

**AGREEMENT
BETWEEN
THE STATE OF CONNECTICUT
AND
XXXXXXX
FOR THE
OPERATION OF EXPRESS COMMUTER BUS SERVICE
BETWEEN
TORRINGTON/WINSTED AND HARTFORD, CONNECTICUT**

THIS AGREEMENT, concluded at Newington, Connecticut, this ____ day of _____, 20__, by and between the State of Connecticut, Department of Transportation, Joseph J. Giulietti, Commissioner, acting herein by Richard W. Andreski, Bureau Chief, Bureau of Public Transportation, duly authorized, hereinafter referred to as the "State", and VENDOR'S NAME, having its principal place of business at ADDRESS, Connecticut ZIPCODE, acting herein by NAME, TITLE, hereunto duly authorized, hereinafter referred to as the "Second Party", collectively the "Parties".

WITNESSETH THAT:

WHEREAS, the State has determined and found that the citizens of the State of Connecticut require essential express commuter bus services between Torrington/Winsted and Hartford, Connecticut; and

WHEREAS, the Parties hereto desire to enter into this Agreement to provide essential transit service; and

WHEREAS, the State has determined through a Request for Proposal (RFP) that VENDOR'S NAME is best qualified to perform the services stated herein; and

WHEREAS, the State, pursuant to Section 13b-4 and Subsection (a) of Section 13b-34 of the General Statutes of Connecticut, as revised, is authorized to enter into this Agreement.

NOW, THEREFORE, KNOW YE THAT THE PARTIES HERETO MUTUALLY AGREE AS FOLLOWS:

Definitions:

The following definitions shall apply to this Agreement and Appendix "A" and/or "B", attached hereto:

"Claims" shall mean 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.

"Records" shall mean all working papers and such other information and materials as may have been accumulated by the Second Party in performing the Agreement, 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.

"State" shall mean State of Connecticut, including the Department of Transportation ("Department"), and any office, department, board, council, commission, institution or other agency or entity of the State.

"Second Party Parties" shall mean a Second Party'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 Second Party is in privity of oral or written contract and the Second Party intends for such other person or entity to perform under the Agreement in any capacity.

"Transit Services" shall mean the provision of public transportation by the Second Party excluding school bus and charter bus transportation.

"Certificate" shall mean a certificate of public convenience and necessity issued by the Department of Transportation to a bus operator under Connecticut General Statutes Section 13b-80 specifying the route and certifying that public convenience and necessity require the operation of a motor bus or motor buses over such route.

1. **Agreement of the Parties.** The State hereby contracts for, and the Second Party hereby agrees to, provide express commuter bus service as stipulated in the terms and conditions of this Agreement.
2. **Term of Agreement.** This Agreement shall be and remain in effect for the period commencing on October 1, 2020 and ending on June 30, 2023, unless previously terminated in accordance with any other provision of this Agreement. The State reserves the right to continue this Agreement in full force and effect for a maximum period of two one-year extensions beyond the expiration date.

The State shall assume no liability for payment, nor incur any obligation under this Agreement until the State notifies the Second Party in writing that this Agreement has received the written approval as to form by the Attorney General of the State of Connecticut.

In order to assure continuity of operations and the management of the commuter express service, the State, upon a minimum of sixty (60) days' notice prior to the expiration of the Agreement with the Second Party, may require that the Agreement be temporarily extended on a month to month basis to the date of commencement of an agreement with a successor contractor, unless such temporary extension is deemed not to be in the best interest of the State. All other terms and conditions of the Agreement will continue to be applicable during any such temporary extension.

3. **Maximum Financial Assistance.** The Parties agree that the maximum financial assistance over the term of this Agreement is _____. The amount of money that the Second Party will receive annually in State funds ("State Funding") and, if applicable, in Federal funding passed through the State ("Federal Funding"), under this Agreement, is subject to the annual appropriation of funds by the State and, if applicable, the annual appropriation of Federal funds and/or local funding.

Throughout the term of this Agreement, within thirty (30) days prior to the commencement of each fiscal year, the State, in its sole discretion, will establish the annual budget for the forthcoming fiscal year ("Annual Funding") and set forth this Annual Funding amount in the form of a Transit Operating Document ("TOD") issued to the Second Party. The "TOD"(s) will set forth the amount of the Annual Funding to be provided for that fiscal year, including the annual amount of State Funding and, if applicable, the annual amount of Federal Funding, and the State-owned motor buses along with accessories as the State deems necessary to operate the service.

The Second Party shall submit a completed State-issued invoice form, accompanied by the appropriate documentation, in accordance with the "TOD", when requesting a payment from the State. The Second Party shall submit monthly financial and operating statements, as requested by the State, no later than fifteen (15) days after the end of each calendar month.

Because the funding provided under this Agreement is the result of the state government's annual budget appropriation process and, if applicable, the federal government's annual budget appropriation process, the Second Party acknowledges that its receipt of any funding is dependent upon whether any such appropriations are made and, if made, the amount(s) appropriated for any particular fiscal year within the term of this Agreement. Accordingly, if the applicable state or federal appropriations are not made in whole or in part, the State may withhold State Funding and/or any Federal Funding, in whole or in part. In any such event, the State is not obligated under this Agreement to provide funding to the Second Party from other sources of monies of the State. The State shall make the final determination as to the amount of

funding to be provided under this Agreement.

Partial payment(s) for expenses under this Agreement may be withheld by the State, if in the opinion of the State, the Second Party has not submitted sufficient documentation of the expenses for which it is requesting reimbursement. The State may request further explanatory documentation for the purpose of determining the eligibility of the questioned expense(s). Failure of the Second Party to furnish the explanatory documentation cited above may result in the withholding of some or all of the requested reimbursement.

4. **Certificate of Public Convenience and Necessity.** Upon the execution of the Agreement and if required by the State, the Second Party shall promptly apply to the State for a Certificate under Connecticut General Statutes Section 13b-80 for the operation of each express commuter bus service as set forth in this Agreement. Only upon the issuance of a Certificate for a particular express commuter bus service, either temporary or permanent, the Second Party shall be permitted to operate said service. In the event that a temporary certificate is issued and expires without a permanent Certificate being issued, then the State shall have the right to terminate this Agreement. The Second Party shall be responsible to apply to the State for any amendments or modifications of any Certificates in the event of route modifications. Upon the expiration or earlier termination of this Agreement, the Second Party shall immediately surrender to the State any and all Certificates that were obtained by the Second Party as required by this Agreement.
5. **Best Faith Effort.** The Second Party agrees to execute this Agreement in good faith, with due diligence and without unreasonable delay. If it is anticipated that outside bids are needed to be taken for performance of certain components of work, the Second Party shall request the State's approval to do so. Such request shall be in writing to the State, naming the proposed vendor and providing reasons for the selection.
6. **Scope of Service.**

(a) As directed by the State, the Second Party shall manage and operate commuter express bus services. The Second Party will be required to provide: properly licensed and trained transit drivers as well as experienced dispatching and scheduling staff; the training of drivers, dispatching and scheduling personnel; the corrective and preventive maintenance of State-owned transit vehicles; the purchase of all fuels, lubricants and other parts and materials required to maintain all State-owned equipment in a state of good repair and safe operating condition; the purchase of required insurance coverage; the timely and accurate reporting of service performance statistics and operating cost to the State, and the adequate and experienced managerial, administrative, maintenance, dispatching and customer service staff to efficiently manage all aspects of the transit service contract in accordance with all applicable State and Federal requirements and regulations.

(b) Fares: The Second Party shall operate commuter express bus services in

accordance with the fares referenced in Exhibit 1, and entitled "BUS TRANSIT FARES," as may be revised by the State, attached hereto and hereby made a part of this Agreement.

(c) **Routes and System Structure:** The Second Party shall operate commuter express bus services in accordance with the routes and system structure referenced in Exhibit 2, and entitled, "BUS TRANSIT ROUTES AND SYSTEM STRUCTURE", as may be revised by the State, attached hereto and hereby made a part of this Agreement.

7. **Operating Deficits.** It is the intent of the Parties that in the implementation of this Agreement, the State and the Second Party shall work together cooperatively to develop necessary operational savings and adjustments in schedules to prevent unreasonable operating deficits.
8. **Liquidation of Indebtedness.** The State may refuse at any time to make payments under this Agreement if (a) the Second Party has failed to comply with the terms of the Agreement or any applicable State law or regulation, or (b) the Second Party is indebted to the State of Connecticut and the collection of the indebtedness will not impair accomplishment of the objectives of this Agreement. Under such conditions, the State will inform the Second Party in writing that payment will not be made after a specified date until the noncompliance described in such notice is corrected or the indebtedness is liquidated.
9. **Equipment.** The Second Party shall ensure for each weekday, excluding legal holidays, during the term of this Agreement, an adequate number of buses are available for operation of the service. Each bus shall be clean, wheelchair accessible, have a minimum seating capacity of forty-five (45) passengers, capable of maintaining legal speed limits on the highways, and heating and cooling systems shall remain operable as needed.
 - (a) In order to provide the citizens of the state with essential transit services, the State will equip the Second Party with State-owned buses. The Second Party shall not use State property in its custody for any other purpose than to provide the transit services necessitated under the terms of this Agreement.
 - (b) The Second Party, in coordination with HNS Management Company, Inc., shall ensure the full utilization and maintenance of all electronic equipment, including Global Positioning System (GPS), Automatic Passenger Counters (APC), Automatic Vehicle Locator (AVL), fare-boxes, fare-box software, and all fare-related media.
 - (c) In the event of an emergency or under duress, vehicles owned and maintained by the Second Party may be used to fulfill the services required under this Agreement.

10. **Maintenance.** The Second Party shall ensure that the state-owned buses and equipment, and if applicable, its own equipment, is properly maintained and in good, safe operating condition, and agrees to maintain a proper preventive maintenance schedule for all buses utilized for the operation of services under this Agreement. The Second Party shall certify to the State that a maintenance plan is in place and shall provide to the State a copy of both the plan and the Second Party's certification that the plan has been implemented. The State reserves the right to confirm the implementation of such plans with on-site visits, with reasonable notice, at the State's convenience.

The State and/or its designee shall have the right to inspect State-owned equipment, vehicles and facilities, and the Second Party's records with respect hereto, as shall be reasonably necessary to assure review of the Second Party's proper operational and administrative upkeep of such assets purchased or being subsidized with federal and/or State funds. Vehicles and equipment owned by the Second Party, which are used on a temporary or incidental basis for the performance of this Service, may be subject to inspection by the State and/or its designee.

11. **System Safety and Security.** The Second Party shall prepare, implement and maintain a system that ensures that the safety and security of passengers, personnel, members of the public, vehicles and equipment is maintained at the highest level possible throughout the term of this Agreement, in accordance with local, State and Federal requirements, and the federally required Public Transportation Agency Safety Plan (PTASP). In this regard, the Second Party is responsible for developing and implementing an on-going comprehensive safety program covering all aspects of the system (System Safety Program Plan). The program must be submitted for approval within 60 days of Notice-to Proceed and shall be updated to reflect system changes and modifications or upon the request of the State. A safety and security management plan must be maintained at all times in accordance with FTA regulations, including but not limited to, safety performance targets, safety management policy, safety risk management, safety assurance, and safety promotion. Safety reviews and audits, safety meetings, lessons learned, incident reporting, and a drug testing program is also a part of this requirement.
12. **Motor Vehicle Safety Standards.** Motor vehicles utilized under this Agreement will comply with the Motor Vehicle Safety Standards as established by the U.S. Department of Transportation.
13. **Accessibility Requirement.** The Second Party shall comply with the accessibility mandates set forth in the Americans With Disabilities Act of 1990, as amended, and Section 14-97b of the Connecticut General Statutes, as revised.
14. **Record Retention.** The Second Party agrees that it shall preserve all of its records and accounts concerning the implementation of this Agreement for a period of three (3) years after expiration or termination of this Agreement, or if Federal Funding is involved, for a period of three (3) years after federal acceptance of a financial close-out.

15. **Waiver.** The waiver of the breach of any article, covenant, or condition herein contained shall not be construed as the waiver of such article, covenant, or condition, or any subsequent breach thereof.
16. **Facsimile Agreements.** The Parties agree that facsimile copies of signatures and initials are acceptable and shall be binding and construed as if originals.
17. **Notice.** Any "Official Notice" from one such party to the other 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, CT 06131-7546;
 - ii. when the Second Party is to receive such notice –

The person(s) acting herein as signatory or successor for the Second Party receiving such notice;
 - (b) Be delivered in person with an acknowledgement of receipt, emailed or 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
 - (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, 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 herein above contained shall preclude the Parties hereto 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.

18. **Performance and Penalties.** The State will exercise its right to impose penalties due to recurrent non-conformance with the requirements listed in this Agreement. If penalties are imposed, the Second Party could appeal to the Bureau Chief of Public Transportation's decision.

1. The Second Party acknowledges and agrees that penalties may be assessed by the State for the failures of performance set forth hereunder. The Parties acknowledge that failure by the Second Party to perform certain obligations under this Agreement could cause service disruptions that diminishes the quality of service and inconveniences the public riders. The Parties agree that penalties may be assessed by the State as described herein:

(a) The State must inform the Second Party of any on-going issues that needs to be resolved by the Second Party. The Second Party must respond to the State within 10 days with a corrective action report detailing how the Second Party will correct the issue. The Second Party will have 30 days to make improvements. If there is not substantial improvement after 30 days, the State reserves the right to assess a penalty.

(b) If after thirty (30) days there is not substantial improvement, the State will assess and apply penalties as follows, but not limited to:

On-time Performance: The Second Party shall perform the services on-time, as described herein, or the State shall assess a penalty as set forth herein but not limited to:

1. The Second Party shall maintain on-time performance, which means that its arrival at scheduled stops shall occur within zero (0) minutes early and five (5) minutes late of scheduled times, unless the stops are clearly defined that the bus can depart ahead of schedule.
2. The State shall make reasonable concessions for non-recurring events such as accidents, inclement weather, etc.
3. The State shall monitor the service performance via generated reports.
4. The State will monitor the Second Party via electronic media available on buses used for this service.
5. A penalty equal to two percent (2%) of the month's invoice amount will be assessed for any month in which less than 95 percent (95%) of trips were on-time.
6. A penalty equal to five percent (5%) of the month's invoice amount will be assessed for any month in which less than 90 percent (90%) of trips were on-time.

7. The State will monitor the buses operating this service to ensure they are logged into the system. Failure by the Second Party to comply with this requirement may result in a financial penalty.

Penalties are subject to revision to other issues, including but not limited to, noncompliance with ADA fixed-route bus service requirements, customer service complaints, etc. The State reserves the right to review penalties and implement an operating policy to abide by.

19. **Termination.** The State reserves the right to terminate, suspend, abandon, or postpone this Agreement:

- (A) Without cause with sixty (60) days prior written notice to the Second Party. Promptly upon receipt of such notice, the Second Party shall discontinue the work, surrender any and all Certificates and shall halt the placing of any further third party contracts relating thereto.

- (B) With cause, forthwith, upon delivery to the Second Party of written notice of termination, citing any one or more of the following reasons:

1. This Agreement is being superseded by a fully executed replacement Agreement.
2. The Second Party discontinues the operation of service.
3. The Second Party takes any action and/or fails to take required action pursuant to the terms of this Agreement without the required approval(s) of the State.
4. The Second Party being declared competent authority to be incapable of operation under this Agreement.

Upon such termination, the Second Party shall be paid its costs for the work performed as set forth in this Agreement up to the time of termination. The State shall also reimburse the Second Party, in the manner provided by this Agreement, for all costs incurred subsequent to such receipt, the incurrence of which is necessary in order to restore to serviceability any facilities, which were wholly or partly unserviceable as a result of the work at the time of such receipt. In the event of such termination, the Second Party shall promptly submit its termination claim and shall be reimbursed for third party cancellation charges assumed by the Second Party with the State's written consent. If the Second Party is unable to arrange for cancellation of any third party contract or if the proposed cancellation charge therefore is one that the State will not approve, then the Second Party agrees that it will follow the instruction of the State with respect to such contract.

Any misrepresentation or omission of a material fact by the Second Party concerning the Second Party's authority or ability to carry out the obligations assumed by the

Second Party hereunder shall terminate the obligation of the State, and it is understood and agreed by the Second Party that if a material fact has been misrepresented or omitted by the Second Party, the State may recover all payments made by the State under this Agreement.

Either party hereto shall have the right to terminate this Agreement thirty (30) days after notifying the other party of such party's breach in any material respect of the provisions of this Agreement and such notified party's failure to cure such breach prior to the expiration of such thirty (30) day period.

20. **Misrepresentation.** Any misrepresentation or omission of a material fact by the Second Party concerning the Second Party's authority or ability to carry out the obligations assumed by the Second Party hereunder shall terminate the obligations of the State, and it is understood and agreed by the Second Party, that if a material fact has been misrepresented or omitted by the Second Party, the State may recover all payments made by the State under this Agreement.
21. **Force Majeure (Excusable Causes of Non-Performance).** The term Force Majeure as employed herein shall mean acts of God, riots, embargoes, wars, blockages, insurrections, strikes and work stoppages, fires, snow, ice, floods, governmental orders or regulations, accidents and other contingencies beyond the reasonable control of the Second Party and which by the exercise of due diligence the Second Party is unable to prevent or overcome.

In the event that the Second Party is rendered unable wholly or in part by a Force Majeure, as defined herein, to carry out its obligations under this Agreement, it is agreed that on notice to the State setting forth the particulars of such Force Majeure, in writing, the obligations of the Second Party to the extent affected by such Force Majeure shall be suspended during the continuance of any inability so caused but for no longer period, and such cause shall as far as possible be remedied with all reasonable dispatch.

The unavailability of operating equipment shall also be deemed to be Force Majeure as it is agreed that the Second Party has no obligation to make capital expenditures to replace equipment unless agreed to in writing by both Parties.

22. **Administrative & Statutory Requirements.** The Second Party agrees to comply with all applicable State Administrative Requirements, referred to in **Appendix "A"**, entitled "Administrative and Statutory Requirements", attached hereto and hereby made a part of this Agreement.
23. **Federal Requirements.** The Second Party agrees to comply with all applicable Federal Requirements, referred to in **Appendix "B"**, entitled, "Federal Transit

Administration's Requirements", attached hereto and hereby made a part of this Agreement.

The Second Party agrees to ensure that said **Appendices "A" and "B"** be incorporated in each subcontract to which it is a party and agrees to ensure compliance with all requirements and regulations by each subcontractor it does business with in conjunction with this Agreement.

24. **Conditions for Subcontract of Transit Services.** The Second Party shall not subcontract any portion of this Agreement without the written approval of the State. The Second Party shall submit to the State for review and approval any proposed Agreement between the Second Party and a subcontractor prior to its execution. No reimbursable costs may be incurred on agreements with subcontractors prior to the written approval of the State. The Second Party shall furnish to the State certification of Public Liability and Property Damage Insurance Coverage, including the use of motor vehicles, for operations to be performed by the subcontractor.
25. **Entire Agreement.** The terms and provisions herein contained constitute 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; and nothing contained in the terms or provisions of this Agreement shall be construed as waiving any of the rights of the State under the laws of the State of Connecticut. Nothing contained in this Agreement shall be construed as an agreement by the State to directly obligate the State to creditors or employees of the Second Party.

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Administrative and Statutory Requirements

1. Insurance. With respect to the operations performed by the Second Party under the terms of this Agreement and also those performed for the Second Party by its subcontractor(s), the Second Party will be required to carry, and shall ensure that its subcontractors(s) carry, the insurance coverage included in paragraphs (a), (b) and (c) below, for the duration of this Agreement, and any supplements thereto, with the State being named as an additional insured party for paragraphs (a) and (b) below, at no direct cost to the State. In the event the Second Party secures excess/umbrella liability insurance to meet the minimum requirements specified in paragraph (a) and/or (b) below, the State of Connecticut shall be named as an additional insured.

(a) Commercial General Liability Insurance, including Contractual Liability Insurance, providing for a total limit of not less than One Million Dollars (\$1,000,000) single limit 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 including the loss of use thereof in any one accident or occurrence. Subject to that limit per accident or occurrence, the policy shall provide a total or aggregate coverage 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.

(b) Automobile Liability:

1. **Non-Transit Motor Vehicle Insurance (Automobile Liability)** The operation of all motor vehicles, including those hired or borrowed, used in connection with this Agreement shall be covered by Automobile Liability Insurance providing for a total limit of not less than One Million Dollars **(\$1,000,000)** 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. 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)**.
2. **Non-State-Owned Transit Vehicles** The operation of all motor vehicles, which are not State-owned vehicles, including those hired, leased or borrowed, used in connection with this Agreement shall be covered by Automobile Liability Insurance providing for a total limit of not less than (a) One Million Dollars **(\$1,000,000)** for vehicles with a seating capacity of ten (10) or less passengers, (b) One Million Five Hundred Thousand Dollars **(\$1,500,000)** for vehicles with a seating capacity of eleven (11) through fourteen (14) passengers, and (c)

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Five Million Dollars (**\$5,000,000**) for vehicles with a seating capacity of fifteen (15) passengers or more, 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.

3. **State-owned Transit Vehicles and Property** All State-owned vehicles and facilities are and shall remain insured by the State under the terms and conditions in effect in accordance with the State insurance policy(ies).

(c) With respect to all operations the Second Party performs and all those performed for the Second Party by subcontractors, the Second Party shall carry, and shall ensure that its subcontractor(s) carry, 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 the laws of the United States respectively.

(d) In conjunction with the above, the Second Party agrees to furnish to the State a Certificate of Insurance on a form acceptable to the State, fully executed by an insurance company or companies satisfactory to the State, for the insurance policy or policies required hereinabove, which policy or policies shall be in accordance with the terms of said Certificate of Insurance.

(e) The Second Party shall produce, within five (5) business days, a copy, or copies of all applicable insurance policies requested by the State. In providing said policies, the Second Party may redact provisions of the policies that it deems to be proprietary. This provision shall survive the suspension, expiration, or termination of this Agreement.

(f) If the Second Party elects to be self-insured rather than acquiring coverage from an insurance company, the Second Party shall ensure to the State that it is adequately protected. The Second Party shall submit a notarized statement from an authorized representative providing the following information:

- 1) That the Second Party is self-insured.
- 2) That the Second Party has established a reserve fund that satisfies the minimum requirements set forth in the Agreement for the payments of claims.
- 3) That the Second Party shall indemnify and hold the State harmless.

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- 4) The name, title, and address of the person to be notified in the event of a claim.

If requested by the State, the Second Party must provide any additional evidence of its status as a self-insured entity. If such self-insurance program is acceptable to the State, in its sole discretion, then the Second Party shall assume any and all claims as a self-insured entity.

2. Indemnification. (a) The Second Party 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 Second Party or Second Party 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 Second Party shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Second Party'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 Second Party'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 Second Party 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 Second Party shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Second Party or any Second Party Parties. The State shall give the Second Party reasonable notice of any such Claims.

(d) The Second Party'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 Second Party 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 Second Party 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 Second Party shall name the State as an additional insured on the policy. The Department shall be entitled to recover under the insurance policy even if a

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body of competent jurisdiction determines that the Department or the State is contributorily negligent.

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

3. Core Agreement/Contract Purchase Order. The Agreement itself is not an authorization for the Second Party to provide goods or begin performance in any way. The Second Party may provide goods or begin performance only after it has received written authorization from the State or a duly issued purchase order against the Agreement. The Second Party providing goods or commencing performance without written authorization from the State or a duly issued purchase order in accordance with this section does so at the Second Party's own risk.

The State shall issue a purchase order against the Agreement directly to the Second Party and to no other party.

4. Waivers of Sovereign or Governmental Immunity. It is understood and agreed by the Parties hereto, that the Second Party 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 Second Party, unless requested to do so by the State.

5. Code of Ethics Policy. The Second Party hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy Statement No. F&A-10 Subject: Code of Ethics Policy", June 1, 2007, a copy of which is attached hereto and made part hereof.

The Second Party 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 an 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 that 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.

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- (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.

6. 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 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 Agreement as if they had been fully set forth in it. At the Second Party's request, the State shall provide a copy of these orders to the Second Party.

7. Litigation. The Second Party 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 Second Party further agrees not to initiate legal proceedings in any State or Federal Court in addition to, or in lieu of, said Chapter 53 proceedings.

8. 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 Second Party 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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9. Non-waiver of State’s Immunities. 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.

10. Connecticut Required Contract/Agreement Provisions. The Second Party hereby acknowledges and agrees to comply with the “Connecticut Required Contract/Agreement Provisions, Specific Equal Employment Opportunity Responsibilities”, dated March 3, 2009, as may be amended from time to time, a copy of which is attached hereto and made a part hereof.

11. State Elections Enforcement Commission Campaign Contribution and Solicitation Ban. For all State contracts as defined in Conn. Gen. Stat. §9-612(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”, a copy of which is attached hereto and hereby made a part of this Agreement.

12. Agent for Service of Process. The Secretary of the State for the State of Connecticut is hereby appointed by the Second Party as its agent for service of process for any action arising out or as a result of this Agreement. Such appointment shall remain in effect throughout the life of this Agreement including any supplements hereto and all renewals thereof, if any, and six (6) years thereafter except as otherwise provided by Statute.

13. Nondiscrimination. References in this section to “contract” shall mean this “Agreement” and references to “contractor” shall mean the “Second Party”.

(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,

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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 of Connecticut, including, but not limited to municipalities, unless the contract is a municipal public works contract or quasi-public agency project contract (2) any other state of the United States, including but not limited to, the District of Columbia, Puerto Rico, U.S. territories and possessions, and federally recognized Indian tribal governments, as defined in Connecticut General Statutes § 1-267, (3) the federal government, (4) a foreign government, or (5) an agency of a subdivision, state or government described in subdivision (1), (2), (3), or (4) of this subsection.

(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

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group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, 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 Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects

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

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

(e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The

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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 the employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

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

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14. 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 Second Party's and Second Party Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Agreement.
- (b) The Second Party shall maintain, and shall require each of the Second Party Parties to maintain, accurate and complete Records. The Second Party shall make all of its and the Second Party 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 Second Party 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) The Second Party shall keep and preserve or cause to be kept and preserved all of its and the Second Party 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 Second Party shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
- (e) The Second Party 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 Second Party shall cooperate with an exit conference.
- (f) The Second Party shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Second Party Party.

15. 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 the Freedom of Information Act and may be disclosed by the public agency pursuant to the Freedom of Information Act. 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 the Freedom of Information Act. 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.

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16. Payment of Recoverable Costs Due to the State. The State shall have the right to set-off against amounts otherwise due to the Second Party under this Agreement or under any other agreement or arrangement that the Second Party has with the State:

- a. Any costs that the State incurs which are due to the Second Party's non-compliance with this Agreement, and
- b. Any other amounts that are due and payable from the Second Party to the State. Any sum taken in set-off from the Second Party shall be deemed to have been paid to the Second Party for purposes of the Second Party's payment obligations under Connecticut General Statutes Section 49-41c.

17. Revisions in Organization. The Second Party 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. The change shall not relieve the Second Party of any responsibility for the accuracy and/or completeness of all products of the work under this Agreement, including all supplements thereto.

18. Oversight of Large State Contracts. 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 Second Party takes or threatens to take any personnel action against any employee of the Second Party 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 Second Party 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 Second Party.

19. Assignment or Transfer of Agreement. The Second Party warrants that it shall not sublet, subcontract, sell, transfer, assign, or otherwise dispose of the Agreement or any portion thereof, or of the work provided for therein, or of the Second Party's right, title, or interest therein, to any person, firm, partnership, or corporation without the written consent of the State. For breach or violation of the above stipulation the State shall have the right to annul this Agreement without liability.

APPENDIX “B”
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1. **No Government Obligation to Third Parties.** The State, the Second Party and its contractor/subcontractors in connection with the Work, acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the State, The Second Party or its contractor/ subcontractors, or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the underlying Agreement.

The Second Party agrees to include the above clause in each contract/subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the contractor/subcontractor who will be subject to its provisions.

2. **Program Fraud and False or Fraudulent Statements and Related Acts.**
 - a. The Second Party acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying Agreement, the Second Party certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, the Second Party further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Second Party to the extent the Federal Government deems appropriate.
 - b. The Second Party also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an agreement connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Second Party, to the extent the Federal Government deems appropriate.
 - c. The Second Party agrees to include these two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the contractor/subcontractors who will be subject to the provisions.

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3. **Access to Records and Reports.** The Second Party agrees to provide the State, the FTA Administrator, the Comptroller General on the United States or his authorized representatives, including any PMO Contractor, access to the Second Party’s records and construction sites pertaining to a major capital project, defined at 49 U.S.C.5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309, 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

The Second Party shall make available records related to the Agreement to the State, the Secretary of Transportation, and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

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

The Second Party agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three (3) years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case the Second Party agrees to maintain same until the State, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

4. **Federal Changes.** The Second Party agrees to comply, at all times, with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the State and FTA, as they may be amended or promulgated from time to time during the term of this Agreement. The Second Party’s failure to so comply shall constitute a material breach of this agreement.
5. **Civil Rights Requirements.** As a condition to receiving federal financial assistance under the Agreement, if any, the Second Party shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d – 2000d-7), all requirements imposed by the regulation of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the Title VI Contractor Assurances attached hereto, all of which are hereby made a part of this Agreement.
6. **Disadvantaged Business Enterprise (DBE).** The Second Party hereby acknowledges and agrees to comply with “Agreements With Goals Special Provisions Disadvantaged Business Enterprises as Subcontractors and Material

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Suppliers or Manufacturers For Federal Funded Projects” dated October 16, 2000, attached hereto and hereby made a part of this Agreement

7. **Incorporation of Federal Transit Administration (FTA) Terms.** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding terms and conditions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Second Party shall not perform any act, fail to perform any act, or refuse to comply with any of the State’s requests which would cause the State to be in violation of the FTA terms and conditions.
8. **Suspension or Debarment.** Suspended or debarred contractors, 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 Second Party shall constitute certification that to the best of its knowledge and belief the Second Party or any person associated therewith in the capacity of the owner, partner, director, officer, principal investor, project director, manager, auditor or any position involving the administration of Federal or State funds:
- 1) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - 2) Has not within the prescribed statutory time period preceding this Agreement been convicted of or had a civil judgment rendered against him/her for commission of fraud or 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 anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 3) 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)2) of this certification; and
 - 4) Has not, within a five-year period preceding this Agreement, had one or more public transactions (Federal, State, or local) terminated for cause or default.

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

The Second Party 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:

- 1) The prospective subcontractors, sub-subcontractors participants certify, by submission of its/their proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- 2) 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.

9. **Lobbying.** "Certification for Federal-Aid Contracts – Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Second parties who apply or bid for an award of \$100,000 or more shall file the "Certification Regarding Lobbying," attached hereto, as required by 49 CFR Part 20 and in accordance with U.S. DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

10. **Clean Air.** The Second Party agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Second Party agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to FTA (Federal Transit Administration) and the appropriate EPA Regional Office.

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The Second Party also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

- 11. Clean Water Requirements.** The Second Party agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Second Party agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the FTA and the appropriate EPA Regional Office.

The Second Party also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

- 12. Contract Work Hours and Safety Standards Act.**

(a) The Second Party agrees to include provision in contracts with its contractor/subcontractors in carrying out the Work, which may require or involve the employment of laborers or mechanics, which shall not require nor permit any such laborer or mechanic in any workweek in which he or she is employed on such Work to work in excess of forty (40) hours in such workweek, unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

(b) In the event of any violation of the clause set forth in paragraph (a) of this Article, any contractor/subcontractors responsible therefor shall be liable for the unpaid wages. In addition, contractor/subcontractors shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this Article, in the sum of Ten Dollars (\$10.00) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this Article.

(c) The State upon its own action or upon written request of an authorized representative of the Department of Labor shall cause the Second Party to withhold or cause to be withheld, from any moneys payable by the Second Party on account of work performed for it by contractor/subcontractors under any such contract/agreement or any other Federal Contract/Agreement or any Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the

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same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this Article.

(d) The Second Party's contractor/subcontractors shall insert in any contract/subcontract the clauses set forth in paragraphs (a) and (b) of this Article and also a clause requiring the contractor/subcontractors to include these clauses in any lower tier contracts/subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this Article.

13. Transit Employee Protective Provisions.

- (1) The Second Party agrees to comply with applicable transit employee protective requirements as follows:
 - (a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Second Party agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. § A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Second Party agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter.
- (2) The Second Party also agrees to include the any applicable requirements in each contract/subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

14. Charter Bus Requirements. The Second Party agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

15. School Bus Requirements. Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, the Second Party may not engage in school bus operations exclusively for the

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transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, the Second Party may not use federally funded equipment, vehicles, or facilities.

16. **Drug and Alcohol Testing** The Second Party agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Connecticut, or the State, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The Second Party agrees further to certify annually its compliance with Parts 653 and 654 and to submit the Management Information System (MIS) reports to the State. To certify compliance the Second Party shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.
17. **Alcohol Misuse and Prohibited Drug Use**. The Second Party agrees to establish and implement an anti-drug and alcohol misuse program that complies with the Federal Transit Administration's regulation, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations", as required under 49 CFR Part 655, that implement 49 U.S.C. §5331.
18. **Energy Conservation**. The Second Party and its contractor/subcontractors in connection with the Work will comply with, the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. 6321 et. seq. and 49 CFR Part 18.
19. **Recycled Products**. The Second Party agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.
20. **Americans With Disabilities Act**. This clause applies to those second parties who are 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 this Agreement. The Second Party represents that it is familiar with the terms of this Act and that it is in compliance with the Act. Failure of the Second Party to satisfy this standard as the same applies to performance under this Agreement, either now or during the term of this Agreement as it may be amended, will render this Agreement voidable at the option of the State upon notice to the Second Party. The Second

APPENDIX "B"
Federal Transit Administration Requirements

Party 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 Second Party to be in compliance with this Act, as the same applies to performance under this Agreement.

The Second Party agrees to comply with 49 U.S.C. § 5301(d), which states that the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. These regulations provide that no handicapped individual, solely for reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity including or resulting from this Agreement.

21. **Notification of Federal Participation.** To the extent required by law, the State agrees that any request for proposals, solicitation, award notice, press release or other publication involving the distribution of FTA assistance for the Program or Project having an aggregate value of \$500,000 or more, shall indicate that FTA is the Federal agency that is providing the Federal assistance, the Catalog of Federal Domestic Assistance Number of the program from which the Federal assistance is authorized, as may be applicable, and the amount of Federal assistance FTA provided.
22. **Privacy Act.** If applicable, the Second Party agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C § 522a. Among other things, the Second Party agrees to obtain the express consent of the Federal Government before the Second Party or its employees operate a system of records on behalf of the Federal Government. The Second Party understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

The Second Party also agrees to include these requirements in each contract/subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by the FTA.

23. **Grant Management Guideline for Grantees and Third Party Contracting Guidelines.** If applicable, the Second Party agrees that its contractors in connection with the services to be provided with this Agreement will be governed by the rules and regulations of the Federal Transit Administration's "Award

APPENDIX “B”
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Management Requirements – Circular 5010.1E”, dated July 16, 2018, and “Third Party Contracting Guidelines – Circular C 4220.1F”, dated March 18, 2013.

EXHIBIT 1
BUS TRANSIT FARES

EXHIBIT 2
BUS TRANSIT ROUTES AND SYSTEM STRUCTURE

