default.asp

- The Office of State Ethics web site includes summaries and the full text of formal ethics advisory opinions interpreting the Code of Ethics, as well as summaries of previous enforcement actions: www.ct.gov/ethics/site/default.asp. DOT employees are strongly encouraged to contact the Department's Ethics Compliance Officer or her designee, or the Office of State Ethics with any questions or concerns they may have.

(This Policy Statement supersedes Policy Statement No. F&A-10 dated January 6, 2006)

R. J. Carpenter

Ralph J. Carpenter
COMMISSIONER

Attachment
List 1 and List 3
(Managers and supervisors are requested to distribute a copy of this Policy Statement to all employees under their supervision.)

cc: Office of the Governor, Department of Administrative Services, Office of State Ethics

TITLE VI CONTRACTOR ASSURANCES

For this document Contractor means Consultant, Consulting Engineer, Second Party, or other entity doing business with the State and Contract shall mean the same as Agreement.

During the performance of this Contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. **Compliance with Regulations:** The Contractor shall comply with the regulations relative to nondiscrimination in federally assisted programs of the United States Department of Transportation (hereinafter, "USDOT"), Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Subsection 5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

4. **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, Records, accounts, other sources of information, and its facilities as may be determined by the Connecticut Department of Transportation (ConnDOT) or the Funding Agency (FHWA, FTA and FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to ConnDOT or the Funding Agency, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the ConnDOT shall impose such sanctions as it or the Funding Agency may determine to be appropriate, including, but not limited to:

   A. Withholding contract payments until the Contractor is in-compliance; and/or

   B. Cancellation, termination, or suspension of the Contract, in whole or in part.

6. **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the ConnDOT or the Funding Agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the ConnDOT to enter into such litigation to protect the interests of the Funding Agency, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Item# *214-15 Consent Calendar

Resolution re: State of Connecticut Department of Transportation (DOT) Master Municipal Agreement for Rights of Way Activities.

Report of Committee on Contracts

City Council Meeting Date: DECEMBER 19, 2016

Attest: Lydia N. Martinez
Lydia N. Martinez, City Clerk

Approved by: _____
Joseph P. Ganim, Mayor

Date Signed: 1/5/17

RECEIVED
CITY CLERK'S OFFICE
2017 JAN -6 P 12:08
ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport:

The Committee on **Contracts** begs leave to report; and recommends for adoption the following resolution:

Item No. *214-15 Consent Calendar

A Resolution by the Bridgeport City Council

Regarding the

State of Connecticut Department of Transportation (DOT)

Master Municipal Agreement for Rights of Way Activities

WHEREAS, the City of Bridgeport undertakes, and may financially participate in, rights of way activities, in conjunction with improvements to locally-maintained roadways, structures and transportation enhancement facilities that are eligible for government financial assistance from the State of Connecticut Department of Transportation, the federal government, or both; and

WHEREAS, the **State of Connecticut Department of Transportation (DOT)** is the authorized entity responsible for distributing the state and federal government financial assistance with respect to these municipal projects; and

WHEREAS, on a project-by-project basis either the City of Bridgeport or the DOT takes on responsibility for the administration of the rights of way phase of a particular municipal project, and the parties wish for a Master Agreement to address the rights of way phase of the Municipality or State's administered projects; and

WHEREAS, the DOT and the City of Bridgeport wish to set forth their respective duties, rights, and obligations with respect to these projects that are undertaken in a Master Municipal Agreement for Rights of Way Projects.

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL:

1. That it is cognizant of the City's intention to enter into the Master Municipal Agreement for Rights of Way Projects with **the State of Connecticut Department of Transportation (DOT)** and to continue to engage in transportation projects which may be DOT and/or federally funded; and

2. That it hereby authorizes, directs and empowers the Joseph P. Ganim, Mayor, or his designee to execute and file the Agreement entitled "Master Municipal Agreement for Rights of Way Projects" with the **State of Connecticut Department of Transportation (DOT)** to serve as the master backbone agreement for future transportation projects which may be DOT and/or federally funded.

City of Bridgeport, Connecticut
Office of the City Clerk

Report of Committee on Contracts
Item No. *214-15 Consent Calendar

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
CONTRACTS

*Jack O. Banta, D-131st, **Co-Chair***

*Jeanette Herron, D-133rd, **Co-Chair***

Milta I. Feliciano, D-137th

AmyMarie Vizzo-Paniccia, D-134th

James Holloway, D-139th

Alfredo Castillo, D-136th

Anthony R. Paoletto, D-138th

***City Council Date**: December 19, 2016*

Agreement No. 4.02-06(14)
Core ID No. 14DOT0226AA

MASTER MUNICIPAL AGREEMENT FOR RIGHTS OF WAY PROJECTS

THIS MASTER MUNICIPAL AGREEMENT FOR RIGHTS OF WAY ACTIVITIES ("Master Agreement" or "Agreement") is entered into by and between the STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION (the "DOT"), and the City of Bridgeport, 999 Broad Street, Bridgeport, CT 06604 (the "Municipality"). The DOT or the Municipality may each be referred to individually as the "Party" and collectively may be referred to as the "Parties."

WHEREAS, the Municipality undertakes, and may financially participate in, rights of way activities, in conjunction with improvements to locally-maintained roadways, structures and transportation enhancement facilities that are eligible for government financial assistance from the DOT, the federal government, or both; and

WHEREAS, the DOT is the authorized entity responsible for distributing the state and federal government financial assistance with respect to these municipal projects; and

WHEREAS, on a project-by-project basis either the Municipality or the DOT takes on the responsibility for the administration of the rights of way phase of a particular municipal project, and the parties wish for this Master Agreement to address the rights of way phase of the Municipality or State's administered projects; and

WHEREAS, the Commissioner is authorized to enter into this Agreement and distribute state and federal financial assistance to the Municipality for these projects pursuant to § 13a-98e and § 13a-165 of the Connecticut General Statutes; and

WHEREAS, the DOT and the Municipality wish to set forth their respective duties, rights, and obligations with respect to these projects that are undertaken pursuant to this Master Agreement.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE THAT:

Article 1. Definitions. For the purposes of this Master Agreement, the following definitions apply:

1.1 "Administer," "Administering" or "Administration" of the Rights of Way Project means conducting and managing operations required to perform and complete the Rights of Way Project, including performing the work either by the Municipality or the DOT, as applicable to the particular Rights of Way Project, in whole or in part, undertaking all of the administrative-duties related to and required for the completion of the Rights of Way Project.

1.2 "Authorization to Proceed Notice" means the written notice from the DOT to the Municipality authorizing the Municipality to Perform its obligations for the Rights of Way Project under the PAL.

1.3 "Authorized Department of Transportation (DOT) Representative" means the individual, duly authorized by a written delegation of the Commissioner of the DOT pursuant to Section 13b-17(a) of the Connecticut General Statutes, to sign PALs.

1.4 "Claims" means all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.

1.5 "Demand Deposit" means an amount of money due to the DOT from the Municipality.

1.6 "Designated Official" means the municipal official or representative designated by title who is duly authorized by the Municipality to receive PALs issued by the DOT under this Agreement and who submits to the DOT a Written Acknowledgment of the PAL (defined in section 2.2) binding the Municipality to the terms and conditions of the PALs issued by the DOT under this Master Agreement.

1.7 "DOT-provided Services" means the work that the DOT is responsible to Perform for the Rights of Way Project, as specifically set forth in the PAL and may include, but are not necessarily limited to, administrative oversight, and liaison activities with other governmental agencies to ensure satisfactory adherence to DOT and federal requirements.

1.8 "Effective Date" means the date which the Master Agreement is executed by the DOT.

1.9 "Funding" means funds from the state government, the federal government, or a combination of any of the foregoing, designated for a particular Rights of Way Project, as specified in the Project Authorization Letter.

1.10 "Municipality Parties" means a Municipality's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Municipality is in privity of oral or written contract and the Municipality intends for such other person or entity to Perform under the Master Agreement in any capacity.

1.11 "Municipal Project" means a project undertaken by the Municipality for improvements on locally maintained or owned roadways, structures, transportation enhancement facilities (as defined by 23 U.S.C. §101(a)(35), as revised), or any combination of the foregoing, which generally includes three phases of activities: the design phase, rights of way phase, and construction phase.

1.12 "Official Notice" means notice given from one Party to the other in accordance with Article 11.

1.13 "Perform" means for purposes of this Master Agreement, the verb "to perform" and the performance of the work set forth in this Master Agreement which are referred to as "Perform," "Performance" and other capitalized variations of the term.

1.14 "Plans, Specifications, and Estimates (PS&E)" means the final engineering documents produced during the design phase of the Municipal Project that contain all of the construction details and are made part of the bid documents.

1.15 "Project Amount" means the total estimated cost to complete the Rights of Way Project, as estimated at the time of the DOT's issuance of the PAL.

1.16 "Project Authorization Letter ("PAL")" means the written document that authorizes the distribution of Funding to the Municipality for the specific Rights of Way Project during a specified period of time.

1.17 "Records" means all working papers and such other information and materials as may have been accumulated by the Municipality in performing the Rights of Way Project, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries, memoranda and correspondence, kept or stored in any form.

1.18 "Rights of Way Project" means the necessary activities to acquire property in conjunction with a Municipal Project, including, but not limited to, appraisals, title searches, property map reviews, negotiations, and closings.

1.19 "State" means the State of Connecticut, including the DOT and any office, department, board, council, commission, institution or other agency or entity of the State.

1.20 "Term" means the duration of the Master Agreement.

1.21 "Termination" means an end to the Agreement prior to the end of its term whether effected pursuant to a right which the Agreement creates or for a breach.

Article 2. Issuance and Acknowledgment of PALs for Rights of Way Projects.

2.1 **Issuance of PAL.**

The DOT shall issue to the Municipality a PAL for the applicable Rights of Way Project, in the form substantially similar to Schedule A, which will be addressed to the Designated Official and signed by the Authorized DOT Representative. PALs issued under this Master Agreement will address Rights of Way Projects and will not address the design or construction phase activities of Municipal Projects. The issuance of the PAL itself is not final authorization for the Municipality to begin Performing work with respect to the Rights of Way Project. Additional required steps and approvals are set forth in this Master Agreement.

2.2 **Written Acknowledgement of the PAL.**

In order for the terms of the PAL to become effective and binding on both Parties, the Municipality shall return to the DOT a copy of the PAL signed by the Designated Official, hereinafter referred to as the "Written Acknowledgement of the PAL." The signature of the

Designated Official on the Written Acknowledgement of the PAL constitutes the Municipality's agreement to be bound by the terms of the PAL and the Municipality's agreement to undertake the particular Rights of Way Project (if it is to Administer the Project) in accordance with the terms of the PAL and this Master Agreement. The Municipality shall submit the Written Acknowledgement of the PAL to the Authorized DOT Representative by the deadline set forth in the PAL. By written notice to the Municipality, the DOT, in its discretion, may extend or waive the deadline set forth in the PAL for the Municipality to submit the Written Acknowledgement of the PAL. Such extension or waiver may be granted after the date set forth in the PAL for submission of the Written Acknowledgement of the PAL. Submission of the Written Acknowledgement of the PAL by facsimile or electronic transmission is acceptable. The Written Acknowledgement of the PAL shall be deemed delivered on the date of receipt by the DOT if on a business day (or on the next business day after delivery if delivery occurs after business hours or if delivery does not occur on a business day). The PAL becomes effective on the date that the Written Acknowledgement of the PAL is delivered to the DOT provided the Written Acknowledgement of the PAL is submitted by the deadline set forth in the PAL or by the date set forth by the DOT in any extension or waiver of the deadline.

2.3 **Designated Official.**

The Municipality herein represents that the Mayor of the City of Bridgeport is the Designated Official to whom the Municipality has granted the authority, throughout the Term of this Master Agreement, to sign and submit the Written Acknowledgement of the PAL(s) to the DOT on its behalf. The signature of the Designated Official shall bind the Municipality with respect to the terms of the PAL. Signature by the individual as the Designated Official upon any Written Acknowledgement of a PAL is a representation by such individual that he/she holds the title of the Designated Official as of the date of his/her signature. If at any time during the Term the Municipality seeks to modify which municipal official or representative by title is the authorized Designated Official, the Parties must amend this section by mutual written agreement identifying by title the new Designated Official and signed by the authorized representatives of each Party.

2.4 **Obligations of Municipality.**

Upon submission of the Written Acknowledgement of the PAL to the DOT, the Master Agreement and the PAL will be incorporated into one another in their entirety and contain the legal and binding obligations of the Municipality with respect to the Rights of Way Project. By submitting the Written Acknowledgement of the PAL, the Municipality acknowledges that it understands the obligations to which it is committing itself with respect to the Rights of Way Project. Further, if the Municipality is to Administer the Project, the Municipality shall proceed with diligence to Perform its obligations to accomplish the Rights of Way Project and shall use the Funding to complete the same.

2.5 **Revisions to the PAL.**

Any modification to the scope, the allowed Funding amount, or cost breakdown related to the Rights of Way Project must be approved by the DOT, at its sole discretion, and set

forth in a subsequent PAL newly-issued by the Authorized DOT Representative, hereinafter referred to as the "Revised PAL." The Revised PAL shall be acknowledged by the Municipality in accordance with the procedure set forth in section 2.2, and the Revised PAL will supersede the previously issued PAL for the Rights of Way Project and will control over any previously issued PAL.

2.6 **PAL as a Limitation on Cost of Reimbursement.**

The amount of reimbursement for the Rights of Way Project Performed by either Party shall be based upon the cost estimate specified in the PAL, and shall not exceed the amount specified except as set forth in a Revised Rights of Way Project cost estimate in a Revised PAL.

Article 3. Municipality-Administered Rights of Way Projects. When the Municipality is responsible for the Rights of Way Project;

3.1 **Content of the PAL.** The PAL issued by the DOT to the Municipality shall set forth, at a minimum:

(a) a statement that the Municipality is responsible for the Rights of Way Project;

(b) the scope of the Rights of Way Project;

(c) the respective obligations of the Parties with respect to the Rights of Way Project;

(d) a statement incorporating this Agreement into the PAL;

(e) a statement that any property acquired or incorporated into the Rights of Way Project by the Municipality shall be used for transportation purposes only and that such provision shall survive the PAL, this Agreement, the completion of the Rights of Ways Project and the completion of any related construction project;

(f) the Funding source(s), the related government Funding authorization or program information, and the associated Funding ratio between the federal government, the DOT, and the Municipality, as applicable, for the Rights of Way Project;

(g) the maximum reimbursement to the Municipality under the PAL;

(h) an estimated cost break-down for all work under the Rights of Way Project; and

(i) the Project Amount.

3.2 **Authorization to Proceed Notice.**

The Municipality shall not commence the Rights of Way Project until it has received from the DOT an Authorization to Proceed Notice. The DOT has no responsibility and incurs no liability for payments to the Municipality for Administration of the Rights of Way Project or for any work Performed by the Municipality's staff on the Rights of Way Project prior to the DOT's issuance of the Authorization to Proceed Notice.

3.3 **Municipality to Perform and Complete the Rights of Way Project.**

(a) The Municipality shall designate an individual to act as a liaison with the DOT to provide for the proper interchange of information concerning the Rights of Way Project. The Designated Official of this Master Agreement or his / her successor thereto will be considered the liaison unless the Municipality designates a liaison in accordance with this provision. The liaison will be responsible for coordination with Municipality Parties.

(b) Upon issuance of a PAL by the DOT, submission of the Written Acknowledgment of the PAL by the Municipality, and receipt of an Authorization to Proceed Notice, as applicable, from the DOT, the Municipality shall Administer the Rights of Way Project in accordance with the PAL and this Master Agreement.

(c) With respect to any Rights of Way Project that receives federal participation in Funding, any costs that the Municipality incurs prior to the receipt of federal authorization for the Rights of Way Project are entirely ineligible for reimbursement with federal funds.

(d) The Municipality shall use the Funding for reimbursement of the Municipality's approved expenses incurred in the fulfillment of the Rights of Way Project as specified in the PAL and this Master Agreement and for no other purpose.

(e) The Municipality shall conduct a public involvement program in compliance with the requirements contained in the Connecticut Department of Transportation's "Public Involvement Guidance Manual", as revised, which is made a part of this Master Agreement by reference.

(f) The Municipality shall permit the DOT and Federal Highway Administration (when there is federal participation in Funding for the Rights of Way Project) to review, at any time, all work Performed under the terms of this Master Agreement.

(g) The Municipality shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act"), as amended, the regulations promulgated in association therewith at 49 CFR Part 24, and the regulations addressing highway-related

issues not covered by the Uniform Act, including 23 CFR Part 710 (collectively, the "Regulations"), as may be revised.

(h) The Municipality shall comply with the DOT's policies and procedures with respect to Rights of Way Activities summarized in the "Information Guide for Rights of Way Acquisition Activities," Connecticut Department of Transportation (2013), as may be revised ("Information Guide"), and submit to the DOT an acquisition plan ("Plan") in accordance with the then-current Information Guide. The Information Guide is incorporated into this Master Agreement by reference.

(i) Upon receipt of written approval of the Plan by the DOT and federal authorization for the acquisition, which is required where federal funding is involved in the acquisition, the DOT shall issue a PAL to the Municipality indicating the scope of the Rights of Way Project, the respective obligations of the Parties with respect thereto, and the proportional sharing of costs between the federal government, the State, and/or the Municipality. Upon receipt of Authorization to Proceed Notice from the DOT, the Municipality shall commence the Rights of Way Project.

(j) Pursuant to §7-148 of the Connecticut General Statutes, the Municipality shall acquire all rights, permanent or temporary, that are required for the Rights of Way Project, including, but not limited to, rights of access by the DOT, the Municipality, and/or contractors or consultants for driveways, grading, and sidewalks located within the construction project limits.

(k) The Municipality shall certify to the State, in writing, in accordance with the then-current Information Guide, that it has complied with the Uniform Act, as amended, and forward to the State a summary of the acquisition procedure followed.

(l) Upon completion of its Rights of Way Project, the Municipality shall provide to the DOT all documentation required by the then-current Information Guide.

(m) In the event property already owned by the Municipality, but not previously designated for transportation purposes, is required in conjunction with the Rights of Way Project, the Municipality responsible for the acquisition as part of the Rights of Way Project shall prepare the appraisal of the Municipally-owned property. Thereafter, the DOT shall provide the Municipality with a credit for the federal and DOT share of the DOT approved value of Municipally-owned property to be utilized in the Rights of Way Project.

(n) Any property acquired or incorporated into the Rights of Way Project, including any property identified in subsection (m) above, shall be used for transportation purposes only. This provision shall survive this Agreement, the

PAL the completion of the Rights of Way Project and the completion of any related construction project.

3.4 **DOT-provided Services.**

If the Rights of Way Project requires DOT-provided Services, they will be set forth in the PAL and funded in accordance with the proportionate cost sharing for work on the Rights of Way Project as set forth in the PAL. DOT-provided Services may include, but not be limited to, technical assistance in engineering reviews, property map reviews, title search, cost estimate reviews, environmental reviews, public hearing assistance, recording and transcription, contract development, fee review and negotiations, and liaison with other governmental agencies that may be necessary for proper development of the Rights of Way Project, while ensuring satisfactory adherence to DOT and federal requirements. The DOT reserves the right at all times to inspect all aspects of the work related to the Rights of Way Project, and such inspections shall be deemed DOT-provided Services.

3.5 **Costs and Reimbursement.**

(a) The Municipality shall expend its own funds to pay for costs related to Administering the Rights of Way Project and then shall seek reimbursement for approved costs from the DOT.

(b) The Municipality shall seek from the DOT reimbursement for the Municipality's expenditures, which have been approved by the DOT for eligible Rights of Way Project costs. Reimbursement of DOT approved expenditures will be made in the following manner:

(1) The Municipality shall submit its request for reimbursement to the DOT using the DOT-required voucher form entitled "Invoice Summary and Processing (ISP) Form" ("Voucher"), as may be revised, with supporting data, the cost of services rendered and expenses incurred. With respect to any work that is Performed in-house by the Municipality's staff, the Municipality's reimbursable costs shall be limited to the actual payroll, and approved direct cost charges for the staff's Performance of the Rights of Way Project.

(2) Upon review and approval of the Voucher by the DOT, payment of the reimbursement portion of said costs and expenses shall be made to the Municipality, in accordance with the proportional cost sharing established by the PAL.

(3) Cost of Condemnation.

In the event that the Municipality must acquire the property necessary for the completion of the Rights of Way Project by way of eminent domain, and the condemnation results in a claim and payment of a settlement or court judgment, this payment or judgment will be considered an additional cost of the Rights of Way Project to be shared by the State and the Municipality in the same proportion as set

forth in the PAL.

(4) All requests for reimbursement shall be made by the date the selected contractor is authorized to proceed with the construction activities ("Notice to Proceed"). The Municipality may submit any requests for reimbursements due to court awards subsequent to the Notice to Proceed date.

(c) The Municipality shall document all expenses it incurs and maintain all records related to the Rights of Way Project costs. Reimbursable municipal costs are limited to reasonable industry costs for necessary activities required for the Right of Way Project as determined by the DOT.

(d) If the Municipality fails to adequately record expenses and maintain all related records for any Rights of Way Project or fails to submit any records to the DOT promptly after being requested to do so, such failure to do so may be deemed a breach by the Municipality, at the DOT's sole discretion, and the DOT may deem certain expenses to be non-eligible costs of the respective Rights of Way Project for which the Municipality will not be eligible for reimbursement pursuant to the proportional cost sharing established by the PAL. Furthermore, the DOT's determination of certain costs to be non-eligible costs of the Rights of Way Project does not waive any of the DOT's remedies for the breach by the Municipality of its obligations under this Master Agreement with respect to the respective Rights of Way Project, nor relieve the Municipality from any liability related to its breach.

(e) The Municipality shall reimburse the DOT for all expenditures incurred by the DOT on the Rights of Way Project in the event the Rights of Way Project is canceled by the Municipality without "good cause." However, the Municipality may request cancellation of the Rights of Way Project, and if determined by the State and the Federal Highway Administration to be justifiable and with "good cause," federal participation in expenditures will be approved up to the percentage of acceptable work completed to the approved date of cancellation. A shift in municipal priorities or lack of municipal funding is considered to be within the control of the Municipality and will not be considered as "good cause."

3.6 **Suspension, Postponement, or Termination of a Municipality-Administered Rights of Way Project.**

(a) Suspension, Postponement, or Termination by the DOT.

(1) For Convenience. The DOT, at its sole discretion, may suspend, postpone, or terminate a particular Rights of Way Project and its respective PAL for convenience by giving the Municipality thirty (30) days Official Notice, and such action shall in no event be deemed a breach of the Master Agreement by the DOT.

(2) For Cause. As a result of the Municipality's failure to Perform the work required on any particular Rights of Way Project to the DOT's satisfaction in accordance with

the respective PAL, the DOT may suspend, postpone or terminate the particular Rights of Way Project and its respective PAL for cause by giving the Municipality ten (10) days Official Notice, provided that the Municipality fails to cure, or begin to cure, the breach or failure, to the satisfaction of the DOT, in its sole discretion, within the cure period that the DOT may, in its sole discretion, set forth in such Official Notice. Such Official Notice shall specify the extent to which Performance of work under the PAL is being suspended, postponed or terminated and the date upon which such action shall be effective.

(b) Termination by the Municipality, with prior DOT approval.

(1) The Municipality may request termination of the Rights of Way Project, and if determined by the DOT, in its sole discretion, to be in the best interests of the Parties, the DOT may agree to the request. Additionally, with respect to Rights of Way Projects receiving federal participation in Funding, receipt of written concurrence from the FHWA (or other applicable federal authority) may be required prior to the DOT's approval of the request.

Once any required federal concurrence is received, the DOT will send approval of termination by giving Official Notice to the Municipality specifying the extent to which Performance of work under the PAL is terminated and the date upon which termination is effective.

(c) Funding of Acceptable Work. The DOT, shall reimburse the Municipality upon suspension, postponement, or termination in accordance with subsection (a)(1) or termination in accordance with subsection (b)(1) and may at its sole discretion, reimburse the Municipality upon suspension, postponement, or termination in accordance with subsection (a)(2). In either case, the DOT may provide the Municipality with Funding in part for its expenditures, if any, up to the percentage of acceptable work completed as of the approved date of termination, in accordance with the following:

If in its sole discretion, the DOT or FHWA (or other applicable federal authority), deems any of the work that the Municipality Performed to be unacceptable, then upon demand by the DOT or FHWA (or other applicable federal authority), the Municipality shall promptly return, in whole or in part, to the DOT or FHWA (or other applicable federal authority), the DOT or federal Funding that prior to the effective date of termination was disbursed to the Municipality to fund that unacceptable work.

(d) If the Municipality terminates the Rights of Way Project without the DOT's prior approval, the Municipality shall incur all costs related to the Rights of Way Project without reimbursement from the DOT or FHWA (or other applicable federal authority) and shall pay the DOT for any DOT-provided Services Performed prior to termination. With respect to federal or state government Funding that was disbursed to the Municipality prior to the effective date of termination, upon demand by the DOT or FHWA (or other applicable federal authority), the Municipality shall promptly return any federal or state government Funding.

(e) Termination of a specific Rights of Way Project shall not relieve the Municipality of its responsibilities for the work completed as of the termination date, nor shall it relieve the Municipality or its surety of its obligations concerning any claims arising out of the work Performed on the Rights of Way Project prior to the termination date or any obligations existing under insurance required by the Connecticut General Statutes or by this or any other agreement with the DOT or the Municipality.

Article 4. DOT-Administered Rights of Way Projects. When the DOT is responsible for the Rights of Way Project, the following sections of this Article apply;

4.1 **Content of the PAL.** The DOT shall issue a PAL to the Municipality which will set forth, at least:

(a) a statement that the DOT is responsible for the Rights of Way Project;

(b) the scope of the Rights of Way Project;

(c) the respective obligations of the Parties with respect to the Rights of Way Project;

(d) the Funding source(s), the related federal and DOT program information, and the associated funding ratio between the federal government, the DOT, and the Municipality, as applicable, for the Rights of Way Project;

(e) the estimated cost for all work under the Rights of Way Project;

(f) the amount of the Demand Deposit(s) due to the DOT from the Municipality for the Municipality's proportionate share of applicable costs for work under the Rights of Way Project; and

(g) the Project Amount.

4.2 **DOT to Perform and Complete the Rights of Way Project.**

(a) The DOT shall use the applicable Funding apportionments to complete the Rights of Way Project and all related activities that the DOT shall Perform under the PAL and pursuant to this Master Agreement.

(b) The DOT shall acquire all permanent rights that are required for the Rights of Way Project, including, but not limited to, rights of access.

(c) The Municipality shall acquire all temporary rights, that are required for the Rights of Way Project, including, but not limited to, driveways, grading, and sidewalks located within the construction project limits.

4.3 **Demand Deposit Requirement.**

(a) The DOT shall prepare a cost estimate for the Rights of Way Project and determine the amount of the Demand Deposit due to the State for the Municipality's proportionate share of such costs.

(b) The Municipality shall provide the Demand Deposit to the DOT prior to the DOT's commencement of the Rights of Way Project. The Parties agree that the PAL is not effective until the Demand Deposit is received by the DOT.

(c) After receipt of the Demand Deposit, the DOT shall begin to Perform its Rights of Way Project.

4.4 **Actual Costs Exceed Estimate.**

Upon notification from the DOT that the actual costs of the Rights of Way Project exceed the original cost estimate set forth in the PAL, the DOT shall issue a Revised PAL and the Municipality shall further deposit with the DOT its proportionate share of any such increases in costs within thirty (30) business days from the Municipality's receipt of such notification.

4.5 **Cost of Condemnation.**

In the event that the DOT must acquire the property necessary for the completion of the Rights of Way Project by way of eminent domain, and the condemnation results in a claim and payment of a settlement or court judgment, this payment or judgment will be considered an additional cost of the Rights of Way Project to be shared by the State and the Municipality in the same proportion as set forth in the Revised PAL.

4.6 **Release of Property.**

Upon completion of the construction project, as determined by the DOT, all property and property rights acquired by the DOT for the Project shall be released in a quitclaim deed with the designation "for transportation purposes only" to the Municipality in which the property is located.

4.7 **Suspension, Postponement, or Termination of a DOT-Administered Rights of Way Project.**

(a) The DOT, upon providing Official Notice, may, in its sole discretion, suspend, postpone, or terminate a specific Rights of Way Project, and such action shall in no event be deemed a breach by the DOT.

(b) If the DOT terminates a specific Rights of Way Project, the DOT, may, at its sole discretion, reimburse the Municipality, in whole or in part, for the Demand Deposit paid to the DOT for the Municipality's proportionate share of costs on the Rights of Way Project.

(c) In the case of a Rights of Way Project which received no federal or state government Funding during its design phase, the Municipality shall pay for the costs of any DOT-provided Services Performed prior to termination of the Rights of Way Project, including but not limited to, DOT oversight services for the Rights of Way Project.

(d) If the Municipality terminates the Rights of Way Project without the DOT's prior approval, the Municipality shall incur all costs related to the Rights of Way Project without reimbursement from the DOT or FHWA (or other applicable federal authority) and shall pay the DOT for any DOT-provided Services Performed prior to termination. With respect to federal or state government Funding that was disbursed to the Municipality prior to the effective date of termination, upon demand by the DOT or FHWA (or other applicable federal authority), the Municipality shall promptly return any federal or state government Funding.

Article 5. Disbursement of Grant Funds; Conditions of Payment.

5.1 Method of Disbursement.

With respect to each Rights of Way Project undertaken pursuant to this Master Agreement, the DOT shall disburse the Funding to the Municipality according to a method determined at the DOT's sole discretion, and in accordance with any applicable state or federal laws, regulations, and requirements.

5.2 Final Payment.

Final payment will be based on an audit performed by the State using the percentages set forth in the respective PAL of this Master Agreement. The Municipality is also required to Perform an audit in accordance with Article 8 of Schedule B of this Master Agreement.

5.3 Federal Approvals Required.

With respect to PALs that include federal participation in Funding, no PAL issued by the DOT shall be effective until all required federal approvals are received by the DOT for the Rights of Way Project.

5.4 Lack of Timeliness in Municipality Performance.

If the Municipality fails to timely commence and complete the Rights of Way Project as set forth in the respective PAL to the satisfaction of the DOT and in accordance with all applicable federal, state, and local laws, regulations, ordinances, or requirements, then:

(a) the DOT has no obligation to reimburse the Municipality for its expenses incurred;

(b) to the extent any Funding already has been disbursed to the Municipality, the Municipality shall return any disbursed funds and any interest earned to-date to the DOT within ten (10) business days of receipt of a request from the DOT; and

(c) the DOT may recover from the Municipality the DOT's costs for the DOT-provided Services Performed on the Rights of Way Project. Upon receipt of written demand from the DOT, the Municipality shall provide payment for the DOT-provided Services within thirty (30) business days.

Article 6. Records and Audit.

6.1 **Audit and Inspection of Plants, Places of Business and Records.**

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

(b) The Municipality shall maintain, and shall require each of the Municipality Parties to maintain, accurate and complete Records. The Municipality shall make all of its and the Municipality Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.

(c) The State shall make all requests for any audit or inspection in writing and shall provide the Municipality with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.

(d) All audits and inspections shall be at the State's expense.

(e) The Municipality shall keep and preserve or cause to be kept and preserved all of its and Municipality Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Municipality shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.

(f) The Municipality shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Municipality shall cooperate with an exit conference.

(g) The Municipality shall incorporate this entire Section verbatim into any contract or

other agreement that it enters into with any Municipality Party.

6.2 **Retention.**

With respect to each Rights of Way Project undertaken under this Master Agreement, the Municipality shall maintain and secure all records for a period of three (3) years after issuance of the final audit or the termination of any litigation related to the Rights of Way Project, whichever is later or for such longer time as instructed by the DOT, the State of Connecticut and its agents, or the federal government.

Article 7. Additional Mandatory Requirements.

7.1 **Mandatory State and Federal Requirements.**

With respect to each PAL issued and acknowledged under this Master Agreement, the Municipality shall comply with the "Mandatory State and Federal Requirements," attached at Schedule B, as may be revised from time to time to reflect changes in law. With respect to any agreements that the Municipality enters into in order to fulfill its obligations for a particular Rights of Way Project, the Municipality shall pass down to Municipality Parties the applicable requirements set forth in the "Mandatory State and Federal Requirements".

7.2 **Additional Federal Requirements.**

With respect to each PAL issued and acknowledged under this Master Agreement that involves the passing of Funds from any agency or office of the federal government, including, but not limited FHWA, the Municipality shall comply with that agency's contracting requirements, directives, and policies that are in place at the time the respective PAL is in effect, except to the extent that the DOT and the respective federal agency may permit otherwise in writing.

7.3 **Revisions.**

While this Master Agreement and the attached Schedules include applicable State of Connecticut and FHWA requirements that the Municipality must comply with, the Municipality hereby acknowledges that such requirements are subject to revision by the DOT, FHWA, or other authorized federal agency, from time to time during the Term and that by accepting federal or state government Funding under this Master Agreement, the Municipality shall be subject to such revised requirements and changes of law as in effect at any given time and, as a result thereof, shall Perform any additional obligations with respect to the particular Rights of Way Project, throughout the Term of this Master Agreement.

Article 8. Conflict.

8.1 **Conflict.**

In case of a conflict between the provisions of any particular PAL, the Master Agreement, the Mandatory State and Federal Requirements, or any specification, guide, manual, policy, document, or other publication referenced in the Master Agreement, the provision containing additional details or more stringent requirements will control. In case of the Municipality's inability to determine the controlling provision or where it is not possible to comply with the requirements of multiple provisions, the DOT shall have the right to determine, in its sole discretion, which provision applies. The Municipality shall promptly request, in writing, the DOT's determination upon the Municipality's inability to determine the controlling provision or upon becoming aware of any such conflict. This provision shall survive the expiration or termination of this Master Agreement.

8.2 **Revisions to Manuals.**

With respect to any guide, manual, policy, document, or other publication referenced throughout the Master Agreement and noted to be subject to revision throughout the Term of this Master Agreement by way of the phrase "as may be revised," for the particular Rights of Way Project the Municipality shall comply with the version of the document or publication that is in effect on the date of the Written Acknowledgement of the PAL for the Rights of Way Project.

Article 9. Review of Municipality's Activities.

The Municipality shall cooperate fully with the DOT and permit the DOT, FHWA, or other federal authority, as applicable, to review, at any time during the Rights of Way Project, all activities Performed by the Municipality with respect to any PAL issued under this Master Agreement. Upon request of the DOT, the Municipality shall timely furnish all documents related to the Rights of Way Project so that the DOT may evaluate the Municipality's activities with respect to the Rights of Way Project, including, but not limited to, its use of the Funding as required by the PAL, this Master Agreement, and applicable law.

Article 10. Term and Termination of the Master Agreement.

10.1 **Term.** The Term commences on the Effective Date and continues for ten (10) years, unless terminated earlier in accordance with this Article.

10.2 **Termination for Convenience.** The DOT may terminate this Master Agreement for convenience, at its sole discretion, upon providing thirty (30) days Official Notice to the Municipality.

10.3 **Termination for Cause.**

As a result of the Municipality's breach of the Master Agreement or a particular PAL or the failure of the Municipality to Perform the work required on any particular Rights of Way Project to the DOT's satisfaction in accordance with the respective PAL, the DOT may terminate this Master Agreement for cause by giving the Municipality ten (10) days Official Notice, provided that the

Municipality fails to cure, or begin to cure, the breach or failed Performance, to the satisfaction of the DOT in its sole discretion, within the notice period that the DOT may, in its sole discretion, set forth in such Official Notice. Termination for cause by the DOT will not prejudice the right of the DOT to pursue any of its remedies for breach, including recovery of any Funding paid to the Municipality prior to termination for cause.

10.4 **Effect on In-progress PALs.**

(a) Upon expiration of the Term or the DOT's earlier termination for convenience of the Master Agreement, any issued PAL for a Rights of Way Project that is still in-progress will remain in full force and effect and will continue through completion and final acceptance by the DOT of the respective Rights of Way Project, and the Municipality shall be subject to all applicable terms and conditions of the PAL and this Master Agreement, unless the respective PAL is itself terminated in accordance with section 3.6.

(b) Upon the DOT's termination of this Master Agreement for cause, any PALs in-progress at the time will automatically terminate, unless the DOT provides Official Notice stating otherwise. The DOT, at its sole discretion, will determine and state in such Official Notice to the Municipality, if any in-progress PALs will remain in effect, and in such case, the Municipality shall complete Performance of such in-progress PAL(s) through completion and final acceptance by the DOT of the respective Rights of Way Project in compliance with all applicable terms and conditions of the PAL and this Master Agreement.

Article 11. Official Notice.

Any Official Notice from one Party to the other Party, in order for such notice to be binding thereon, shall:

11.1 Be in writing (as a printed hard copy or electronic or facsimile copy) addressed to:

(a) When the DOT is to receive Official Notice:

Commissioner of Transportation
Connecticut Department of Transportation
2800 Berlin Turnpike
P.O. Box 317546
Newington, Connecticut 06131-7546;

(b) When the Municipality is to receive Official Notice:

Mayor
City of Bridgeport
999 Broad Street
Bridgeport, CT 06604;

11.2 Be delivered to the address recited herein in person, by facsimile or by electronic transmission, with acknowledgement of receipt, or be mailed by United States Postal Service with return receipt requested by mail, electronic means, or any other methods of receiving the return receipt as identified by the Mailing Standards of the U.S. Postal Service, as may be revised; and

11.3 Contain complete and accurate information in sufficient detail to properly and adequately identify and describe the subject matter thereof.

Article 12. Indemnification.

The Municipality shall:

(a) Indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Master Agreement, including the acts of commission or omission (collectively, the "Acts") of the Municipality or Municipality Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Master Agreement. The Municipality shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Municipality's obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Municipality's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the Performance.

(b) The Municipality shall not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any third party acting under the direct control or supervision of the State.

(c) The Municipality shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Municipality or any Municipality Parties. The State shall give the Municipality reasonable notice of any such Claims.

(d) The Municipality's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Agreement, without being lessened or compromised in any way, even where the Municipality is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.

(e) The Municipality shall carry and maintain at all times during the term of the Master Agreement, and during the time that any provisions survive the term of the Master Agreement, sufficient general liability insurance (or self-insurance) to satisfy its obligations under this Master Agreement. The Municipality shall name the State as an additional insured on the

policy. The State shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the DOT or the State is contributorily negligent.

(f) This section shall survive the termination of the Master Agreement and shall not be limited by reason of any insurance coverage.

Article 13 Sovereign Immunity.

13.1 **No Waiver of the State's Immunities.**

Nothing in this Master Agreement or any PAL issued hereunder shall be construed as a modification, compromise or waiver by the DOT of any rights or defenses of any immunities provided by federal law or the laws of the State of Connecticut to the DOT or any of its officers and employees, which they may have had, now have or will have with respect to matters arising out of this Master Agreement. To the extent that this section conflicts with any other section, this section shall govern.

13.2 **Defense of Suits by the Municipality.**

Nothing in this Master Agreement shall preclude the Municipality from asserting its Governmental Immunity rights in the defense of third party claims. The Municipality's Governmental Immunity defense against third party claims, however, shall not be interpreted or deemed to be a limitation or compromise of any of the rights or privileges of the DOT, at law or in equity, under this Master Agreement, including, but not limited to, those relating to damages.

Article 14 Governing Law.

The Parties deem the Master Agreement to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Master 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 any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the DOT, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Municipality 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. Nothing contained in the terms or provisions of this Master Agreement shall be construed as waiving any of the rights of the DOT under the laws of the State of Connecticut. Nothing contained in this Master Agreement shall be construed as an agreement by the DOT to directly or indirectly obligate the DOT to creditors or employees of the Municipality or to the Municipality's Parties.

Article 15 Amendment.

This Master Agreement may be amended by mutual written agreement signed by the authorized representative of each Party and approved by the Attorney General of the State of Connecticut, and upon receipt of any additional approvals required by law.

Article 16 Severability.

If any provision of this Master Agreement or application thereof is held invalid, that invalidity shall not affect other provisions or applications of the Master Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Master Agreement are severable.

Article 17 Waiver.

The failure on the part of the DOT to enforce any covenant or provision herein contained does not waive the DOT's right to enforce such covenant or provision, unless set forth in writing. The waiver by the DOT of any right under this Master Agreement or any PAL, unless in writing, shall not discharge or invalidate such covenant or provision or affect the right of the DOT to enforce the same.

Article 18 Remedies are nonexclusive.

No right, power, remedy or privilege of the DOT shall be construed as being exhausted or discharged by the exercise thereof in one or more instances, and it is agreed that each and all of said rights, powers, remedies or privileges shall be deemed cumulative and additional and not in lieu or exclusive of any other right, power, remedy or privilege available to the DOT at law or in equity.

Article 19. Municipally-owned Property.

In the event property already owned by the Municipality, but not previously designated for transportation purposes, is required in conjunction with the Rights of Way Project, the Party responsible for the acquisition as part of the Rights of Way Project shall prepare the appraisal of the Municipally-owned property. Thereafter, the DOT shall provide the Municipality with a credit for the federal and DOT share of the DOT approved value of Municipally-owned property to be utilized in the Rights of Way Project. Said properties shall be used for transportation purposes only. This provision will survive the Agreement, the PAL the completion of the Rights of Way Project and the completion of any related construction project.

Article 20 Entire Agreement.

This Master Agreement, when fully executed and approved as indicated, constitutes the entire agreement between the Parties and shall supersede all previous communications, representations, or agreements, either oral or written, between the Parties hereto with respect to the subject matter hereof; and no agreement or understanding varying or extending the same shall be binding upon either Party hereto unless in writing signed by both Parties hereto.

The Parties have executed this Master Agreement by their duly authorized representatives on the day and year indicated, with full knowledge of and agreement with its terms and conditions.

STATE OF CONNECTICUT
Department of Transportation
James Redeker, Commissioner

By_____

Thomas A. Harley P.E.
Bureau Chief
Bureau of Engineering and Construction

Date:._____

CITY OF BRIDGEPORT

By_____

Joseph P. Ganim
Mayor

Date:_____

Schedule A
PAL Template

Dear [Addressee – Designated Municipal Official]:

Subject: Project Authorization Letter
For the [Project Description] (Rights of Way Project)

State Project No.
Federal Project No.
Master Agreement No.

On [date] the State of Connecticut, Department of Transportation (DOT) and the [City/Town] of [NAME OF CITY/TOWN] (Municipality) entered into the Master Municipal Agreement for Rights of Way Projects (Master Agreement) noted above. This Project Authorization Letter (PAL) is issued pursuant to the Master Agreement. The capitalized terms used in this PAL are the same as those used in the Master Agreement.

The [DOT/Municipality] is responsible for the Administration of the Rights of Way Project.

The Rights of Way Project is to provide [ENTER DESCRIPTION].

The Rights of Way Project is expected to commence on or after _____ and be completed by _____, subject to delays which may be caused by circumstances beyond the control of the DOT or the City/Town.

Funding for the Rights of Way Project is provided under [Identify the Federal and or State program and associated funding ratio between F/S/L] and payment will be on a reimbursement basis. The maximum reimbursement to the Municipality under this PAL is $[ENTER AMOUNT] dollars. In addition, any reimbursement for actual expenditures will be in accordance with the terms of the Master Agreement. Costs contained in this PAL shall not be exceeded without first obtaining written permission from the DOT.

The Municipality shall provide a statement that any property acquired or incorporated into the Rights of Way Project shall be used for transportation purposes only and that such provision shall survive the PAL, this Agreement, the completion of the Rights of Way Project and the completion of any related construction project.

The issuance of the PAL itself is not an authorization for the Municipality to begin performing work with respect to the Rights of Way Project. The Municipality may advance or begin work on the Rights of Way Project only after it has received from the DOT an Authorization to Award Notice.

Master Municipal Agreement for Rights of Way Projects

Please indicate your concurrence with the PAL by signing below on or before [date] and returning a copy to the DOT's Authorized Representative. The signature of the Designated Municipal Official evidences the Municipality's concurrence with the PAL and constitutes the Written Acknowledgement of the PAL. You may submit the Written Acknowledgement of the PAL to the DOT's Authorized Representative in hard copy or by facsimile or electronic transmission. The Master Agreement and the PAL will be incorporated into one another in their entirety and contain the legal and binding obligations of the Municipality with respect to the Rights of Way Project.

If you have any questions please contact [Mr./Ms.], the Project Manager at (860) 594-[xxxx].

Very truly yours,

Authorized DOT Representative

MUNICIPALITY'S ACKNOWLEDGEMENT OF PAL

Concurred By_____ Date_____

Print Name:
Designated Municipal Official

PAL ATTACHMENT
STATE PROJECT NO.XXX
FEDERAL PROJECT NO.XXXX
ESTIMATED RIGHTS OF WAY COSTS

(NOTE: Depending on the federal program the cost sharing between the parties will vary and this attachment will be adjusted accordingly by the initiating unit.)

Schedule B

Mandatory State and Federal Requirements

1. **Executive Orders.** This Master Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings, and Executive Order No. Sixteen of Governor John G. Rowland, promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Master Agreement as if they had been fully set forth in it. The Master Agreement may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order No. 14 and/or Executive Order No. 49 are applicable, they are deemed to be incorporated into and are made a part of the Master Agreement as if they had been fully set forth in it. At the Municipality's request, the State shall provide a copy of these orders to the Municipality.

2. **Code of Ethics.** The Municipality shall comply with the policies set forth in Policy Statement Policy No. F&A-10 ("Code of Ethics Policy"), Connecticut Department of Transportation, June 1, 2007, attached hereto as Schedule C.

3. **Suspension or Debarment.** The Municipality shall not allow suspended or debarred contractors, consulting engineers, suppliers, materialmen, lessors, or other vendors to submit proposals for a State contract or subcontract during the period of suspension or debarment regardless of their anticipated status at the time of contract award or commencement of work.

4. **Certification.**

A. The signature on the Master Agreement by the Municipality shall constitute certification that to the best of its knowledge and belief the Municipality or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of Federal or State funds:

(i) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(ii) Has not, within the prescribed statutory time period preceding this Master Agreement, been convicted of or had a civil judgment rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(iii) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph A(ii) of this certification; and

(iv) Has not, within a five-year period preceding this Master Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.

B. Where the Municipality is unable to certify to any of the statements in this certification, such Municipality shall attach an explanation to this Master Agreement.

C. The Municipality shall insure that the following certification be included in each subcontract agreement to which it is a party, and further, to require said certification to be included in any subcontracts, sub-subcontracts and purchase orders:

(i) The prospective subcontractors, sub-subcontractors participants certify, by submission of its/their proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(ii) Where the prospective subcontractors, sub-subcontractors participants are unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.

5. **Title VI Contractor Assurances.** As a condition to receiving federal financial assistance, if any, under the Master Agreement, the Municipality shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§2000d -2000d-7), all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the "Title VI Contractor Assurances", attached hereto at Schedule D, all of which are hereby made a part of this Master Agreement.

6. **Certification for Federal-Aid Contracts** (Applicable to contracts exceeding $100,000):

A. The Municipality certifies, by signing and submitting this Master Agreement, to the best of his/her/its knowledge and belief, that:

(i) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Municipality, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Municipality shall complete and submit a Disclosure of Lobbying Activities form (Form SF-

LLL) available at the Office of Budget and Management's website at http://www.whitehouse.gov/omb/grants_forms/, in accordance with its instructions. If applicable, Form SF–LLL shall be completed and submitted with the Master Agreement.

B. This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this Certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required Certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

C. The Municipality shall require that the language of this Certification be included in all subcontracts, sub-subcontracts which exceed $100,000 and that all such subrecipients shall certify and disclose accordingly. These completed Disclosure Forms-LLL, if applicable, shall be mailed to the Connecticut Department of Transportation, P.O. Box 317546, Newington, CT 06131-7546, to the attention of the project manager.

7. **Americans with Disabilities Act of 1990.** This clause applies to municipalities who are or will be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 ("ADA"), Public Law 101-336, during the term of the master Agreement. The Municipality represents that it is familiar with the terms of this ADA and that it is in compliance with the ADA. Failure of the Municipality to satisfy this standard as the same applies to performance under this Master Agreement, either now or during the term of the Master Agreement as it may be amended, will render the Master Agreement voidable at the option of the State upon notice to the Municipality. The Municipality warrants that it will hold the State harmless and indemnify the State from any liability which may be imposed upon the State as a result of any failure of the Municipality to be in compliance with this ADA, as the same applies to performance under this Master Agreement.

8. The Municipality receiving federal funds must comply with the Federal Single Audit Act of 1984, P.L. 98-502 and the Amendments of 1996, P.L. 104-156. The Municipality receiving state funds must comply with the Connecticut General Statutes § 7-396a, and the State Single Audit Act, §§ 4-230 through 236 inclusive, and regulations promulgated thereunder.

FEDERAL SINGLE AUDIT: Each Municipality that expends a total amount of Federal awards: 1) equal to or in excess of $500,000 in any fiscal year shall have either a single audit made in accordance with OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" or a program-specific audit (i.e. an audit of one federal program); 2) less than $500,000 shall be exempt for such fiscal year.

STATE SINGLE AUDIT: Each Municipality that expends a total amount of State financial assistance: 1) equal to or in excess of $300,000 in any fiscal year shall have an audit made in accordance with the State Single Audit Act, Connecticut General Statutes (C.G.S.) §§ 4-230 to 4-236, hereinafter referred to as the State Single Audit Act or a program audit; 2) less than $300,000 in any fiscal year shall be exempt for such fiscal year.

The contents of the Federal Single Audit and the State Single Audit (collectively, the "Audit

Reports") must be in accordance with Government Auditing Standards issued by the Comptroller General of the United States.

The Audit Reports shall include the requirements as outlined in OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" and the State Single Audit Act, when applicable.

The Municipality shall require that the workpapers and reports of an independent Certified Public Accountant ("CPA") be maintained for a minimum of five (5) years from the date of the Audit Reports.

The State reserves the right to audit or review any records/workpapers of the CPA pertaining to the Master Agreement.

9. When the Municipality receives State or Federal funds it shall incorporate the "Connecticut Required Specific Equal Employment Opportunity Responsibilities" ("SEEOR"), dated 2010, attached at Schedule E, as may be revised, as a material term of any contracts/agreements it enters into with Municipality Parties and shall require the Municipality Parties to include this requirement in any of its subcontracts. The Municipality shall also attach a copy of the SEEOR, as part of any contracts/agreements with Municipality Parties and require that the Municipality Parties attach the SEEOR to its subcontracts.

Schedule C

CONNECTICUT DEPARTMENT OF TRANSPORTATION
POLICY STATEMENT

POLICY NO. F&A-10
June 1, 2007

SUBJECT: Code of Ethics Policy

The purpose of this policy is to establish and maintain high standards of honesty, integrity, and quality of performance for all employees of the Department of Transportation ("DOT" or "Department"). Individuals in government service have positions of significant trust and responsibility that require them to adhere to the highest ethical standards. Standards that might be acceptable in other public or private organizations are not necessarily acceptable for the DOT.

It is expected that all DOT employees will comply with this policy as well as the Code of Ethics for Public Officials, and strive to avoid even the appearance of impropriety in their relationships with members of the public, other agencies, private vendors, consultants, and contractors. This policy is, as is permitted by law, in some cases stricter than the Code of Ethics for Public Officials. Where that is true, employees are required to comply with the more stringent DOT policy.

The Code of Ethics for Public Officials is State law and governs the conduct of all State employees and public officials regardless of the agency in which they serve. The entire Code, as well as a summary of its provisions, may be found at the Office of State Ethics' web site:www.ct.gov/ethics/site/default.asp. For formal and informal interpretations of the Code of Ethics, DOT employees should contact the Office of State Ethics or the DOT's Ethics Compliance Officer or her designee.

All State agencies are required by law to have an ethics policy statement. Additionally, all State agencies are required by law to have an Ethics Liaison or Ethics Compliance Officer. The DOT, because of the size and scope of its procurement activities, has an Ethics Compliance Officer who is responsible for the Department's: development of ethics policies; coordination of ethics training programs; and monitoring of programs for agency compliance with its ethics policies and the Code of Ethics for Public Officials. At least annually, the Ethics Compliance Officer shall provide ethics training to agency personnel involved in contractor selection, evaluation, and supervision. A DOT employee who has a question or is unsure about the provisions of this policy, or who would like assistance contacting the Office of State Ethics, should contact the Ethics Compliance Officer or her designee.

The DOT Ethics Compliance Officer is:

Denise Rodosevich, Managing Attorney
Office of Legal Services

For questions, contact the Ethics Compliance Officer's Designee:

Alice M. Sexton, Principal Attorney
Office of Legal Services
2800 Berlin Turnpike
Newington, CT 06131-7546
Tel. (860) 594-3045

To contact the Office of State Ethics:

Office of State Ethics
20 Trinity Street, Suite 205
Hartford, CT 06106
Tel. (860) 566-4472
Facs. (860) 566-3806
Web: www.ethics.state.ct.us

Enforcement

The Department expects that all employees will comply with all laws and policies regarding ethical conduct. Violations of the law may subject an employee to sanctions from agencies or authorities outside the DOT. Whether or not another agency or authority imposes such sanctions, the Department retains the independent right to review and respond to any ethics violation or alleged ethics violation by its employees. Violations of this policy or ethics statutes, as construed by the DOT, may result in disciplinary action up to and including dismissal from State service.

Prohibited Activities

1. ***Gifts:*** DOT employees (and in some cases their family members) are prohibited by the Code of Ethics and this Policy from accepting a gift from anyone who is: (1) doing business with, or seeking to do business with, the DOT; (2) directly regulated by the DOT; (3) prequalified as a contractor pursuant to Conn. Gen. Stat. §4a-100 by the Commissioner of the Department of Administrative Services (DAS); or (4) known to be a registered lobbyist or a lobbyist's representative. These four categories of people/entities are referred to as "restricted donors." A list of registered lobbyists can be found on the web site of the Office of State Ethics (www.ct.gov/ethics/site/default.asp). A list of prequalified consultants and contractors, *i.e.,* those seeking to do business with the DOT, can be found on the DOT's Internet site under "Consultant Information" and "Doing Business with ConnDOT," respectively.

   The term "gift" is defined in the Code of Ethics for Public Officials, Conn. Gen. Stat. §1-79(e), and has numerous exceptions. For example, one exception permits the acceptance of food and/or beverages valued up to $50 per calendar year from any one donor and consumed on an occasion or occasions while the person paying or his representative is present. Therefore, such food and/or beverage is not a "gift." Another exception permits the acceptance of items having a value up to ten dollars ($10) provided the aggregate value of all things provided by the donor to the recipient during a calendar year does not exceed fifty dollars ($50). Therefore, such items are not a "gift." Depending on the circumstances, the "donor" may be an individual if the individual is bearing the expense, or a donor may be the individual's employer/group if the individual is passing the expense back to the employer/group he/she represents.

   This policy requires DOT employees to immediately return any gift (as defined in the Code of Ethics) that any person or entity attempts to give to the employee(s). If any such gift or other item of value is received by other than personal delivery from the subject person or entity, the item shall be taken to the Office of Human Resources along with the name and address of the person or entity who gave the item. The Office of Human Resources, along with the recipient of the item of value, will arrange for the donation of the item to a local charity (e.g., Foodshare, local soup kitchens, etc.). The Office of Human Resources will then send a letter to the gift's donor advising the person of the item's donation to charity and requesting that no such gifts be given to DOT employees in the future.

2. ***Contracting for Goods or Services for Personal Use With Department Contractors, Consultants, or Vendors:*** Executive Order 7C provides that: "Appointed officials and state employees in the Executive Branch are prohibited from contracting for goods and services, for personal use, with any person doing business with or seeking business with his or her agency, unless the goods or services are readily available to the general public for the price which the official or state employee paid or would pay."

3. ***Gift Exchanges Between Subordinates and Supervisors/Senior Staff:*** A recent change in the Code of Ethics prohibits exchanges of gifts valued at $100 or more between (*i.e.,* to and from) supervisors and employees under their supervision. The Citizen's Ethics Advisory Board has advised that: (1) the monetary limit imposed by this provision is a per-gift amount; (2) gifts given between supervisors and subordinates (or *vice versa)* in celebration of a "major life event," as defined in the Code of Ethics, need not comply with the $100 limit; and (3) the limitations imposed by this provision apply to a direct supervisor and subordinate and to any individual up or down the chain of command. The Citizen's Ethics Advisory Board has also advised that supervisors or subordinates may not pool their money to give a collective or group gift valued at $100 or more, even though each of the individual contributions is less than $100.

4. ***Acceptance of Gifts to the State:*** A recent change to the Code of Ethics for Public Officials modified the definition of the term "gift" to limit the application of the so-called "gift to the State" exception. In general, "gifts to the State" are goods or services given to a State agency for use on State property or to support an event and which facilitate State action or functions. Before accepting any benefit as a "gift to the State," DOT employees should contact the Ethics Compliance Officer.

5. ***Charitable Organizations and Events:*** No DOT employee shall knowingly accept any gift, discount, or other item of monetary value for the benefit of a charitable organization from any person or entity seeking official action from, doing or seeking business with, or conducting activities regulated by, the Department.

6. ***Use of Office/Position for Financial Gain:*** DOT employees shall not use their public office, position, or influence from holding their State office/position, nor any information gained in the course of their State duties, for private financial gain (or the prevention of financial loss) for themselves, any family member, any member of their household, nor any "business with which they are associated." In general, a business with which one is associated includes any entity of which a DOT employee or his/her immediate family member is a director, owner, limited or general partner, beneficiary of a trust, holder of 5 percent or more stock, or an officer (president, treasurer, or executive or senior vice president).

   DOT employees shall not use or distribute State information (except as permitted by the Freedom of Information Act), nor use State time, personnel, equipment, or materials, for other than State business purposes.

7. ***Other Employment:*** DOT employees shall not engage in, nor accept, other employment that will either impair their independence of judgment with regard to their State duties or require or induce them to disclose confidential information gained through their State duties.

   Any DOT employee who engages in or accepts other employment (including as an independent contractor), or has direct ownership in an outside business or sole proprietorship, shall complete an Employment/Outside Business Disclosure Form (see attached) and submit it to the Department's Human Resources Administrator. Disclosure of other employment to the DOT Human Resources Administrator shall not constitute approval of the other employment for purposes of the Code of Ethics for Public Officials.

   Inquiries concerning the propriety of a DOT employee's other employment shall be directed to the Office of State Ethics to assure compliance with the Code of Ethics for Public Officials. Employees anticipating accepting other employment as described above should give ample time (at least one month) to the Office of State Ethics to respond to such outside employment inquiries. No employee of

the DOT shall allow any private obligation of employment or enterprise to take precedence over his/her responsibility to the Department.

8. ***Outside Business Interests:*** Any DOT employee who holds, directly or indirectly, a financial interest in any business, firm, or enterprise shall complete an Employment/Outside Business Disclosure Form (see attached) and submit it to the Department's Human Resources Administrator. An indirect financial interest includes situations where a DOT employee's spouse has a financial interest in a business, firm, or enterprise. A financial interest means that the employee or his spouse is an owner, member, partner, or shareholder in a non-publicly traded entity. Disclosure of such outside business interests to the DOT Human Resources Administrator shall not constitute approval of the outside business interest under this Policy or the Code of Ethics for Public Officials. DOT employees shall not have a financial interest in any business, firm, or enterprise which will either impair their independence of judgment with regard to their State duties or require or induce them to disclose confidential information gained through their State duties. Inquiries concerning the propriety of a DOT employee's outside business interests shall be directed to the Office of State Ethics to assure compliance with the Code of Ethics for Public Officials.

9. ***Contracts With the State*:** DOT employees, their immediate family members, and/or a business with which a DOT employee is associated, may not enter into a contract with the State, other than pursuant to a court appointment, valued at $100 or more unless the contract has been awarded through an open and public process.

10. ***Sanctioning Another Person's Ethics Violation*:** No DOT official or employee shall counsel, authorize, or otherwise sanction action that violates any provision of the Code of Ethics.

11. ***Certain Persons Have an Obligation to Report Ethics Violations:*** If the DOT Commissioner, Deputy Commissioner, or "person in charge of State agency procurement" and contracting has reasonable cause to believe that a person has violated the Code of Ethics or any law or regulation concerning ethics in State contracting, he/she must report such belief to the Office of State Ethics. All DOT employees are encouraged to disclose waste, fraud, abuse, and corruption about which they become aware to the appropriate authority (see also Policy Statement EX.O.-23 dated March 31, 2004), including, but not limited to, their immediate supervisor or a superior of their immediate supervisor, the DOT Office of Management Services, the Ethics Compliance Officer, the Auditors of Public Accounts, the Office of the Attorney General, or the Office of the Chief State's Attorney.

12. ***Post-State Employment Restrictions:*** In addition to the above-stated policies of the Department, DOT employees are advised that the Code of Ethics for Public Officials bars certain conduct by State employees ***after they leave State service. Upon leaving State service:***

    - ***Confidential Information*:** DOT employees must never disclose or use confidential information gained in State service for the financial benefit of any person.

    - ***Prohibited Representation*:** DOT employees must never represent anyone (other than the State) concerning any "particular matter" in which they participated personally and substantially while in State service and in which the State has a substantial interest.

    DOT employees also must not, for one year after leaving State service, represent anyone other than the State for compensation before the DOT concerning a matter in which the State has a substantial interest. In this context, the term "represent" has been very broadly defined. Therefore, any former DOT employee contemplating post-State employment work that might involve interaction with any

bureau of DOT (or any Board or Commission administratively under the DOT) within their first year after leaving State employment should contact the DOT Ethics Compliance Officer and/or the Office of State Ethics.

- ***Employment With State Vendors:*** DOT employees who participated substantially in, or supervised, the negotiation or award of a State contract valued at $50,000 or more must not accept employment with a party to the contract (other than the State) for a period of one year after resigning from State service, if the resignation occurs within one year after the contract was signed.

13. ***Ethical Considerations Concerning Bidding and State Contracts:*** DOT employees also should be aware of various provisions of Part IV of the Code of Ethics that affect any person or firm who: (1) is, or is seeking to be, prequalified by DAS under Conn. Gen. Stat. §4a-100; (2) is a party to a large State construction or procurement contract, or seeking to enter into such a contract, with a State agency; or (3) is a party to a consultant services contract, or seeking to enter into such a contract, with a State agency. These persons or firms shall not:

    - With the intent to obtain a competitive advantage over other bidders, solicit any information from an employee or official that the contractor knows is not and will not be available to other bidders for a large State construction or procurement contract that the contractor is seeking;

    - Intentionally, willfully, or with reckless disregard for the truth, charge a State agency for work not performed or goods not provided, including submitting meritless change orders in bad faith with the sole intention of increasing the contract price, as well as falsifying invoices or bills or charging unreasonable and unsubstantiated rates for services or goods to a State agency; and

    - Intentionally or willfully violate or attempt to circumvent State competitive bidding and ethics laws.

Firms or persons that violate the above provisions may be deemed a nonresponsible bidder by the DOT.

In addition, no person with whom a State agency has contracted to provide consulting services to plan specifications for any contract, and no business with which such person is associated, may serve as a consultant to any person seeking to obtain such contract, serve as a contractor for such contract, or serve as a subcontractor or consultant to the person awarded such contract.

DOT employees who believe that a contractor or consultant may be in violation of any of these provisions should bring it to the attention of their manager.

Training for DOT Employees

A copy of this policy will be posted throughout the Department, and provided to each employee either in hard copy or by e-mail. As set forth above, State law requires that certain employees involved in contractor/consultant/vendor selection, evaluation, or supervision must undergo annual ethics training coordinated or provided by the Ethics Compliance Officer. If you believe your duties meet these criteria, you should notify your Bureau Chief to facilitate compilation of a training schedule. In addition, the DOT Ethics Compliance Officer can arrange for periodic ethics training provided by the Office of State Ethics. Finally, the Department will make available, on its web site or otherwise, a copy of this policy to all vendors, contractors, and other business entities doing business with the Department.

Important Ethics Reference Materials

It is strongly recommended that every DOT employee read and review the following:

- Code of Ethics for Public Officials, Chapter 10, Part 1, Conn. General Statutes Sections 1-79 through 1-89a found at: www.ct.gov/ethics/site/default.asp
- Ethics Regulations Sections 1-81-14 through 1-81-38, found at: www.ct.gov/ethics/site/default.asp
- The Office of State Ethics web site includes summaries and the full text of formal ethics advisory opinions interpreting the Code of Ethics, as well as summaries of previous enforcement actions: www.ct.gov/ethics/site/default.asp. DOT employees are strongly encouraged to contact the Department's Ethics Compliance Officer or her designee, or the Office of State Ethics with any questions or concerns they may have.

(This Policy Statement supersedes Policy Statement No. F&A-10 dated January 6, 2006)

R. J. Carpenter

Ralph G. Carpenter
COMMISSIONER

Attachment
List 1 and List 3
(Managers and supervisors are requested to distribute a copy of this Policy Statement to all employees under their supervision.)

cc: Office of the Governor, Department of Administrative Services, Office of State Ethics

Schedule D

TITLE VI CONTRACTOR ASSURANCES

For this document Contractor means Consultant, Consulting Engineer, Second Party, or other entity doing business with the State and Contract shall mean the same as Agreement.

During the performance of this Contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. **Compliance with Regulations:** The Contractor shall comply with the regulations relative to nondiscrimination in federally assisted programs of the United States Department of Transportation (hereinafter, "USDOT"), Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Subsection 5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

4. **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Connecticut Department of Transportation (ConnDOT) or the Funding Agency (FHWA, FTA and FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to ConnDOT or the Funding Agency, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the ConnDOT shall impose such sanctions as it or the Funding Agency may determine to be appropriate, including, but not limited to:

   A. Withholding contract payments until the Contractor is in compliance; and/or

   B. Cancellation, termination, or suspension of the Contract, in whole or in part.

6. **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the ConnDOT or the Funding Agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the ConnDOT to enter into such litigation to protect the interests of the Funding Agency, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Schedule E

CONNECTICUT REQUIRED SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES

(2010)

1. **General:**

a) Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by federal Executive Order 11246, federal Executive Order 11375 are set forth in Required Contract Provisions (Form PR-1273 or 1316, as appropriate) and these special provisions which are imposed pursuant to Section 140 of Title 23 U.S.C., as established by Section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these special provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.

b) "Company" refers to any entity doing business with the Connecticut Department of Transportation and includes but is not limited to the following:

Contractors and Subcontractors
Consultants and Subconsultants
Suppliers of Materials and Vendors (where applicable)
Municipalities (where applicable)
Utilities (where applicable)

c) The Company will work with the Connecticut Department of Transportation (ConnDOT) and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.

d) The Company and all his/her subcontractors or subconsultants holding subcontracts not including material suppliers, of $10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of federal Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The Company will include these requirements in every subcontract of $10,000 or more with such modification of language as necessary to make them binding on the subcontractor or subconsultant.

2. **Equal Employment Opportunity Policy:**

Companies with contracts, agreements or purchase orders valued at $10,000 or more will develop and implement an Affirmative Action Plan utilizing the ConnDOT Affirmative Action Plan Guideline. This Plan shall be designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex or national origin, and to promote the full realization of equal employment opportunity through a positive continuation program.

3. **Subcontracting:**

a) The Company will use his/her best efforts to solicit bids from and to utilize minority

group subcontractors or subcontractors with meaningful minority group and female representation among their employees. Companies shall obtain lists of minority-owned construction firms from the Division of Contract Compliance.

b) The Company will use its best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

4. Records and Reports:

a) The Company will keep such records as are necessary to determine compliance with equal employment opportunity obligations. The records kept by the Company will be designed to indicate:

1. The number of minority and non-minority group members and women employed in each classification on the project;
2. The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force);
3. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
4. The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.

b) All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of ConnDOT and the Federal Highway Administration.

c) The Company will submit an annual report to ConnDOT each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form PR 1391. If on-the-job training is being required by "Training Special Provision," the Company will be required to furnish Form FHWA 1409.

Item# *215-15 Consent Calendar

Resolution re: State of Connecticut Department of Transportation (DOT) Master Municipal Agreement for Construction Projects.

Report of Committee on Contracts

City Council Meeting Date: DECEMBER 19, 2016

Attest: Lydia N. Martinez
Lydia N. Martinez, City Clerk

Approved by: _____
Joseph P. Ganim, Mayor

Date Signed: 1/5/17

RECEIVED
CITY CLERK'S OFFICE
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ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport:

The Committee on **Contracts** begs leave to report; and recommends for adoption the following resolution:

Item No. *215-15 Consent Calendar

A Resolution by the Bridgeport City Council

Regarding the

State of Connecticut Department of Transportation (DOT)

Master Municipal Agreement for Construction Projects

WHEREAS, the City of Bridgeport undertakes, and may financially participate in, rights of way activities, in conjunction with improvements to locally-maintained roadways, structures and transportation enhancement facilities that are eligible for government financial assistance from the State of Connecticut Department of Transportation, the federal government, or both; and

WHEREAS, the **State of Connecticut Department of Transportation (DOT)** is the authorized entity responsible for distributing the state and federal government financial assistance with respect to these municipal projects; and

WHEREAS, on a project-by-project basis either the City of Bridgeport or the DOT takes on responsibility for the administration of the rights of way phase of a particular municipal project, and the parties wish for a Master Agreement to address the rights of way phase of the Municipality or State's administered projects; and

WHEREAS, the DOT and the City of Bridgeport wish to set forth their respective duties, rights, and obligations with respect to these projects that are undertaken in a Master Municipal Agreement for Construction Projects.

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL:

1. That it is cognizant of the City's intention to enter into the Master Municipal Agreement for Construction Projects with **the State of Connecticut Department of Transportation (DOT)** and to continue to engage in transportation projects which may be DOT and/or federally funded; and

2. That it hereby authorizes, directs and empowers the Joseph P. Ganim, Mayor, or his designee to execute and file the Agreement entitled "Master Municipal Agreement for Construction Projects" with the **State of Connecticut Department of Transportation (DOT)** to serve as the master backbone agreement for future transportation projects which may be DOT and/or federally funded.

City of Bridgeport, Connecticut
Office of the City Clerk

Report of Committee on Contracts
Item No. *215-15 Consent Calendar

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
CONTRACTS

*Jack O. Banta, D-131st, **Co-Chair***

*Jeanette Herron, D-133rd, **Co-Chair***

Milta I. Feliciano, D-137th

AmyMarie Vizzo-Paniccia, D-134th

James Holloway, D-139th

Alfredo Castillo, D-136th

Anthony R. Paoletto, D-138th

***City Council Date**: December 19, 2016*

MASTER MUNICIPAL AGREEMENT FOR CONSTRUCTION PROJECTS

THIS MASTER MUNICIPAL AGREEMENT FOR CONSTRUCTION PROJECTS ("Master Agreement") is entered into by and between the STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION, (the "DOT"), and the CITY OF BRIDGEPORT, 999 Broad Street, Bridgeport Connecticut 06604 (the "Municipality"). The DOT or the Municipality may each be referred to individually as the "Party" and collectively may be referred to as the "Parties."

WHEREAS, the Municipality undertakes, and may financially participate in, municipal projects to construct improvements to locally-maintained roadways, structures and transportation enhancement facilities that are eligible for government financial assistance from the DOT, the federal government, or both;

WHEREAS, the DOT is the authorized entity responsible for distributing the state and federal government financial assistance with respect to these municipal projects; and

WHEREAS, on a project-by-project basis either the DOT or the Municipality takes on the responsibility of administering the construction phase of a particular municipal project, and the parties wish for this Master Agreement to address both DOT-administered and Municipality-administered projects;

WHEREAS, the Commissioner is authorized to enter into this Agreement and distribute state and federal financial assistance to the Municipality for these projects pursuant to § 13a-98i and § 13a-165 of the Connecticut General Statutes; and

WHEREAS, the DOT and the Municipality wish to set forth their respective duties, rights, and obligations with respect to these projects that are undertaken pursuant to this Master Agreement.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE THAT:

Article 1. Definitions. For the purposes of this Master Agreement, the following definitions apply:

1.1 "Accumulative Costs" means the total, collective expenditure by the Municipality and the DOT to complete the Construction Project (defined in section 1.8).

1.2 "Administer," "Administering" or "Administration" of the Construction Project means conducting and managing operations required to perform and complete the Construction Project, including performing the construction work by either the Municipality or the DOT, as applicable to the particular Construction Project, in whole or in part, advertising and awarding any contract(s) for performance of the work by contractor(s) in whole or in part, or any combination thereof, and undertaking all of the administrative-duties related to and required for the completion of the Construction Project.

1.3 "Authorization to Award Notice" means the written notice from the DOT to the Municipality authorizing the Municipality to perform its Administration obligations for the Construction Project under the Project Authorization Letter (PAL) (defined in section 1.28), including, but not limited to, awarding the contract(s) for performance of the work.

1.4 "Authorization to Proceed Notice" means the written notice from the DOT to the Municipality authorizing the Municipality to perform its obligations for the Construction Project under the PAL.

1.5 "Authorized Department of Transportation (DOT) Representative" means the individual, duly authorized by a written delegation of the Commissioner of the DOT pursuant to Section 13b-17(a) of the Connecticut General Statutes, to sign PALs.

1.6 "Consulting Engineer" means the person or entity, whether an employee of, or a contractor engaged by, the Municipality, who performs the Design Services During Construction (defined in section 1.12).

1.7 "Contingencies" means a percentage of funding set aside in the PAL for work that cannot specifically be described, or the extent of which cannot be detailed, in the original scope at bid time, but may later be required, at the DOT's determination, for the Construction Project. Among other purposes, this percentage of the Funding is used to account for the costs that may result from the difference in the estimated quantities provided at bid time versus the actual quantities used during the performance of the Construction Project.

1.8 "Construction Project" means the construction phase activities undertaken by the Municipality, and either Administered by the Municipality or by the DOT on the Municipality's behalf, to construct improvements on a locally-maintained roadway or structure, to perform transportation enhancement activities (as defined by 23 U.S.C. § 101(a)(35), as revised), or any combination of the foregoing, based upon a design completed during a design phase of a Municipal Project (defined in section 1.22), and in accordance with the PAL and this Master Agreement.

1.9 "Contract Items" means the products, services, or both set forth in the bid and necessary for the completion of the Construction Project. Contract Items may include, but are not limited to, earth excavation, rock excavation, hot mix asphalt, structural steel, trench excavation, turf establishment, Class A concrete, traffic person services, mobilization, and clearing and grubbing within the Construction Project limits.

1.10 "Demand Deposit" means an amount of money due to the DOT from the Municipality.

1.11 "Depreciation Reserve Credit" means the credit for the used life of the replaced utility facility when a new facility is installed.

1.12 "Design Services During Construction" means design services required during the construction phase, with the DOT's prior approval, which may include, but are not limited to,

construction engineering services, consultation in the field, advice, visits to the work site, review and approval of all shop plans and construction drawings received from the Prime Contractor (defined in section 1.26), design modification of original construction drawings as may be necessary, and any other design services as may be required, with the DOT's prior approval, all in accordance with the Standard Specifications (as defined in section 1.32).

1.13 "Designated Official" means the municipal official or representative designated by title who is duly authorized by the Municipality to receive PALs issued by the DOT under this Agreement and who submits to the DOT a Written Acknowledgment of the PAL (defined in section 2.2) binding the Municipality to the terms and conditions of the PALs issued by the DOT under this Master Agreement.

1.14 "Disadvantage Business Enterprise (DBE)" has the meaning defined in Schedule E.

1.15 "DOT-provided Services" means the work that the DOT is responsible to perform for the Construction Project, as specifically set forth in the PAL and may include, but are not necessarily limited to, material testing, periodic construction inspection, administrative oversight, and liaison activities with other governmental agencies to ensure satisfactory adherence to DOT and federal requirements.

1.16 "Effective Date" means the date which the Master Agreement is executed by the DOT.

1.17 "Extra Work" means potential additional work that is beyond the original scope or limits of work of the Construction Project specifically for which funds are set-aside as a line item category in the PAL.

1.18 "Funding" means funds from the state government, the federal government, the Municipality, or a combination of any of the foregoing, designated for a particular Construction Project, which the DOT provides to the Municipality on a reimbursement basis.

1.19 "Incidentals to Construction" means items that were not included in the listing of Contract Items but that are necessary for the completion of the Construction Project, as determined by the DOT in its sole discretion. Advertising of a request for bids, inspection, construction and engineering services, field quality assurance testing, and material testing are examples of, but are not limited to, items that may be determined to be Incidentals to Construction for a particular Construction Project.

1.20 "Inspection Activities" means continuous inspection of the work on the Construction Project and associated administrative duties, including, but not limited to, inspection of grading, drainage, structure, pavement, facilities construction, and rail work; the required administrative functions associated with the Construction Project including, but not limited to, preparation of correspondence, construction orders, periodic payment estimates, quantity computations, material sampling and testing, Equal Employment Opportunity and DBE monitoring, final documentation, ,DOT and Federal reporting, construction surveys, reviews and recommendations of all construction issues, and claims analysis support; and other Construction Project-related functions deemed

necessary by the DOT.

1.21 "Inspection Consultant" means the person or entity engaged by the DOT or the Municipality, as applicable to the particular Construction Project, to perform the Inspection Activities.

1.22 "Municipal Project" means a project undertaken by the Municipality for improvements on locally-maintained roadways, structures, transportation enhancement facilities (as defined by 23 U.S.C. § 101(a)(35), as revised), or any combination of the foregoing, which generally includes three phases of activities: the design phase, rights-of-way phase, and construction phase.

1.23 "Nonparticipating Items" means those items or portions of the Construction Project work determined upfront during the Municipal Project design phase by the Federal Highway Administration ("FHWA"), the DOT, or both to not be eligible for reimbursement with the Funding.

1.24 "Official Notice" means notice given from one Party to the other in accordance with Article 14.

1.25 "Plans, Specifications, and Estimates (PS&E)" means the final engineering documents produced during the design phase of the Municipal Project that contain all of the construction details and are made part of the bid documents.

1.26 "Prime Contractor" means the person or entity engaged by the Municipality or the DOT, as applicable to the particular Construction Project, to perform construction work on the Construction Project.

1.27 "Project Amount" means the total estimated cost for all work for the Construction Project, as estimated at the time of the DOT's issuance of the PAL.

1.28 "Project Authorization Letter (PAL)" means the written document that authorizes the distribution of Funding to the Municipality for the specific Construction Project during a specified period of time.

1.29 "Small Business Enterprise (SBE)" has the meaning defined in Schedule F.

1.30 "Small Business Participation Pilot Program (SBPPP)" has the meaning defined in Schedule G.

1.31 "Special Provisions" means specifications applicable to the particular Construction Project that are required by the DOT and made part of the bid documents and the contract with the Prime Contractor.

1.32 "Standard Specifications" means, collectively, the publications entitled "Standard Specifications for Roads, Bridges, and Incidental Construction (Form 816)" Connecticut Department of Transportation (2004) and its supplemental specifications issued from time to time by the DOT, entitled the "Supplemental Specifications to the Standard Specification for Roads, Bridges, and

Incidental Construction (Form 816)," Connecticut Department of Transportation (July 2010), as may be revised.

1.33 "Term" means the duration of the Master Agreement.

1.34 "Transportation Enhancement Facilities" means the facilities provided as a result of transportation enhancement activities (as defined by 23 U.S.C. § 101(a)(35), as revised).

1.35 "Transportation Facilities" means any roadway, structure, building or other associated facilities, including, but not limited to, traffic control signals and roadway illumination, Transportation Enhancement Facilities, including, but not limited to, pedestrian or bike trails, or any combination of the foregoing.

Article 2. Issuance and Acknowledgment of PALs for Construction Projects.

2.1 **Issuance of PAL.** The DOT shall issue to the Municipality a PAL for the applicable Construction Project, in the form substantially similar to Schedule A, which will be addressed to the Designated Official and signed by the Authorized DOT Representative. PALs issued under this Agreement will address Construction Projects and will not address design phase or right-of-way acquisition phase activities of Municipal Projects. The issuance of the PAL itself is not final authorization for the Municipality to begin performing work or awarding a contract with respect to the Construction Project. Additional required steps and approvals are set forth in this Agreement.

2.2 **Written Acknowledgement of the PAL.** In order for the PAL to become effective and binding on both parties, the Municipality must return to the DOT a copy of the PAL signed by the Designated Official, hereinafter referred to as the "Written Acknowledgement of the PAL," which serves to acknowledge the Municipality's receipt of the PAL and confirm that the Municipality will undertake the particular Construction Project in accordance with the PAL and this Master Agreement). The Municipality shall submit the Written Acknowledgement of the PAL to the Authorized DOT Representative by the deadline set forth in the PAL. Submission of the Written Acknowledgement of the PAL by facsimile or electronic transmission is acceptable. The Written Acknowledgement of the PAL shall be deemed delivered on the date of receipt by the DOT if on a business day (or on the next business day after delivery if delivery occurs after business hours or if delivery does not occur on a business day). The PAL becomes effective on the date that the Written Acknowledgement of the PAL is delivered to the DOT.

2.3 **Designated Official.** The Municipality herein represents that the Mayor of the City of Bridgeport is the Designated Official to whom the Municipality has granted the authority, throughout the Term of this Master Agreement, to sign and submit on its behalf the Written Acknowledgement of the PAL(s) to the DOT. The Municipality agrees that the signature of the Designated Official shall bind the Municipality with respect to the PAL. Signature by the individual as the Designated Official upon any Written Acknowledgement of a PAL is a representation by such individual that he/she holds the title of the Designated Official as of the date of his/her signature. If at any time during the Term the Municipality seeks to modify which municipal official or representative by title is the authorized Designated Official, the parties must amend this section by

mutual written agreement identifying by title the new Designated Official and signed by the authorized representatives of each party.

2.4 **Obligations of Municipality.** Upon submission of the Written Acknowledgement of the PAL to the DOT, the Master Agreement and the PAL will be incorporated into one another in their entirety and contain the legal and binding obligations of the Municipality with respect to the Construction Project. By submitting the Written Acknowledgement of the PAL, the Municipality acknowledges that it understands the obligations to which it is committing itself with respect to the Construction Project. Further, the Municipality agrees to proceed with diligence to perform its obligations to accomplish the Construction Project and agrees to use the Funding to complete the same.

2.5 **Revisions to the PAL.** Any modification to the scope, the allowed Funding amount, or cost breakdown related to the Construction Project must be approved by the DOT, at its sole discretion, and set forth in a subsequent PAL newly-issued by the Authorized DOT Representative, hereinafter referred to as the "Supplemental PAL.". The Supplemental PAL shall be acknowledged by the Municipality in accordance with the procedure set forth in section 2.2, and the Supplemental PAL will supersede the previously-issued PAL for the Construction Project and will control.

Article 3. Municipality-Administered Construction Projects. When the Municipality is responsible for Administering the Construction Project, the sections of this Article 3 apply.

3.1 **Content of the PAL.** The PAL issued by the DOT to the Municipality shall set forth, at a minimum:

(a) the Funding source(s), the related government Funding authorization or program information, and the associated Funding ratio between the federal government, the DOT, and the Municipality, as applicable, for the Construction Project;

(b) the maximum reimbursement to the Municipality under the PAL;

(c) an estimated cost break-down for all work under the Construction Project;

(d) the amount of the Demand Deposit(s) due to the DOT from the Municipality for the Municipality's proportionate share of applicable costs for work under the Construction Project, as determined by the Funding ratio;

(e) the Project Amount; and

(f) any applicable affirmative action goal(s) assigned with respect to work on the Construction Project, as follows:

(1) if the Construction Project receives federal participation in Funding, the DBE goal assigned by the DOT applicable to the Prime Contractor, and additionally, where the Municipality retains an Inspection Consultant to perform the Inspection Activities,

the DBE goal assigned by the DOT to the Inspection Consultant. If federal funds are not used to fund the Inspection Activities on the Construction Project, then no DBE goal will be assigned for the Inspection Activities;

(2) if the Construction Project receives DOT Funding, and no federal participation in Funding, the SBE goal assigned by the DOT applicable to the Prime Contractor, and additionally, where the Municipality retains an Inspection Consultant, the SBE goal assigned to the Inspection Consultant; or

(3) regardless of the Funding source(s), the SBPPP goal assigned by the DOT applicable to the Prime Contractor, and additionally, where the Municipality retains an Inspection Consultant, the SBPPP goal assigned to the Inspection Consultant.

3.2 Authorization to Award and Authorization to Proceed.

(a) The Municipality shall not commence to Administer the Construction Project until it has received from the DOT an Authorization to Award Notice or an Authorization to Proceed Notice when the Municipality is, respectively, hiring a Prime Contractor or electing to perform work with its own staff. The DOT will issue an Authorization to Award Notice or Authorization to Proceed Notice, as applicable, directly to the Municipality, addressed to the Designated Official.

(b) The Municipality shall not have the Prime Contractor or the Municipality's staff commence construction work on the Construction Project until the Municipality has received from the DOT an Authorization to Award Notice or Authorization to Proceed Notice The DOT has no responsibility and incurs no liability for payments to the Municipality for Administration of the Construction Project or for any construction work performed by the Prime Contractor or the Municipality's staff on the Construction Project prior to the DOT's issuance of the Authorization to Award Notice or Authorization to Proceed Notice.

3.3 Municipality to Perform and Complete the Construction Project.

(a) Upon issuance of a PAL by the DOT, submission of the Written Acknowledgment of the PAL by the Municipality, and receipt of an Authorization to Award or Authorization to Proceed Notice, as applicable, from the DOT, the Municipality shall Administer all activities associated with the Construction Project in accordance with the PAL and this Master Agreement.

(b) The Municipality, with prior written approval of the DOT, may elect to perform all or any part of the Construction Project work with its own staff. In requesting approval from the DOT, the Municipality must demonstrate, to the DOT's satisfaction, that there is sufficient manpower, equipment, and resources available to the Municipality and that it will be cost effective for the Municipality's staff to perform the work in accordance with the plans and specifications.

(c) For work that the Municipality does not elect to perform with its own staff, the Municipality shall retain, using a competitive bidding process, a Prime Contractor to undertake the work under the Construction Project.

(d) With respect to any Construction Project that receives federal participation in Funding, the Municipality acknowledges that any costs it incurs prior to the receipt of federal authorization for the Construction Project are entirely ineligible for reimbursement with federal funds.

(e) The Municipality agrees that it shall use the Funding for reimbursement of the Municipality's approved expenses incurred in the fulfillment of the Construction Project as specified in the PAL and this Master Agreement and for no other purpose.

3.4 **Engaging a Prime Contractor.**

(a) Where the Municipality retains a Prime Contractor to perform the work on the Construction Project, , the Municipality shall advertise the Construction Project to engage the Prime Contractor utilizing an advertising and bidding procedure acceptable to the DOT and, if applicable, the federal government. The Municipality shall analyze all bids, submit a bid summary to the DOT, and request the DOT's approval to award a contract for the Construction Project. The Municipality shall perform all of the foregoing in accordance with the following publications:

(1) Advertising Procedures for Construction Contracts Administered by Municipalities, Connecticut Department of Transportation (January 2010), as may be revised ("Advertising Procedures for Construction Contracts Administered by Municipalities");

(2) The Standard Specifications. The version of the Standard Specifications in effect at the date of completion of the PS&E for the particular Construction Project is the version that must be followed and complied with for the particular Construction Project; and

(3) The Municipality Manual, Version 1, Connecticut Department of Transportation (2008), as may be revised ("Municipality Manual").

(b) The Municipality may not impose any local rules, policies, terms, conditions, or requirements on any bidder, Prime Contractor, or Inspection Consultant, unless it has received prior written approval from the DOT and, if applicable, FHWA (or other federal authority). If the Municipality imposes any local rules, policies, terms, conditions, or requirements, without all required prior written approvals, the DOT may in its sole discretion deem such imposition to be a breach of this Master Agreement and the respective PAL and may result in the Municipality losing Funding for the Construction Project.

3.5 **Pre-Award Requirements and Documentation.** The Municipality shall require the low bidder to meet all applicable pre-award requirements and submit any required documentation to the Municipality, which the Municipality, in turn, shall submit to the DOT for review and approval, all in accordance with the Advertising Procedures for Construction Contracts Administered by Municipalities. The pre-award requirements include, but are not limited to:

(a) Required documentation applicable to any assigned affirmative action goal, e.g., DBE, SBE, or SBPPP goal, including, but not limited to, the Affirmative Action program certification;

(b) A schedule of progress or time chart for the Construction Project developed by the Prime Contractor;

(c) A complete statement of the origin and manufacturer of any manufactured materials to be used in the Construction Project provided on the DOT form "Anticipated Source of Materials (CON-83)," as revised;

(d) A completed "State of Connecticut Certificate of Compliance with Connecticut General Statutes § 31-57b" form ("OSHA Compliance Form RFP-12 New 6/98"), as revised;

(e) A completed Certificate of Insurance on the form(s) acceptable to the DOT; and

(f) Any other documentation requested by the DOT or federal government as pre-award requirements.

3.6 **Approval to Award Contract(s).**

(a) The Municipality must receive the DOT's prior written approval in order to award its contracts, enter into modifications or supplements to the contracts, or issue any construction orders under its contracts with the Prime Contractor and, where applicable, the Consulting Engineer and the Inspection Consultant, prior to incurring reimbursable costs in conjunction with the PAL. Without such written approval, costs incurred by the Municipality are ineligible for reimbursement under the PAL. DOT retains the authority, at its sole discretion, to review for compliance with applicable DOT and federal requirements the Municipality's proposed contracts prior to the DOT issuing any written approval.

(b) Upon receipt of the Authorization to Award Notice from the DOT, the Municipality shall comply with the Advertising Procedures for Construction Contracts Administered by Municipalities and in accordance therewith, award the contract to the bidder specified in the Authorization to Award Notice. The Municipality shall submit to the DOT copies of the award letter, the contract executed with the Prime Contractor, and all other documents required by the Advertising Procedures for Construction Contracts Administered by Municipalities and otherwise requested by the DOT.

(c) As a condition of receiving Funding under the PAL, the Municipality may be required, at the direction of the DOT or the federal government, to obtain certain assurances from and include certain contract provisions in its contracts with the Prime Contractor and, where applicable, the Consulting Engineer and the Inspection Consultant. Without limiting the foregoing, this Article 3 sets forth certain of these requirements. Additional requirements may be set forth in the PAL. The Municipality's failure to include the requirements in the contract with, and to ensure

compliance by, the Prime Contractor and, where applicable, the Consulting Engineer and the Inspection Consultant, may amount to a breach of this Master Agreement and the respective PAL, as determined by the DOT in its sole discretion, and may result in the Municipality's loss of Funding for the Construction Project.

3.7 **Changes in Scope. Extensions of Time.** The Municipality may not make changes to the Construction Project that will increase the cost or alter the termini, character or scope of the construction work without prior written approval from the Authorized DOT Representative. In addition, the Municipality shall not grant any contract time extensions to its contractor(s) or consultant(s) without prior written approval from the Authorized DOT Representative. Such written approval may take the form of a Supplemental PAL issued by the DOT with respect to the Construction Project. The Supplemental PAL, once acknowledged in writing by the Municipality in accordance with the procedure set forth in section 2.2, will supersede the previously-issued PAL for the Construction Project and will control.

3.8 **Design Services During Construction.** The Municipality shall itself provide or retain a Consulting Engineer to provide Design Services During Construction. The scope of the Design Services During Construction is subject to the prior approval of the DOT. If, in order to complete the approved Design Services During Construction, the Municipality must replace the Consulting Engineer that it previously hired during the design phase of the Municipal Project and engage a new Consulting Engineer during the construction phase, then the Municipality agrees to comply with any selection and contracting requirements imposed by the DOT in its sole discretion during the construction phase of the Municipal Project.

3.9 **Inspection Activities.** The Municipality shall itself provide a qualified staff person, or retain a qualified person or entity, to serve as the Inspection Consultant to perform full-time Inspection Activities. The Municipality shall submit written documentation to the DOT indicating the criteria it used in assigning existing municipal staff, hiring new municipal staff, retaining an Inspection Consultant, or any combination of the foregoing to perform Inspection Activities for the Construction Project.

(a) If the Municipality elects to retain an Inspection Consultant, in order to be eligible for reimbursement for the associated costs, the Municipality must use a Qualifications Based Selection process as described in and in accordance with the "Consultant Selection, Negotiation and Contract Monitoring Procedures for Municipally Administered Projects," Connecticut Department of Transportation (2011), as may be revised.

(1) When designating an Inspection Consultant, the Municipality shall submit to the DOT for review and approval, the name(s) and qualifications of the proposed Inspection Consultant prior to advertising the Construction Project. The Municipality shall comply with the "Construction Engineering and Inspection Information Pamphlet for Consulting Engineers," Connecticut Department of Transportation (2008) as may be revised, when determining the required qualifications of the Inspection Consultant.

(2) If the Construction Project receives federal participation in Funding, when the Municipality retains an Inspection Consultant, it must designate a full time employee of the Municipality to be in responsible charge of the Construction Project in accordance with 23 CFR § 635.105(c)(4), as may be revised.

(b) If the Municipality elects to provide full-time Inspection Activities for the Construction Project with its own staff, upon request, the Municipality shall provide to the DOT written documentation of the qualifications of the municipal staff performing the Inspection Activities, for review by the DOT. When municipal staff is performing the Inspection Activities for the Construction Project, any required field quality assurance testing may be provided by the DOT, upon written request, and the DOT expenses associated with the field quality assurance testing will be funded in accordance with the PAL.

3.10 **Additional Administration Responsibilities.** The Municipality shall perform all other work which becomes necessary to properly Administer the Construction Project and inspect the work of the Prime Contractor in order to ensure compliance with the Standard Specifications, the bid package documents, and the Municipality's contract with the Prime Contractor, including, but not limited to, the Special Provisions for the particular Construction Project. Any work performed by the DOT in order to assist with the Municipality's Administration responsibilities for the Construction Project and any associated expenses will be funded in accordance with the PAL.

3.11 **Inadequate Administration.** If, at any time during the Construction Project, the DOT determines that the Administration by the Municipality is not adequate, it may be deemed a breach by the Municipality, as determined by the DOT in its sole discretion, and the DOT may assume responsibility for or supplement the Administration of the Construction Project, at its sole discretion. The additional costs associated with the DOT's Administration of the Construction Project will be considered part of the Construction Project costs for DOT-provided Services and will be funded in accordance with the proportionate cost sharing set forth in the PAL. Furthermore, the DOT's assumption or supplementing of the Administration of a Construction Project does not waive any of the DOT's remedies under this Agreement, nor relieve the Municipality from any liability related to its breach.

3.12 **Federal and State Required Contract Provisions.**

(a) The Municipality shall include in the contracts with the Prime Contractor and, where applicable, the Inspection Consultant, the following attachments, each as may be revised:

(1) "State and Federal Workforce Utilization Goals," attached at Schedule B, including Appendix A which is applicable to Construction Projects that are funded by the state government (with no federal participation in Funding), and Appendix B which is applicable to Construction Projects that receive federal participation in Funding;

(2) "Connecticut Required Specific Equal Employment Opportunity Responsibilities," (2012), attached at Schedule C; and

(3) FHWA-1273, "Required Contract Provisions, Federal-aid Construction Contracts," (2012), attached at Schedule D, which is applicable to Construction Projects that receive federal participation in Funding.

(b) The Municipality's failure to comply with any requirement within this section 3.12 may be deemed by the DOT, in its sole discretion, a breach of this Master Agreement and the respective PAL and, as a result, the DOT may seek any of its remedies under this Master Agreement.

3.13 Affirmative Action (AA) Goals & On-the-Job Training Requirement.

(a) The Municipality agrees to include the assigned DBE goal, SBE goal, or SBPPP goal, as applicable, and associated requirements, set forth in the PAL, as requirements within any contract the Municipality enters into with its Prime Contractor, and, if applicable, its Inspection Consultant, and to require its Prime Contractor and, if applicable, its Inspection Consultant, to comply with the current version of the "Special Provision, Disadvantaged Business Enterprises" (2012), as may be revised, the "Special Provision, Small Contractor and Small Contractor Minority Business Enterprise (Set Aside)" (2012), as may be revised, or the "Special Provisions, Small Business Participation Pilot Program" (2012), as may be revised, which are attached at Schedules E, F & G, respectively (the "Affirmative Action (AA) Requirements"). The Municipality shall include a provision within such contract(s) requiring compliance with the AA Requirements and attach a copy of the applicable AA Requirements provided at Schedule E, F or G to such contract(s).

(b) The Municipality acknowledges that with respect to any Construction Project that receives federal participation in Funding, the Construction Project may be subject to an On the Job Training (OJT) requirement and the "On-the-Job Training Program Special Provision" (2012) as may be revised, attached at Schedule H. The Municipality agrees that upon receiving notice from the DOT of the OJT requirement, the Municipality will include the OJT requirement in its contract with the Prime Contractor and attach a copy of Schedule H to the contract.

(c) As a condition of receiving Funding under the PAL, the Municipality may be required at the discretion of the DOT or other applicable state or federal authorized agencies, to impose additional AA requirements upon and obtain certain assurances from the Prime Contractor, and, where applicable, the Inspection Consultant. The Municipality agrees to include any other AA Requirements in its contracts with the Prime Contractor, and, where applicable, the Inspection Consultant, at the direction of the DOT.

(d) The DOT, in its sole discretion, may determine whether the Municipality failed to comply with any requirement within this section 3.13 and may deem such failure a breach of this Master Agreement and the respective PAL.As a result of any such breach, the DOT, at its sole discretion, may withhold reimbursement to the Municipality for the Construction Project in an amount up to or equaling the goal shortfall, in addition to any other remedies the DOT may have under this Master Agreement or provided by law.

3.14 Inspection Consultant Fees and Auditing Requirements.

(a) With respect to any contract with an Inspection Consultant, the Municipality shall comply with Policy No. F&A-30, dated April 12, 2006 ("Maximum Fees for Architects, Engineers and Consultants"), attached at Schedule I. The Municipality shall utilize the guidelines stipulated in Office of Policy and Management's General Letter No. 97-1, dated November 21, 1996, attached at Schedule J, when applicable, in accordance with Policy No. F&A-30.

(b) With respect to Construction Projects that receive federal Funding, the Municipality shall comply with, and require the Inspection Consultant and, if applicable, the Consulting Engineer, to comply with, the audit requirements set forth in 48 CFR Part 31 and 23 CFR Part 172, as may be revised.

3.15 **Construction Project Standards and Manuals.**

(a) The Municipality shall comply with, and require its Prime Contractor and, if applicable, its Inspection Consultant, to comply with all applicable DOT and federal laws and regulations and the current version of the following publications (except as otherwise noted), each as may be revised:

(1) Construction Manual, Department of Transportation Office of Construction, Version 2.2, Connecticut Department of Transportation (2011);

(2) The Standard Specifications. The version of the Standard Specifications in effect at the date of completion of the PS&E for the particular Construction Project is the version that must be followed and complied with for the particular Construction Project;

(3) The Municipality Manual;

(4) Pamphlet for Monitoring Performance and Payment Requests for Consultants, State of Connecticut Department of Transportation (1994);

(5) QA Program for Materials Acceptance and Assurance Testing Policies and Procedures, at Chapter 8, entitled "Minimum Schedule for Acceptance Testing," Connecticut Department of Transportation (2009);

(6) Public Service Facility Policy and Procedures for Highways in Connecticut, Connecticut Department of Transportation (2008); and

(7) Utility Accommodation Manual, Connecticut Department of Transportation (2009).

(b) The above-referenced publications are incorporated and made a part of this Agreement by reference and, in all applicable respects, shall govern the conduct and describe the respective obligations of the DOT and the Municipality and any parties engaged by the Municipality to perform work on the Construction Project set forth in a PAL issued under this Master Agreement. The Municipality shall incorporate by reference these publications and all provisions contained

therein into its contract(s) with the Prime Contractor and, if applicable, the Inspection Consultant, for any Construction Project undertaken pursuant to a PAL issued under this Master Agreement.

3.16 **Maintenance of Records On-Site.** The Municipality shall maintain and secure at all times all construction records for the Construction Project at a single location for the DOT's review, use and approval.

3.17 **DOT-provided Services.** If the Construction Project requires DOT-provided Services, they will be set forth in the PAL and funded in accordance with the proportionate cost sharing for work on the Construction Project as set forth in the PAL. DOT-provided Services may include, but are not necessarily limited to, material testing, periodic construction inspection, administrative oversight, and liaison activities with other governmental agencies to ensure satisfactory adherence to DOT and federal requirements. The DOT reserves the right at all times to inspect all aspects of the work related to the Construction Project, and such inspections shall be deemed DOT-provided Services.

3.18 **Demand Deposit Requirement; Depreciation Reserve Credit.**

(a) Where a PAL requires DOT-provided Services, the PAL will specify Municipality's proportionate share of the cost of the DOT-provided Services. The DOT will bill the Municipality the amount of the Municipality's proportionate share of such costs in a Demand Deposit, and the Municipality shall forward to the DOT that amount in accordance with the PAL. The DOT is not required to perform the DOT-provided Services until the Municipality pays the Demand Deposit in full.

(b) Where the Construction Project requires replacement of a Municipality-owned utility facility, the Municipality shall deposit with the DOT, upon demand, the sum set forth in the PAL for the Depreciation Reserve Credit of the municipally-owned utility facility being replaced and the value of any materials salvaged from the existing facility. The Depreciation Reserve Credit will be calculated in accordance with the Public Service Facility Policy and Procedures for Highways in Connecticut (2008), as may be revised.

3.19 **Costs and Reimbursement.**

(a) The Municipality shall expend its own funds to pay for costs related to Administering the Construction Project and then shall seek from the DOT reimbursement for approved costs.

(b) The Municipality shall document all expenses it incurs and maintain all records related to the Construction Project costs, including, but not limited to its payments to the Prime Contractor and, if applicable, the Inspection Consultant and the Consulting Engineer, its payroll hours on time sheets for municipal staff working directly on the Construction Project, material purchases made by the Municipality, and reimbursement due to the Municipality for use of Municipality-owned or rented equipment. Rates of reimbursement for use of Municipality-owned or rented equipment will be based on an existing municipal audit, if available, completed no more than three (3) years before acknowledgment of the PAL, and provided the rates are acceptable to the

DOT. In the absence of acceptable rates, or if there is no current municipal audit, the equipment rental rate will be established in accordance with Section 1.09.04(d) of the Standard Specifications, as may be revised. Reimbursable municipal payroll costs are limited to the actual municipal payroll for work on the Construction Project and fringe benefits associated with payroll.

(c) If the Municipality fails to adequately record expenses and maintain all related records for any Construction Project or promptly submit any records to the DOT, such failure to do so may be deemed a breach by the Municipality, at the DOT's sole discretion, and the DOT may deem certain expenses to be non-eligible costs of the respective Construction Project for which the Municipality will not be eligible for reimbursement pursuant to the proportional cost sharing established by the PAL. Furthermore, the DOT's determination of certain costs to be non-eligible costs of the Construction Project does not waive any of the DOT's remedies for the breach by the Municipality of its obligations under this Master Agreement with respect to the respective Construction Project, nor relieve the Municipality from any liability related to its breach.

(d) The Municipality shall seek from the DOT reimbursement for the Municipality's expenditures, which have been approved by the DOT for eligible Construction Project costs. Reimbursement of DOT approved expenditures will be made in the following manner:

(1) On a monthly basis, the Municipality shall submit to the DOT using the DOT-required voucher form entitled "Invoice Summary and Processing (ISP) Form" ("**Voucher**") as may be revised, with supporting data, the cost of services rendered and expenses incurred for the prior month. With respect to any work that is performed in-house by the Municipality's staff, the Municipality's reimbursable costs shall be limited to the actual payroll, fringe benefits associated with payroll, and approved direct cost charges for the staff's performance of Design Services During Construction.

(2) Upon review and approval of the Voucher by the DOT, payment of the reimbursement portion of said costs and expenses shall be made to the Municipality, in accordance with the proportional cost sharing established by the PAL.

3.21 **As-built Plans.** Upon completion of the Construction Project, the Municipality shall notify the DOT, in writing, of the completion and, upon request by the DOT, shall provide the DOT copies of the as-built plans for the Construction Project, in the format requested by the DOT.

3.22 **Extra Work.**

(a) The PAL will provide a line item category for Extra Work to set-aside funds that may be requested later by the Municipality to fund the requested additional work if it is deemed, at the DOT's sole discretion and with the DOT's written approval, to be necessary for completion of the Construction Project.

(b) If the Municipality wishes to pursue any Extra Work, it must request approval in writing from the DOT of the type and scope of the Extra Work and the associated costs prior to the

Municipality authorizing performance of the Extra Work by the Prime Contractor, the Consulting Engineer, the Inspection Consultant, or municipal staff, as applicable.

(c) Once approved in writing by the DOT, the Extra Work will be funded as follows:

(1) If the Extra Work results in an Accumulative Cost less than or equal to the Project Amount specified in the PAL, it will be funded according to the proportional cost sharing set forth in the PAL.

(2) If the Extra Work results in an Accumulative Cost greater than the Project Amount specified in the PAL, the DOT determines that the appropriate federal or state government funding is available for the increased costs of the Construction Project, then the DOT will issue a Supplemental PAL to provide for the cost increase to the Construction Project for this Extra Work. If federal or state government funding is not available, the Municipality will be responsible for 100% of the additional cost.

3.23 **Funding of Additional DOT-Approved Costs upon Final Audit.**

(a) If, upon final audit, additional costs, including, but not limited to, those resulting from, Extra Work, delays, or other cost over-runs, result in an Accumulative Cost less than the original Project Amount identified in the PAL, the additional costs, if approved by the DOT, shall be funded in accordance with the PAL.

(b) If, upon final audit, additional costs, including, but not limited to, those resulting from, Extra Work, delays, or other cost over-runs, result in an Accumulative Cost greater than the original Project Amount identified in the PAL, the DOT, at its discretion, may issue a Supplemental PAL in order to fund these additional costs, provided that additional Funding is available.

(c) If, pursuant to subsection (a), the additional costs are not approved by the DOT or if, pursuant to subsection (b), a Supplemental PAL is not issued, then the Municipality will be responsible for 100% of the additional cost.

(d) If during the course of the final audit the Municipality or DOT discovers that the Municipality had been reimbursed for improper or unauthorized costs or expenses, then the Municipality shall return the amount of such improper or unauthorized costs or expenses to the DOT.

3.24 **Semi-Final and Final Inspections.**

(a) Before completion of the Construction Project, the Municipality and the DOT shall both perform the semi-final and final inspection of the Construction Project. The Municipality shall notify the DOT in writing that the work is complete and ready for inspection by the DOT.

(b) Within one hundred twenty (120) calendar days of the final acceptance of the physical work by the Municipality and the DOT, the Municipality shall submit to the DOT the required documents as set forth in the Municipality Manual. The Municipality shall be available, and if

applicable shall require its Inspection Consultant to be available, to assist the DOT with the review and acceptance of the documents required by the Municipality Manual. Upon the DOT's approval of the submitted documents, the DOT will reimburse the Municipality for the approved expenses on any outstanding Vouchers submitted by the Municipality. If the Municipality fails to submit the documents required by the Municipality Manual for the DOT's review and approval, the DOT, at its sole discretion, may assume responsibility for or supplement the Administration of the Construction Project, as described in section 3.11.

3.25 **Suspension, Postponement, or Termination of a Municipality-Administered Construction Project.**

(a) Suspension, Postponement, or Termination by the DOT.

(1) For Convenience. The DOT, at its sole discretion, may suspend, postpone, or terminate a particular Construction Project and its respective PAL for convenience by giving the Municipality thirty (30) days Official Notice, and such action shall in no event be deemed a breach of the Master Agreement by the DOT.

(2) For Cause. As a result of the Municipality's breach of the PAL or failure of the Municipality, its Prime Contractor, Inspection Consultant, Consulting Engineer, or any combination of the foregoing, to perform the work required on any particular Construction Project to the DOT's satisfaction in accordance with the respective PAL, the DOT may suspend, postpone or terminate the particular Construction Project and its respective PAL for cause by giving the Municipality ten (10) days Official Notice, provided that the Municipality fails to cure, or begin to cure, the breach or failure, to the satisfaction of the DOT in its sole discretion, within the cure period that the DOT may, in its sole discretion, set forth in such Official Notice. Such Official Notice shall specify the extent to which performance of work under the PAL is being suspended, postponed or terminated and the date upon which such action shall be effective.

(b) Termination by the Municipality, with prior DOT approval.

(1) The Municipality may request termination of the Construction Project, and if determined by the DOT in its sole discretion to be in the best interests of the Parties, the DOT may agree to the request. Additionally, with respect to Construction Projects receiving federal participation in Funding, receipt of written concurrence from FHWA (or other applicable federal authority) may be required prior to the DOT's approval of the request.

(2) Once any required federal concurrence is received, the DOT will send approval of termination by giving Official Notice to the Municipality specifying the extent to which performance of work under the PAL is terminated and the date upon which termination is effective.

(c) Funding of Acceptable Work. Upon suspension, postponement, or termination in accordance with subsection (a) or termination in accordance with subsection (b), the DOT may provide the Municipality with Funding in part for its expenditures, if any, up to the percentage of acceptable work completed as of the approved date of termination, in accordance with the following:

(1) The DOT, may at its sole discretion, reimburse the Municipality at the contract unit prices (as specified in the bid documents) for the actual number or units of Contract Items completed prior to the effective date of termination, or as may be agreed by the parties for items of work partially completed, provided the DOT finds the work to be acceptable. If the work is not acceptable, the DOT may withhold reimbursement to the Municipality at its sole discretion. No claim for loss of overhead or anticipated profits that may be asserted by the Municipality's Prime Contractor, Inspection Consultant, or Consulting Engineer shall be allowed or funded as a reimbursable Construction Project cost.

(2) When the volume of work completed, as of the termination date, is not sufficient to reimburse the Municipality under contract unit prices (as specified in the bid documents) for its related expenses, the DOT, at its sole discretion, may reimburse the Municipality for such expenses entirely or in accordance with the proportionate cost sharing specified in the PAL, depending on the availability of additional funding.

(3) Materials obtained by the Municipality or its Prime Contractor for the Project that have been inspected, tested as required, and accepted by the DOT, and that have not been incorporated into the physical Construction Project, shall be purchased from the Prime Contractor at actual cost as shown by receipted bills. To this cost shall be added all actual costs for delivery at such points of delivery as may be designated by the DOT, as shown by actual cost records. The Municipality will be reimbursed by the DOT for such costs of the material, and the DOT at its sole discretion, will determine which material will become the property of the DOT.

(4) If the DOT or FHWA (or other applicable federal authority),deems any of the work that the Municipality itself performed, or engaged a third party to perform on its behalf, to be unacceptable, then upon demand by the DOT or FHWA (or other applicable federal authority), the Municipality shall promptly return, in whole or in part, to the DOT or FHWA (or other applicable federal authority), the DOT or federal Funding that prior to the effective date of termination was disbursed to the Municipality to fund that unacceptable work.

(d) In the case of Construction Project which received no federal or state government funding during its design phase, the Municipality agrees that it will pay for the costs of any DOT-provided services performed prior to termination, including but not limited to, DOT oversight services for the Construction Project.

(e) If the Municipality terminates the Construction Project without the DOT's prior approval, the Municipality shall incur all costs related to the Construction Project without

reimbursement from the DOT or FHWA (or other applicable federal authority) and shall pay the DOT for any DOT-provided Services performed prior to termination. With respect to federal or state government Funding that was disbursed to the Municipality prior to the effective date of termination, upon demand by the DOT or FHWA (or other applicable federal authority), the Municipality shall promptly return any federal or state government Funding.

(f) Termination of a specific Construction Project shall not relieve the Municipality or its Prime Contractor, Inspection Consultant, or Consulting Engineer of its responsibilities for the work completed as of the termination date, nor shall it relieve the Municipality or any contractor or its surety or of its obligations concerning any claims arising out of the work performed on the Construction Project prior to the termination date or any obligations existing under bonds or insurance required by the Connecticut General Statutes or by this or any other agreement with the DOT or the Municipality.

Article 4. DOT-Administered Construction Projects. When the DOT is responsible for Administering the Construction Project, the sections of this Article 4 apply.

4.1 **Content of the PAL.** The DOT shall issue a PAL to the Municipality which will set forth, at least:

(a) the funding source, the related federal and DOT program information, and the associated funding ratio between the federal government, the DOT, and the Municipality, as applicable, for the Construction Project;

(b) the estimated cost for all work under the Construction Project;

(c) the amount of the Demand Deposit(s) due to the DOT from the Municipality for the Municipality's proportionate share of applicable costs for work under the Construction Project; and

(d) the Project Amount.

4.2 **Engaging a Prime Contractor.** The DOT shall advertise the Construction Project, obtain bids for all Construction Project work and items to be supplied or constructed by the Prime Contractor, analyze all bids, and award a contract for the Construction Project, all of the foregoing in accordance with the Standard Specifications, DOT procedures, and if applicable, procedures that are acceptable to the federal government. Unless otherwise specified in the PAL, the DOT shall be responsible for providing, or engaging persons or entities to provide, any services required for the Construction Project, including but not limited to, Design Services During Construction and Inspection Activities, and for the procurement and oversight of those individuals or entities.

4.3 **DOT to Perform and Complete the Construction Project.** The DOT shall use the applicable Funding apportionments to complete the Construction Project and all related activities that the DOT agrees to perform under the PAL and pursuant to this Master Agreement.

4.4 **Copies of Plans and Specifications.** Upon the completion of the design phase, prior to

commencement of construction activities, the DOT shall provide the Municipality with copies of the plans and specifications regarding the Construction Project.

4.5 **Design Services During Construction - Municipality-provided.** When pursuant to the PAL, the Municipality is required to provide Design Services During Construction:

(a) If the Municipality was the party responsible for undertaking the design phase of the Construction Project, with that design phase funded one hundred percent (100%) by the Municipality, there will be no federal or state government participation in funding the required Design Services During Construction, and the Municipality shall provide Design Services During Construction at its sole expense.

(b) If the design phase of the Construction Project was funded with federal or state government participation, the Municipality shall seek from DOT reimbursement for the Municipality's expenses incurred in providing the Design Services During Construction, and DOT shall reimburse the Municipality for DOT-approved expenditures, all in the following manner:

(1) The Municipality shall submit to the DOT the Voucher with supporting data, the cost of services rendered and expenses incurred for the billing period. Specifically, with respect to Design Services During Construction that are performed in-house by the Municipality's staff, the Municipality's reimbursable costs shall be limited to the actual payroll, fringe benefits associated with payroll, and approved direct cost charges for the staff's performance of Design Services During Construction.

(2) Upon review and approval of the Voucher by the DOT, payment of the reimbursement portion of said costs and expenses shall be made to the Municipality, in accordance with the proportionate cost sharing set forth in the PAL.

(c) The Municipality agrees to comply with the requirements imposed by the DOT with respect to selection of, and imposition of contractual requirements upon, any Consulting Engineer retained during the construction phase to provide Design Services During Construction. The scope of the Design Services During Construction is subject to the prior approval of the DOT.

4.6 **Municipal Contact Person.** The Municipality shall designate a contact person to serve as the Municipality's liaison to provide information to the DOT during the Construction Project and all activities related thereto.

4.7 **Reimbursement for Value of Municipality-Owned Utility Facility.** Where the Construction Project requires replacement of a Municipality-owned utility facility, the DOT shall reimburse the Municipality for the value of the utility facility being replaced minus the Depreciation Reserve Credit and the value of any materials salvaged from it.

4.8 **Semi-Final and Final Inspections.** The DOT shall notify the Municipality in writing that the work is ready for inspection by the Municipality. Before completion of the Construction Project, the Municipality and the DOT shall both perform the semi-final and final inspection of the

Construction Project.

4.9 **Suspension, Postponement, or Termination of a DOT-Administered Construction Project.**

(a) The DOT, upon providing Official Notice, may, in its sole discretion, suspend, postpone, or terminate a specific Construction Project, and such action shall in no event be deemed a breach by the DOT.

(b) If the DOT terminates a specific Construction Project, the DOT, may, at its sole discretion, reimburse the Municipality, in whole or in part, for the Demand Deposit paid to the DOT for the Municipality's proportionate share of costs on the Construction Project.

(c) In the case of a Construction Project which received no federal or state government funding during its design phase, the Municipality agrees that it will pay for the costs of any DOT-provided services performed prior to termination of the Construction Project, including but not limited to, DOT oversight services for the Construction Project.

4.10 **Responsibility for Design Phase Errors or Omissions.** With respect to a Municipal Project for which the Municipality was responsible for undertaking the design phase at its sole expense (without DOT or federal funding), the Municipality assumes all responsibility for any damages, including but not limited to delay damages, during the construction phase that are a result of the errors or omissions or negligence of the Municipality or its consultant(s) in the design of the Municipal Project. The DOT, even while Administrating the Construction Project, shall have no responsibility with respect to such damages, and the Municipality agrees to indemnify, hold harmless and defend the DOT as more particularly described in Article 16.

Article 5. Utilities and Highway Right-of-Way.

5.1 **Relocation.** Where the Construction Project requires readjustment or relocation of a utility facility in, or removal of a utility facility from, the state highway right-of-way or a Municipality-owned highway right-of way, the parties shall comply with the following provisions:

(a) With respect to any utility facility located within the Municipality-owned highway right-of-way, the Municipality shall issue an appropriate order to any utility to readjust or relocate in the right-of-way, or remove from the right-of-way, its utility facility as is deemed necessary by the Municipality or by the DOT, and the Municipality shall take all necessary legal action to enforce compliance with the issuance of such order.

(b) With respect to any utility located within the state highway right-of-way, the DOT shall issue an appropriate order to any utility to readjust or relocate in the right-of-way, or remove from the right-of-way, its utility facility as is deemed necessary by the Municipality and by the DOT.

(c) With respect to a Municipality-owned utility, whether located in the state highway right-of-way or Municipality-owned highway right-of way, the Municipality shall promptly readjust

or relocate in the right-of-way, or remove from the right-of-way, its utility facilities impacted by the Construction Project.

5.2 **Delays.** Regardless of which Party is responsible for Administering the Construction Project, the Municipality shall be responsible, and will not be reimbursed with Funding, for any charges, claims and related damages or costs incurred, including those by the Prime Contractor, for any delays to the Construction Project resulting from:

(a) the failure of the Municipality to issue or enforce compliance with an order to a utility where the Municipality is responsible for such (Municipality-owned highway right-of-way) order; or

(b) in the case of a Municipality-owned utility, failure by the Municipality to promptly readjust, relocate, or remove its utility facilities impacted by the Construction Project.

5.3 **Access to Right-of-Way.** With respect to any work on the Construction Project that requires access to the state highway right-of-way or Municipality-owned highway right-of way, the Party with jurisdiction over the applicable right-of-way is responsible for reviewing the request and granting to the Prime Contractor, the Inspection Consultant, or any subcontractor or subconsultant thereof, as applicable, the right to enter into, pass over and utilize the right-of-way in accordance with all applicable requirements on a case by case basis. Nothing in this section 5.3 shall be construed as waiving any requirements under State of Connecticut laws or regulations relating to access to the highway right-of way, including but not limited to, applying for and obtaining an encroachment permit.

Article 6. Responsibilities of the Parties for Transportation Facilities.

6.1 **During Construction Project.** During the Construction Project, the Municipality shall enforce all applicable State of Connecticut and municipal traffic laws, ordinances and regulations with respect to any existing Transportation Facilities being directly or indirectly affected by the work undertaken during the Construction Project.

6.2 **Upon Completion of Construction Project.** Upon completion of the Construction Project to the satisfaction of the DOT and, if applicable, FHWA (or other federal authority):

(a) The Municipality assumes all responsibility for:

(1) the proper maintenance and operation of all Municipality-owned Transportation Facilities constructed as part of the Construction Project;

(2) the proper maintenance and operation of all traffic control signals installed on Municipality-maintained roadways as part of the Construction Project, provided that a thirty (30) day operational test period, which commences upon the Prime Contractor's installation of the respective traffic control signal, has been completed to the satisfaction of the Party Administering the Construction Project. (The Party Administering the Construction Project shall require its Prime Contractor to assume

responsibility for any operational issues during the thirty (30) day test period.) In the event that the completion of the Construction Project occurs prior to the satisfactory completion of the thirty (30) day test period, then the Municipality's assumption of responsibility with respect to the traffic control signal commences upon satisfactory completion of the thirty (30) day test period.

(3) the payment of energy costs for operation of all traffic control signals and illumination installed as part of the Construction Project when these traffic control signals and illumination are (1) entirely on Municipality-maintained roadways, or (2) at locations (such as an intersection) including at least one roadway for which the Municipality is responsible for maintaining; and

(4) enforcement of all applicable State of Connecticut and municipal traffic laws, ordinances and regulations with respect to the Transportation Facilities, roadways, or improvements thereto, constructed as part of the Construction Project.

(b) The DOT shall assume responsibility for maintenance of DOT-owned Transportation Facilities, or improvements thereto, constructed as part of the Construction Project, unless otherwise agreed to in writing by the authorized representatives of the Parties.

6.3 **Failure to Fulfill Maintenance Responsibilities.** If the Municipality fails to fulfill the maintenance responsibilities set forth in subsections (a)(1) or (a)(2) of section 6.2, it may be disqualified, at the DOT's sole discretion, from participating in any future federal or state government funded Municipal Projects that impart maintenance responsibilities on the Municipality. Nothing in this section shall limit any other remedies that DOT may have under this Master Agreement or under the law.

Article 7. Responsibility for Costs.

7.1 **Non-participating Items.** With respect to Construction Projects that receive federal Funding, the Municipality is responsible for one hundred percent (100%) of the total cost of all Nonparticipating Item(s) and the cost of any Incidentals to Construction that are related to or associated with the Nonparticipating Item(s). The cost of such associated Incidentals to Construction will be determined as follows: A percentage will be derived from the ratio of the total Incidentals to Construction cost to the total contract items cost, as determined by a post-construction final audit, and this percentage will be multiplied by the total cost for the Non-participating Items. The final audit governs the determination of all contract item costs and the final billing to the Municipality for Non-participating Items. However, if the cost of the total Nonparticipating Items is less than ten percent (10%) of the cost of the total contract items, the DOT, at its sole discretion, may deem the cost of such associated Incidentals to Construction to be participating and eligible for Funding.

7.2 **Final Payment.** Final payment by the Municipality to the DOT, or by the DOT to the Municipality, shall be based upon the actual participating construction costs as determined by a post-construction final audit by the DOT, using cost sharing percentages and funding procedures set forth in the PAL.

7.3 **Costs Resulting from Errors or Omissions.** The Municipality shall reimburse the DOT for one hundred percent (100%) of all construction costs and costs of DOT-provided Services, which costs are the result of errors or omissions of the Municipality or its consultant(s), including, but not limited to, errors or omissions with respect to the PS&E, inadequate provision of the Inspection Activities or Design Services During Construction by the Municipality or any of its consultants, or inadequate Administration by the Municipality, as applicable. In order to determine the total cost of DOT-provided Services that were attributable to the errors and omissions of the Municipality (as such are not itemized during the Construction Project), a percentage(s) will be derived from the ratio of the total cost of all DOT-provided Services to the total actual construction cost, as determined by a post-construction audit, and this percentage will be multiplied by the amount attributable to the Municipality's error or omission, as determined by the DOT, to determine the cost of DOT-provided Services incurred as a result of the errors or omissions which the Municipality must reimburse to the DOT. This provision will survive the expiration of the PAL, the final acceptance of the Construction Project, and the termination of the Master Agreement, or the expiration of the Term.

7.4 **Sidewalk Construction.** The Municipality shall participate in the cost of sidewalks constructed as part of the Construction Project, other than existing sidewalks disturbed by the Construction Project, as set forth in Connecticut Department of Transportation Policy Statement, Policy No. E&C.-19, as may be revised, incorporated by reference into this Master Agreement.

Article 8. Disbursement of Grant Funds; Conditions of Payment.

8.1. **Method of Disbursement.** With respect to each Construction Project undertaken pursuant to this Master Agreement, the DOT shall disburse the Funding to the Municipality according to a method determined at the DOT's sole discretion, and in accordance with any applicable state or federal laws, regulations, and requirements.

8.2 **Funding on Reimbursement Basis.** The DOT, by entering into this Master Agreement, does not pledge or promise to pledge the assets of the DOT or the State of Connecticut, nor does it promise to pay any compensation to the Municipality from any monies of the treasury of the State of Connecticut. The Funding in the PAL will be provided to the Municipality by the DOT on a reimbursement basis, provided the Municipality is in compliance with the PAL and this Master Agreement.

8.3 **Federal Approvals Required.** The Municipality agrees that with respect to PALs that include federal participation in Funding, no PAL issued by the DOT is effective until all required federal approvals are received by the DOT for the Construction Project.

8.4 **Lack of Timeliness in Municipality Performance.** If the Municipality fails to timely commence and complete the Construction Project as set forth in the respective PAL to the satisfaction of the DOT and in accordance with all applicable federal, state, and local laws, regulations, ordinances, or requirements, then:

(a) the DOT has no obligation to reimburse the Municipality for its expenses incurred;

(b) to the extent any Funding already has been disbursed to the Municipality, the Municipality shall return any disbursed funds and any interest earned to-date to the DOT within ten (10) business days of receipt of a request from the DOT; and

(c) the DOT may recover from the Municipality the DOT's costs for the DOT-provided Services performed on the Construction Project. Upon receipt of written demand from the DOT, the Municipality shall provide payment for the DOT-provided Services within thirty (30) days.

Article 9. Records and Audit.

9.1 **Examination.** The Municipality shall make available for examination by the DOT and the State of Connecticut and its agents, including but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and the Chief State's Attorney and their respective agents all of its records, documents, and accounting procedures and practices relevant to any Funding received under this Master Agreement, and for a period of time in accordance with all applicable state or federal audit requirements.

9.2 **Retention.** With respect to each Construction Project undertaken under this Master Agreement, the Municipality shall maintain and secure all records for a period of three (3) years after issuance of the Construction Project's Certification of Acceptance, or three (3) years after the final payment has been made to the Prime Contractor or the termination of any litigation related to the Construction Project, whichever is later or for such longer time as instructed by the DOT, the State of Connecticut and its agents, or the federal government.

Article 10. Additional Mandatory Requirements.

10.1 **Mandatory State and Federal Requirements.** With respect to each PAL issued and acknowledged under this Agreement, the Municipality shall comply with the "Mandatory State and Federal Requirements," attached at Schedule K, as may be revised from time to time to reflect changes in law. With respect to any agreements that the Municipality enters into in order to fulfill its obligations for a particular Construction Project, the Municipality agrees to pass down to its contractor(s) and in lower tier subcontractor(s) the applicable requirements set forth in the Mandatory State and Federal Requirements.

10.2 **Additional Federal Requirements.** With respect to each PAL issued and acknowledged under this Agreement that involves the passing of Funds from any agency or office of the federal government, including, but not limited FHWA, the Municipality shall comply with that agency's contracting requirements, directives, and policies that are in place at the time the respective PAL is in effect, except to the extent that the DOT and the respective federal agency may permit otherwise in writing.

10.3 **Revisions.** While this Master Agreement and the attached Schedules include applicable State of Connecticut and FHWA requirements (that the Municipality must comply with

and must require its Prime Contractor, Inspection Consultant, and Consulting Engineer, as applicable, to comply with), the Municipality hereby acknowledges that such requirements are subject to revision by the DOT, FHWA, or other authorized federal agency, from time to time during the Term and that by accepting federal or state government Funding under this Master Agreement, the Municipality agrees to be subject to such revised requirements and changes of law as in effect at any given time and, as a result thereof, shall perform any additional obligations with respect to the particular Construction Project, throughout the Term of this Master Agreement.

Article 11. Conflict.

11.1. **Conflict.** In case of a conflict between the provisions of any particular PAL, the Master Agreement, the Mandatory State and Federal Requirements, or any specification, guide, manual, policy, document, or other publication referenced in the Master Agreement, the provision containing additional details or more stringent requirements will control. In case of the Municipality's inability to determine the controlling provision or where it is not possible to comply with the requirements of multiple provisions, the DOT shall have the right to determine, in its sole discretion, which provision applies. The Municipality shall promptly request in writing the DOT's determination upon the Municipality's inability to determine the controlling provision or upon becoming aware of any such conflict. This provision shall survive the expiration or termination of this Master Agreement.

11.2 **Revisions to Manuals.** With respect to any guide, manual, policy, document, or other publication referenced throughout the Master Agreement and noted to be subject to revision throughout the Term of this Agreement by way of the phrase "as may be revised," for the particular Construction Project the Municipality agrees to comply with the version of the document or publication that is in effect on the date of the Written Acknowledgement of the PAL for the Construction Project. This section does not apply to the Standard Specifications.

Article 12. Review of Municipality's Activities. The Municipality shall cooperate fully with the DOT and permit the DOT, FHWA, or other federal authority, as applicable, to review, at any time during the Construction Project, all activities performed by the Municipality with respect to any PAL issued under this Master Agreement. Upon request of the DOT, the Municipality shall timely furnish all documents related to the Construction Project so that the DOT may evaluate the Municipality's activities with respect to the Construction Project, including, but not limited to, its use of the Funding as required by the PAL, this Master Agreement, and applicable law.

Article 13. Term and Termination of the Master Agreement.

13.1 **Term.** The Term commences on the Effective Date and continues for ten (10) years, unless terminated earlier in accordance with this Article.

13.2 **Termination for Convenience.** The DOT may terminate this Master Agreement for convenience, at its sole discretion, upon providing thirty (30) days Official Notice to the Municipality.

13.3 **Termination for Cause.** As a result of the Municipality's breach of the Master Agreement or a particular PAL or the failure of the Municipality, its Prime Contractor, Inspection Consultant, Consulting Engineer, or any combination of the foregoing, to perform the work required on any particular Construction Project to the DOT's satisfaction in accordance with the respective PAL, the DOT may terminate this Master Agreement for cause by giving the Municipality ten (10) days Official Notice, provided that the Municipality fails to cure, or begin to cure, the breach or failed performance, to the satisfaction of the DOT in its sole discretion, within the notice period that the DOT may, in its sole discretion, set forth in such Official Notice. Termination for cause by the DOT will not prejudice the right of the DOT to pursue any of its remedies for breach, including recovery of any Funding paid to the Municipality prior to termination for cause.

13.4 **Effect on In-progress PALs.**

(a) Upon expiration of the Term or the DOT's earlier termination for convenience of the Master Agreement, any issued PAL for a Construction Project that is still in-progress will remain in full force and effect and will continue through completion and final acceptance by the DOT of the respective Construction Project, and the Municipality shall be subject to all applicable terms and conditions of the PAL and this Master Agreement, unless the respective PAL is itself terminated in accordance with section 3.25 (for Municipality-Administered projects) or section 4.9 (for DOT-Administered Projects).

(b) Upon the DOT's termination of this Master Agreement for cause, any PALs in-progress at the time will automatically terminate, unless the DOT provides Official Notice stating otherwise. The DOT, at its sole discretion, will determine and state in such Official Notice to the Municipality, if any in-progress PALs will remain in effect, and in such case, the Municipality agrees that it must complete performance of such in-progress PAL(s) through completion and final acceptance by the DOT of the respective Construction Project in compliance with all applicable terms and conditions of the PAL and this Master Agreement.

Article 14. Official Notice. Any Official Notice from one Party to the other Party, in order for such notice to be binding thereon, shall:

14.1 Be in writing (as a printed hard copy or electronic or facsimile copy) addressed to:

(a) When the DOT is to receive Official Notice:

Commissioner of Transportation
Connecticut Department of Transportation
2800 Berlin Turnpike
P.O. Box 317546
Newington, Connecticut 06131-7546;

(b) When the Municipality is to receive Official Notice:

Mayor
City of Bridgeport
999 Broad Street
Bridgeport, Connecticut 06604;

14.2 Be delivered to the address recited herein in person, by facsimile or by electronic transmission, with acknowledgement of receipt, or be mailed by United States Postal Service with return receipt requested by mail, electronic means, or any other methods of receiving the return receipt as identified by the Mailing Standards of the U.S. Postal Service, as may be revised; and

14.3 Contain complete and accurate information in sufficient detail to properly and adequately identify and describe the subject matter thereof.

Article 15. Insurance.

15.1 **Minimum Limits of Coverage.**

(a) With respect to the work on the particular Construction Project that the Municipality performs or that the Municipality engages a Prime Contractor to perform, respectively, the Municipality when performing the work shall carry, or when the Prime Contractor is performing the work, the Municipality shall require the Prime Contractor to carry and to impose on its subcontractors the requirement to carry, for the duration of the Construction Project the insurance requirements set forth in the Standard Specifications, including "Section 1.03.07 Insurance" and specifically with respect to any working drawings prepared by a designer "Section 1.05.02(2)(a) Plans, Working Drawings and Shop Drawings," and any additional insurance coverage or increased limits required in the Special Provisions for the particular Construction Project.

(b) With respect to the Inspection Activities on the particular Construction Project that the Municipality performs or that the Municipality engages an Inspection Consultant to perform, respectively, on the Construction Project, and with respect to Design Services During Construction performed by the Municipality or by a Consulting Engineer, the Municipality when performing the work shall carry, or when the Inspection Consultant or Consulting Engineer is performing the work, the Municipality shall require the Inspection Consultant or Consultant Engineer to carry and to impose on any subconsultant(s) the requirement to carry, for the duration of the Construction Project, the following insurance:

(1) Commercial General Liability Insurance, including Contractual Liability Insurance, providing for a total limit of One Million Dollars ($1,000,000) per occurrence for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, and, subject to that limit per accident, an aggregate limit of Two Million Dollars ($2,000,000) for all damages arising out of bodily injuries to or death of all persons in all accidents or occurrences and out of injury to or destruction of property during the policy period, with the DOT being named an additional insured party;

(2) Automobile Liability Insurance with respect to the operation of all motor vehicles, including those hired or borrowed, used in connection with the Construction Project, providing for a total limit of One Million Dollars ($1,000,000) per occurrence for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, with the DOT being named an additional insured party. In cases where an insurance policy shows an aggregate limit as part of the automobile liability coverage, the aggregate limit must be at least Two Million Dollars ($2,000,000);

(3) Railroad Protective Liability Insurance (when the Construction Project requires work within fifty (50) feet of the railroad right-of-way or DOT-owned rail property), with coverage limits of not less than Two Million Dollars ($2,000,000) per occurrence for all damages arising out of any one accident or occurrence in connection with bodily injury or death or injury to or destruction of property, and, subject to that limit per accident, an aggregate) limit of Six Million Dollars ($6,000,000) for all injuries to persons or property during the policy period, and with all entities falling within any of the following listed categories as named insured parties: (i) the owner of the railroad right-of-way, (ii) the owner of any railcar licensed or permitted to travel within that affected portion of railroad right-of-way, (iii) the operator of any railcar licensed or permitted to travel within that affected portion of the railroad right-of-way, (iv) the DOT and (v) any other party with an insurable interest. If such insurance is required, the Municipality, Inspection Consultant, or subconsultant shall obtain and submit the minimum coverage indicated above to the DOT prior to the commencement of the work and shall maintain coverage until the work is accepted by the DOT;

(4) Valuable Papers Insurance Policy, with coverage maintained until the work has been completed and accepted by the DOT, and all original documents or data have been returned to the DOT, providing coverage in the amount of Fifty Thousand Dollars ($50,000) regardless of the physical location of the insured items. This insurance will assure the DOT that all records, papers, statistics and other data or documents will be re-established, recreated or restored if made unavailable by fire, theft, or any other cause. The Municipality, the Inspection Consultant, Consulting Engineer, or subconsultant, as applicable, shall retain in its possession duplications of all products of its work under the contract if and when it is necessary for the originals to be removed from its work under the contract, and if and when necessary for the originals to be removed from its possession during the time that this policy is in force.

(5) Workers' Compensation Insurance, and, as applicable, insurance required in accordance with the U.S. Longshore and Harbor Workers' Compensation Act, in accordance with the requirements of the laws of the State of Connecticut, and of the laws of the United States respectively; and

(6) Professional Liability Insurance for errors and omissions in the minimum amount of Two Million Dollars ($2,000,000), with the appropriate and proper endorsement to its Professional Liability Policy to cover the Indemnification clause in this Master Agreement as the same relates to negligent acts, errors or omissions in the work

performed by the Municipality, Inspection Consultant, or subconsultant, as applicable. The Municipality, Inspection Consultant, or subconsultant may, at its election, obtain a policy containing a maximum Two Hundred Fifty Thousand Dollars ($250,000) deductible clause, but if it should obtain a policy containing such a deductible clause the Municipality, Inspection Consultant, or subconsultant shall be liable, as stated above herein, to the extent of the deductible amount. The Municipality, Inspection Consultant, Consulting Engineer, or subconsultant shall, and shall continue this liability insurance coverage for a period of three (3) years from the date of acceptance of the completed design or work subject to the continued commercial availability of such insurance. It is understood that the above insurance may not include standard liability coverage for pollution or environmental impairment. However, the Municipality, Inspection Consultant, Consulting Engineer, or subconsultant shall acquire and maintain pollution and environmental impairment coverage as part of this Professional Liability Insurance, if such insurance is applicable to the work performed by the Municipality, Inspection Consultant, Consulting Engineer, or subconsultant under the PAL for the Construction Project

(c) In the event the Municipality, Prime Contractor, subcontractor, Inspection Consultant, Consulting Engineer, or subconsultant, as applicable, secures excess/umbrella liability insurance to meet the minimum coverage requirements for Commercial General Liability or Automobile Liability Insurance coverage, the DOT must be named as an additional insured on that policy.

15.2 **Insurance Company Authorized Pursuant to State of Connecticut Law.** For each Construction Project, the required insurance coverage of the types and minimum limits as required by the Master Agreement must be provided by an insurance company or companies, with each company, or if it is a subsidiary then its parent company, authorized, pursuant to the Connecticut General Statutes, to write insurance coverage in the State of Connecticut and/or in the state in which it, or in which the parent company, is domiciled. In either case, the company must be authorized to underwrite the specific line coverage. Solely with respect to work performed directly and exclusively by the Municipality, the Municipality may request that the DOT accept coverage provided under a municipal self-insurance program as more particularly described in section 15.6.

15.3 **Certificate of Insurance.** The Municipality shall provide to the DOT evidence of all required insurance coverages by submitting a Certificate of Insurance on the form(s) acceptable to the DOT fully executed by an insurance company or companies satisfactory to the DOT.

15.4 **Copies of Policies.** The Municipality shall produce, and require its Prime Contractor, any subcontractor, Inspection Consultant, Consulting Engineer, or any subconsultant, as applicable, to produce, within five (5) business days, a copy or copies of all applicable insurance policies when requested by the DOT. In providing said policies, the Municipality, Prime Contractor, subcontractor, Inspection Consultant, Consulting Engineer, or subconsultant, as applicable may redact provisions of the policy that are proprietary. This provision shall survive the suspension, expiration or termination of the PAL and the Master Agreement. The Municipality agrees to notify the DOT with at least thirty days prior notice of any cancellation or change in the insurance coverage required under this Master Agreement.

15.5 **Update to Minimum Insurance Limit Requirements.** The Municipality acknowledges and agrees that the minimum insurance coverage limits set forth in this Master Agreement are subject to increase by the DOT, at its sole discretion, from time to time during the Term of this Master Agreement. The DOT will provide the Municipality with the updated minimum insurance coverage limit requirements as applicable to the particular Construction Project. Upon issuance of a PAL by the DOT, and submission of the Written Acknowledgment of the PAL by the Municipality, the Municipality agrees to shall comply with the updated minimum insurance coverage limit requirements as specified by the DOT for the particular Construction Project.

15.6 **Self-insurance.**

(a) With respect to activities performed directly and exclusively by the Municipality with Municipal forces or staff on a particular Construction Project, the Municipality may request that the DOT accept coverage provided under a self-insurance program in lieu of the specific insurance requirements set forth in section 15.1. The Municipality shall submit to the DOT a notarized statement, by an authorized representative:

(1) certifying that the Municipality is self-insured;

(2) describing its financial condition and self-insured funding mechanism;

(3) specifying the process for filing a claim against the Municipality's self-insurance program, including the name, title and address of the person to be notified in the event of a claim; and

(4) agreeing to indemnify, defend and save harmless the State of Connecticut, its officials, agents, and employees from all claims, suits, actions, damages, and costs of every name and description resulting from, or arising out of, activities performed by the Municipality under the PAL issued for the Construction Project.

(b) If requested by the DOT, the Municipality must provide any additional evidence of its status as a self-insured entity.

(c) If the DOT, in its sole discretion, determines that such self-insurance program is acceptable, then the Municipality shall assume any and all claims as a self-insured entity.

(d) If the DOT accepts a Municipality's particular self-insurance coverage, the Municipality will not be required to obtain from an insurance company the respective insurance requirement(s) displaced by that particular self-insurance coverage.

(e) If the DOT does not approve the Municipality's request to provide coverage under a self-insurance program for the particular activities, the Municipality must comply with the respective insurance requirement(s) stated in the Master Agreement, including but not limited to, the type of coverage and minimum limits applicable to the coverage.

Article 16. Indemnification.

16.1 For the purposes of this Article, the following definitions apply.

(a) Claims: All actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.

(b) Municipality's Parties: A Municipality's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Municipality is in privity of oral or written contract and the Municipality intends for such other person or entity to perform under the Master Agreement or the PAL in any capacity.

(c) Records: All working papers and such other information and materials as may have been accumulated by the Municipality in performing the Master Agreement or the PAL, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries, memoranda and correspondence, kept or stored in any form.

(d) State: The State of Connecticut, including the DOT and any office, department, board, council, commission, institution or other agency or entity of the State.

16. 2 With respect to Municipality-Administered Construction Projects, the Municipality agrees that it shall indemnify, defend and hold harmless, and it shall require the Municipality's Parties to indemnify, defend and save harmless, the State, and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with this Master Agreement and any PAL issued hereunder, including the acts of commission or omission (collectively, the "Acts") of the Municipality or the Municipality's Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts of the Municipality or the Municipality's Parties, or the Master Agreement and any PAL issued hereunder. The Municipality and the Municipality's Parties shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Municipality's and the Municipality's Parties' obligations under this section to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of the Municipality's or Municipality's Parties' bids, proposals or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance of this Master Agreement or any PAL issued hereunder.

16.3 With respect to DOT-Administered Construction Projects, the Municipality agrees to indemnify and hold harmless the State, its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with this Master Agreement and any PAL issued hereunder, including the acts of

commission or omission (collectively, the "Acts") of the Municipality or the Municipality's Parties; and (2) liabilities, damages, losses, costs, and expenses including but not limited to, attorneys' and other professionals' fees, arising directly or indirectly, in connection with Claims, Acts of the Municipality or the Municipalities Parties this Master Agreement, and any PAL issued hereunder, including but not limited to, design errors or omissions and failures to make necessary arrangements for utility work.

16.4 The Municipality and the Municipality's Parties shall not be responsible for indemnifying or holding the DOT harmless from any liability arising due to the negligence of the State or any third party acting under the direct control or supervision of the State.

16.5 The Municipality and the Municipality's Parties shall reimburse the State for any and all damages to the real or personal property of the DOT caused by the Acts of the Municipality and the Municipality's Parties. The DOT shall give the Municipality and the Municipality's Parties reasonable notice of any such Claims.

16.6 The Municipality's and the Municipality's Parties' duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Master Agreement and any extension thereof, without being lessened or compromised in any way, even where the Municipality and the Municipality's Parties are alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.

16.7 The Municipality and the Municipality's Parties shall carry and maintain at all times during the term of this Master Agreement, and during the time that any provisions survive the term of this Master Agreement, sufficient general liability insurance to satisfy its obligations under this Master Agreement. The Municipality and the Municipality's Parties shall name the DOT as an additional insured on the policy. The State shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that the State is or was contributorily negligent.

16.8 This section shall survive the expiration or earlier termination of the Term or any PAL issued hereunder, shall apply to any extension of the Term of this Master Agreement, and shall not be limited by reason of any insurance coverage.

Article 17. Sovereign Immunity.

17.1 **No Waiver of the State's Immunities.** Nothing in this Master Agreement or any PAL issued hereunder shall be construed as a modification, compromise or waiver by the DOT of any rights or defenses of any immunities provided by federal law or the laws of the State of Connecticut to the DOT or any of its officers and employees, which they may have had, now have or will have with respect to matters arising out of this Master Agreement. To the extent that this section conflicts with any other section, this section shall govern.

17.2 **Defense of Suits by the Municipality.** Nothing in this Agreement shall preclude the Municipality from asserting its Governmental Immunity rights in the defense of third party claims.

The Municipality's Governmental Immunity defense against third party claims, however, shall not be interpreted or deemed to be a limitation or compromise of any of the rights or privileges of the DOT, at law or in equity, under this Agreement, including, but not limited to, those relating to damages.

Article 18. Governing Law. The Parties deem the Master Agreement to have been made in the City of Hartford, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Master 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 any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the DOT, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Municipality 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. Nothing contained in the terms or provisions of this Master Agreement shall be construed as waiving any of the rights of the DOT under the laws of the State of Connecticut. Nothing contained in this Master Agreement shall be construed as an agreement by the DOT to directly or indirectly obligate the DOT to creditors or employees of the Municipality or to the Municipality's Parties.

Article 19. Amendment. This Master Agreement may be amended by mutual written agreement signed by the authorized representative of each Party and approved by the Attorney General of the State of Connecticut, and upon receipt of any additional approvals required by law.

Article 20. Severability. If any provision of this Master Agreement or application thereof is held invalid, that invalidity shall not affect other provisions or applications of the Master Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Master Agreement are severable.

Article 21. Waiver. The failure on the part of the DOT to enforce any covenant or provision herein contained does not waive the DOT's right to enforce such covenant or provision, unless set forth in writing. The waiver by the DOT of any right under this Master Agreement or any PAL, unless in writing, shall not discharge or invalidate such covenant or provision or affect the right of the DOT to enforce the same.

Article 22. Remedies are nonexclusive. No right, power, remedy or privilege of the DOT shall be construed as being exhausted or discharged by the exercise thereof in one or more instances, and it is agreed that each and all of said rights, powers, remedies or privileges shall be deemed cumulative and additional and not in lieu or exclusive of any other right, power, remedy or privilege available to the DOT at law or in equity.

Article 23. Entire Agreement. This Master Agreement constitutes, when fully executed and approved as indicated, the entire agreement between the parties and shall supersede all previous communications, representations, or agreements, either oral or written, between the Parties hereto

with respect to the subject matter hereof; and no agreement or understanding varying or extending the same shall be binding upon either party hereto unless in writing signed by both parties hereto.

The parties have executed this Master Agreement by their duly authorized representatives on the day and year indicated, with full knowledge of and agreement with its terms and conditions.

STATE OF CONNECTICUT
Department of Transportation
James Redeker, Commissioner

By _____
Thomas A. Harley P.E.
Bureau Chief
Bureau of Engineering and Construction

Date:_____

CITY OF BRIDGEPORT

By _____
Honorable
Mayor

Date: _____

Item# *227-15 Consent Calendar

Professional Services Agreement with GIS, Inc., Bowne AE&T Group and Prime AE for On-Call GIS Services.

Report of Committee on Contracts

City Council Meeting Date: DECEMBER 19, 2016

Attest: Lydia N. Martinez
Lydia N. Martinez, City Clerk

Approved by: _____
Joseph P. Ganim, Mayor

Date Signed: 12/26/16

RECEIVED
CITY CLERK'S OFFICE
2017 JAN -6 P 12:08

ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport.

The Committee on **Contracts** begs leave to report; and recommends for adoption the following resolution:

Item No. *227-15 Consent Calendar

WHEREAS, The City of Bridgeport implemented an Enterprise Geographic Information System (GIS) in 2005 to now encompass over 300 layers of data which is widely utilized both by City employees and over 2000 unique users from the public on a monthly basis; and

WHEREAS, Additional updates and expansion of the GIS are desired and necessary. Such updates include but are not limited to developing a citywide Address Point layer and developing a storm and sanitary sewer layer; and

WHEREAS, on September 6, 2016 the City of Bridgeport acting through its Office of Planning and Economic Development (OPED issued a Request for Qualifications (RFQ) for On Call GIS services to assist the City in updating and expanding its current GIS program; and

WHEREAS, the RFQ sought firms capable of performing such specific tasks as developing a citywide address point layer, updating citywide parcel data, and developing a sanitary sewer and stormwater infrastructure layer; and

WHEREAS, sixteen responses to the RFQ were received in September of 2016; and

WHEREAS a Selection Committee comprised of representatives from OPED, ITS, Engineering and CAO's office reviewed these responses then established a short list of six (6) firms to interview, and then its final selection of three (3) firms; and

WHEREAS, pursuant to the Selection Committee review OPED recommended to the Board of Public Purchases that the following three firms be awarded contracts: GIS, Inc. of Birmingham, Alabama; Bowne AE&T Group of Mineola, New York; and Prime AE of Rocky Hill, Connecticut; and

WHEREAS, the City wishes to enter into a three-year contract on a task-order basis with each of the three selected firms so as to continue improving and growing GIS;

NOW, THEREFORE, BE IT RESOLVED that in consultation with the City Attorney, the City of Bridgeport is authorized to issue contracts substantially in the form of the agreement attached to GIS, Inc., Bowne AE&T Group, and Prime AE;

BE IT FURTHER RESOLVED that the Mayor or the Director of the Office of Planning and Economic Development, or their respective designees, are each hereby authorized to execute all agreements, take all necessary actions and do all necessary things in furtherance of this matter consistent with this resolution and in the best interests of the City;

City of Bridgeport, Connecticut
Office of the City Clerk

Report of Committee on Contracts
Item No. *227-15 Consent Calendar

HOWEVER, Task orders under said contract benefitting any entity other than the City proper shall be paid for entirely by said entity or the task order shall be returned to Council for prior approval.

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
CONTRACTS

Jack O. Banta, D-131st, ***Co-Chair***

Jeanette Herron, D-133rd, ***Co-Chair***

Milta I. Feliciano, D-137th

AmyMarie Vizzo-Paniccia, D-134th

James Holloway, D-139th

Alfredo Castillo, D-136th

Anthony R. Paoletto, D-138th

City Council Date: *December 19, 2016*

ON-CALL

GIS SERVICES

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

CITY OF BRIDGEPORT

AND

_____

[DRAFT DATE]

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT IS MADE AND ENTERED INTO as of the day of June, 2000, by and between the **CITY OF BRIDGEPORT**, a municipal corporation, located in Bridgeport, Connecticut, acting through its Office of Planning and Economic Development (hereinafter referred to as "**Owner**") and _____, a Connecticut _____, having an address at _____ (hereinafter referred to as "**Consultant**").

WHEREAS, the Owner [advertised a Request for Qualifications/Request for Proposals] on_____ for _____ services for _____ (see **Exhibit A** attached);

WHEREAS, the Consultant submitted its qualifications/proposal dated _____ (see **Exhibit A** attached);

WHEREAS, the Owner selected the Consultant based upon its qualifications and price proposal and further based upon the Consultant's statements and representations made therein for purposes of entering into negotiation of a contract for professional engineering services for the Project;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties mutually agree as follows:

DEFINITIONS

The following definitions will be used throughout this Agreement, unless the context requires otherwise:

"**Approval**" or "**Approved**" means, with respect to the administration and performance of this Agreement, that the Owner, in combination with the Program Manager, as the context requires, has or have given its or their respective written approval(s) to the Consultant when required, including but not limited to, the approval of budgets, Task Orders, directions, changes or deviations from or with respect to Task Orders, additional expenses, substitutions, time delays, schedule changes, etc.

"**Consultant**" means _____, the Consultant's Representative, and its Approved consultants and subcontractors designated in writing from time to time during the term of this Agreement.

"**Consultant's Representative**" means a specific individual or individuals designated in writing by the Consultant to the Owner from time to time as its representative or representatives with respect to the Project. At the inception of

this Agreement, the Consultant's Representative shall be _____.

"**Owner**" means the City of Bridgeport, a municipal corporation, acting through the Program Manager who shall be designated in writing from time to time during the term of this Agreement.

"**Program Manager**" means _____, acting through a specific individual or individuals designated in writing from time to time during the term of this Agreement to the Owner and the Consultant as its representative or representatives with respect to the Project specified in a Task Order. At the inception of this Agreement, the designee of the Program Manager shall be _____, or his designee set forth in writing to the Owner and the Consultant.

"**Project**" means construction of public facilities and other improvements as set forth in the Task Orders assigned to the Consultant.

"**Task Schedule**" means the schedule of milestones and other time requirements established in each Task Order.

"**Services**" means the delivery of GIS related products and other necessary and related professional services required by a Task Order for the completion of the work described therein.

"**Task**" or "**Task Order**" is a description of the Services requested from the Consultant, the format of which is described generally in Paragraph 1.1.D and Exhibit B of this Agreement, and the description of the particular Services requested from the Consultant in a Task Order issued to the Consultant from time to time during the term of this Agreement.

"**Term**" means the duration of this Agreement, commencing upon the date specified by the Owner in a Notice to Proceed on Task Order No. 1 and ending either on (a) the completion of the final Task Order then outstanding or (b) the earlier termination of this Agreement as provided herein, or (c) [DATE], whichever event shall first occur. The Owner reserves the right to extend the term of this Agreement, in writing, for one additional year, at its sole discretion, on terms and conditions mutually agreed to between the parties.

ARTICLE I BASIC AGREEMENT

1.1 Structure of the Agreement

A. **Consultant's Qualifications.** The Consultant represents that it is duly-licensed in the State of Connecticut and is qualified and experienced in the

provision of GIS related products and services accordance with the requirements of the Owner as set forth in one or more Task Orders. The Consultant will prepare and present to the Owner for review and acceptance all required data and software programs as determined by the Project Manager and Owner, as necessary to accomplish the Tasks in the manner more specifically set forth in this Agreement and in accordance with the Task Orders issued by the Owner.

B. **Use of Task Orders.** The Consulting Services required by this Agreement will be assigned by Task Order to allow for the sequential or partial completion of work in response to the City's proposed Project requirements. The Consulting Services shall be authorized by one or more Task Orders. The content, schedule and Compensation for each Task Order shall be negotiated prior to commencing Services under such Task Order.

C. **Assignment of Tasks.** The Owner shall identify and inform the Consultant of Tasks that it wishes the Consultant to perform, each such Task to be set forth in a written Task Order upon mutual agreement of the terms and conditions thereof between the Owner and the Consultant. Each additional Task Order will be considered an amendment to this Agreement, shall be incorporated by reference into this Agreement and shall become a part hereof as if fully set forth herein. Each Task Order shall be commenced by the Consultant within five (5) business days of receipt of a written notice to proceed or on the date specified therein (each, a "**Notice to Proceed**").

D. **Task Order Format.** A format for a Task Order is attached as **Exhibit B**. Its inclusion as part of this Agreement illustrates the general framework to be used in authorizing each and every Task Order requiring the Consultant's Services for the duration of this Agreement. The Consultant will be required to prepare an estimate of man-hours for each Hourly Billing Rate (defined below) to be utilized through the Consultant's forces or through each subcontractor employed or to be employed to perform each Task Order for the duration of the Task Order. Reimbursable expenses shall also be listed as individual line items. After negotiations with the Owner, the manpower estimate shall be attached to the Task Order.

E. **Authority to Request Additional Tasks or Services.** It is understood and agreed by the parties that, upon the Approval of this Agreement, only the Program Manager, designated by the Owner in writing from time to time to the Consultant, shall have the authority to add Tasks or Services to this Agreement.

1.2 **Compensation.** The Owner shall compensate the Consultant for the authorized Services to be performed pursuant to this Agreement as follows:

A. **Basis.** The Consultant shall be compensated for each Task Order on a (TBD). If required by the Owner, the Consultant shall submit projections for

each month during the projected duration of such Task Order of the amounts of Compensation to be requested including its best estimate of Reimbursable Expenses (defined below) in order for the Owner to appropriately allocate funds for such Compensation.

1.3 **Payment.** Payment of the Compensation set forth herein shall be made to the Consultant as follows:

A. **Progress Payments.** Payment of the Compensation set forth in this Agreement shall be made monthly for the Services completed during the prior month The accumulated total Compensation at the completion of each Task Order, excluding Compensation for additional services requested in writing by the Owner in connection with each such Task Order, if any, shall not exceed the agreed-to Compensation payable for Services to be performed under each Task Order.

B. **Submission of Invoices**. Payment of the Compensation set forth in this Agreement shall be made monthly in proportion for actual hours expended in providing the Services completed during the prior month. The accumulated total Compensation at the completion of each Task Order, excluding Compensation for additional services requested in writing by the Owner in connection with each such Task Order, if any, shall not exceed the agreed-to Compensation payable for Services to be performed under each Task Order.

C. **Timing of Submission; Payment; Interest**. Invoices shall be submitted for Services rendered during the previous month. The Owner shall have thirty (30) days to review each complete invoice, and payment of all undisputed amounts for Compensation, shall be made within sixty (60) days after receipt thereof. Notwithstanding anything herein to the contrary, Compensation shall not be paid on disputed invoices or portions thereof and no interest shall be payable to the Consultant on amounts withheld by the Owner based upon a good faith dispute with the Consultant.

D. **Responsibility for Certain Payments**. The Consultant shall remain responsible, and shall indemnify and hold harmless the Owner, from and against all liability for the withholding and payment of all Federal, state and local personal income, wage, earnings, occupation, social security, worker's compensation, unemployment, sickness and disability insurance taxes, payroll levies or employee benefit requirements (under ERISA, state law or otherwise) now existing or hereafter enacted and attributable to the Consultant, its subcontractors and consultants and their respective employees.

E. **Unauthorized Charges**. The Consultant expressly understands and agrees that the Owner shall not be liable for the payment of any Services or other work performed by the Consultant, its subcontractors and consultants based upon unauthorized representations of or directions from officers, agents or

employees of the Owner other than the Program Manager which exceed the Budget for this Project ("**Unauthorized Charges**") unless the Consultant submits in writing to the Owner within thirty (30) days of rendering Services or other work that is not authorized or that may exceed the Budget a request for approval of such Unauthorized Charges. Unauthorized Charges that are not brought to the Owner's attention within such 30-day period will not be honored and payment therefore will be deemed waived by the Consultant, its subcontractors and consultants.

1.4 **Use of Consultants and Subcontractors**. The Consultant has retained or will retain as subcontractors or consultants, at its sole cost and expense, full-service, licensed (where required) professionals to render the categories of service to complete each Task Order. The names and qualifications of such consultants will be disclosed to the Owner in writing for review and approval prior to entering into any Task Order. The Consultant shall inform the Owner in writing in advance of engaging any other subconsultants not identified at the time of execution of a Task Order. The Owner shall have the right, in the exercise of its reasonable business judgment, to reject any such additional or substitute consultant or subcontractor and to request the Consultant to submit alternative proposals. The retention of such consultants and subcontractors shall not diminish or reduce the overall responsibility of the Consultant under this Agreement for the successful completion of the Task Order work.

1.5 **Project Responsibility and Staffing**.

A. **Consultant's Staffing.** An authorized principal of the Consultant will represent the Consultant in all matters relating to the contractual relationship between the Owner and the Consultant relating to the Work under a Task Order, which person may be removed or replaced as set forth herein in writing from time to time (the "**Consultant's Representative**") in the manner set forth below. It is agreed that the Consultant's Representative shall not be removed by the Consultant without the prior written approval of the Owner unless such individual has ceased his or her employment with the Consultant. However, the Consultant's Representative shall be removed and replaced, without cost or expense to the Owner, at the written request of Owner. If the Owner requests that the Consultant's Representative be replaced, the Owner shall be permitted to terminate this Agreement in the event a replacement, satisfactory to the Owner in the Owner's sole discretion, is not provided promptly.

B. **Consultant's Project Manager.** The Consultant shall designate a project manager in writing for each Task Order (the "**Consultant's Project Manager**"). The Consultant's Project Manager shall have responsibility for communications with the Owner's Program Manager and coordination of the

work including, but not limited to, progress reports, meetings, schedule, deliverables and other typical contract administration functions

C. **Subconsultants and Subcontractors.** The Project staff for each Task Order will consist of, at a minimum, the staff identified by the Consultant in the professional categories approved by the Owner at the time of execution of a Task Order. The Consultant represents that all consultants and subcontractors employed by it in connection with this Agreement possess the requisite licensing (where required) education, training and experience to perform their job descriptions and functions in a competent and professional manner with respect to this Project. No subconsultant shall be replaced without the prior written approval of Owner. The Owner may, without incurring cost or expense, require the replacement of any consultant or subcontractor identified in a Task Order in the sole discretion of the Owner upon written notice to the Consultant.

1.6 **Time**. The Consultant shall complete each Task Order required by this Agreement in a timely fashion in accordance with a schedule for each Task Order (each, a "**Schedule**"). Once the parties hereto have agreed to the Schedule for a Task Order, all dates set forth in the Schedule, as the same may be amended from time to time in accordance with this Agreement, shall be **TIME OF THE ESSENCE**.

A. **Timely Performance an Essential Condition**. It is hereby understood and agreed by the Consultant that the date of commencement, the dates of required intermediate milestones, and the time for completion, as specified in this Agreement and in the accepted Schedule for the Services to be completed by the Consultant with respect to each Task Order issued by the Owner, are ESSENTIAL CONDITIONS of this Agreement.

B. **Commencement of Services**. It is mutually understood and agreed that the Services of the Consultant hereunder for each Task Order shall be commenced within five (5) days after the issuance of a Notice to Proceed by the Owner or on the date specified therein.

1.7 **Representations and Warranties**. The Consultant represents and warrants, as of the date hereof and throughout the Term of this Agreement, as follows:

A. **Use of Qualified Personnel, Subcontractors and Subconsultants**. The Consultant represents that it is a corporation legally doing business in the State of Connecticut, has the requisite experience to undertake and complete the Services pursuant to the requirements of this Agreement, has in its employ, or will engage at its sole cost and expense, licensed (where required), experienced, qualified and trained personnel, subcontractors and consultants, and will use, or require those in its employ to

use, quality equipment to competently perform the Services required by each Task Order.

B. **Consultant Possesses Adequate Resources and Personnel.** The Consultant represents that it is financially stable and has adequate resources and personnel to complete the Services in a timely fashion.

C. **No Conflicts**. The Consultant has disclosed, or shall disclose, in writing prior to the execution of any Task Order, all conflicts or potential conflicts of interest that may or are likely to have an adverse affect on its ability to independently protect the Owner's interests in connection with the Project, including but not limited to, the nature and specifics of its relationship with any other participants in the Project, for example the Project Manager, other consultants and subcontractors, and the like. The Consultant represents that its performance of the Services described herein, and its representation of the Owner, will not result in a conflict of interest, will not violate any laws or contractual obligations with third parties, and is an enforceable obligation of the Consultant.

D. **Prior Approval of All Subconsultants.** The Consultant will not engage any consultant for any of the Services for any Task Order without prior written notice to and written approval by the Owner and receipt of the Owner's written consent, except for those subconsultants specifically identified at the inception of this Agreement.

E. **No Violation of Law**. The Consultant represents that neither it, nor any of its officers, directors, owners, employees or, to the best of its knowledge any of its approved subcontractors and consultants, have committed a criminal violation of federal or state laws arising directly or indirectly from its business operations that resulted in the imposition of a monetary fine, injunction, criminal conviction or other sanction, and further represents that the Consultant shall take all reasonable steps to ensure that its officers, directors, owners, employees, agents, subcontractors and consultants shall comply with the requirements of all laws, rules and regulations applicable to this Agreement or to the conduct of its or their businesses in the performance of the Services under this Agreement.

F. **Quality and Performance of Services**. The Consultant represents that it will perform, or ensure the performance by others of, the Services in a good and workmanlike manner consistent with the level of skill and care ordinarily exercised by members of the profession currently practicing in the State of Connecticut under similar conditions and will diligently pursue the completion of such Services in accordance with the terms of this Agreement.

G. **Licenses and Permits**. The Consultant represents that it possesses, and will ensure that its subcontractors and consultants possess, all

professional licenses and other licenses and permits in the State of Connecticut that may be required to perform the Services required by this Agreement.

H. **Observance of Proprietary Rights**. The Consultant represents and warrants that it will take reasonable steps to ensure that the performance of the Services will not infringe upon or misappropriate any United States copyright, trademark, patent, or the trade secret or other proprietary material of any third persons. Upon being notified of such a claim, the Consultant shall, at the request of the Owner and in the Owner's sole discretion, (i) defend through litigation or obtain through negotiation the right of the Owner to continue using the Services of the Consultant while such claim of infringement is contested; (ii) modify the Services to be rendered at no cost, expense or damage to the Owner so as to make such Services non-infringing while preserving the original functionality, and/or (iii) replace the Services or the infringing or potentially infringing portion thereof with the functional equivalent. If the Owner determines that none of the foregoing alternatives provide an adequate remedy or resolution of the claim of infringement, the Owner may terminate all or any part of the Services and, in addition to other relief, shall be entitled to recover the amounts previously paid to the Consultant hereunder related to such claim of infringement.

I. **Communications and Coordination.** The Program Manager shall receive, control and coordinate all documents and arrange all meetings with the Consultant and third parties on behalf of the Owner. The Program Manager shall be informed of the nature and content of all direct communications with the State of Connecticut representatives in connection with the Project.

J. **Owner Shall Not Be Billed for Certain Taxes.** The Owner is not obligated to pay certain sales, use, gross receipts taxes, ad valorem or other taxes with respect to the Services rendered by the Consultant, its consultants and subcontractors, and the Consultant agrees not to invoice the Owner therefor. The Owner reserves the right to withhold pursuant to Section 12-430(7) of the Connecticut General Statutes, a percentage of the monies owed to any party that is a non-resident of the State of Connecticut but has not received an appropriate certificate from the Commissioner of Revenue pursuant to the aforesaid statute on account of sales taxes that may be owed by such non-resident to the State of Connecticut. Upon request of the Consultant, its consultants or contractors, the Owner's Purchasing Department will issue tax-exempt certificates to any party purchasing materials or rendering services to the Project for which a tax exemption is available.

K. **Recordkeeping and Audits.** The Consultant shall keep daily, weekly and monthly logs and other records detailing the Services rendered which shall contain sufficient detail as to type of activity performed by each employee, consultant and subcontractor working on the Project under the supervision of the Consultant, the job category of each such employee, the number of hours

worked, etc. Such records shall be kept at the Consultant's principal place of business in the State of Connecticut. The Owner, its agent(s), or the representatives of any funding source shall have the right to inspect such records from time to time, with or without prior notice, during normal business hours of the Consultant.

ARTICLE II CONSULTANT'S RESPONSIBILITIES

2.1 General Description of Services

A. **Customary Consultant Services**. The Consultant's Services shall consist of the Services described in a Task Order, the GIS and other services described in Article I hereof and any other services normally performed by a consultant to complete a Project of this nature.

B. **Scope of Consultant's Services**. The scope of the Consultant's Services are described generally in this Agreement, and more specifically in each Task Order, and also include those services that are reasonable, consistent with and necessary to complete each Task Order, including but not limited to preparing and submitting written reports, keeping and distributing daily, weekly and monthly work logs demonstrating the Consultant's progress with respect to the Services and to each Task Order, and the like. All Consultant's Services and documents shall fully comply with the restrictions and requirements of all laws, rules and regulations of federal, state and local governmental and quasi-governmental agencies, authorities and funding sources having jurisdiction over or otherwise related to the Project, utility companies, and other parties disclosed by the Owner and otherwise known to the Consultant as of the date of this Agreement, the date of any Task Order, or which, in the exercise of the best professional judgment of an independent consultant retained by the Owner, should have been known to Consultant.

C. **Notice of Meetings**. The Consultant shall give timely notice to Owner of any meetings that the Consultant feels necessary in connection with a Task Order with utility companies or city, state or other regulatory agencies. Scheduling of such meetings is to be done by the Consultant, after consultation with the Owner as to time and date of such meetings.

D. **Cooperation with Other Professionals.** The Consultant shall cooperate fully with any consultant employed by the Owner in connection with the Project and other consultants or professionals employed by the Owner for work related to the Project.

2.2. **Distribution of Project Information**. The Consultant shall promptly furnish to the Program Manager copies of all, reports, correspondence, studies, meeting minutes and other verbal record, on any media, created by the Consultant or which comes into the possession of the Consultant and required, desired or necessary to keep the Owner informed of the progress of the

Consultant's Services, the progress of the Project, or as otherwise may be requested by the Owner pursuant to this Agreement and to a Task Order

ARTICLE III INFORMATION AND COMMUNICATION

3.1 **Information to be Supplied.** The Owner shall provide information regarding its requirements in the form of Task Orders. The Owner shall furnish to the Consultant such information with reasonable promptness to avoid delay in the performance and delivery of the Services. The Consultant shall be entitled to rely upon the completeness and accuracy of any Owner-supplied information unless, in the exercise of its best professional judgment, it knows or should know that such reliance would be unreasonable, in which case the Consultant shall inform the Owner in writing through the Program Manager of the unreliability or unreasonableness of the information supplied.

3.2 **Program Manager; Authority to Direct Consultant.** The Program Manager at the inception of this Agreement is _____, who shall act as Project Manager(s), or his designee set forth in writing. The Program Manager shall act in the interests of the Owner with respect to this Agreement and its Task Orders and shall have the authority to examine and review any and all of the Consultant's work products and/or the Services it provides, make recommendations to the Owner regarding such work and its quality, completeness and timeliness, and carry out and execute the decisions of the Owner with respect to the Consultant, its Services and work. With respect to the hierarchy of authority to act on behalf of the Owner, the Program Manager has primary authority to make decisions for the Owner and to direct the Consultant in connection with this Agreement. Any Approval or Approvals given by the Program Manager on behalf of the Owner, shall not relieve the Consultant of any of its obligations hereunder.

3.3 **Independent Legal and Accounting Services.** The Owner shall furnish its own legal, accounting, auditing and insurance counseling services, however, the fact that the Owner possesses such support services will not relieve the Consultant of its responsibilities pursuant to this Agreement. The Consultant shall furnish, at its own overhead expense, its own legal, accounting, auditing and insurance counseling services.

3.4 **Confidential Information**. Each party hereby acknowledges that it may be exposed to confidential information which may not be available to the public or discoverable under the Freedom of Information Act ("**FOIA**") and other proprietary information belonging to the other party or relating to its business and affairs, including, without limitation, source code and design materials for work product and other materials expressly designated or marked as confidential ("**Confidential Information**"). Confidential Information does not include (i) information already known or independently developed by the recipient; (ii)

information in the public domain through no wrongful act of the party; (iii) information received by a party from a third party who was free to disclose it; or (iv) information properly disclosable under FOIA.

(b) **Covenant Not to Disclose.** Each party hereby agrees that during the term of this Agreement and at all times thereafter it shall not use, commercialize or disclose the other party's Confidential Information to any person or entity, except to its own employees who have a "need to know," to such other recipients as the party claiming confidentiality may approve in writing in advance of disclosure, or as otherwise required by court order, statute or regulation. Each party shall use at least the same degree of care in safeguarding the other party's Confidential Information as it uses in safeguarding its own Confidential Information, but in no event shall a party use less than due diligence and care. Neither party shall alter or remove from any software, documentation or other Confidential Information of the other party (or any third party) any proprietary, copyright, trademark or trade secret legend.

3.5 **Existing GIS Databases.** The Owner shall furnish to the Consultant for its use any GIS databases or base information in the Owner's possession related to the Work of a Task Order.

ARTICLE IV REMEDIES

4.1 **Default by Consultant.** It shall be a material default under this Agreement in the event that any of the following occur (each an "**Consultant's Default**"): (i) The Consultant fails to expeditiously perform the Services required to be performed under each Task Order through no fault of the Owner thereby delaying the commencement, progress, or delivery of the Project, or (ii) the Consultant is slow to pay or fails to pay any subcontractor, consultant or agent of the Consultant, or (iii) the Consultant is declared to be bankrupt or insolvent, an assignment for the benefit of creditors is made by the Consultant, the Consultant shall file a voluntary petition in bankruptcy or insolvency, or a receiver shall be appointed for the Consultant and such appointment or bankruptcy or insolvency proceeding, petition, declaration or assignment is not set aside within thirty (30) days of filing, or (iv) any representation or certification made by the Consultant to the Owner shall prove to be false or misleading on the date said representation or certification is made, or (v) default shall be made in the observance or performance of any material covenant, agreement or condition contained in this Agreement required to be kept, performed or observed by Consultant, or (vi) there has been a material adverse change in the financial condition of the Consultant, or (vii) the Consultant, or any principal or officer of the Consultant shall be convicted of the commission of a crime punishable as a felony, or (viii) the Consultant violates a material provision of any laws, ordinances, rules, regulations or orders of any public authority in the performance of its duties hereunder. If such an Consultant's Default has occurred and has not been cured

within thirty (30) days, with or without written notice from the Owner to the Consultant, the Owner may declare the Consultant to be in default hereunder and exercise any remedies available to it, including the termination of this Agreement and any Task Order(s) then outstanding. In the event that the Owner terminates the Consultant for an Event of Default that is not cured after notice and such termination becomes the subject of arbitration, if the Owner's termination of the Consultant is deemed to have been wrongful or inappropriate, such termination will be deemed converted to a termination for convenience by the Owner and the Consultant's remedies shall be limited to those set forth herein with regard to termination for convenience.

4.2 **Default by Owner.** In the event the Owner shall fail to perform any of its material obligations pursuant to this Agreement ("**Owner's Default**"), the Consultant shall give written notice within fourteen (14) days to the Owner. In the event that the Owner fails to cure a payment default within fourteen (14) days after receipt of such notice or fails to cure a non-payment default within sixty (60) days after receipt of such notice, the Consultant may declare the Owner to be in default hereunder and exercise any remedies available to it.

4.3 **Termination by Owner Due to Consultant's Default.** If the Consultant fails to supply enough properly-skilled and licensed (where required) professionals and employees, or proper materials, or if the Consultant commits a material violation of any laws, ordinances, rules, regulations or orders of any public agency or authority having jurisdiction, or otherwise commits an Consultant's Default under this Agreement, the Owner shall give written notice within fourteen (14) days to the Consultant. In the event that the Consultant fails to cure such default within seven (7) days after receipt of such notice, the Owner may declare the Consultant to be in default hereunder and exercise any remedies available to it. The Owner may, without prejudice to any right or remedy, terminate the employment of the Consultant and take possession of all databases, plans, specifications, drawings, analyses, samples and other data and software prepared, obtained by or in the possession of the Consultant, whether complete or not, with respect to the Task Order or Task Orders by whatever method the Owner may deem expedient. Additionally, the Owner may pursue any legal action available to it to obtain relief for actual damages suffered by reason of the Consultant's Default hereunder. In such event, the Consultant shall be liable to compensate and reimburse the Owner for all of its loss, cost and expense, including but not limited to attorney's fees and consultant's fees, which are caused by the Consultant's Default.

4.4 **Termination by Consultant.** Should the Owner commit an Owner's Default that continues beyond notice and passage of the cure period provided herein, the Consultant may, as its sole and exclusive remedy, terminate this Agreement. Upon such a termination, the Consultant shall be entitled to recover from the Owner all Compensation due for Services performed in accordance with the requirements of this Agreement to the date of such

termination, and Reimbursable Expenses. The Consultant may not recover any other damages, costs or expenses from the Owner other than payment for Services performed up to the date of termination and Reimbursable Expenses.

4.5 **Termination by Owner Without Fault of the Consultant.** Upon fifteen (15) days' prior written notice, the Owner shall have the right to cancel and terminate this Agreement at any time whether or not an Consultant's Default exists hereunder, and the Owner shall incur no liability to Consultant or any other person by reason of such cancellation, except that, if the cancellation is for no fault of Consultant, the Owner shall pay to the Consultant all sums then due to the Consultant hereunder for Services rendered in accordance with this Agreement performed up to the date of termination.

4.6 **Transfers on Termination.** In the event of any termination of this Agreement by the Owner, the Consultant shall, upon written request of the Owner, return to the Owner within seven (7) days all papers, materials, samples, analyses, databases, software, and other items on any form of media prepared by, in the possession of, or available to the Consultant relating to the Project whether created by or at the request of the Consultant or created by others. In addition, each party will assist the other party in an orderly termination of this Agreement and the transfer of all aspects hereof, tangible and intangible. If requested by the Program Manager, the Consultant shall debrief the Owner with respect to the work performed and not performed to date of termination with good faith and due diligence. Such debriefing shall provide explanation, annotation, data and other information concerning drawings, schedule, deliverables and the like for which the Consultant is responsible under this Agreement. Furthermore, the Consultant shall relinquish, assign and transfer in a writing acceptable to the Owner all rights and claims to its Work Product, drawings, specifications, analyses, databases, software, samples and other deliverables that are part of this Agreement and take such other reasonable steps at the request of the Program Manager to facilitate the continuation of the work of the Consultant by another professional; provided, however, that the Consultant's name and seal may not be used on such items subsequently by one or more other professionals engaged by the Owner.

4.7 **Resolution of Disputes and Choice of Law**. The parties agree that all disputes between them in connection with this Agreement or the interpretation thereof, if they cannot be resolved by mutual agreement, shall be resolved by a court located in Fairfield County, Connecticut having jurisdiction over the parties.

4.8 **Claims For Additional Compensation and Time**. If an event occurs or other circumstances arise during the performance of the work that establish or may tend to establish a claim by the Consultant for additional Compensation and/or additional time to perform, the Consultant shall promptly make such claim to the Owner in writing within fourteen (14) days of the

occurrence of such event or circumstances setting forth the facts giving rise to such claim under this Agreement and the additional Compensation or contract time requested by the Consultant. The Consultant shall not undertake to perform additional work without the prior written approval of the Owner. All claims for additional Compensation or additional contract time that are not asserted with such 14-day period are deemed waived by the Consultant.

ARTICLE V INDEMNIFICATION AND INSURANCE

5.1 **Indemnification.** The Consultant represents and warrants that it will employ its best professional judgment in the performance of the Services hereunder to ensure that design products are free from material defects which were known or should have been known to the Consultant in the exercise of reasonable care. To the fullest extent permitted by law, the Consultant, on behalf of itself and its subcontractors, consultants and agents (the "**Indemnitor**"), agrees to indemnify, save and hold Owner, its elected officials, department heads, employees, subcontractors and consultants (the "**Indemnitee**") harmless from and against any and all liability, damage, loss, claim, demand, action and expenses of any nature whatsoever, including, but not limited to costs, expenses, consulting fees and reasonable attorneys' fees which arise out of or are connected with: (i) any negligent act, error or omission by the Indemnitor in the performance of this Agreement; (ii) the negligent failure of the Indemnitor to comply with the laws, statutes, ordinances or regulations of any governmental or quasi-governmental agency or authority having jurisdiction over the Project; or (iii) the breach of any material term or condition of this Agreement by the Indemnitor. The provisions of this indemnification article shall not be construed as an indemnification of the Indemnitee for any loss or damage attributable to the sole act or omission of the Indemnitee. The indemnity set forth above shall survive the expiration or any earlier termination of this Agreement.

5.2 **Insurance.** The following insurance coverage is required of the Consultant and it is understood that the Consultant will require other coverage from every consultant and subcontractor in any tier according to the work being performed and shall ensure that all insurance coverage is issued and in force in accordance with the terms hereof. **The Consultant, its subcontractors and consultants may not commence work unless and until all such insurance coverages are provided to, reviewed and approved by the Owner.**

A. **Coverage Required.** The Consultant shall procure, present to the Owner in advance of any Services performed, and maintain in effect for the term of this Agreement without interruption the insurance coverages identified below with insurers licensed to conduct business in the State of Connecticut and having

a minimum Best's A + 15 financial rating or other rating acceptable to the City. **Under no circumstance may insurance coverage of any kind, except errors and omissions insurance, be of an aggregate type for all locations and/or all operations of the Consultant, its subcontractors or consultants, nor may the face amount of any such coverage be reduced by deductions for defense costs or any other setoff. All insurance coverage must be provided for the Project only. The Consultant, its consultants and subcontractors may not commence work unless and until all such insurance coverages are provided to, reviewed and approved by the Owner.**

Errors and Omissions Insurance (claims made form) will be provided by all consultants and other professionals involved in the Project with minimum limits of $3,000,000, or as otherwise required by the Owner.

Commercial General Liability (occurrence form) insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of operations conducted under this Agreement. Coverage shall be broad enough to include premises and operations, contingent liability, contractual liability, completed operations (24 months), broad form property damage, care, custody and control, with limitations of a minimum $1,000,000 per occurrence and $2,000,000 combined primary and excess coverage for each occurrence/aggregate and $300,000 property damage.

Business Automobile insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of the use of owned, hired or non-owned vehicles in connection with business. Coverage will be broad enough to include contractual liability, with limitations of $1,000,000 combined primary and excess coverage for each occurrence/aggregate with a combined single limit for bodily injury, personal injury and property damage.

Workers' Compensation insuring in accordance with statutory requirements in order to meet obligations towards employees in the event of injury or death sustained in the course of employment. Liability for employee suits shall not be less than $500,000 per claim.

B. **General Requirements.** All policies shall include the following provisions:

Cancellation notice—The Owner shall be entitled to receive from all insurance carriers an unequivocal agreement **by policy endorsement** to provide not less than 30 days' prior written notice of cancellation, non-

renewal or reduction in coverage, such notices to be given to the Owner at the following address: Purchasing Agent, City of Bridgeport, Margaret Morton Government Center, 999 Broad Street, Connecticut 06604.

Certificates of Insurance—All policies will be evidenced by an original certificate of insurance on a ACORD-25S form delivered to the Owner and authorized with original signature or stamp of the insurer or a properly-authorized agent or representative reflecting all coverage required, such certificate to be delivered to the Owner prior to any work or other activity commencing under this Agreement.

Additional insured—The Consultant, its consultants and subcontractors will arrange with their respective insurance agents or brokers to name the Owner, its elected officials, officers, department heads, employees and agents, at no additional cost to the Owner, on all policies of primary and excess insurance coverages by endorsement as additional insured parties **by policy endorsement** except errors and omissions coverage and workers' compensation coverage, and as loss payee with respect to any damage to property of the Owner, as its interest may appear. The undersigned shall submit to the Owner upon commencement of this Agreement and periodically thereafter, but in no event less than once during each year of this Agreement, evidence of the existence of such insurance coverages in accordance with the terms of this Agreement. The City shall be designated as follows:

"The City of Bridgeport
Attention: Purchasing Agent
999 Broad Street
Bridgeport, Connecticut 06604"

ARTICLE VI MISCELLANEOUS

6.1 **Singular, Plural, Gender, etc.** Wherever in this Agreement the context so requires, the singular number shall include the plural number and vice versa, and any gender herein used shall be deemed to include the feminine, masculine or neuter gender.

6.2 **Professional Services Contract.** This Agreement is entered into solely to provide for the work of various Task Orders for work related to the Project and to define the rights and obligations, risks and liabilities of the parties hereto. This Agreement, and any document or agreement entered into in connection herewith, shall not be deemed to create any other or different relationship between the Consultant and the Owner other than as expressly provided herein. The Consultant acknowledges that the Owner is not a partner

or joint venturer with the Consultant and that the Consultant is not an employee or agent of the Owner.

6.3 **Prohibition Against Assignment.** The Consultant may not transfer, hypothecate or in any way alienate or assign its interest in this Agreement or delegate any duties to be performed by it hereunder without the prior written consent of Owner. The Owner may assign its interest in this Agreement at any time to any person or entity that assumes the Owner's obligations from the date of the assignment hereunder; provided, however, that absent express consent in writing by the Consultant, such assignment shall not release the Owner from its obligations to the Consultant hereunder for payment of all amounts due the Consultant pursuant to this Agreement.

6.4 **Time of the Essence.** All dates set forth in this Agreement, and/or in any accepted Task Order Schedule, as may be amended from time to time, is agreed to be critical to the completion of the Project and shall be considered of the essence to this Agreement.

6.5 **Notices.** All notices, requests, demands or changes of address required or desired by either party shall be in writing and shall be either personally delivered, delivered by messenger or overnight delivery service, or be delivered by registered or certified mail, return receipt requested, postage prepaid, and addressed to the other party at the address heretofore set forth (each a "**Notice**"). All Notices shall be deemed received, in the case of personal or overnight delivery service, upon receipt, or in the case of mailing, on the date of receipt thereof by the party to whom it is addressed or, if receipt is refused, upon the expiration of forty-eight (48) hours from the time of deposit of such mailed notice in an office of the United States Postal Service. A change of address of a party shall be set forth in the same manner as other required notices.

6.6 **No Waiver.** No waiver of any party's default hereunder by the other party hereto at any one time shall be construed as a waiver by such party of any subsequent breach of the same or another term of this Agreement by the other party.

6.7 **Ownership of Documents.** All drawings, specifications, surveys, test results, models, plans, computer programs, databases and other work product prepared by the Consultant or anyone employed by the Consultant in any form or media upon creation are and shall be the sole and exclusive property of the Owner, including without limitation all copyrights, rights of reproduction and reuse, and other interests relating thereto. The Owner and any entity affiliated with the Owner may reuse all such documents and data for future work in connection with the Enterprise GIS System or for future Projects.

6.8 **Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of the Owner and the Consultant and their respective successors, assigns and legal representatives.

6.9 **Captions.** The captions and headings contained herein are for convenience only and are not to be construed as part of this Agreement, nor shall the same be construed as defining or limiting in any way the scope or intent of the provisions hereof.

6.10 **Governing Law; Venue.** This Agreement shall be construed in accordance with the laws of the State of Connecticut. Any mediation or arbitration shall be commenced and resolved in Bridgeport, Connecticut. In the event that any party affirmatively waives its right to arbitrate disputes that arise under this Agreement, any legal action brought to enforce any provision of obtain any interpretation of this Agreement or for other relief shall be brought in a State or Federal court of competent jurisdiction over the parties in Bridgeport, Connecticut.

6.11 **Entire Agreement.** Each party acknowledges that there are no prior or contemporaneous oral promises, undertakings or agreements in connection with this Agreement that are not contained herein. This Agreement may be modified only by a written agreement signed by all parties hereto. All previous negotiations and agreements between the parties hereto, with respect to the transactions set forth herein, are merged into this instrument, the documents or other materials referenced herein, the Task Orders, and amendments hereto mutually agreed to in writing by the parties, which together fully and completely express the parties' rights and obligations.

6.12 **Partial Invalidity.** If any term or provision of this Agreement is believed to be illegal, unenforceable or in violation of the laws, statutes, ordinances or regulations or any public agency or authority having jurisdiction over the parties or the Project, then, such matter shall be submitted to arbitration in accordance with this Agreement to determine whether such term or provision is severable or if this Agreement is deemed to be a whole by a fair construction of its terms and provisions under Connecticut law. If such term or provision is found to be severable, this Agreement shall remain in full force and effect, such term shall be deemed stricken therefrom and this Agreement shall be interpreted, when possible, so as to reflect the intentions of the parties as indicated by any such stricken term or provision. If such term is not found to be severable, this Agreement may be terminated by either party upon the giving of prompt written notice within ten (10) days after such determination, whereupon the rights and obligations of the parties shall be determined in accordance with the provisions of this Agreement as if a mutual, voluntary termination had occurred.

6.13 **Survival.** The terms, provisions, representations, warranties and certifications contained in this Agreement, or inferable therefrom, shall survive the completion of the Project, or the earlier termination of this Agreement as to the Services completed to the date of such termination, subject to all applicable statutes of limitation and repose.

6.14 **Waiver of Liens.** The Consultant hereby waives any right it may have to file or assert a lien against the Project, including but not limited to, any rights granted to the Consultant by the laws of the State of Connecticut.

6.15 **Excusable Delay.** The parties hereto, respectively, shall not be in default of this Agreement if either is unable to fulfill, or is delayed in fulfilling, any of its obligations hereunder, or is prevented or delayed from fulfilling its obligations, in spite of its employment of best efforts and due diligence, as a result of extreme and unseasonable weather conditions, natural disasters, catastrophic events, mass casualties to persons or significant destruction of property, war, governmental preemption in a national emergency, enactment of law, rule or regulation or change in existing laws, rules or regulations which prevent any party's ability to perform its respective obligations under this Agreement, or actions by other persons beyond the exclusive control of the party claiming hindrance or delay. If a party believes that a hindrance or delay has occurred, it shall give prompt written notice to the other party of the nature of such hindrance or delay, its effect upon such party's performance under this Agreement, the action needed to avoid the continuation of such hindrance or delay, and the adverse effects that such hindrance or delay then has or may have in the future on such party's performance. Notwithstanding notification of a claim of hindrance or delay by one party, such request shall not affect, impair or excuse the other party hereto from the performance of its obligations hereunder unless its performance is impossible, impractical or unduly burdensome or expensive, or cannot effectively be accomplished without the cooperation of the party claiming delay or hindrance. The occurrence of such a hindrance or delay may constitute a change in the scope of Services, and may result in the need to adjust the Compensation in accordance with the terms of this Agreement.

6.16 **Non-Discrimination.** The requirements for minority hiring and participation by disadvantaged businesses are set forth in Chapter 3.12 of the Municipal Code of Ordinances of the City of Bridgeport, which Chapter is attached here to as **Exhibit E**.

6.17 **Precedence of Documents.** The documents constituting this Agreement set forth in Paragraph 6.11 are intended to be complementary and shall be read together to include everything necessary for the proper execution and completion of the work set forth in every Task Order whether specified therein or not. However, to the extent that any conflicts, inconsistencies or ambiguity exist in the contract documents, the Consultant shall perform the more stringent requirement or adhere to the higher standard of work or performance

involved. In the event of an irreconcilable conflict, then a determination shall be made by review of the various contract documents in the following descending order of precedence: This Agreement; any Task Order; any properly-executed change or amendment to a Task Order. As between figures given in drawings and the scale of measurements, the figures shall take precedence. Detail drawings shall have precedence over general drawings.

6.18 **Council Approval of Agreement May Be Required.** This Agreement may become effective upon the execution thereof by all parties and delivery of a fully-executed original to the Consultant. The Office of the City Attorney shall determine if the City Council must approve this Agreement, in which case it shall not become effective until the City Council of the City of Bridgeport approves the same, the Mayor or other authorized individual executes the Agreement or it becomes effective pursuant to the terms of the City Charter, and the Consultant receives an executed original thereof complete with all Schedules and Exhibits.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF BRIDGEPORT

By:_____

CONSULTANT

By:_____
Name:
Title:
Duly-authorized

Exhibit A

Advertisement and Consultant's Proposal

Exhibit B

Task Order Format

This Task Order No. ___ is made as of this ___ day of _____, [year] under the terms and conditions established in the Professional Services Agreement between the Owner and the Consultant dated _____, and shall constitute an amendment to such Agreement. This Task Order is issued for the following purpose, consistent with the Project defined in the Agreement:

[Brief description of the Project elements to which this Task Order applies.]

Project Background Description

Project Understanding

Objectives

Section A—Scope of Services

A.1. The Consultant shall perform the following Services:

A.2. The following Services are not included in this Task Order, but shall be provided as additional Services if Approved in writing by the Owner.

A.3. In conjunction with the performance of the foregoing Services, the Consultant shall provide the following submittals/deliverables ("**Deliverables**") to the Owner:

Section B—Task Schedule

The Consultant shall perform the Services and deliver the related documents, if any, according to the following Task Schedule:

Section C—Compensation

C.1. In return for the performance of the Services under this Task Order, the Owner shall pay the Consultant Compensation in the amount of [dollars], payable according to the following terms:

[INSERT METHOD OF COMPENSATION AND TIMING OF PAYMENTS]

C.2. Compensation for any additional Services requested under this Task Order, if any, shall be paid by the Owner to the Consultant according to the following terms:

Section D—Owner's Responsibilities

The Owner shall perform and/or provide the following in a timely manner so as not to delay the performance or completion of the Services by the Consultant. Unless otherwise provided in this Task Order, the Owner shall bear all costs incident to compliance with the following:

Section E—Other Provisions

The parties agree to the following additional provisions with respect to this Task Order:

Except to the extent modified herein, all terms and conditions of the Agreement shall continue in full force and effect.

Owner

By:_____
Name:
Title:

Consultant

By:_____
Name:
Title:

Exhibit C

Hourly Billing Rates of Consultant and Each Consultant

Exhibit D

Reimbursable Expenses

Reimbursable Expenses shall include the following:

1. Shipping and handling of documents during design and construction documents phases.
2. Reproduction of documents for submittals to the Owner and regulatory agencies
3. In-house printing
4. Computer plots
5. Long-distance telephone
6. Local courier services
7. Out-of-city courier service
8. Mileage to and from the Consultant's home office to Bridgeport City offices.

Exhibit E

Nondiscrimination

Chapter 3.12 of the Bridgeport Code of Ordinances reads in pertinent part as follows:

A. The Contractor agrees and warrants that during the performance of this contract he will not Discriminate or permit discrimination against any person or group of persons because of race, color, religion, sex, age or national origin m any manner prohibited by the laws of the United States or of the state of Connecticut, and further agrees to take affirmative action that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Office of Contract Compliance of the City of Bridgeport setting forth the provisions of this section.

B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive equal consideration for employment without regard to race, color, religion, sex, age or national origin.

C. The Contractor will send to each labor union or other representative with which he has a collective bargaining agreement or other contract or understanding, and to each vendor with which he has a contract or understanding, a notice to be provided advising the labor union or worker's representative of the Contractor's commitments under this division, and shall post copies of such notice in conspicuous places available to employees and applicants for employment.

D. The Contractor will comply with all provisions of this Section and with all the rules and regulations or orders issued by the Office of Contract Compliance pursuant thereto.

E. The Contractor will provide the Office of Contract Compliance with such information requested by said office concerning the employment pattern, practices and procedures of the Contractor as relate to the provisions of subsections A through C of this Section and rules and regulations and/or orders issued pursuant thereto.

F. In the event of the Contractor's noncompliance with the nondiscrimination clauses of the Contract or with any rule, regulation or order issued under this Section, the Contract may be canceled, terminated or suspended, in whole or in part and such other sanctions may be imposed and remedies invoked as are provided under the provisions of Section 3.12.100(D) of the City of Bridgeport Ordinances and rules, regulations or orders issued pursuant thereto, or as provided by federal and state laws.

G. The Contractor will include the provisions of subsection A of this Section, in every subcontract or purchase order unless exempted by rules, regulations or orders of the Office of Contract Compliance issued pursuant to Section 3.12.060 of the City of Bridgeport Ordinances, so that such provision will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Office of Contract Compliance may direct as a means of enforcing this Section, including sanctions for non-compliance in accordance with the provisions of Section 3.12.100 of the City of Bridgeport Ordinances.

Item# 228-15

Professional Services Agreement with Freeman Companies regarding the Black Rock Streetscape Project for Design and Engineering Services.

Report of Committee on Contracts

City Council Meeting Date: DECEMBER 19, 2016

Attest: Lydia N. Martinez
Lydia N. Martinez, City Clerk

Approved by: _____
Joseph P. Ganim, Mayor

Date Signed: 12/26/16

RECEIVED
CITY CLERK'S OFFICE
2017 JAN -6 P 12:08

ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport:

The Committee on **Contracts** begs leave to report; and recommends for ~~**DENIAL**~~ the following resolution:

***adoption**

Item No. 228-15 ~~Denied~~

WHEREAS, On April 7, 2014 the City Council authorized the Office of planning and Economic Development to submit an application to the State of Connecticut Department of Economic and Community Development (DECD) in an amount not to exceed $500,000 for the purpose of rehabilitating and improving the Black Rock Business District; and

WHEREAS, on August 20, 2014 DECD executed a grant with the City of Bridgeport in the amount of $500,000, with no City match requirement, for the purpose of rehabilitating and improving the Black Rock Business District; and

WHEREAS, on February 9, 2016 the City of Bridgeport acting through its Office of Planning and Economic Development (OPED) issued a Request for Qualifications (RFQ) for design and engineering services; and

WHEREAS, eight (8) responses to the RFQ were received in March, 2016; and

WHEREAS a Selection Committee comprised of representatives from OPED, Public Facilities, Engineering and Black Rock NRZ reviewed these responses then established a short list of four (4) firms to interview, and then its final selection of Freeman Companies; and

WHEREAS, pursuant to the Selection Committee review OPED recommended to the Board of Public Purchases that Freeman Companies be awarded a contract; and

WHEREAS, the City wishes to enter into a contract for design and engineering services with Freeman Companies;

NOW, THEREFORE, BE IT RESOLVED that in consultation with the City Attorney, the City of Bridgeport is authorized to issue a contract substantially in the form of the agreement attached to freeman companies;

BE IT FURTHER RESOLVED that the Mayor or the Director of the Office of Planning and Economic Development are each hereby authorized to execute all agreements, take all necessary actions and do all necessary things in furtherance of this matter consistent with this resolution and in the best interests of the City.

From the Floor on December 19, 2016:

Motion was made and seconded to approve despite committee's denial of Item# 228-15. The motion to *"reject"* denial was made by Kathie Bukovsky and seconded by Anthony Paoletto. Item passed unanimously.

City of Bridgeport, Connecticut
Office of the City Clerk

Report of Committee on Contracts
Item No. 228-15 ~~Deny'd~~

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
CONTRACTS

*Jack O. Banta, D-131st , **Co-Chair***

*Jeanette Herron, D-133rd, **Co-Chair***

Milta I. Feliciano, D-137th

AmyMarie Vizzo-Paniccia, D-134th

James Holloway, D-139th

Alfredo Castillo, D-136th

Anthony R. Paoletto, D-138th

City Council Date: *December 19, 2016*

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT between the parties dated the ___ day of _____, 200_ (the "Agreement") is hereby entered into between _____, with offices at _____ (the "**Consultant**") and **the City of Bridgeport**, with offices at 45 Lyon Terrace, Bridgeport, Connecticut 06604 (the "**City**") on the following terms and conditions:

WHEREAS the City requires the services of the Consultant for the purpose of _____; and

WHEREAS the Consultant agrees to commence its services and perform the same in accordance with this agreement and as specifically directed by the City;

NOW, THEREFORE, for good and valuable consideration, the parties mutually agree as follows:

1. General Undertaking. The parties are entering into this Agreement for the purposing of engaging the Consultant to _____ (the "**Services**"). Such Services will focus primarily on_____. The Consultant's activities shall consist of, for example: _____.

2. Term of Engagement. This Agreement shall commence within five (5) business days of the date last below written and shall continue in full force and effect until the Services are completed according to this Agreement, or until the earlier termination of this Agreement as provided herein, whichever occurs first ("**Term**"). Termination shall have no effect on the City's obligation to pay for Services rendered through such earlier termination for work that has been completed in accordance with the terms of this Agreement and which has been accepted in due course by the City.

3. Record of Activities. The Consultant shall maintain contemporaneous daily time records of hours and tasks performed in sufficient detail requested by the City, which records shall be submitted to the City bi-weekly during the Term, or unless otherwise directed by the City. Unless otherwise stated, all work schedules shall be considered a material part of this Agreement.

4. Payment.

(a) Source of Funds. The Consultant's activities under this Agreement will be funded from_____. The parties understand that the

Consultant will provide its Services on the following basis: _____, including reimbursable expenses, up to a maximum not-to-exceed amount of $_____.00.

(b) Payment. The Consultant will submit its invoices with all backup documentation, including hours (to the quarter hour), activities conducted, reimbursable expenses with receipts, and the like, to the City on a monthly basis for the prior month's Services rendered and any reimbursable expenses incurred, which invoices the City shall pay within 30 days of receipt of a complete invoice.

5. Acceptability of Information and Reports Supplied by the Consultant. Any and all information and reports, whether supplied orally or in writing by the Consultant, shall be based upon consistent and reliable data-gathering methods and may be relied upon by the City.

6. Proprietary Rights. It is not anticipated that the Consultant will develop or deliver to the City anything other than Services and certain written reports or recommendations. Nevertheless, the City shall own all right, title and interest in such the Consultant's work under this Agreement to the extent such work provides analyses, findings, or recommendations uniquely related to the Services to be rendered. The Consultant expressly acknowledges and agrees that its work constitutes "work made for hire" under Federal copyright laws (17 U.S.C. Sec. 101) and is owned exclusively by the City and, alternatively, the Consultant hereby irrevocably assigns to the City all right, title and interest in and irrevocably waives all other rights (including moral rights) it might have in its work under this Agreement. The Consultant shall, at any time upon request, execute any documentation required by the City to vest exclusive ownership of such work in the City (or its designee). The Consultant retains full ownership of any underlying techniques, methods, processes, skills or know-how used in developing its Services under this Agreement and is free to use such knowledge in future projects.

7. Confidential Information.

(a) Acknowledgment of Confidentiality. Each party hereby acknowledges that it may be exposed to confidential and proprietary information belonging to the other party or relating to its affairs, including materials expressly designated or marked as confidential ("**Confidential Information**"). Confidential Information does not include (i) information already known or independently developed by the recipient; (ii) information in the public domain through no wrongful act of the party, (iii) information received by a party from a third party who was free to disclose it or (iv) information required to be disclosed under the Connecticut Freedom of Information Act.

(b) Covenant Not to Disclose. Each party hereby agrees that during the Term and at all times thereafter it shall not use, commercialize or disclose the

other party's Confidential Information to any person or entity, except to its own employees who have a "need to know," to such other recipients as the other party may approve in writing in advance of disclosure, or as otherwise required by court order, statute or regulation. Each party shall use at least the same degree of care in safeguarding the other party's Confidential Information as it uses in safeguarding its own Confidential Information, but in no event shall a party use less than reasonable care and due diligence. Neither party shall alter or remove from any software, documentation or other Confidential Information of the other party (or any third party) any proprietary, copyright, trademark or trade secret legend.

8. Non-circumvention. [INTENTIONALLY OMITTED] [prevents Consultant from hiring City employees involved in project within one year after project completion.]

9. Injunctive Relief. The parties acknowledge that violation by one party of the provisions of this Agreement relating to violation of the other party's Proprietary Rights or Confidential Information rights would cause irreparable harm to the other party not adequately compensable by monetary damages. In addition to other relief, it is agreed that preliminary and permanent injunctive relief may be sought without the necessity of the moving party posting bond to prevent any actual or threatened violation of such provisions.

10. Representations and Warranties.

The Consultant represents and warrants, as of the date hereof and throughout the Term of this Agreement, as follows:

(a) The Consultant represents that it has the requisite experience to undertake and complete the Services pursuant to the requirements of this Agreement and has in its employ or will hire qualified and trained personnel to perform the Services required.

(b) The Consultant represents that it can commence the Services promptly within five (5) days of the receipt of a notice to proceed and will complete the Services in a timely manner on a schedule to be approved by the City.

(c) The Consultant represents that it is financially stable and has adequate resources and personnel to commence and complete the Services required in a timely fashion.

(d) The Consultant's performance of the Services described herein, and its representation of the City, will not result in a conflict of interest, will not violate any laws or contractual obligations with third parties, and is an enforceable obligation of the Consultant.

(e) The Consultant will not subcontract any of the work to third parties without prior written notice to the City and receipt of the City's prior written consent.

(f) The Consultant represents that neither it, nor any of its officers, directors, owners, employees or permitted subcontractors, have committed a criminal violation of or are under indictment of a federal or state law arising directly or indirectly from its business operations or reflects on its business integrity or honesty that resulted or may result in the imposition of a monetary fine, injunction, criminal conviction or other penal sanction, and further represents that the Consultant, its officers, directors, owners, employees, agents and subcontractors shall comply with the requirements of all laws, rules and regulations applicable to the conduct of its business or the performance of the Services under this Agreement.

(g) The Consultant represents that it will perform the Services in a good and workmanlike manner and will diligently pursue the completion of same in accordance with the terms of this Agreement.

(h) The Consultant represents that it possesses all licenses and permits that may be required to perform the Services required by this Agreement.

(i) The Consultant represents and warrants that the performance of the Services will not infringe upon or misappropriate any United States copyright, trademark, patent, or the trade secrets or other proprietary material of any third persons. Upon being notified of such a claim, the Consultant shall (i) defend through litigation or obtain through negotiation the right of the City to continue using the Services of the Consultant; (ii) rework the Services to be rendered so as to make them non-infringing while preserving the original functionality, or (iii) replace the Services with the functional equivalent. If the City determines that none of the foregoing alternatives provide an adequate remedy, the City may terminate all or any part of this Agreement and, in addition to other relief, recover the amounts previously paid to the Consultant hereunder.

(j) The Consultant represents and warrants that any computer program included as a deliverable Service hereunder operates substantially in accordance with the specifications for such work and in compliance with Year 2000 Standards. For these purposes, "**Year 2000 Standards**" means the deliverable Services and the reports prepared in connection therewith records, stores, recognizes, interprets, processes and presents both 20th and 21st century dates using four (4) digit years and operates at a programming interface level with other programs for which it could reasonably be expected to operate without causing the other programs to violate such Year 2000 Standards.

11. Remedies & Liabilities.

(a) Remedies. In addition to other remedies expressly acknowledged hereunder and except as expressly limited herein, the City shall have the full benefit of all remedies generally available to a purchaser of goods under the Uniform Commercial Code.

(b) Liabilities. THE CITY SHALL NOT BE LIABLE TO THE CONSULTANT FOR ANY CLAIM ARISING OUT OF THIS AGREEMENT IN AN AMOUNT EXCEEDING THE TOTAL CONTRACT PRICE FOR THE DELIVERABLE AT ISSUE. EXCEPT FOR VIOLATIONS BY THE CONSULTANT OF SECTION 6 ("PROPRIETARY RIGHTS") OR SECTION 7 ("CONFIDENTIAL INFORMATION"), NEITHER PARTY SHALL BE LIABLE HEREUNDER FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST SAVINGS OR PROFIT) SUSTAINED BY THE OTHER PARTY OR ANY OTHER INDIVIDUAL OR ENTITY FOR ANY MATTER ARISING OUT OF OR PERTAINING TO THE SUBJECT MATTER OF THIS AGREEMENT. THE PARTIES HEREBY EXPRESSLY ACKNOWLEDGE THAT THE FOREGOING LIMITATION HAS BEEN NEGOTIATED BY THE PARTIES AND REFLECTS A FAIR ALLOCATION OF RISK.

12. Notices. Notices sent to either party shall be effective on the date delivered in person by hand or by overnight mail service or on the date received when sent by certified mail, return receipt requested, to the other party or such other address as a party may give notice of in a similar fashion. The addresses of the parties are as follows:

If to the City:

Director, Office of Planning and Economic Development
City of Bridgeport
Margaret E. Morton Government Center
999 Broad Street, Second Floor
Bridgeport, Connecticut 06604

with a copy to:

Office of the City Attorney
999 Broad Street, Second Floor
Bridgeport, Connecticut 06604

If to the Consultant:

At the address specified above.

with a copy to:

13. Termination For Default; Termination For Convenience.

(a) This Agreement shall terminate upon expiration of the Term or upon the earlier termination by one of the parties in accordance with the terms hereof. In addition to other relief, either party may terminate this Agreement if the other party breaches any material provision hereof and fails after receipt of written notice of default to advise the other party in writing within five (5) business days of its intentions with respect to such default and in any event corrects or cures such default within ten (10) business days of the receipt of notice of default. If such default cannot be cured or corrected within such 10-day period and the defaulting party details in writing to the other the reasons why such default cannot be so corrected or cured, the other party shall give an additional thirty (30) day period to correct or cure such default and the defaulting party shall with best efforts and due diligence promptly commence and consistently pursue corrective or curative action reasonably acceptable to the aggrieved party to completion. Either party shall be in default hereof if it becomes insolvent, makes an assignment for the benefit of its creditors, or if a receiver is appointed or a petition in bankruptcy is filed with respect to the party and is not dismissed within thirty (30) days. Termination shall have no effect on the parties' respective rights or obligations under Section 7 ("Confidential Information"), Section 9 ("Injunctive Relief") or Section 10 ("Warranties").

(b) The Consultant may not terminate for convenience. The City may terminate for convenience upon giving written notice of termination.

14. Resolution of Disputes and Choice of Law.

The parties agree that all disputes between them arising under this agreement or involving its interpretation, if they cannot be first resolved by mutual agreement, shall be resolved in a court of competent jurisdiction over the parties located in Fairfield County, Connecticut.

15. Independent Consultant Status. The Consultant and its approved subcontractors are independent contractors in relation to the City with respect to all matters arising under this Agreement. Nothing herein shall be deemed to establish a partnership, joint venture, association or employment relationship between the parties. The Consultant shall remain responsible, and shall indemnify and hold harmless the City, from and against all liability for the withholding and payment of all Federal, state and local personal income, wage, earnings, occupation, social security, worker's compensation, unemployment, sickness and disability insurance taxes, payroll levies or employee benefit requirements (under ERISA, state law or otherwise) now existing or hereafter

enacted and attributable to the Consultant, its subcontractors and their respective employees. THE CONSULTANT REPRESENTS THAT IT RETAINS WIDE DISCRETION IN THE TIME, MANNER AND DETAILS OF PERFORMANCE, IS NOT UNDER THE CITY'S DIRECT SUPERVISION OR CONTROL, HAS THE SKILLS AND TOOLS TO PERFORM THE WORK, HOLDS ITSELF OUT GENERALLY AS AN INDEPENDENT CONSULTANT AND HAS OTHER SUBSTANTIAL SOURCES OF INCOME.

16. Security, No Conflicts. Each party agrees to inform the other of any information made available to the other party that is classified or restricted data, agrees to comply with the security requirements imposed by any state or local government, or by the United States Government, and shall return all such material upon request. Each party warrants that its participation in this Agreement does not conflict with any contractual or other obligation of the party or create any conflict of interest prohibited by the U.S. Government or any other government and shall promptly notify the other party if any such conflict arises during the Term.

17. Indemnification; Insurance.

(a) Indemnification. The Consultant agrees to defend, indemnify and hold harmless the City, its elected officials, officers, department heads, employees and agents from and against any and all claims, liabilities, obligations, causes of action for damages arising out of the negligence or misconduct of the Consultant, including direct damage to the City's property, and costs of every kind and description arising from work or activities under this agreement and alleging bodily injury, personal injury, property damage regardless of cause, except that the Consultant shall not be responsible or obligated for claims arising out of the sole proximate cause of the City, its elected officials, officers, department heads, employees or agents.

B. Insurance requirements: (1) The following insurance coverage is required of the Consultant and it is understood that the Consultant will require other coverage from every contractor and subcontractor in any tier according to the work being performed and shall ensure that the City is named as additional insured with notice of cancellation in the same manner as required for insurance coverages required of the Consultant. The Consultant shall procure, present to the City, and maintain in effect for the Term without interruption the insurance coverages identified below with insurers licensed to conduct business in the State of Connecticut and having a minimum Best's A + 15 financial rating acceptable to the City.

Commercial General Liability (occurrence form) insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of operations

conducted under this agreement. Coverage shall be broad enough to include premises and operations, contingent liability, contractual liability, completed operations (24 months), broad form property damage, care, custody and control, with limitations of a minimum $1,000,000 per occurrence and $300,000 property damage.

Business Automobile insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of the use of owned, hired or non-owned vehicles in connection with business. Coverage will be broad enough to include contractual liability, with limitations of $1,000,000 combined primary and excess coverage for each occurrence/aggregate with a combined single limit for bodily injury, personal injury and property damage.

Workers' Compensation insuring in accordance with statutory requirements in order to meet obligations towards employees in the event of injury or death sustained in the course of employment. Liability for employee suits shall not be less than $500,000 per claim.

(b) General requirements. All policies shall include the following provisions:

Cancellation notice—The City shall be entitled to receive from the insurance carriers **by policy endorsement** not less than 30 days' written notice of cancellation, non-renewal or reduction in coverage to be given to the City at: Purchasing Agent, City of Bridgeport, City Hall, 45 Lyon Terrace, Bridgeport, Connecticut 06604.

Certificates of Insurance—All policies will be evidenced by an original certificate of insurance delivered to the City and authorized and executed by the insurer or a properly-authorized agent or representative reflecting all coverage required, such certificate required to be delivered to the City prior to any work or other activity commencing under this agreement.

Additional insured—The Consultant and its permitted subcontractors will arrange with their respective insurance agents or brokers to name the City, its elected officials, officers, department heads, employees and agents on all policies of primary and excess insurance coverages as additional insured parties **by policy endorsement** and as loss payee with respect to any damage to property of the City, as its interest may appear. The undersigned shall submit to the City upon commencement of this agreement and periodically thereafter, but in no event less than once during each year of this agreement, evidence of the existence

of such insurance coverages in the form of original Certificates of Insurance issued by reputable insurance companies licensed to do business in the State of Connecticut and having minimum Best's A + 15 financial ratings acceptable to the City. Such certificates shall designate the City in the following form and manner:

"The City of Bridgeport, its elected officials, officers, department heads, employees, agents, servants, successors and assigns
ATIMA
Attention: Purchasing Agent
999 Broad Street
Bridgeport, Connecticut 06604"

18. Non-discrimination. The Consultant agrees not to discriminate, nor permit discrimination, against any person in its employment practices, in any of its contractual arrangements, in all services and accommodations it offers the public, and in any of its other business operations on the grounds of race, color, national origin, religion, sex, disability or veteran status, marital status, mental retardation or physical disability, unless it can be shown 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 further agrees to provide the Commissioner of Human Rights and Opportunities with information which may be requested from time to time by the Commission concerning the employment practices and procedures of both parties as they relate to the provisions of Section 4-114a of the Connecticut General Statutes and any amendments thereto. This agreement is subject to the provisions of the Governor's Executive Order No. 3 promulgated June 16, 1971, and, as such, this Agreement may be canceled, terminated, or suspended by the State Labor Commission for violation of, or noncompliance with, Executive Order No. 3, or any State or Federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this agreement. The parties to this agreement, as part of the consideration hereof, agree that Executive Order No. 3 is incorporated herein and made a part hereof. The parties agree to abide by Executive Order No. 3 and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to performance in regard to nondiscrimination, until the agreement is completed or terminated prior to completion. The parties agree as part of the consideration hereof that this agreement is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. 3 and that they will not discriminate in employment practices or policies, will file reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

19. Communications. All communications shall be made orally or in writing to _____ or his/her respective designee. Any written report requested from the Consultant shall be sent in draft form for review prior to finalization.

20. Miscellaneous.

(a) Entire Agreement. This document and the identified exhibits, schedules and attachments made a part hereof or incorporated herein, constitute the entire and exclusive agreement between the parties with respect to the subject matter hereof and supersede all other communications, whether written or oral.

(b) Modifications. This Agreement may be modified or amended only by a writing signed by the party against whom enforcement is sought.

(c) Prohibition Against Assignment. Except as specifically permitted herein, neither this Agreement nor any rights or obligations hereunder may be transferred, assigned or subcontracted by the Consultant without the City's prior written consent and any attempt to the contrary shall be void.

(d) Excusable Delay. The parties hereto, respectively, shall not be in default of this Agreement if either is unable to fulfill, or is delayed in fulfilling, any of its respective obligations hereunder, or is prevented or delayed from fulfilling its obligations, in spite of its employment of best efforts and due diligence, as a result of extreme weather conditions, natural disasters, catastrophic events, casualties to persons or properties, war, governmental preemption in a national emergency, enactment of law, rule or regulation or change in existing laws, rules or regulations which prevent any party's ability to perform its respective obligations under this agreement, or actions by other persons beyond the exclusive control of the party claiming hindrance or delay. If a party believes that a hindrance or delay has occurred, it shall give prompt written notice to the other party of the nature of such hindrance or delay, its effect upon such party's performance under this agreement, the action needed to avoid the continuation of such hindrance or delay, and the adverse effects that such hindrance or delay then has or may have in the future on such party's performance. Notwithstanding notification of a claim of hindrance or delay by one party, such request shall not affect, impair or excuse the other party hereto from the performance of its obligations hereunder unless its performance is impossible, impractical or unduly burdensome or expensive, or cannot effectively be accomplished without the cooperation of the party claiming delay or hindrance. The occurrence of such a hindrance or delay may constitute a change in the scope or timing of service, and may result in the need to adjust the contract price or contract time in accordance with the terms of this Agreement.

(e) Partial Invalidity. Any provision hereof found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be deleted and the balance of the Agreement shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect.

(f) Partial Waiver. The waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions.

(g) Headings. Headings are for reference purposes only and have no substantive effect.

(h) Survival. All representations, warranties and indemnifications contained herein shall survive the performance of this Agreement or its earlier termination.

(i) Precedence of Documents. In the event there is any conflict between this agreement or its interpretation and any exhibit, schedule or attachment, this Agreement shall control and take precedence.

(j) Property Access. The parties understand that it is the City's obligation to obtain legal access to City property where the Consultant's Services are to be performed. The Consultant shall not be held liable for any unlawful entry onto any property where such entry has been ordered, requested or directed by the City in writing.

IN WITNESS WHEREOF, for adequate consideration and intending to be legally bound, the parties hereto have caused this agreement to be executed by their duly-authorized representatives.

CITY OF BRIDGEPORT

_____ By:_____
Name:
Title:

_____

CONSULTANT

_____ By:_____
Name:
Title:
_____ duly-authorized

Exhibits, attachments, schedule, tasks

Item# *200-15 Consent Calendar

Appointment of Rosalina Roman Christy to the Library Board.

Report of Committee on Miscellaneous Matters

City Council Meeting Date: December 5, 2016

Tabled on December 5, 2016

ReSubmitted: December 19, 2016

Attest: Lydia N. Martinez

Lydia N. Martinez, City Clerk

Approved by: _____

Joseph P. Ganim, Mayor

Date Signed: 12/26/16

RECEIVED
CITY CLERK'S OFFICE
2017 JAN -6 P 12:08

ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport.

The Committee on Miscellaneous Matters begs leave to report; and recommends for adoption the following resolution:

Item No. *200-15 Consent Calendar

RESOLVED, That the following named individual be, and hereby is, Appointed to the Library Board of Directors in the City of Bridgeport and that said appointment, be and hereby is, approved, ratified and confirmed.

NAME	**TERM EXPIRES**
Rosalina Roman Christy 147 Yaremich Drive Bridgeport, CT 06606	June 30, 2017

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
MISCELLANEOUS MATTERS

AmyMarie Vizzo-Paniccia, D-134th, ***Co-Chair***

Richard D. Salter, Sr., D-135th, ***Co-chair***

Denese Taylor-Moye, D-131st

Anthony R. Paoletto, D-138th

Milta I. Feliciano, D-137th

Nessah J. Smith, D-138th

John W. Olson, D-132nd

City Council Date: December 5, 2016
Tabled on: December 5, 2016
ReSubmitted on: December 19, 2016

Item# 201-15

Appointment of Donald W. Greenberg to the Library Board of Directors, **DENIED.**

Report of Committee on Miscellaneous Matters

City Council Meeting Date: December 5, 2016
Tabled on: December 5, 2016
Resubmitted on: December 19, 2016
DENIED on: December 19, 2016

Attest: Lydia N. Martinez
Lydia N. Martinez, City Clerk

Approved by: _____
Joseph P. Ganim, Mayor

Date Signed: _____

RECEIVED
CITY CLERK'S OFFICE
2017 JAN -6 P 12:08

ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport.

The Committee on Miscellaneous Matters begs leave to report; and recommends for ~~adoption~~ XXXXXXX DENIAL the following resolution:

Item No. 201-15

RESOLVED, That the following named individual be, and hereby is, Appointed to the Library Board of Directors in the City of Bridgeport and that said appointment, be ~~and hereby is approved, ratified and confirmed~~ DENIED.(from the floor on 12/19/2016).

NAME	**TERM EXPIRES**
Donald W. Greenberg 265 Balmforth Street Bridgeport, CT 06605	June 30, 2017

** I[illegible] by motion on the floor on 12/19/2016.

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
MISCELLANEOUS MATTERS

AmyMarie Vizzo-Paniccia, D-134th, ***Co-Chair***

Richard D. Salter, Sr., D-135th, ***Co-chair***

Denese Taylor-Moye, D-131st

Anthony R. Paoletto, D-138th

Milta I. Feliciano, D-137th

Nessah J. Smith, D-138th

John W. Olson, D-132nd

City Council Date: December 5, 2016
Tabled on: December 5, 2016
ReSubmitted on: December 19, 2016

DENIED BY FULL COUNICL ON DECEMBER 19, 2016 (FROM THE FLOOR)

Item# *202-15 Consent Calendar

Appointment of Kenya Osborne-Grant to the Library Board of Directors.

Report of Committee on Miscellaneous Matters

City Council Meeting Date: December 5, 2016

Tabled on December 5, 2016

ReSubmitted: December 19, 2016

Attest: Lydia N. Martinez
Lydia N. Martinez, City Clerk

Approved by: _____
Joseph P. Ganim, Mayor

Date Signed: 12/27/16

RECEIVED
CITY CLERK'S OFFICE
2017 JAN -6 P 12:08

ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport.

The Committee on Miscellaneous Matters begs leave to report; and recommends for adoption the following resolution:

Item No. *202-15 Consent Calendar

RESOLVED, That the following named individual be, and hereby is, Appointed to the Library Board of Directors in the City of Bridgeport and that said appointment, be and hereby is, approved, ratified and confirmed.

NAME	**TERM EXPIRES**
Kenya Osborne-Gant 87 Hickory Street Bridgeport, CT 06610	June 30, 2019

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
MISCELLANEOUS MATTERS

AmyMarie Vizzo-Paniccia, D-134th, ***Co-Chair***

Richard D. Salter, Sr., D-135th, ***Co-chair***

Denese Taylor-Moye, D-131st

Anthony R. Paoletto, D-138th

Milta I. Feliciano, D-137th

Nessah J. Smith, D-138th

John W. Olson, D-132nd

City Council Date: December 5, 2016
Tabled on: December 5, 2016
ReSubmitted on: December 19, 2016

Item# *203-15 Consent Calendar

Reappointment of Attorney James E. O'Donnell to the Library Board of Directors.

Report of Committee on Miscellaneous Matters

City Council Meeting Date: December 5, 2016

Tabled on December 5, 2016

ReSubmitted on December 19, 2016

Attest: Lydia N. Martinez

Lydia N. Martinez, City Clerk

Approved by: _____

Joseph P. Ganim, Mayor

Date Signed: 12/27/16

RECEIVED
CITY CLERK'S OFFICE
2017 JAN -6 P 12:08

ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport:

The Committee on Miscellaneous Matters begs leave to report; and recommends for adoption the following resolution:

Item No. *203-15 Consent Calendar

RESOLVED, That the following named individual be, and hereby is, Reappointed to the Library Board of Directors in the City of Bridgeport and that said reappointment, be and hereby is, approved, ratified and confirmed.

NAME	**TERM EXPIRES**
Attorney James E. O'Donnell 505 McKinley Avenue Bridgeport, CT 06604	June 30, 2019

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
MISCELLANEOUS MATTERS

AmyMarie Vizzo-Paniccia, D-134th, ***Co-Chair***

Richard D. Salter, Sr., D-135th, ***Co-chair***

Denese Taylor-Moye, D-131st

Anthony R. Paoletto, D-138th

Milta I. Feliciano, D-137th

Nessah J. Smith, D-138th

John W. Olson, D-132nd

City Council Date: December 5, 2016
Tabled on: December 5, 2016
ReSubmitted on: December 19, 2016

Item# *204-15 Consent Calendar

Reappointment of Judge William Holden to the Library Board of Directors.

Report of Committee on Miscellaneous Matters

City Council Meeting Date: December 5, 2016

Tabled on December 5, 2016

ReSubmitted on December 19, 2016

Attest: Lydia N. Martinez

Lydia N. Martinez, City Clerk

Approved by: _____

Joseph P. Ganim, Mayor

Date Signed: 12/21/16

RECEIVED
CITY CLERK'S OFFICE
2017 JAN -6 P 12:08

ATTEST _____
CITY CLERK

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport:

The Committee on Miscellaneous Matters begs leave to report; and recommends for adoption the following resolution:

Item No. *204-15 Consent Calendar

RESOLVED, That the following named individual be, and hereby is, Reappointed to the Library Board of Directors in the City of Bridgeport and that said reappointment, be and hereby is, approved, ratified and confirmed.

NAME	**TERM EXPIRES**
Judge William Holden 627 Fairview Avenue Bridgeport, CT 06606	June 30, 2019

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
MISCELLANEOUS MATTERS

AmyMarie Vizzo-Paniccia, D-134th, ***Co-Chair***

Richard D. Salter, Sr., D-135th, ***Co-chair***

Denese Taylor-Moye, D-131st

Anthony R. Paoletto, D-138th

Milta I. Feliciano, D-137th

Nessah J. Smith, D-138th

John W. Olson, D-132nd

City Council Date: December 5, 2016
Tabled on: December 5, 2016
ReSubmitted on: December 19, 2016

Item# *205-15 Consent Calendar

Appointment of Phylicia R. Brown to the Library Board of Directors.

Report of Committee on Miscellaneous Matters

City Council Meeting Date: December 5, 2016

Tabled on December 5, 2016

ReSubmitted on: December 19, 2016

Attest: Lydia N. Martinez

Lydia N. Martinez, City Clerk

Approved by: _____

Joseph P. Ganim, Mayor

Date Signed: 12/27/16

City of Bridgeport, Connecticut
Office of the City Clerk

To the City Council of the City of Bridgeport:

The Committee on Miscellaneous Matters begs leave to report; and recommends for adoption the following resolution:

Item No. *205-15 Consent Calendar

RESOLVED, That the following named individual be, and hereby is, appointed to the Library Board of Directors in the City of Bridgeport and that said appointment, be and hereby is, approved, ratified and confirmed.

NAME	**TERM EXPIRES**
Phylicia R. Brown 78 Alanson Road Bridgeport, CT 06607	June 30, 2017

RESPECTFULLY SUBMITTED,
THE COMMITTEE ON
MISCELLANEOUS MATTERS

AmyMarie Vizzo-Paniccia, D-134th, ***Co-Chair***

Richard D. Salter, Sr., D-135th, ***Co-chair***

Denese Taylor-Moye, D-131st

Anthony R. Paoletto, D-138th

Milta I. Feliciano, D-137th

Nessah J. Smith, D-138th

John W. Olson, D-132nd

City Council Date: December 5, 2016
Tabled on: December 5, 2016
ReSubmitted on: December 19, 2016

OFFICE OF THE MAYOR
CITY OF BRIDGEPORT, CONNECTICUT
MARGARET E. MORTON GOVERNMENT CENTER
999 BROAD STREET
BRIDGEPORT, CONNECTICUT 06604
TELEPHONE (203) 576-7201
FAX (203) 576-3913

JOSEPH P. GANIM
Mayor

COMM. #12-16 Ref'd Miscellaneous Matters Committee
12/19/2016 (OFF THE FLOOR)

December 19, 2016

To the Members of the Bridgeport City Council, care of the City Clerk;

Attached you will find a resolution for referral to the city council meeting of Monday December 19, 2016, to be referred to the Miscellaneous Matters Committee.

This resolution authorizes and empowers me as Mayor of Bridgeport to seek a formal sister city relationship with the Palestinian city of Bethlehem. I recently visited the ancient city of Bethlehem as an official representative of the city of Bridgeport and was hosted by the municipal government, whose representatives expressed a desire to strengthen educational, cultural and economic ties with the community of Bridgeport.

The two communities, though separated by thousands of miles, share many common interests and concerns. Establishing a formal sister city relationship with Bethlehem would create significant opportunities for Bridgeport residents, and I urge the city council to refer this matter to committee so we can take the necessary steps to establish stronger ties to Bethlehem.

Thank you very much for your consideration.

Sincerely,

Joseph P. Ganim

Mayor, City of Bridgeport

ATTEST
CITY CLERK

RECEIVED
CITY CLERK'S OFFICE
2016 DEC 20 A 9:38

To be introduced at council meeting 12/19/2016

City Council to authorize Mayor Joseph P. Ganim to seek international Sister City relationship between Bridgeport and the Palestinian City of Bethlehem in the West Bank, and establish closer economic, cultural, and educational ties with that community.

WHEREAS, the City of Bridgeport is a diverse community of 147,000 residents speaking more than 60 different languages, and this dynamic makes our city a virtual United Nations; and

WHEREAS, this is reflected in our outstanding ethnic restaurants, unique cultural celebrations, and diverse business community; and

WHEREAS, cities in Connecticut like New Haven, Hartford, and Stamford have had long standing Sister City Programs that promote economic, cultural and community development; and

WHEREAS, the City of Bethlehem, whose origins are thought to date back at least 3,500 years, is the birthplace of the Biblical King David and Jesus Christ, and serves as a beacon to worldwide Christianity, attracting more than 2,000,000 visitors every year; and

WHEREAS, the diversity of the Christian denominations and churches in Bridgeport from many cultural and geographical origins weaves a vibrant tapestry of spirituality and worship with strong connection to the story of Jesus; and

WHEREAS, Bridgeport has sought for at least the last decade to reinvigorate sister city relationships in Italy, Romania and China and endeavors to establish more partnerships like these around the world; and

WHEREAS, Bridgeport has worked with nonprofit citizen diplomacy networks to create and strengthen partnerships between U.S. and international communities; and

WHEREAS, the goal of sister city relationships between Bridgeport and cities in different parts of the world is to build global cooperation at the municipal level, promoting cultural understanding between people, families and communities, and stimulating economic development; and

WHEREAS, tourism is the lifeblood of the economy in Bethlehem, and the city faces serious economic challenges from declining tourist visitation due to the elusiveness of a peaceful resolution to decades old violent conflict with neighboring Israel and ongoing Israeli occupation in Palestinian territory in the West Bank; and

WHEREAS, the city of Bridgeport also faces economic challenges stemming from violence in our community, and citizens herein stand to benefit greatly from the greater cooperation with brothers and sisters in the city of Bethlehem, with each community sharing greater wealth and enlightenment due to closer ties with the other; and

WHEREAS, Sister City programs mutually benefit partnering communities by developing municipal partnerships between U.S. Cities, counties, and states and similar jurisdictions in other nations; and

WHEREAS, Sister City relationships provide opportunities for city officials, citizens and students to experience and explore other cultures through long-term community partnerships; and

WHEREAS, Sister City relationships create an atmosphere in which economic and community development can be implemented and strengthened; and

WHEREAS, Sister City programs stimulate environments through which communities will creatively learn, work, and solve problems together through reciprocal cultural, educational, municipal, business, professional and technical exchanges and projects; and

WHEREAS, Bridgeport Mayor Joseph P. Ganim, representing the people of the city of Bridgeport as head of government, recently visited the holy land of Israel and Palestine as a delegate of the International Conference of Mayors with dozens of municipal chief executives from around the globe; and

WHEREAS, as part of that delegation Mayor Ganim made a special visit to the Office of the Bethlehem Municipality and Mayor Vera Baboun, who led Mayor Ganim on a personal tour of the Church of the Nativity, the birthplace of Jesus, and Manger Square; and

WHEREAS, Officials with the Municipality of Bethlehem have extended the hand of friendship and the same warm hospitality shown to Mayor Ganim and his delegation to the people of Bridgeport; and

WHEREAS, the city of Bethlehem has stated a strong desire to engage in a mutually beneficial sister city relationship with the citizens of Bridgeport, a relationship Bethlehem now has with cities in Romania, Italy, Brazil, Mexico, Greece, The United Arab Emirates, Spain, Chile, Morocco, South Africa, France, Austria, and Scotland; and

WHEREAS, Bethlehem is featured prominently in the folklore and music of the Christmas holiday season as the story of the birth of Jesus is retold and re-enacted,

WHEREAS, Sister City programs collaborate with organizations in the United States and on other countries that share Bridgeport's goals; and Now Therefore be it

RESOLVED, That the city of Bridgeport and its City Council, in the giving spirit of the Christmas season and with a profound desire for peace and fellowship in Bethlehem and in Bridgeport, endorse the establishment of a formal sister city relationship with the Palestinian city of Bethlehem and authorize and empower Mayor Joseph P. Ganim to proceed with the steps that will lead to the establishment of said relations, endeavoring to take full and pro-active advantage of the economic and cultural benefits contained therein for the citizens of Bridgeport.