

VALLEY TRANSIT DISTRICT
REQUEST FOR PROPOSAL
FOR
TRANSIT MANAGEMENT SERVICES
FOR
VALLEY TRANSIT DISTRICT

RFP NUMBER 01-2010

DUE DATE: July 22, 2010

Date of RFP: June 7, 2010

INDEX

RFP #01-2010

**TRANSIT MANAGEMENT SERVICES
VALLEY TRANSIT DISTRICT**

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SECTION 1

STATEMENT OF WORK

The **VALLEY TRANSIT DISTRICT** (“District”) is seeking competitive proposals from qualified firms to provide transit management for the District. The DISTRICT wishes to engage a firm to provide strategic management services by collaborating and providing advice to the District’s Board of Director’s and the District’s General Manager under the direction of the DISTRICT’s Board of Directors. The transit management services to be provided include, but are not limited to those relating to management of routes, budgeting, accounting, employee relations, equipment and facilities utilization, transit planning, marketing, advertising, public relations, coordination with planning and administration of contracts for special transit services, assistance with developing a procedure/policy manual and assisting the District to obtain FTA grantee status for direct grant writing from the Valley Council of Governments (VCOG).

The DISTRICT was formed in 1971 by the four towns of the Connecticut Valley Region. These four towns are Ansonia, Derby, Seymour and Shelton. The District’s mission is to provide local, coordinated public transportation for the residents of the area. The affairs of the District are managed by a board of directors made up of representatives from each town. The directors serve in a voluntary capacity to adopt bylaws and set policy for the operations of the district.

With an annual operating budget of approximately 1.4 million dollars the DISTRICT provides approximately 90,000 passenger trips per year on the dial-a-ride/ADA service. The District fleet consists of fourteen (20) passenger wheelchair accessible vehicles of which twelve are operated at peak time. Hours of operation are Monday through Friday 6:00 am to 6:00 pm. The fleet was purchased in 2006. The administrative staff consists of a General Manager, Office Administrator, Office Clerk, Dispatch Coordinator and two dispatcher/reservationists. Additionally staff consists of 10 full-time and 7 part-time drivers. The District employs a full time Lead Maintenance Technician.

The successful firm must have and be able to demonstrate a minimum of seven (7) years experience in providing strategic and management services to transit systems of similar size as the DISTRICT.

Any personnel proposed by the firm to render services must possess first hand working knowledge and experience in the majority if not all facets of public transportation administration, operations and strategy.

The Proposer must possess a proven operational knowledge and experience in the following areas:

1. Management /organizational-teambuilding skills
2. 5311 Grant Program
3. Budgeting
4. Grant writing and administration skills
5. FTA Drug & Alcohol program requirements & compliance
6. FTA Procurement Requirements
7. Asset and Fleet Maintenance Management
8. Safety and Training
9. Human Resources
10. Quickbooks Accounting Software
11. Management of ongoing projects & coordinating transportation between various agencies, clients and other transportation agencies.
12. Facilities upgrade experience
13. Experience with transfer and/or obtaining qualification for FTA grant writing functions
14. Experience with state and federal transit agencies
15. Experience with creating and implementing a policy and procedures manual.

SECTION II

SPECIFIC PROPSAL TERMS AND CONDITIONS

COMMUNICATIONS. Any communications in connection with this Request for Proposal (“RFP”) shall be in writing and shall be addressed to **Chairman c/o General Manager, Valley Transit District, 41 Main Street, Derby, CT 06418**. It is the responsibility of the person or entity (“Proposer”) submitting the response to this to assure that correspondence has been received by the DISTRICT. Any questions or comments directed to other **VALLEY TRANSIT DISTRICT** employees, officials or agents other than the Chairman or the General Manager of the District may result in an Offeror’s Proposal being disqualified.

DISADVANTAGED BUSINESS ENTERPRISE (DBE). No Disadvantaged Business Enterprise (DBE) goal has been assigned for this procurement.

SUBCONTRACTING. All firms are advised that subcontracting will not be allowed under this RFP. All work must be performed with the Proposer’s employees.

PROPOSAL QUESTIONS/CLARIFICATIONS AND/OR SUGGESTIONS. Proposers are encouraged to make suggestions and recommendations regarding the specifications and content of this RFP. All suggestions will be reviewed by the District and may be addressed in writing via an addendum. Additionally, questions and/or requests for clarifications regarding the content of this RFP are to be submitted in writing and will be addressed in the same addendum format. If a Proposer feels a conflict exists between what is considered a good practice and this RFP, the Proposer shall state in writing all objections prior to submitting a proposal.

All interested Proposers who requested an RFP will receive all issued addenda. All items meeting the requirements of this section must be submitted in writing to the attention of, Chairman C/O General Manager and must be received by **2:30 pm on June 25, 2010**.

ADDENDA. The DISTRICT reserves the right to revise or amend this RFP up to the time set for submitting the proposals. Such revisions and addenda, if any, shall be announced by addenda to this RFP. Copies of such addenda shall be furnished to all prospective Proposers. If the revisions and addenda require changes in quantities or specifications, or both, the date set for submitting proposals may be postponed by such number of days as in the opinion of the DISTRICT shall enable Proposers to revise their proposals.

Proposers must acknowledge receipt of addenda on the form included with the addenda and return it with their proposal submission. Failure to acknowledge receipt of all addenda may cause the proposal to be considered non-responsive to this RFP.

PROPOSAL DUE DATE. Proposals, to be considered and evaluated, must be received before **3:00 pm on July 22, 2010 at the VALLEY TRANSIT DISTRICT, 41 Main Street, Derby, CT 06418**. Proposals received after the above scheduled opening time and date will not be considered. Faxed or e-mailed proposals are not acceptable.

OPENING OF PROPOSALS. Proposals will not be publicly opened. All proposals and evaluations will be kept strictly confidential throughout the evaluation, negotiation, and selection process. Only the members of the District and other officials, employees, and agents having a legitimate interest will be provided access to the proposals and evaluation results during this period.

PROPOSAL WITHDRAWAL/AWARD. Each and every Proposer who submits a proposal specifically waives any right to withdraw it except as hereinafter provided. Proposers will be given permission to withdraw any proposal after it has been submitted to the DISTRICT, provided a Proposer makes their request in writing, at least one (1) hour before time that proposals are due. No Proposer may withdraw their proposal for ninety (90) calendar days after the

proposal opening. The DISTRICT reserves the right to make an award within ninety (90) calendar days from the date proposals are due, during which time, proposals shall not be withdrawn.

INVESTIGATION OF CONDITIONS. Proposers are directed to read this RFP carefully, as no additional compensation will be granted for failure to review this RFP and/or miscalculations or errors in the proposal.

No proposal will be accepted from nor will any contract be awarded to any person or firm that is in arrears to the DISTRICT, upon any debt or contract or that is a defaulter as surety or otherwise upon any obligation to the DISTRICT, or that has failed to perform faithfully in any previous contract with the DISTRICT.

DUTY TO INFORM. If a Proposer becomes aware of any discrepancy, ambiguity, error or omission in this RFP, the Proposer shall report it to the DISTRICT. The DISTRICT will determine the necessity for clarification and may issue an addendum as a result. If at any time a Proposer becomes aware of actual or potential problems, faults or defects in this RFP or any non-conformance of this RFP with any, Federal, State or local law, rule or regulation, the Proposer shall give immediate written notice thereof to the DISTRICT.

DISQUALIFICATION OF PROPOSERS. Proposers may be disqualified and proposals may be rejected for any of, but not limited to, the following causes:

1. Failure to use the RFP Proposal Forms furnished by the DISTRICT;
2. Lack of signature by an authorized representative on the Proposal forms;
3. Failure to properly complete the Proposal forms and certifications;
4. Evidence of collusion among Proposers;
5. Proposer unfairly represents or conceals any material fact in the Proposal;
6. Failures to conform to the law or specifications of this RFP; or
7. Unauthorized alteration of the Proposal forms.

PROTEST. Any protest by a Proposer shall be made in accordance with the following DISTRICT procedures established in accordance with the provisions of FTA C4220.1E:

A. Protests will only be accepted by the DISTRICT from Proposers whose direct economic interest would be affected by the award of a contract or refusal to award a contract. Protests shall be submitted to the **CHAIRMAN C/O General Manager, Valley Transit District 41 Main Street, Derby, CT 06418**. Outer packaging or envelope must be clearly marked "PROTEST AND PROPOSAL NUMBER". The DISTRICT will consider all such protests, if submitted before the award of a contract meeting the criteria identified below. The DISTRICT does not intend to allow the filing of protests to unnecessarily delay the procurement process. All protests must be in writing and conform to the following requirements:

1. Be concise and legally arranged.
2. Provide name, address and telephone numbers of protester.
3. Identification of the solicitation or contract number.
4. Provide a clear and detailed statement of the legal and factual grounds of the protest including copies of all relevant documents.
5. Provide a statement as to what relief is requested.

B. Protests must be submitted within ten (10) calendar days after notice of a proposal award by the District. If the written protest is not received by the time specified all issues and appeal rights are deemed waived.

The DISTRICT will determine if the Proposal award should be postponed. If the award is postponed, the DISTRICT will immediately contact Proposers who have been furnished a proposal that a protest has been filed and that the award of a contract is being postponed until a final decision is issued.

C. The DISTRICT reserves the right to proceed with an award if it is determined that:

1. The items to be procured are urgently requested; or
2. Delivery or performance will be unduly delayed by failure to make the award promptly; or
3. Failure to make a prompt award otherwise causes undue harm to the DISTRICT, the State of Connecticut or the Federal Government.

D. If it appears that the award may be invalidated and a delay in awarding the contract is not prejudicial to the DISTRICT's interest, the DISTRICT may suspend the award of a contract.

The DISTRICT will evaluate any protest and the Chairman of the Board or his designee will make a decision. The DISTRICT'S determination will be final. Following an adverse decision by the DISTRICT, the protester may file a protest with the FTA only if the DISTRICT fails to follow its protest procedures, since a review of protests by FTA are limited to procedure only.

An appeal to FTA must be received by the applicable FTA regional office, with a copy to the DISTRICT, within five (5) working days, of the District's denial of the protest. It must include the DISTRICT project solicitation number, a statement of the grounds for protest and all supporting documentation. The protest must state in detail the District's alleged failure to follow protest procedures.

Failure to comply with the above protest procedures will render a protest untimely and/or inadequate and shall result in its rejection.

AWARD. The District will review proposals and will award a contract to the responsive and responsible Proposer, whose Proposal is most advantageous to the DISTRICT, all factors being considered. All proposers will be notified in writing seven (7) calendar days in advance of the date Valley Transit District intends to make an award.

THE DISTRICT RESERVES THE RIGHT TO INTERVIEW AND REVIEW MATERIAL. THE DISTRICT RESERVES THE RIGHT TO NEGOTIATE ANY PART OF THIS PROPOSAL INCLUDING ON A COST ELEMENT BASIS AND/OR REQUEST A BEST AND FINAL PROPOSAL. ADDITIONALLY, THE DISTRICT RESERVES THE RIGHT TO AWARD ON THE BASIS OF INITIAL PROPOSALS SUBMITTED WITHOUT ANY NEGOTIATIONS OR DISCUSSIONS. PROPOSALS SHOULD BE SUBMITTED INITIALLY ON THE MOST FAVORABLE TERMS POSSIBLE. THE DISTRICT ADDITIONALLY RESERVES THE RIGHT TO REJECT ALL PROPOSALS AND REISSUE THE RFP. THE DISTRICT RESERVES THE RIGHT TO WAIVE ANY INFORMALITIES OR VARIATION IN ANY PROPOSAL THAT IT DEEMS TO BE IMMATERIAL OR TO REJECT ANY OR ALL, OR ANY PART OF ANY PROPOSAL IF SUCH ACTION IS DEEMED TO BE IN THE BEST INTEREST OF THE DISTRICT AND/OR THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF CONNECTICUT.

SINGLE PROPOSAL IF RECEIVED. If only a single Proposal is received, the DISTRICT may require that the Proposer provide a cost analysis or a price comparison between that of similar services to assure that the price is fair and reasonable. If requested, the Proposer shall provide the cost analysis or price comparison within seven (7) calendar days of the date requested. The DISTRICT reserves the right to reject or accept the Proposal on the basis of the cost analysis or price comparison.

SECTION III

SPECIFIC CONTRACT TERMS AND CONDITIONS

INSURANCE TYPES AND THRESHOLDS

INSURANCE CERTIFICATES REQUIRED: Before any contract is executed, the successful Proposer will be required to file with the District, prior to the commencement of work or within twenty (20) days from the date of notification (which ever occurs first) a Certificate of Insurance. The certificate must be executed by a company authorized to write such business in the State of Connecticut, and the company must be authorized to underwrite the specific line coverage as designated below. The District will provide the Department of Transportation's standard insurance certificate form "CON-32A" (most current version at <http://www.ct.gov/dot/lib/dot/Documents/dconsultantpubs/con32.pdf>) Proposer is cautioned that only this form is acceptable. The insurance certificate and coverage requested must be updated and kept current throughout the term of the contract, including any extensions. Failure to submit proof of insurance coverage within the specified time frame will allow the District to re-award the contract or re-bid the project as it deems necessary. Insurance certificates must document that the Proposer has owner's and contractors protective liability, commercial general liability, automotive liability, workers compensation insurance, and any other insurance requirements in the amounts cited in the proposal document to protect the District in the event of a claim, and/or in accordance with any statutory requirements.

With respect to the services to be performed by the Proposer under the terms of a contract with the District , the Proposer will be required to obtain at its own cost and for the duration of the contract, for and in the name of the District and the State of Connecticut in conjunction with paragraph (A) below, and with the District and the State being named as an additional insured party paragraphs (B), (C), and (F), the following minimum liability insurance coverage at no cost to the District or the State. No changes to the types and dollar amounts of coverage will be allowed.

Proposer shall assume any and all deductibles in the described insurance policies. The Proposer's insurers shall have no right of recovery or subrogation against the District or the State and the described insurance shall be primary coverage. Any failure to comply with the claim reporting provisions of the policy shall not affect coverage provided to the District or the State. Each required insurance policy shall not be suspended, voided, cancelled or reduced except after 30 days prior written notice by certified mail has been given to the District and the State. "Claims made" coverage is unacceptable, with the exception of Professional Liability.

A. OWNER'S AND CONTRACTOR'S PROTECTIVE LIABILITY

Owner's and Contractor's Protective Liability Insurance for and in the name of the District and the State of Connecticut is required. This insurance will provide a total limit of **ONE MILLION DOLLARS (\$1,000,000.00)** per occurrence for all damages arising out of injury to or death of all persons and out of injury to or destruction of property in any one accident or occurrence and, subject to that limit per occurrence, a total (or aggregate) limit of **TWO MILLION DOLLARS (\$2,000,000.00)** for all damages arising out of bodily injury 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. COMMERCIAL GENERAL LIABILITY

Commercial General Liability Insurance, including Contractual Liability Insurance, providing a Combined Single Limit of **ONE MILLION DOLLARS (\$1,000,000.00)** for all damages arising out of bodily injury 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 occurrence, a total (or aggregate) limit of **TWO MILLION DOLLARS (\$2,000,000.00)** for all damages arising out of bodily injury to or death of all persons and out of injury to or destruction of property during the policy period. Coverage shall include Premises and Operations, Independent State, Products and Completed Operations, Contractual Liability and Broad Form Property Damage.

C. AUTOMOBILE LIABILITY

The operation of all motor vehicles, including those hired or borrowed, used in connection with the contract shall be covered by Automobile Liability Insurance providing a total of **ONE MILLION DOLLARS (\$1,000,000.00)** Combined Single Limit per occurrence for all damages arising out of bodily injury 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 (\$2,000,000.00)**. Coverage extends to owned, hired and non-owned automobiles. If the contractor does not own an automobile, but one is used in the execution of the contract, then only hired and non-owned coverage is required. When it is clearly established that no vehicle is used in the execution of the contract, then automobile coverage is not required.

D. WORKERS' COMPENSATION

The Contractor shall carry Workers Compensation Insurance at statutory coverage limits and/or, as applicable, insurance required in accordance with the U. S. Longshoremen and Harbor Workers Compensation Act, the Federal Employers Liability Act, all in accordance with the requirements of the laws of the State of Connecticut, and the laws of the United States respectively.

E. UMBRELLA LIABILITY

In the event the Contractor secures excess/umbrella liability insurance to meet the minimum requirements specified as items B, and C, (if required) the District and the State of Connecticut must be named as Additional Insured.

Proposer hereby indemnifies and shall defend and hold harmless the District and the State, and their officers and its employees from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, monetary loss, interest, attorney's fees, costs and expenses of whatsoever kind or nature arising out of the performance of the contract, including those arising out of injury to or death of Proposer's employees, whether arising before, during or after completion of the services hereunder and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part, by reason of any act, omission, fault or negligence of Proposer or its employees.

Updates on the insurance coverage are the responsibility of the contractors. Insurance requirements will be **strictly enforced**. Proposer should hand carry or mail Insurance Certificates to the District. **UNDER NO CIRCUMSTANCES SHOULD INSURANCE CERTIFICATES BE SENT TO THE STATE PROCUREMENT SERVICES OR TO ANY DISTRICT OFFICE.**

Please mail or hand carry certificates to:

**VALLEY TRANSIT DISTRICT
41 MAIN STREET
DERBY, CT 06418**

Contracts **WILL NOT** be issued without receipt of properly executed insurance certificates.

TERMINATION FOR DEFAULT If the Proposer fails to perform services in the manner called for in the contract, or if the Proposer fails to comply with any other provisions of the contract, the District may terminate the contract for default. Termination shall be effected by serving a notice of termination on the Proposed setting forth the manner in which the Proposer is in default. The Proposer will only be paid the contract price for services performed in accordance with the manner of performance set forth in the contract. In addition, the District may terminate the contract for convenience and without cause at the sole election of the District.

TERMINATION FOR CONVIENCE If it is later determined by the District that the Proposer had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor may allow the Contractor to continue work, or treat the termination as a termination for convenience.

OPPORTUNITY TO CURE The District in its sole discretion may, in the case of a termination for breach or default, allow the Proposer in which to cure the defect. If Proposer fails to remedy to the District's satisfaction the breach or default of any of the terms, covenants, or conditions of the Contract within ten (10) days after receipt by Proposer of written notice from the District setting forth the nature of said breach or default, the District shall have the right to terminate the Contract without any further obligation to Proposer. Any such termination for default shall not in any way operate to preclude the District from also pursuing all available remedies against Proposer for said breach or default.

WAIVER OF REMEDIES FOR ANY BREACH In the event that the District elects to waive its remedies for any breach by Proposer of any covenant, term or condition of the Contract, such waiver by the District shall not limit the District remedies for any succeeding breach of that or of any other term, covenant, or condition of the Contract.

PERFORMANCE DURING DISPUTE Unless otherwise directed by the District, Proposer shall continue performance under this Contract while matters in dispute are being resolved.

CLAIMS FOR DAMAGES Should the District suffer injury or damage to person or property because of any act or omission of the Proposer or of any of his employees, agents or others for whose acts the Proposer is legally liable, a claim for damages therefore shall be made in writing, by the District to the Proposer within a reasonable time after the first observance of such injury of damage.

DISPUTE RESOLUTION Unless the Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the District and the Proposer arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Connecticut, New Haven County.

RIGHTS. The duties and obligations imposed by the contract and the rights and remedies available hereunder shall be in addition to and not in limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. Failure of the DISTRICT to act shall in no way constitute a waiver of any right afforded to in under the contract, nor shall any such action or failure to act constitute an approval of or an acquiescence in any breach of this agreement, except as may be specifically agreed in writing by the DISTRICT.

ASSIGNMENT. The selected Proposer shall not assign, transfer, convey or otherwise dispose of, in whole or part, the contract, or any award relating to this RFP without the prior written approval of the DISTRICT, which approval the DISTRICT may withhold in its sole and absolute discretion.

CONTRACT CHANGES. The DISTRICT may, at any time, by a written order, make changes, within the general scope of the contract. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under the contract, whether changed or not changed by any such order, a mutually acceptable equitable adjustment shall be made in the contract price and the contract shall be modified in writing accordingly. Any claim by the DISTRICT for adjustment under this clause must be asserted within ten (10) calendar days from the date of receipt by the Proposer of the notification of change.

MONTHLY INVOICING. All invoices must be addressed and sent directly to **VALLEY TRANSIT DISTRICT, 41 Main Street, Derby, CT 06418**. Payment terms shall be net thirty (30) days after the invoice date. The DISTRICT is exempt from the payment of state sales tax. Tax-exempt certificates will be provided upon contract award.

INTEREST. VALLEY TRANSIT DISTRICT will not pay interest on unpaid or disputed invoices, whether due or overdue.

TRAVEL REGULATION. No amounts will be paid by the District for travel unless specifically authorized.

PAYMENT OF RECOVERABLE COST DUE THE STATE. The State shall have the right to set off against amounts otherwise due to the Proposer under this agreement or under any other agreement or arrangement that the Proposer has with the State (a) any cost that the State incurs which are due to the Proposer's non-compliance with this contract and (b)

any other amounts that are due and payable from the Proposer to the State. Any sums taken in set-off from the Proposer shall be deemed to have been paid to the Proposer for purposes of the Proposers' payment obligations under Connecticut General Statute Section 49-41c.

LAW AND VENUE. This Agreement shall be governed, interpreted and construed under and in accordance with the laws of the State of Connecticut, whether or not its conflict of law principles would dictate otherwise. This Agreement shall be deemed to have been made in Derby, Connecticut.

The Proposer irrevocably consents with respect to any claims or remedies at law or in equity, arising out of or in connection with this contract to the jurisdiction of the Connecticut Superior Court (except as otherwise required by law or that Agreement), and, with respect to any claim between the parties, to venue in Judicial District of Derby - Milford, and irrevocably waives any objections that it may have to such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such court or on the basis of forum non conveniens or otherwise. Nothing herein shall be construed to waive any of the DISTRICT's immunities.

CONTRACT AND REQUIRED CERTIFICATIONS. Proposer should be aware that the contents of the successful Proposal as well as the entire content of RFP #01-2010 and attachments as the District may determine would become a part of the contract to be awarded by the District. The contract shall be prepared by the District and provided to the successful Proposer. The Proposer shall execute and return the contract to the District within ten (ten) days or the District may cancel the award. Additionally, the Proposer should be aware of the contents of the certifications contained herein, as it will be required to execute as required by Federal Transit Administration (FTA), State of Connecticut and the DISTRICT guidelines. Failure of Proposer to accept these obligations will result in the rejection of its Proposal or cancellation of any award.

INDEMNITY AND INSURANCE. Proposer agrees to, and will, indemnify and hold the DISTRICT, State of Connecticut, and its board members, officers, agents, employees, representatives and attorneys, and each of them (hereinafter, collectively, "indemnities") harmless from any liability in any amount for damages or claims for damages resulting or alleged to have resulted from personal injury (including, but not limited to death, emotional or mental distress and loss of consortium) and/or for property damage, which may arise or be alleged to have arisen in any way from Proposer's performance under the contract. Proposer further agrees to, and will, defend indemnities, or any of them, from any claims, actions, or suits for any damages, injuries or losses whatsoever, caused or alleged to have been caused by reason of Proposer's responsibilities as contemplated by the contract. Proposer's obligations and duties as established in this Section will be in force and apply to Proposer's acts, omissions, or failures to act of any kind, whether negligent, the result of Proposer's willful or intentional misconduct, or otherwise, and shall further apply and be in force even if it is contended the acts, omissions or failures to act of parties other than the Proposer (including indemnities) caused or contributed to the losses, injuries or damages claimed.

For the purpose of the preceding paragraph, the term "losses" means all amounts paid to settle or satisfy any judgments or awards resulting from any claims arising from an occurrence, plus all amounts paid on account of attorney's fees, court costs and any other costs and expenses relating to the investigation, defense, satisfaction and/or settlement of such claims.

The Proposer shall further assume all liability for loss by reason of neglect or violations of Federal, State or Local laws, ordinances or regulations, and shall do and perform all work necessary to conform to such laws, ordinances and regulations.

INTERPRETATION OF LANGUAGE. After contract award and during the course of the contract period should any question arise as to the interpretation of any language of this RFP or of any other contract document, the question shall be submitted to the DISTRICT's Chairman of the Board, prior to the opening of Proposals or his/her designee, who shall interpret the language. His interpretation shall be conclusive.

WAIVER. The waiver of any provision, term or condition herein by the DISTRICT on any occasion shall not constitute a general waiver and shall not release the selected Proposer from the obligation of otherwise performing or observing such provision, term or condition.

SUBJECT TO FINANCIAL ASSISTANCE. The services described in the RFP may be purchased with funding from the State of CDOT and the FTA. The award of this contract is subject to a financial assistance provided to the DISTRICT by the CDOT and the FTA. In the event that funding from these sources is eliminated or decreased, the DISTRICT reserves the right to terminate the contract resulting, or modify it, accordingly.

SECTION IV

PROPOSAL SUBMISSION

Proposals, to be considered and evaluated, must be received before **3:00 pm July 22, 2010 at the VALLEY TRANSIT DISTRICT, 41 Main Street, Derby, CT 06418**. Proposals received after the above scheduled opening time and date will not be considered. Faxed or e-mailed proposals are not acceptable.

A proposal consisting of, one (1) original and five copies, signed by an authorized representative of your firm, must be submitted in a sealed envelope or package. The notation **“TRANSIT MANAGEMENT SERVICES FOR THE VALLEY TRANSIT DISTRICT, RFP # 01-2010”** must be clearly marked on the front of that sealed envelope or package. Proposals must be submitted to the attention of, Chairman C/O General Manager, **VALLEY TRANSIT DISTRICT 41 Main Street, Derby, CT 06418**.

Failure to properly mark your Proposals appropriately may result in your Proposal being disqualified for noncompliance. It is solely and strictly the Proposer's responsibility to ensure that their Proposal is delivered prior to the closing date and time. The DISTRICT assumes no responsibility for any disclosure of Proposal terms for a Proposal that is submitted which does not meet these sealed Proposal marking requirements including delays caused by United States mail delivery or any other occurrence.

In order to expedite the review process of proposals, each proposal submitted must follow the outline listed under the Proposal Evaluation which is Section V of this RFP. Each proposal must contain a one-page cover letter indicating your interest in being considered and why you should be selected, detailed responses to all Proposal requirements including but not limited to all items outlined in the Proposal Evaluation section and any other information that you feel is pertinent and will assist the District in making a selection. Provide a copy of your firm's brochure along with any and all related forms, policies and procedures. Also required submittals must include required proposal forms as provided in this RFP, including all required information and pricing details. Failure to do so may result in the proposal being considered non-responsive and it may be rejected.

SECTION V

PROPOSAL EVALUATION

The following represent the principal selection criteria and the corresponding weighting factor for each section which will be considered during the evaluation process of the Proposals.

I. RESPONSIBILITY SPECIFICATIONS: 35%

The Responsibility questionnaire and its contents will be reviewed under this section for determining Proposer responsibility. In order to qualify as a responsible Proposer, in addition to other requirements herein provided, a Proposer must be prepared to prove to the satisfaction of the DISTRICT that it has the integrity, skill, and the time specified. All Proposers shall complete and submit the Responsibility Questionnaire contained in the required form submittal section of this RFP. All items, including, but not limited to references, insurance certifications, etc., will be checked and verified. The experience and capability of the Proposer to undertake the services described herein will be evaluated for the maximum benefit to the DISTRICT.

Services will be acceptable only if a person, firm or corporation with the following qualifications offers them:

- ✓ Adequate experience and verifiable history in the provision of services sought through this RFP;
- ✓ Adequate financial resources to fulfill the contract in a satisfactory manner.

II. STATEMENT OF WORK 35%

A. Organizational structure of firm.

Proposer should submit at a minimum a description of the organizational structure of their firm. This description of the Proposer organizational structure should cover the corporate, regional and contract levels of management. The term of the contract, will be for a period of one year with the sole option of the DISTRICT, at its discretion, to renew for up two (2) additional one (1) year periods.

Proposer shall have at least seven (7) years of experience in the transit industry and be knowledgeable of federal and state rules and regulations. The Proposer should also have experience with local and state governments. The Proposer shall provide a detailed resume for the proposed employee that the Proposer will use to fulfill its obligations that clearly identifies all related industry experience.

Specific responsibilities of the successful Proposer will include, but may not be limited to the following:

- ✓ Assist in the development and preparation of a strategic plan for the District.
- ✓ Work with *the DISTRICT, BOARD OF DIRECTORS, the GENERAL MANAGER and the VALLEY COUNCIL OF GOVERNMENTS* to transfer FTA grant writing responsibilities from VCOG to the District.
- ✓ Prepare and administer the budget.
- ✓ Provide overall management and policy recommendations.
- ✓ Assist in the development and implementation of a policy and procedures handbook.

B. The availability and plan for the technical support to be provided.

The successful Proposer will have a staff that is available to support the work described herein on an as needed basis. The central staff must have sufficient experience so as to be able to offer any such assistance in a timely manner.

- ✓ Please list the names of all staff that will be available to support this engagement. Identify their particular expertise and if possible provide a resume, which details their work for similar transit systems.

III. PRICE AND CONTRACT TERM

30%

Prospective Proposers must submit the monthly proposed management fee for the one (1) year contract term and the fee, stated separately for each of the two option years in the event that the District elects to exercise its option renewals upon the sole discretion of the District. This fee must include all charges for all of the services enumerated in this RFP. Each proposal shall contain a completed and properly signed Price Proposal Form contained in the forms section of this RFP. Proposer shall also include any items that it would provide that would benefit the DISTRICT and the cost, if any, of such items.

Evaluation and award will be accomplished in accordance with this RFP and including the price (proposed management fee) and/or value of any benefits offered to the DISTRICT in the Proposal. The Evaluation Committee will determine if the price is fair and reasonable based on the price estimate prepared prior to this solicitation and consistent with the budgetary figure set for this project.

ORAL PRESENTATIONS. During the evaluation process, the District may, at its discretion, request any one or all of the Proposers to make oral presentations. Such presentations will provide Proposers with an opportunity to answer any questions the District may have on the firm's Proposal. Not all respondents may be asked to make such oral presentations.

Proposals will be analyzed for responsiveness, compliance with statement of work, capabilities, quality, price, instructions and all other aspects of this RFP.

Proposals that do not comply with these instructions and do not include the required information, forms and certifications may be rejected as insufficient or not be considered. The DISTRICT reserves the right to request a Proposer to provide any missing information and to make corrections.

Proposers are advised to follow all instructions. Therefore, Proposers shall pay close attention to this format and instruction. Submittal of a Proposal will signify that the Proposer will accept the contract as prepared by the District, except such conditions, exceptions, reservations or understandings explicitly, fully and separately stated in the Proposer's Proposal submittal. Any such conditions, exceptions, reservations or understandings, which do not result in the rejection of the Proposal, are subject to evaluation under the Proposal evaluation criteria.

The DISTRICT may appoint an evaluation committee who will be responsible for the review and evaluation of Proposals submitted in response to this RFP. The Proposer ranked number one and whose price Proposal is acceptable, may be contacted regarding any potential areas to be negotiated. If negotiations are conducted and not successful with the top ranked Proposer(s) then negotiations may be conducted with the next highest ranking Proposer(s) and so on down the line until negotiations are successful in producing a list of qualified appraisers to call upon for service that is found to be the most advantageous to the DISTRICT, cost and other factors considered. The DISTRICT reserves the right to contact Proposer(s) regarding an interview, areas of concern, areas to be negotiated and/or request a best and final Proposal. The DISTRICT additionally reserves the right to award on the basis of initial Proposals submitted without any negotiations or discussions if such action is deemed to be in the best interest of the DISTRICT and/or the Department of Transportation of the State of Connecticut. In any event, the DISTRICT reserves the right to accept other than the lowest cost Proposal. All unsuccessful Proposers will be contacted via U.S. mail notifying them of their status.

THE DISTRICT RESERVED THE RIGHT TO POSTPONE THE PROPOSAL OPENING DATE AND/OR REJECT ANY OR ALL PROPOSALS FOR ANY REASON, AS DETERMINED BY THE DISTRICT TO BE IN ITS BEST INTERESTS.

SECTION VI

RESPONSIBILITY QUESTIONNAIRE

PART I - IDENTITY OF PROPOSER

Company Full Legal Name: _____

Contact Person: _____

Legal Address: _____

Legal Telephone Number: _____

Indicate all other names by which this organization has been know and the lengths of time know by each name. Please attach additional pages as needed.

Company Federal taxpayer identification number _____

Operating as one of the following forms of legal entity (Check whichever applies and fill in any appropriate blanks):

_____ An individual or sole proprietorship

_____ A general partnership

_____ A limited partnership

_____ A joint venture consisting of: _____
and _____
(List all joint venturers on a separate sheet if this space is inadequate.)

_____ A non-profit organization

_____ A corporation organized or incorporated under the laws of the following state or country: _____
_____ on the following date: _____.

1. If the organization is a corporation, indicate the following:

Date of incorporation: _____

State of incorporation: _____

President's name: _____

Vice-President's name: _____

Secretary's name: _____

2. Certificate of Incorporation been previously filed with VALLEY TRANSIT DISTRICT (corporation only)

Yes No If "NO", attach a certified copy

3. How many years has this organization been in business under its present business name? _____

4. If the organization is an individual or a partnership, answer the following:

Date of organization: _____

Name and address of all partners (state whether general or limited partnership)

Please attach additional pages as needed.

5. If the organization is other than a corporation or partnership, describe the organization and name its principals. Please attach additional pages as needed:

6. List the States in which your organization is legally qualified to do business. Indicate category or trade and indicate registration or license numbers, if applicable. List states in which partnership or trade name is filed. Please attach additional pages as needed.

9. Bank References: List names, addresses and telephone numbers of the financial institutions used by your organization. Please attach additional pages as needed:

10. Has your organization ever failed to complete any work awarded to you? If so, note when, where and attach a separate sheet of explanation to this form.

11. Within the last five years, has any officer or partner of your organization ever been an officer or partner of another organization where it failed to complete a contract? If so, note whom, when and where and attach a separate sheet of explanation to this form.

12. Attach a corporate financial statement for the most recent year. If a financial statement is not available, please provide other suitable documentation of the financial stability of the organization. It is imperative that the company demonstrates that it has the financial capacity to carryout the overall performance of this project.

Name of the firm preparing the financial statement and date of preparation:

Is this financial statement for the identical organization named on the first page of this questionnaire?

If not, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent, subsidiary):

Will this organization act as a guarantor of the contract for management? _____

I certify that the attached financial statements for this Proposal properly reflect the financial position of the company for the periods indicated on the financials.

This _____ Day of _____, 2009

Title: _____

Name: _____

PART III - TECHNICAL

- 1. List each contract which, during the last two years, the person/entity contracting with you: i) terminated for default; ii) sued to compel performance; iii) sued to recover damages, including, without limitation, upon alleged breach of contract, misfeasance, error or omission or other alleged failure on your part to perform as required by your contract; or iv) called upon a surety to perform the work.

- 2. During the past three years, has the Proposer's firm ever been a party to a bankruptcy or reorganization proceeding?

YES NO If answer is "YES" explain below.

3. a. If any professional or other licenses, permits, or certifications are required to perform the work/services called for by this solicitation, list the license, permit, or certification that the Proposer or Proposer's employees or agents possess. If none, state "None".

1. Describe whether any present or anticipated commitments and/or contractual obligations might have an influence on the capabilities of the Proposer to perform the work called for by this Contract. Any apparent conflicts as between the requirements/commitments for this Contract with respect to the use of Proposer's resources, such as management or technical expertise or financing, should be explained. If none, state "None".

5. a. If any professional or other licenses, permits, or certifications are required to perform the work/services called for by this solicitation, list the license, permit, or certification that the Proposer or Proposer's employees or agents possess. If none, state "None".

<u>License or Permit or Certification</u>	<u>Name of Holder</u>	<u>Issuing State or Entity</u>
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- b. If any insurance is required please provide certificates of insurance naming VALLEY TRANSIT DISTRICT and the State of CT Department of Transportation as an additional insured. If none, state "None".

<u>Type of Insurance</u>	<u>Name of Insuring Co.</u>	<u>Limit of coverage</u>
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c. Have any of the Proposer's officers, partners, owners, managers or employees had any project related licenses, permits or certifications revoked or suspended in the past three years.

YES

NO

If answer is "YES" explain below.

PART IV - VERIFICATION AND ACKNOWLEDGMENT

STATE OF _____)

) ss.:

COUNTY OF _____)

On the _____ day of _____, 200__, before me personally came and appeared,

_____, by me known to be said person, who swore under oath as follows:

1. He/she is _____ of _____
(Print title) (Print name of firm)

2. He/she is duly authorizes to sign this Questionnaire on behalf of said firm and duly signed this document pursuant to said authorization.

3. The answers to the questions set forth in this Questionnaire are true, accurate and complete.

4. He/she acknowledged and understands that the Questionnaire includes provisions, which are deemed included in the Contract if awarded to the firm.

Sworn to before me this _____ day of _____, 200__

(Notary Public)

SECTION VII

REQUIRED PRICING FORMS

Fee Proposal Form

For

VALLEY TRANSIT DISTRICT

RFP #01-2010

In accordance with the specifications, terms and conditions of the RFP and related addenda, if any, which is hereby acknowledged, the following fees are submitted on the behalf of:

Printed Legal Name and Address of Proposer

	Monthly Management Fees	Yearly Management Fees
<i>Year One</i> \$ _____	\$ _____ x 12 months =	\$ _____

Total Initial Term Management Fee:

<i>Year Two Optional -</i>	\$ _____ x 12 months =	\$ _____
<i>Year Three Optional -</i>	\$ _____ x 12 months =	\$ _____

Signature of Authorized Representative _____

Printed Name and Title _____

Date: _____

SECTION VIII

STATE OF CONNECTICUT REQUIREMENTS

By way of contract with the State of Connecticut Department of Transportation Valley Transit District has agreed to adhere to the following DOT policy and to incorporate the requirement of such policy in all third party contracts. By way of proposal submittal the Offeror hereby agrees to adhere to the policies, statements and regulations contained in this section.

**CONNECTICUT DEPARTMENT OF TRANSPORTATION
POLICY STATEMENT**

POLICY NO. F&A-10
January 6, 2006

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 laws 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 his 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 his designee.

The DOT Ethics Compliance Officer Is:

Dave F. Crowther, Director
Office of Management Services
**For questions, contact the Ethics
Compliance Officer’s Designee:**
Alice M. Sexton, Principal Attorney
Office of the Commissioner
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
Fax. (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 the 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 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 "Construction/Bidding Contracts Menu," 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. 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 the calendar year does not exceed fifty dollars (\$50). 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. ***Gift Exchanges Between Subordinates and Supervisors:*** A recent change in the Code of Ethics prohibits exchange of gifts valued at \$100 or more between (*i.e.*, to and from) supervisors and employees under their supervision. Advisory opinions of the Citizen Ethics Advisory Board's predecessor, the State Ethics Commission, suggest that, absent any other applicable exception, gifts exchanges between State employees of *any reporting relationship* should be limited to benefits with a cumulative value of less than \$100 *per year* where benefits are given by virtue of the State employee's or public official's office/position.
3. ***Acceptance of Gifts to the State.*** A recent change to the Code of Ethics for Public Officials placed limits on the ability of State employees and public officials to accept "gifts to the State" that facilitate or benefit State action or functions. Before accepting any benefit as a "gift to the State," DOT employees shall contact the Ethics Compliance Officer.
4. ***Charitable Organizations and Events:*** No DOT employee shall, either individually or as a member of a group, directly or indirectly solicit the sale of tickets for a charitable event, or 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 , or from any person or entity whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
5. ***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% 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.

6. **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 Proposer) 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.

7. **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. 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. No DOT employee shall have, directly or indirectly, a financial interest in any business, firm, or enterprise doing business with the State of Connecticut which could cause or create a conflict with, or influence the performance of, the employee's duties with the Department.
8. **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 valued at \$100 or more unless the contract has been awarded through an opened public process.
9. **Sanctioning Another's Ethics Violation:** No DOT official or employee shall counsel, authorize, or otherwise sanction action that violates any provision of the Code of Ethics.
10. **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.
11. **Political Activities:** Certain political activities may also result in a conflict of interest for DOT employees. Political activities of State employees are governed by both the Federal Hatch Act, Conn. Gen. Stat. &5-266a, as well as Regs. of Conn. State Agencies &5-266a-1. Employees are encouraged to review DAS General Letter regarding political activities of employees, found at: <http://www.das.state.ct.us/HR/om/GL214D.pdf>, and contact the Ethics Compliance Officer, the Office of State Ethics, and, if necessary, the federal Office of Special Counsel, Hatch Act Unit: www.osc.gov/hatchact.htm.

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 the leave State service*. **Upon leaving State service:**

- **Confidential Information:** DOT employees must not 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 the 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.

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 Proposer/consultant/vendor selection, evaluation and 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, Proposers, 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
- DAS General Letter regarding political activities of employees, found at: <http://www.das.state.ct.us/HR/om/GL214D.pdf>.
- The Office of State Ethics web site which 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 his 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 February 8, 2005)

Stephen E. Korta, II
Commissioner

(Managers and supervisors are requested to distribute a copy of this Policy Statement to all employees under their supervision.)

CONNECTICUT DEPARTMENT OF TRANSPORTATION

POLICY STATEMENT

POLICY NO. F&A-19

April 17, 2006

SUBJECT: Policy on Disadvantaged Business Enterprise Program

The Connecticut Department of Transportation (ConnDOT) is committed to the effective implementation of the Disadvantaged Business Enterprise (DBE) Program as defined in Title 49, Code of Federal Regulations (CFR) Part 26. This program will be executed in accordance with the regulations of the United States Department of Transportation (DOT) as a condition of receiving DOT funding.

It is the policy of ConnDOT to:

- a) Ensure nondiscrimination in the award and administration of DOT-assisted contracts in ConnDOT's highway, transit and airport financial assistance programs;
- b) Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- c) Ensure that ConnDOT's DBE Program is narrowly tailored in accordance with applicable law;
- d) Ensure that only firms which fully meet this part's eligibility standards are permitted to participate as DBEs;
- e) Help remove barriers to the participation of DBEs in DOT-assisted contracts; and
- f) Assist in the development of firms that can compete successfully in the marketplace outside the DBE Program.

ConnDOT will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract. ConnDOT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. ConnDOT shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

In administering the DBE Program, ConnDOT will not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, national origin, or sex.

No Proposer, subrecipient, or subProposer shall discriminate on the basis of race, color, national origin, or sex in the performance on any DOT-assisted contract. Proposers shall carry out the applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Proposer to carry out these requirements will result in a material breach of the contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of the agreement. The DOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE Program whose conduct is subject to such action. The DOT may refer to the United States Department of Justice, for prosecution under 18 United States Code (USC) 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable federal statutes.

The Manager of Contract Compliance has been designated as the DBE Liaison Officer. In that capacity, the Manager of Contract Compliance is responsible for implementing all aspects of the DBE Program.

This DBE Program Policy Statement is distributed to all ConnDOT managers and to the DBE and non-DBE community. The Policy Statement is also available on the ConnDOT web site.

(This Policy Statement supersedes Policy Statement No. F & A – 19 dated May 12, 2003.)

AGREEMENTS WITH GOALS
SPECIAL PROVISIONS
DISADVANTAGED BUSINESS ENTERPRISES
AS SUBPROPOSERS AND MATERIAL SUPPLIERS OR MANUFACTURERS
FOR FEDERAL FUNDED PROJECTS

Revised – October 16, 2000

NOTE: Certain of the requirements and procedures stated in this special provision are applicable prior to the execution of the Contract document.

I. **ABBREVIATIONS AND DEFINITIONS AS USED IN THIS SPECIAL PROVISION**

- a. “CDOT” 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. “Proposer,” means a consultant, second party or any other entity doing business with CDOT or, as the context may require, with another Proposer.
- 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 Proposer (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 Regulations (“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. “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 CDOT 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, Aluets, 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 Proposer, sub-recipient or subProposer shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Proposer shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted Contracts. Failure by the Proposer 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 DOT deems appropriate.
- B. The Proposer shall cooperate with CDOT 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 Proposer shall also cooperate with CDOT and DOT in reviewing the Proposer’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 Proposer shall designate a liaison officer who will administer the Proposer's DEB program. Upon execution of this Contract, the name of the liaison officer shall be furnished in writing to CDOT's Division of Contract Compliance.
- D. For the purpose of this Special Provision, DBEs to be used to satisfy the DBE goal must be certified by CDOT's Division of Contract Compliance for the type(s) of work they will perform.
- E. If the Proposer 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 concurrence from CDOT's unit administering the Contract, CDOT will not pay the Proposer for the value of the work performed by organizations other than the designated DBE.
- F. At the completion of all Contract work, the Proposer shall submit a final report to CDOT's unit administering the Contract indicating the work done by, and the dollars paid to DBEs. If the Proposer does not achieve the specified Contract goals for DBE participation, the Proposer shall also submit written documentation to the CDOT unit administering the Contract detailing its good faith efforts to satisfy the goal that were made during 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 DBEs in order to increase the likelihood of achieving the state goal.
 - 2. A detailed statement, including documentation of the efforts made to contact and solicit bids/proposals with CDOT certified DBEs, including the names, addresses, dates and telephone numbers of each DBE contacted, 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 nature of response from firms contacted.
 - 3. Provide a detailed statement for each DBE that submitted a subcontract proposal, which the Proposer considered not to be acceptable stating the reasons for this conclusion.
 - 4. Provide documents to support contacts made with CDOT requesting assistance in satisfying the Contract specified goal.
 - 5. Provide documentation of all other efforts undertaken by the Proposer to meet the defined goal.
- G. Failure of the Proposer 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 Proposer 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. However, in instances where the Proposer can adequately document of substantiate its good faith efforts made to meet the specified percentage to the satisfaction of CDOT, no reduction in payments will be imposed.
- H. All records must be retained for a period of three (3) years following acceptance by CDOT of the Contract and shall be available at reasonable times and place for inspection by authorized representatives of CDOT 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.

- I. Nothing contained herein, is intended to relieve any Proposer or subProposer 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 DBEs, CDOT requires the following:

- A. The Proposer shall assure that certified DEBs 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. Contract goal for DBE participation equaling 0 percent of the total Contract value has been established for this Contract. Compliance with this provision may be fulfilled when a DBE or any combination of DBEs perform work under Contract in accordance with 49 CFR Part 26, Subpart C, Section 26.55, as revised. **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 Proposer or its affiliate can not be counted toward the goal.**

If the Proposer does not document commitments, by subcontracting and/or procurement of material and/or services that at least equal the goal stipulated in III-B, or document a plan which indicates how the Contractor intends to meet the goal in the future phase(s) of the work, the Proposer must document the good faith efforts that outline the steps it took to meet the goal in accordance with VII.

- C. Prior to execution of the Contract the Proposer shall indicate, in writing on the forms provided by CDOT to the Director of Contract Administration or CDOT's unit administering the Contract, 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 and the dollar amount of participation. This information shall be signed by the named DBE and the Proposer. The named DBE shall be from a list of certified DBEs available from CDOT. **In addition, the named DBE(s) shall be certified to perform the type of work they will be contracted to do.**
- D. The prime Proposer shall provide a fully executed copy of each agreement with each DBE named to achieve the goal indicated in III-B to CDOT's unit administering the Contract.
- E. The Proposer is required, should there be a change in a DBE they submitted in III-C, to submit documentation to CDOT's unit administering the Contract which will substantiate and justify the change, (i.e., documentation to provide a basis for the change for review and approval by CDOT's unit administering the Contract) prior to the implementation of the change. The Proposer must demonstrate that the originally named DBE 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 Proposer's ability to negotiate a more advantageous agreement with another subProposer 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. Proposers subcontracting with DBEs to perform work or services as required by this Special Provision shall not terminate such firms without advising CDOT's unit administering the Contract 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 to unwilling to perform or is terminated for just cause the Proposer 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 CDOT's unit administering the Contract 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 Proposer shall submit a report to CDOT's unit administering the Contract indicating the work done by, and the dollars paid to the DBE for the current quarter and to date.

IV. MATERIAL SUPPLIERS OR MANUFACTURERS

- A. If the Proposer elects to utilize a DBE supplier or manufacturer to satisfy a portion or all of the specified DBE goal, the Proposer must provide the CDOT with:
 - 1. An executed "Connecticut Department of Transportation DBE Supplier/Manufacturer Affidavit" (sample attached), and
 - 2. 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 manufacture is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Department of Transportation or Proposer.

V. NON-MANUFACTURING OR NON-SUPPLIER DBE CREDIT

- A. Proposers 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 CDOT 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 a 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 CDOT 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 CDOT 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. DBEs 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 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 Proposer does not document commitments by subcontracting and/or procurement of material and/or services that at least equal the goal stipulated in III-B before execution of the Contract, or document a plan which indicates how the Proposer intends to meet the goal in future phase(s) of the work, the Proposer must document the good faith efforts that outline the specific steps it took to meet the goal. Execution of the Contract will proceed if the Proposer's good faith efforts are deemed satisfactory and approved by CDOT. To obtain such an exception, the Proposer must submit an application to CDOT's Director of Contract Administration or CDOT's unit administering the Contract, which documents the specific good faith efforts that were made to meet the DBE goal. **Application forms for Review of Pre-Award Good Faith Efforts are available from CDOT's Division of Contract Administration.**

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 Proposer and not available for subcontracting;
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 state 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 or submit proposals;
 8. a statement setting forth the facts with respect to each DBE bid/proposal received and the reason(s) any such bid/proposal was declined;
 9. a statement setting forth the dates that calls were made to CDOT'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.
- B. All applications shall be submitted to the Director of Contract Administration or CDOT's unit administering the Contract. Upon receipt of the submission of an application for review of pre-award good faith efforts, CDOT's Director of Contract Administration or CDOT's unit administering the Contract 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 Proposer's good faith efforts. Within fourteen (14) days of receipt of the documentation the Division of Contract Compliance shall notify the Proposer by certified mail of the approval or denial of its good faith efforts.
- C. If the Proposer's application is denied, the Proposer shall have seven (7) days upon receipt of written notification of denial to request administrative reconsideration. The Proposer's request for administrative reconsideration should be sent in writing to: Director of Contract Administration or CDOT's unit administering the Contract, P.O. Box 317546, Newington, CT 06131-7546. The Director of Contract Administration or CDOT's unit administering the Contract will forward the Proposer's reconsideration request to the DBE Screening Committee. The DBE Screening Committee will schedule a meeting within fourteen (14) days from receipt of the Proposer's request for administrative reconsideration and advise the Proposer of the date, time and location of the meeting. At this meeting the Proposer 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 Proposer via certified mail a written decision on its reconsideration request, explaining the basis of finding either for or against the request. The DBE Screening Committee's decision is final. **If the reconsideration is denied, the Proposer shall indicate in writing to the Director of Contract Administration or CDOT's unit administering the Contract within fourteen (14) days of receipt of written notification of denial, the DBEs it will use to achieve the goal indicated in III-B.**
- D. Approval of pre-execution good faith efforts does not relieve the Proposer from its obligation to make additional good faith efforts to achieve the DBE goal should contracting opportunities arise during actual performance of the Contract work.

APPENDIX A TO 49 CFR PART 26 – GUIDANCE CONCERNING GOOD FAITH EFFORTS

- I. When, as a recipient, you establish a Contract goal on a DOT-assisted Contract, a Bidder/Proposer must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The Bidder/ Proposer can meet this requirement in either of two ways. First, the Bidder/Proposer can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the Bidder/ Proposer can document adequate good faith efforts. This means that the Bidder/Proposer must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.
- II. In any situation in which you have established a Contract goal, Part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a Bidder/Proposer that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the Bidder/ Proposer has made. The efforts employed by the Bidder/ Proposer should be those that one could reasonable expect a Bidder/Proposer to take if the Bidder/ Proposer were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE Contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE Contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.
- III. The Department also strongly cautions you against requiring that a Bidder/Proposer meet a Contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a Contract, even though the Bidder/Proposer makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.
- IV. The following is a list of types of actions which you should consider as part of the Bidder/Proposer's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive.. Other factors or types of efforts may be relevant in appropriate cases.
 - A. Soliciting through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the Contract. The Bidder/Proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The Bidder/Proposer must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
 - B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out Contract work items into economically feasible units to facilitate DBE participation, even when the prime Proposer might otherwise prefer to perform these work items with its own forces.
 - C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the Contract in a timely manner to assist them in responding to a solicitation.

- D. (1) Negotiating in good faith with interested DBEs. It is the Bidder/Proposer's responsibility to make a portion of the work available to DBE subProposers and suppliers and to select those portions of the work or material needs consistent with the available DBE subProposers and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
- (2) A Bidder/Proposer using good business judgment would consider a number of factors in negotiating with subProposers, including DBE subProposers, and would take a firm's price and capabilities as well as Contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a Bidder/Proposer's failure to meet the Contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime Proposer to perform the work of a Contract with its own organization does not relieve the Bidder/Proposer of the responsibility to make good faith efforts. Prime Proposers are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Proposer's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids/proposals in the Proposer's efforts to meet the project goal.
- F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or Proposer.
- G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- H. Effectively using the services of available minority/women community organizations; minority/women Proposers' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
- V. In determining whether a Bidder/Proposer has made good faith efforts, you may take into account the performance of other Bidder/Proposers in meeting the Contract. For example, when the apparent successful Bidder/Proposer fails to meet the Contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful Bidder/Proposer could have met the goal. If the apparent successful Bidder/Proposer fails to meet the goal, but meets or exceeds the average DBE participation obtained by other Bidder/Proposers, you may view this, in conjunction with other factors, as evidence of the apparent successful Bidder/Proposer having made good faith efforts.

CIVIL RIGHTS

The Second Party shall comply with the Regulations of the United States Department of Transportation (Title 49, Code of Federal Regulations, Part 21) issued in implementation of Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4, and Appendix CR attached hereto, both of which are hereby made a part of this Agreement.

- (a) For the purposes of this section, "Minority Business Enterprise" means any small Proposer or supplier of materials fifty-one percent or more of capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in 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 Conn. Gen. Stat. §32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "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.

For purposes of this section, "Commission" means the Commission on Human Rights and Opportunities.

- (b)(1) The Second Party agrees and warrants that in the performance of the contract such Second Party 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, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such Second Party 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. The Second Party 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, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such Second Party that such disability prevents performance of work involved; (2) the Second Party agrees, in all solicitations or advertisements for employees placed by or on behalf of the Second Party, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Second Party agrees to provide each labor union or representative of workers with which such Second Party has a collective bargaining agreement or other contract or understanding and each vendor with which such Second Party has a contract or understanding, a notice to be provided by the Commission advising the labor union or workers' representative of the Second Party's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Second Party agrees to comply with each provision of this section and Conn. Gen. Stat. §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Conn. Gen. Stat. §§46a-56, 46a-68e and 46a-68f; (5) the Second Party 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 Second Party as they relate to the provisions of this section and Section 46a-56. If the contract is a public works contract, the Second Party agrees and warrants that he will make good faith efforts to employ minority business enterprises as subProposers and suppliers of materials on such public works project.
- (c) Determination of the Second Party's good faith efforts shall include but shall not be limited to the following factors: The Second Party'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 Second Party shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its "good faith efforts".
- (e) The Second Party 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 subProposer, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Second Party 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 Conn.

Gen. Stat. §46a-56, provided if such Second Party becomes involved in, or is threatened with, litigation with a subProposer or vendor as a result of such direction by the Commission, the Second Party 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 Second Party 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.

1. Nondiscrimination (Sexual Orientation). The Second Party shall comply with the following:

- (a) Pursuant to Section 4a-60a of the Connecticut General Statutes, (1) The Second Party agrees and warrants that in the performance of the contract such Second Party will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Second Party agrees to provide each labor union or representative of workers with which such Second Party has a collective bargaining agreement or other contract or understanding and each vendor with which such Second Party 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 Second Party's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Second Party agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56 of the general statutes; (4) the Second Party 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 Second Party which relate to the provisions of this section and Conn. Gen. Stat. sec. 46a-56.
- (b) The Second Party shall include the provisions of subsection (a) 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 subProposer, vendor or manufacturer unless exempted by regulations or orders of commission. The Second Party 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 sanction for noncompliance in accordance with section 46a-56 of the general statutes; provided, if such Second Party becomes involved in, or is threatened with litigation with a subProposer or vendor as a result of such direction by the commission, the Second Party 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.

EXECUTIVE ORDERS

This Agreement is subject to the provisions of Executive Order No 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms, 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 this agreement as if they had been fully set forth in it. For complete text of said documents, please go to: http://www.das.state.ct.us/Purchase/Info/Executive_Orders.pdf

SECTION IX

REQUIRED PROPOSAL FORMS

**VALLEY TRANSIT PROPOSAL SUBMISSION PAGE
FOR MANAGEMENT SERVICES**

SUBMITTED BY _____

TO: Valley Transit District

The undersigned hereby declares that he/she has carefully read and examined the Advertisement and the Request and has decided to provide services and systems in conformance to the specifications and requirements of the RFP #01-2010 and any addendum thereto at the price stated in the attached proposal and or any final proposal offered.

I additionally certify that we are fully licensed, insured and have the proper equipment, systems personnel to handle the project as documented in this procurement document.

My Company also agrees and understands that in the event that VALLEY TRANSIT DISTRICT is required to purchase such services from another Vendor for any reason due to my company's failure to perform in accordance with the terms and conditions of this contract, my company will be charged the total cost of the other vendor(s) to perform the service, plus \$100.00 (per occurrence) to cover administrative fees and costs.

The Proposer hereby agrees to pay the aforesated amounts as fixed, agreed and liquidated damages, and not by way of penalty, to VALLEY TRANSIT DISTRICT and further authorizes VALLEY TRANSIT DISTRICT to deduct the amount of the damages from money due the Proposer under the Contract, computed as aforesaid. If the monies due the Proposer are insufficient or no monies are due the Proposer, the Proposer shall pay VALLEY TRANSIT DISTRICT the difference or the entire amount, whichever may be the case, within 30 (thirty) calendar days after receipt of a written demand by the Board of Directors.

Under no circumstances shall this provision be interpreted or extended to mean a relinquishment of rights for a claim for any other damages that VALLEY TRANSIT DISTRICT may have against the Proposer for any other reason whatsoever.

Firm Name: _____

Address: _____

Authorized by: _____

Signature: _____

Title: _____

Date: _____

NOTICE OF AWARD

By execution below, Procuring Agency accepts Offer as indicated above.

Purchasing and Contracts Officer: _____
Signature

Date of Award: _____

**CONNECTICUT REQUIRED CONTRACT/AGREEMENT
PROVISIONS DATED MARCH 6, 1998
“SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES”**

1. General

A. Equal employment Opportunity Requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246, Executive Order 11375, the Railroad Revitalization and Regulatory Reform Act of 1976 and other U.S. Department of Transportation nondiscrimination legislation are set forth in this Required Contract/Agreement Provision. The requirements set forth in these special provisions shall constitute the specific affirmative action requirements for project activities under this contract (or agreement) and supplement the equal employment opportunity requirements set forth in other related 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:

Proposers	Vendors (where applicable)
SubProposers	Suppliers of Materials (where applicable)
Consultants	Municipalities (where applicable)
Subconsultants	Utilities (where applicable)

C. The Company will work with the Connecticut Department of Transportation and the federal government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract or agreement.

D. The Company and all their subProposers or subconsultants holding subcontracts or subagreements of \$10,000 or more on federally assisted projects and \$5,000 or more on state funded projects, will comply with the following minimum specific requirement activities of equal employment opportunity. The Company will physically include these requirements in every subcontract or subagreement meeting the monetary criteria above with such modification or language as is necessary to make them binding on the subProposer or subconsultant.

E. These Required Contract Provisions apply to all state funded and/or federally assisted projects. activities and programs in all facets of the Connecticut Department of Transportation operations resulting in contracts or agreements.

2. Equal Employment Opportunity Policy

The Company will develop, accept and adopt as its operating policy and Affirmative Action Plan utilizing as a guide the Connecticut Department of Transportation Affirmative Action Plan Guideline.

3. Equal Employment Opportunity Officer

The Company will designate and make known to the State Department of Transportation contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. Dissemination of Policy

A. All members of the Company’s staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the Company’s equal employment opportunity policy and contractual responsibilities

to provide equal employment opportunity in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

- (1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less than once every six (6) months thereafter, at which time the Company's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable Company Official.
- (2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable Company official covering all major aspects of the Company's equal employment opportunity obligations within thirty (30) days following their reporting for duty with the Company.
- (3) All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate Company official in the Company's procedures for locating and hiring protected class group employees.

B. In order to make the Company's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the Company will take the following actions:

- (1) Notices and posters setting forth the Company's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
- (2) The Company's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

5. Recruitment

- A. When advertising for employees, the Company will include in all advertisements for employees the notation: "An Equal Opportunity Employer". All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
- B. The Company will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the Company will, through its EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the Company for employment consideration.

In the event the Company has a valid bargaining agreement providing for exclusive hiring of all referrals, the Company is expected to observe the provisions of that agreement to the extent that the system permits the Company's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the Company to do the same, such implementation violates Executive Order 11246, as amended.)

- C. The Company will encourage its present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in the areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. Personnel Actions

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoffs, and termination, shall be taken without regard to race, color, religion, sex, or national origin, etc. The following procedures shall be followed:

- A. The Company will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- B. The Company will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practice.
- C. The Company will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Company will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective actions shall include all affected persons.
- D. The Company will promptly investigate all complaints of alleged discrimination made to the Company in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the Company will inform every complainant of all of his avenues of appeal.
- E. The general contract provision entitled A(76) Affirmative Action Requirements is made part of this document by reference. In conjunction with this contract provision, only the job categories will change in order to be comparable with the job categories utilized by the Company proposing to do business with the Connecticut Department of Transportation. The goals and timetables will remain the same throughout the contract provision.

7. Training and Promotion

- A. The Company will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- B. Consistent with the Company's work force requirements and as permissible under Federal and State regulations, the Company shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contact performance. Where feasible, 25 percent of apprentices of trainees in each occupation shall be in their first year of apprenticeship of training. In the event the Training Special Provision is provided under this contract, this subparagraph will be superseded.
- C. The Company will advise employees and applicants for employment of available training programs and entrance requirements for each.
- D. The Company will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. Unions

If the Company relies in whole or in part upon unions as a source of employees, it will use its best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the Company either directly or through an association acting as agent will include the procedures set forth below:

- A. The Company will use its best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- B. The Company will use its best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin, etc.
- C. The Company is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the Company, the Company shall so certify to the Connecticut Department of Transportation and shall set forth what efforts have been made to obtain such information.
- D. In the event the union is unable to provide the Company with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the Company will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex or national origin, etc. making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that there shall be no excuse that the union with which the Company has a collective bargaining agreement providing for exclusive referral failed to refer minority employees). In the event the union referral practice prevents the Company from meeting the obligations pursuant to Executive Order 11246, as amended, and these provisions, such Company shall immediately notify the Connecticut Department of Transportation.

9. Subcontracting

- A. The Company will use its best efforts to solicit Proposals from and to utilize minority group subProposers, or subProposers with meaningful minority group and female representation among their employees. Companies shall obtain a list of applicable Disadvantaged Business Enterprise firms from the Division of Contract Compliance.
- B. The Company will use its best efforts to ensure subProposer compliance with their equal employment opportunity obligations.
- C. The General Contract Provisions entitled “Minority Business Enterprises as SubProposers” is made part of this document by reference and its requirements are applicable to all entities proposing to do business with the Connecticut Department of Transportation.

10. Records and Reports

For the duration of the project, the company will maintain records as are necessary to determine compliance with the Company’s equal employment opportunity obligations and Affirmative Action requirements. Additionally, the company will submit all requested reports in the manner required by the contracting agency.

- A. The number of minority and non-minority group members and women employed in each work classification on the project.
- B. The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to Companies which rely on whole or in part on unions as a source of their work force).
- C. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and

D. The progress and efforts being made in securing the services of minority and female owned businesses.

(1) All such records must be retained for a period of three (3) years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State Department of Transportation and the U.S. Department of Transportation including consultant firms.

(2) If on-the-job training is being required by the “Training Special Provision”, the Company will be required to furnish a Monthly Training Report and Supplement Report (1409) for each trainee.

11. Affirmative Action Plan

A. Proposers, subProposers, Vendors, suppliers, and all other Companies with contracts, agreements or purchase orders completely state funded will submit an Affirmative Action Plan if the contract value is \$5,000 or over.

B. Proposers, subProposers, Vendors, suppliers, and all other Companies with federally assisted contracts, agreements, or purchase orders valued at \$10,000 or more will submit an Affirmative Action Plan.

C. Companies with contracts, agreements, or purchase orders with total dollar value under that which is stipulated in A and B above shall be exempt from the required submission of an Affirmative Action Plan unless otherwise directed by the Division of Contract Compliance.

**CONNECTICUT DEPARTMENT OF TRANSPORTATION
AFFIRMATIVE ACTION REQUIREMENT**

For SubProposers of The Department of Transportation

Company Name
(if applicable include d/b/a) _____

Address _____

City/State/Zip _____

Area Code/Phone Number _____

Area Code/Fax Number _____

Contact Person _____

AFFIRMATIVE ACTION POLICY STATEMENT

It is the policy of this firm to assure that applicants are employed, and that employees are treated during employment, without regard to an individual's race, color, religion, age, sex, marital status, national origin or ancestry, present or past history of mental disability, mental retardation, learning disability or physical disability, including but not limited to, blindness except in the case of a bona fide occupational qualification or need. Such action shall include: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training. This policy and practice applies to all persons.

This firm will implement, monitor, enforce and achieve full compliance with this Affirmative Action Policy Statement in conjunction with the applicable federal and state laws, and applicable regulations and executive orders.

1. Civil Rights Act of 1964, as amended
2. Presidential Executive Order 11246, as amended
3. Title 23 U.S.C. 140
4. Title 49 C.F.R. Part 26
5. Governor's Executive Orders #3 and #17
6. Connecticut Fair Employment Practices Act
7. Americans with Disabilities Act of 1990
8. Public Act No. 91-58
9. Specific Equal Employment Opportunity Responsibilities
10. Required Contract Provisions Federal Aid Construction Contracts
11. A (76) Affirmative Action Requirements
12. Training Special Provision
13. Minority Business Enterprises as SubProposers
14. Standard Federal Equal Employment Opportunity Construction Contract Specification
15. Nondiscrimination Act

In implementing this policy and ensuring that equal opportunity is being provided to protected class members, each time a hiring opportunity occurs this firm will contact and request referrals from minority and female organizations, referral sources, and media sources. All advertising will emphasize that the firm is "An Affirmative Action/Equal Opportunity Employer".

In order to substantiate this firm's efforts and affirmative actions to provide equal opportunity, the firm will maintain and submit, as requested, documentation such as referral request correspondence, copies of advertisements

utilized and follow-up documentation to substantiate that efforts were made in good faith. This firm will maintain internal EEO/affirmative action audit procedures and reporting, as well as record keeping systems.

It is understood by me, including the Equal Employment Opportunity Officer and supervisory and managerial personnel that failure to effectively implement, monitor and enforce this firm's affirmative action program and failure to adequately document the affirmative actions taken and efforts made to recruit and hire minority and female applicants, in accordance with our affirmative action program in each instance of hire, will result in this firm being required to recommit itself to a modified and more stringent affirmative action policy program, prior to receiving approval. It is recognized that an approved affirmative action program is a prerequisite for performing services for the contracting agency.

Managers and supervisors are being advised of their responsibilities to ensure the success of the Affirmative Action Program. The ultimate responsibility for the Affirmative Action Program rests with the Chief Executive Officer. However, the day-to-day duties are hereby designated to _____(Name), this individual has been designated as the Equal Employment Opportunity Officer of this firm and will report directly to the Chief Executive Officer in these matters.

This Affirmative Action Policy Statement has my whole-hearted support. In addition, each manager and supervisor, as well as all employees, who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the equal employment opportunity in each grade and classification of employment.

Signature of Chief Executive Officer

Date

Rev. 11/13/06

NONPROCUREMENT SUSPENSION AND DEBARMENT

The Second Party hereby certifies as a condition to receiving Federal assistance under 49 U.S.C. § 5311, as amended, that, as required by U.S. DOT regulations on Government wide Debarment and Suspension (Nonprocurement) at 49 CFR 29.510, to the best of its knowledge and belief, that itself and its principals:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- B. Have not, within a three-year period preceding this certification, been convicted of or had a civil judgment rendered against them 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;
- C. Are 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 listed in paragraph B of this certification; and
- D. Have not within a three-year period preceding this certification had one or more public transactions (Federal, state, or local) terminated for cause or default.

The Second Party also certifies that, if it later becomes aware of any information contradicting the statements of paragraph A above, it will promptly provide that information to the Valley Transit District, Connecticut Department of Transportation and the FTA. If the Second Party is unable to certify to all statements in paragraphs A and B above, it shall indicate in writing by providing a written explanation to the Valley Transit District, Connecticut Department of Transportation and the FTA.

I have fully informed myself regarding the accuracy of the statement made in the affidavit.

Firm Name: _____

Address: _____

Authorized by: _____

Signature: _____

Title: _____

Date: _____

LOBBYING

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.] - Proposers who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." 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 DISTRICT.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Proposer] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any 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 undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Proposer, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

_____ Signature of Proposer's Authorized Official

_____ Name and Title of Proposer's Authorized Official

_____ Date

AFFIDAVIT OF NON-COLLUSION/CONFLICT OF INTEREST

I hereby swear (or affirm) under penalty for perjury:

1. That I am Offeror (if the Offeror is an individual), a partner in the offer (if the Offeror is a partnership), or an officer or employee of the Offeror corporation having the authority to sign on behalf (if the Offeror is a corporation);
2. That the attached offer has been arrived at by the Offeror independently, and has been submitted without collusion, and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or services described in this procurement document, designed to limit independent bidding or competition;
3. That the contents of the offer have not been communicated by the offer or it's employees or agents to any person not an employee or agent of the offer or it's surety or any bond furnished with the offer, and will not be communicated to any such person prior to the official awarding of this procurement; and
4. The Proposer shall not offer or provide gifts, gratuities, favors, entertainment or any other gratuities of monetary value to any official, employee or agent of THE DISTRICT during the period of this contract or for one year thereafter.
5. Personal/Organizational conflict arises when (1) an employee, officer, agent or board member, (2) any member of his/her immediate family, (3) his/her partner, or (4) an organization that employs, or intends to employ any of the listed, participate in selection, award or administration of federally funded contracts and have financial or other interest in a firm competing for or selected for award. To the best of my knowledge and belief no affiliation exists relevant to possible organizational or personal conflicts of interest.
6. The Offeror shall disclose, to the best of his/her knowledge, any State employee, THE DISTRICT employee, or member of the State legislature or any relative of such who is an officer or director of, or has a material interest in, the Offeror's business, who is in a position to influence this procurement.

Name	Relationships
_____	_____
_____	_____
_____	_____
_____	_____

7. That I have fully informed myself regarding the accuracy of the statement made in the affidavit.

Firm Name: _____

Address: _____

Authorized by: _____

Signature: _____

Title: _____

Date: _____

If the Offeror is unable to complete this form then it needs to disclose and attach to this form a detailed statement fully disclosing any exceptions and why it believes, in light of the interest(s) identified that performance of the proposed contract can be accomplished in an impartial and objective manner. THE DISTRICT reserves the right to request more information, to disqualify the Offeror, to contract with the Offeror if it is in THE DISTRICT's best interest and include appropriate provision to mitigate or avoid such conflict in the contract awarded. Refusal to provide the disclosure or representation or any additional information required, may result in disqualification of the Offeror for award. If nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. If after award the Proposer discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which could not reasonably have been know prior to award, an immediate and full disclosure shall be made in writing to THE DISTRICT. The disclosure shall include a full description of the conflict, a description of the action the Proposer has taken, or proposes to take, to avoid or mitigate such conflict. THE DISTRICT may, however, terminate the contract for convenience if he or she deems that termination is in the best interest of the THE DISTRICT.

SECTION X
FEDERAL REQUIREMENTS

SECTION 5311 REQUIREMENTS AND ASSURANCES

The Second Party certifies that it has or will:

- A. Have the necessary legal, financial, and managerial capability to apply for, receive and disburse Federal assistance authorized for 49 U.S.C. 5311 and to implement and manage the project.
- B. Have committed sufficient non-Federal and non-State funds to provide the required local share.
- C. Have by the time of delivery, sufficient funds to operate and maintain the vehicles and equipment purchased with Federal and State assistance authorized for this project.
- D. To the maximum extent feasible, coordinated with other transportation providers and users, including social service agencies authorized to purchase transit service.
- E. Comply with Federal requirements regarding transportation of elderly persons and persons with disabilities.
- F. Comply with applicable prevention of alcohol misuse and prohibited drug use requirements to the extent required by FTA and the State Drug and Alcohol Consortium.

NONDISCRIMINATION

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Second Party assures that it will comply with all requirements of 49 CFR part 21; FTA Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients", and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Second Party receives Federal assistance awarded by the U.S. DOT or FTA as follows:

- A. The Second Party assures that each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- B. The Second Party assures that it will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Second Party assures that it will submit the required information pertaining to its compliance with these requirements.
- C. The Second Party will include in each subagreement, property transfer agreement, Third Party contract, Third Party subcontract, or participation agreement adequate provisions to extend the requirements of 49 U.S.C. 5332 and 49 CFR 21 to other parties involved therein including any transferee, Third Party Proposer, Third Party subProposer at any level, successor in interest, or any other participant in the project.
- D. Should the Second Party transfer real property, structures or improvements financed with federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which the federal assistance is extended or for another purpose involving the provision of similar services or benefits.
- E. The United States has a right to seek judicial enforcement with regard to any matter arising under the act, regulations, and this assurance.
- F. The Second Party assures that it will make any changes in its 49 U.S.C. 5332 and Title VI implementing procedures as U.S. DOT or FTA may request.

NONDISCRIMINATION ON THE BASIS OF DISABILITY

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR part 27.9, the Second Party assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Second Party assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any applicable regulations and directives issued by other Federal departments or agencies.

SPECIAL SECTION 5333(b) WARRANTY FOR APPLICATION TO THE SMALL URBAN AND RURAL PROGRAM

A. General Application

The Second Party agrees that, in the absence of waiver by the Department of Labor, the terms and conditions of this warranty, as set forth below, shall apply for the protection of the transportation related employees of any employer providing transportation services assisted by the Project ("Recipient"), and the transportation related employees of any other surface public transportation providers in the transportation service area of the Project.

The Second Party shall provide to the Department of Labor and maintain at all times during the Project an accurate, up-to-date listing of all existing transportation providers which are eligible Recipients of transportation assistance funded by the Project, in the transportation service area of the Project, and any labor organizations representing the employees of such providers.

Certification by the Second Party to the Department of Labor that the designated Recipients have indicated in writing acceptance of the terms and conditions of the warranty arrangement will be sufficient to permit the flow of Section 5311 funding in the absence of a finding of non-compliance by the Department of Labor.

B. Standard Terms and Conditions

(1) The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Recipient and of any other surface public transportation provider in the transportation service area of the Project. It shall be an obligation of the Recipient and any other legally responsible party designated by the Second Party to assure that any and all transportation services assisted by the Project are contracted for and operated in such a manner that they do not impair the rights and interests of affected employees. The term "Project," as used herein, shall not be limited to the particular facility, service or operation assisted by Federal funds, but shall include any changes, whether organizational, or otherwise, which are a result of the assistance provided. The phrase "as a result of the Project," shall when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto; provided, however, that volume rises and falls of business, or changes in volume and character of employment brought about by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement.

An employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in his position with regard to his employment as a result of the Project, but who is dismissed, displaced or otherwise worsened solely because of the total or partial termination of the Project, discontinuance of Project services, or exhaustion of Project funding shall not be deemed eligible for a dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of the Model agreement or applicable provisions of substitute comparable arrangements.

(2) (a) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect.

- (2) (b) The Recipient or legally responsible party shall provide to all affected employees sixty (60) days notice of intended actions which may result in displacements or dismissals or rearrangements of the working forces. In the case of employees represented by a union, such notice shall be provided by certified mail through their representatives. The notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and the number and classifications of any jobs in the Recipient's employment available to be filled by such affected employees.
- (2) (c) The procedures of this subparagraph shall apply to cases where notices involve employees represented by a union for collective bargaining purposes. At the request of either the Recipient or the representatives of such employees negotiations for the purposes of reaching agreement with respect to the applications of the terms and conditions of this arrangement shall commence immediately. If no agreement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit the matter to dispute settlement procedures in accordance with paragraph (4) of this warranty. The foregoing procedures shall be complied with and carried out prior to the institution of the intended action.
- (3) For the purpose of providing the statutory required protections including those specifically mandated by 49 U.S.C. Section 5333(b)¹, the Second Party will assure as a condition of the release of funds that the Recipient agrees to be bound by the terms and conditions of the National (Model) Section 5333(b) Agreement executed July 23, 1975, identified below², provided that other comparable arrangements may be substituted therefore, if approved by the Secretary of Labor and certified for inclusion in these conditions.
- (4) Any dispute or controversy arising regarding the application, interpretation, or enforcement of any of the provisions of this arrangement which cannot be settled by and between the parties at interest within thirty (30) days after the dispute or controversy first arises, may be referred by any such party to any final and binding disputes settlement procedure acceptable to the parties, or in the event they cannot agree upon such procedure, to the Department of Labor or an impartial third party designated by the Department of Labor for final and binding determination. The compensation and expenses of the impartial third party, and any other jointly incurred expenses, shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them.
- In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be his obligation to identify the Project and specify the pertinent facts of the Project relied upon. It shall then be the burden of either the Recipient or other party legally responsible for the application of these conditions to prove that factors other than the Project affected the employees. The claiming employee shall prevail if it is established that the Project had an effect upon the employee even if other factors may also have affected the employee.
- (5) The Recipient or other legally responsible party designated by the Second Party will be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee covered by these arrangements, or the union representative of such employee, may file claim of violation of these arrangements with the Recipient within sixty (60) days of the date he is terminated or laid off as a result of the Project, or within eighteen (18) months of the date his position with respect to his employment is otherwise worsened as a result of the Project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18-month limitation shall be measured from the last such event. No benefits shall be payable for any period prior to six (6) months from the date of the filing of any claim.
- (6) Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements, nor shall this arrangement be deemed a waiver of any rights or any union or of any represented employee derived from any other agreement or provision of federal, state or local law.
- (7) In the event any employee covered by these arrangements is terminated or laid off as a result of the Project, he shall be granted priority of employment or reemployment to fill any vacant position within the control of the Recipient for which he is, or by training or retraining within a reasonable period can become qualified. In the event training or retraining is required by

such employment or reemployment, the Recipient or other legally responsible party designated by the Second Party shall provide or provide for such training or retraining at no cost to the employee.

¹ *Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and (5) paid training and retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employments which shall in no event provide benefits less than those established pursuant to 49 U.S.C. Section 11347 [the codified citation of Section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended].*

² *For purposes of this warranty agreement, paragraphs (1); (2); (5); (15); (22); (23); (24); (26); (27); (28); and (29) of the Model Section 5333(b) Agreement, executed July 23, 1975 are to be omitted.*

- (8) The Recipient will post, in a prominent and accessible place, a notice stating that the Recipient has received federal assistance under 49 U.S.C. Chapter 53 and has agreed to comply with the provisions of 49 U.S.C. Section 5333(b). This notice shall also specify the terms and conditions set forth herein for the protection of employees. The Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the proper application, administration, and enforcement of these arrangements and to the proper determination of any claims arising thereunder.
- (9) Any labor organization which is the collective bargaining representative of employees covered by these arrangements, may become a party to these arrangements by serving written notice of its desire to do so upon the Recipient and the Department of Labor. In the event of any disagreement that such labor organization represents covered employees, or is otherwise eligible to become a party to these arrangements, as applied to the Project, the dispute as to whether such organization shall participate shall be determined by the Secretary of Labor.
- (10) In the event the Project is approved for assistance under 49 U.S.C. Chapter 53, the foregoing terms and conditions shall be made part of the contract of assistance between the federal government and the Second Party or Recipient of federal funds; provided, however, that this arrangement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties thereto, and by any covered employee or his representative, in accordance with its terms, nor shall any other employee protective agreement merge into this arrangement, but each shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms.

C. Waiver

As part of the grant approval process, either the Recipient or other legally responsible party designated by the Second Party may in writing seek from the Secretary of Labor a waiver of the statutory required protections. The Secretary will waive these protections in cases, where at the time of the requested waiver, the Secretary determines that there are no employees of the Recipient or of any other surface public transportation providers in the transportation service area who could be potentially affected by the Project. A 30-day notice of proposed waiver will be given by the Department of Labor and in the absence of timely objection, the waiver will become final at the end of the 30-day notice period. In the event of timely objection, the Department of Labor will review the matter and determine whether a waiver shall be granted. In the absence of waiver, these protections shall apply to the Project.

PRIVATE SECTOR PARTICIPATION

- A. As required by 49 U.S.C. 5323(a)(1), to the maximum extent feasible, every effort has been made to allow private transit operators in the Second Party region to participate in the provision of transit services.
- B. A process has been established to notify all private transit operators in the Second Party region of the opportunities to participate in the provision of transit services, including maintaining an up-to-date listing of all private transit operators in the Second Party area.
- C. A process has been established to provide private transit operators the opportunity for continued involvement in the provision of transit services from the earliest stage of study development, throughout the planning process, including their participation in final recommendations.

PRIVATE MASS TRANSPORTATION COMPANIES

As required by 49 U.S.C. 5323(a)(1), the Second Party certifies that before it acquires the property or an interest in the property of a private mass transportation company or operates mass transportation equipment or facilities in competition with, or in addition to, transportation service provided by an existing mass transportation company, it has or will have:

- A. Found that the assistance is essential to carrying out a program of projects as determined by the plans and programs of the metropolitan planning organization;
- B. Provided for the participation of private mass transportation companies to the maximum extent feasible consistent with applicable FTA requirements and policies;
- C. Paid just compensation under state or local law to a private mass transportation company for its

- franchises or property acquired; and
- D. Acknowledged that the assistance falls within the labor standards compliance requirements of 49 U.S.C. 5333(a) and 5333(b).

REAL PROPERTY

The Second Party will comply, or has complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 et seq., which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

As required by U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," at 49 CFR 24.4, and sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, the Second Party assures that it has the requisite authority under applicable state and local law and will comply or has complied with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 et seq., and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24 including, but not limited to the following:

- A. The Second Party will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;
- B. The Second Party will provide fair and reasonable relocation payments and assistance required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations or associations displaced as a result of any project financed with FTA assistance;
- C. The Second Party will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations, or associations in the manner provided in 49 CFR part 24 and FTA procedures;
- D. Within a reasonable time before displacement, the Second Party will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);
- E. The Second Party will carry out the relocation process in such a manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin;
- F. In acquiring real property, the Second Party will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;
- G. The Second Party will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will participate in the Second Party's eligible costs of providing payments for those expenses as required by 42 U.S.C. 4631;
- H. The Second Party will execute such amendments to third party contracts and subagreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and

The Second Party agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions.

INTELLIGENT TRANSPORTATION SYSTEM PROGRAM

- A. In accordance with section 5206(e) of TEA-21, 23 U.S.C. 502 note, the Second Party assures it will comply with all applicable requirements of Section V (Regional ITS Architecture and Section VI (Project Implementation) of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," at 66 FR 1455 *et seq.*, January 8, 2001, and other FTA requirements that may be issued in connection with any ITS project it undertakes financed with Highway Trust Funds (including funds from the mass transit account) or funds made available for the Intelligent Transportation Systems Program authorized by TEA-21, title V, subtitle C, 23 U.S.C. 502 note.
- B. With respect to any ITS project financed with Federal assistance derived from a source other than Highway Trust Funds (including funds from the Mass Transit Account) or TEA-21, title V, subtitle C,

23 U.S.C. 502 note, the Second Party assures that it will use its best efforts to ensure that any ITS project it undertakes will not preclude interface with other intelligent transportation systems in the Region.

ENVIRONMENTAL LAW COMPLIANCE. The Second party shall be responsible to comply with all federal and state environmental laws and regulations pertaining to the operation of transit motor buses and/or facilities, owned and/or leased by the Second Party, including but not limited to, pollutants emissions control, storage and/or disposal of waste, fluids, fuels, oil, and chemicals in general. The Second Party shall be responsible to comply with OSHA regulations. The Second Party will hold the State harmless of any lawsuits and/or fines with respect to any environmental and/or OSHA regulations violations.

FLY AMERICA REQUIREMENTS

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act.

The Proposer agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their Proposers are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Proposer shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Proposer agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

CHARTER SERVICE

As required by 49 U.S.C. 5323(d) and FTA regulations, "Charter Service," at 49 CFR 604.7, the Second Party agrees that it and its recipients will:

Provide charter service that uses equipment or facilities acquired with Federal assistance authorized by 49 U.S.C. chapter 53 (except 49 U.S.C. 5310), or Title 23, U.S.C., only to the extent that there are no private charter service operators willing and able to provide the charter service that it or its recipients desire to provide, unless one or more of the exceptions in 49 CFR 604.9 applies; and

Comply with the requirements of 49 CFR part 604 before providing any charter service using equipment or facilities acquired with Federal assistance authorized by 49 U.S.C. chapter 53 (except 49 U.S.C. 5310), or Title 23, U.S.C. for transportation projects.

As the Second Party understands that: (1) the requirements of 49 CFR part 604 will apply to any charter service it provides; (2) the definitions of 49 CFR part 604 will apply to this Charter Service Agreement; and (3) a violation of this Charter Service Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

SCHOOL TRANSPORTATION

As required by 49 U.S.C. 5323(f) and FTA regulations, "School Bus Operations," at 49 CFR 605.14, the Second Party agrees that it and all its recipients will:

- A. Engage in school transportation operations in competition with private school transportation operators only to the extent permitted by 49 U.S.C. 5323(f), and Federal regulations; and
- B. Comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance and authorized by 49 U.S.C. chapter 53 or Title 23 U.S.C. for transportation projects.

As the Second Party understands that: (1) the requirements of 49 CFR part 605 will apply to any school transportation service it provides; (2) the definitions of 49 CFR part 605 will apply to this School Transportation Agreement; and (3) a violation of this School Transportation Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

DEMAND RESPONSE EQUIVALENT SERVICE

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77(d), the Second Party certifies that its demand responsive service offered to persons with disabilities, including persons who use wheelchairs, is equivalent to the level and quality of service offered to persons without disabilities. When the Second Party's service viewed in its entirety, the Second Party's service for persons with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) Response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

ENERGY CONSERVATION

The second Party shall recognize 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 (42 USC Section 6321 et seq.).

CLEAN WATER REQUIREMENTS

Clean Water - (1) The Proposer 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 Proposer agrees to report each violation to the Valley Transit District and understands and agrees that the Valley Transit District will, in turn, report each violation as required to assure notification to the State of Connecticut a, FTA and the appropriate EPA Regional Office.

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

BUS TESTING

As required by FTA regulations, "Bus Testing," at 49 CFR 665.7, the Second Party certifies that before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components, or before authorizing final acceptance of that bus (as described in 49 CFR part 665), the bus model:

- A. Will have been tested at a bus testing facility approved by FTA; and
- B. Will have received a copy of the test report prepared on the bus model.

ACQUISITION OF ROLLING STOCK (PRE-AWARD AND POST-DELIVERY REVIEW)

As required by 49 U.S.C. 5323(m) and implementing FTA regulations at 49 CFR 663.7, the Second Party certifies that it will comply with the requirements of 49 CFR part 663, when procuring revenue service rolling stock. Among other things, the Second Party agrees to conduct or cause to be conducted the requisite pre-award and post-delivery reviews, and maintain on file the certifications required by 49 CFR part 663, subparts B, C, and D.

FEDERAL CHANGES

Federal Changes - Proposer shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement, as they may be amended or promulgated from time to time during the term of this contract.

Proposer's failure to so comply shall constitute a material breach of this contract. The Federal Changes requirement flows down appropriately to each applicable changed requirement.

CLEAN AIR

The Second Party shall ensure that the Operator complies with mandates set forth in the Clean Air Act of 1990 and Connecticut General Statutes Sections 13-b-38o to 13b-38y as amended. The Proposer also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(1) The Purchaser and Proposer 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 contract and shall not be subject to any obligations or liabilities to the Purchaser, Proposer, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.(2) The Proposer agrees to include the above clause in each 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 subProposer who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

(1) The Proposer 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 contract, the Proposer 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 contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Proposer 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 Proposer to the extent the Federal Government deems appropriate.(2) The Proposer 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 a contract 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 Proposer, to the extent the Federal Government deems appropriate.(3) The Proposer agrees to include the above 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 subProposer who will be subject to the provisions.

PRIVACY ACT

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Proposer and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Proposer 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. § 552a. Among other things, the Proposer agrees to obtain the express consent of the Federal Government before the Proposer or its employees operate a system of records on behalf of the Federal Government. The Proposer 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 contract.

(2) The Proposer also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

NONDISCRIMINATION

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Second Party assures that it will comply with all requirements of 49 CFR part 21; FTA Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients", and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Second Party receives Federal assistance awarded by the U.S. DOT or FTA as follows:

- A. The Second Party assures that each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- B. The Second Party assures that it will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Second Party assures that it will submit the required information pertaining to its compliance with these requirements.
- C. The Second Party will include in each subagreement, property transfer agreement, Third Party contract, Third Party subcontract, or participation agreement adequate provisions to extend the requirements of 49 U.S.C. 5332 and 49 CFR 21 to other parties involved therein including any transferee, Third Party Proposer, Third Party subProposer at any level, successor in interest, or any other participant in the project.
- D. Should the Second Party transfer real property, structures or improvements financed with federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which the federal assistance is extended or for another purpose involving the provision of similar services or benefits.
- E. The United States has a right to seek judicial enforcement with regard to any matter arising under the act, regulations, and this assurance.
- F. The Second Party assures that it will make any changes in its 49 U.S.C. 5332 and Title VI implementing procedures as U.S. DOT or FTA may request.

The Proposer also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

DISADVANTAGED BUSINESS ENTERPRISE

- A. The Second Party shall not discriminate on the basis of race, color, national origin, or sex in the implementation of the project and in the award and performance of any third party contract, or sub-agreement supported with Federal assistance derived from the U.S. DOT or in the administration of its DBE program or the requirements of 49 CFR part 26.
- B. The Second Party shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of all third party contracts and sub-agreements supported with Federal assistance derived from the U.S. DOT.
- C. The Second Party's DBE program, as required by 49 CFR part 26 and approved by the Connecticut Department of Transportation, is incorporated by reference and made part of the grant agreement or cooperative agreement.
- D. Implementation of this DBE program is a legal obligation, and failure to carry out its terms shall be treated as a violation of the grant agreement or cooperative agreement.

- E. Upon notification by the Connecticut Department of Transportation and/or the U.S. Government to the Second Party of its failure to implement its approved DBE program, the Connecticut Department of Transportation and/or the U.S. DOT may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. 3801 et seq.

Incorporation of Federal Transit Administration (FTA) Terms - PROCUREMENT COMPLIANCE

The Second Party certifies that its procurements and procurement system will comply with all applicable third party procurement requirements of Federal laws, executive orders, regulations, and FTA directives, and requirements, as amended and revised, as well as other requirements FTA may issue including FTA Circular 4220.1E, "Third Party Contracting Guidelines," and any revisions thereto, to the extent those requirements are applicable. The Second Party certifies that it will include in its contracts financed in whole or in part with FTA assistance all clauses required by Federal laws, executive orders, or regulations, and will ensure that each subrecipient and each Proposer will also include in its subagreements and its contracts financed in whole or in part with FTA assistance all applicable clauses required by Federal laws, executive orders, or regulations.

PREVENTION OF ALCOHOL MISUSE AND PROHIBITED DRUG USE

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, subpart I, the Second Party certifies that it has established and implemented an anti-drug and alcohol misuse program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655.

RECYCLED PRODUCTS

The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or Proposer procures \$10,000 or more of one of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These new regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000. These requirements flow down to all to all Proposer and subProposer tiers.

Recovered Materials - The Proposer 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.

ACCESS FOR INDIVIDUALS WITH DISABILITIES

The Proposer agrees to comply with 49 U.S.C. § 5301(d), which states 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. The Proposer also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the Proposer agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the Federal Government determines otherwise in writing, as follows:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in

Commercial Facilities," 28 C.F.R. Part 36;

(6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

(7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

(8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and

(9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;

(10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

(11) Federal civil rights and nondiscrimination directives implementing the foregoing regulations.