

Agreement No. 1.11-01(21)

ENCROACHMENT AGREEMENT

Between

THE STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION

And

THE TOWN OF WILTON

ROUTE: 7 TOWN: WILTON DISTRICT: 3

THIS AGREEMENT, concluded at Newington, Connecticut, this _____ day of _____, A.D., 2021, by and between the State of Connecticut, Department of Transportation, Joseph J. Giulietti, Commissioner, acting herein by Paul Rizzo, Bureau Chief, Bureau of Highway Operations Department of Transportation, duly authorized, hereinafter referred to as the "State", and the Town of Wilton, having its principal place of business at Wilton Town Hall, 238 Danbury Road, Wilton, Connecticut, 06897 acting herein by the First Selectwoman, Lynne Vanderslice hereunto duly authorized, hereinafter referred to as the "Second Party", collectively referred to as the "Parties".

WITNESSETH, THAT:

WHEREAS, the Second Party has requested permission of the State to construct and maintain all new concrete sidewalks including snow and ice removal on Route 7 or any other sidewalk installed as part of this project in the Town of Wilton hereinafter referred to as the "Project"; and

WHEREAS, the Project is more fully described and defined in the following documents:

- (a) Plans entitled; PROPOSED TOWN SIDEWALK EXTENSION PLAN PREPARED FOR SHARP HILL SQUARE, DANBURY ROAD, WILTON, CONNECTICUT.
- (b) Encroachment Permit No.3022067
- (c) "Highway Encroachment Permit Regulations, Connecticut Department of Transportation, 1992 Edition";

all of which are hereinafter referred to as the "Supporting Documents" and are hereby made a part of this Agreement, either by reference thereto or by incorporation herein; and

WHEREAS, the State has the authority to enter into this Agreement pursuant to Sections 13a-247, 13b-17, and 13b-24 of the General Statutes of Connecticut, as revised.

NOW, THEREFORE, KNOW YE, that the State and the Second Party mutually agree as follows:

SECTION 1. DEFINITIONS:

The following definitions shall apply to this Agreement:

The term "Claims" as used herein is defined as all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.

The term "Second Party Parties" as used herein is defined as a Second Party's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Second Party is in privity of oral or written contract and the Second Party intends for such other person or entity to perform under the Agreement in any Town.

The term "Project" as used herein is defined as the construction and maintenance of new concrete sidewalks including snow and ice removal on Route 7 or any other sidewalk installed as part of this project.

The term "Records" as used herein is defined as all working papers and such other information and materials as may have been accumulated by the Second Party in performing the Agreement, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries, memoranda and correspondence, kept or stored in any form.

The Term "State" as used herein is defined as the State of Connecticut including the Department of Transportation ("Department"), and any office, department, board, council, commission, institution or other agency or entity of the State.

SECTION 2 THE SECOND PARTY SHALL:

- 2.01 Entirely at its own expense, construct, use and maintain the Project described and defined in the Supporting Documents identified hereinabove, subject at all times to all of the terms, conditions, restrictions, specifications, and covenants, herein contained, either by attachment hereto or by reference thereto, it being understood and agreed by the parties hereto that the said terms, conditions, restrictions, specifications, and covenants, are an integral part hereof and as such shall have full force and effect as if the same were recited hereinafter in their entireties.
- 2.02 Agree that the effective date of the Permit identified hereinabove as a component of the Supporting Documents, shall only be established when all requirements for the effectuation of such Permit are met, and the said Permit is to remain in effect until the date of expiration set forth therein unless the same is terminated by revocation by the State, in accordance with the terms of this Agreement, it being understood and agreed

by the Parties hereto that the said Permit is limited solely to the herein described Project.

- 2.03 Maintain the State highway specified in the Permit identified hereinabove in accordance with State standards of maintenance as the same are outlined in the "State of Connecticut, Department of Transportation, Manual of Organization, Functions and Procedures", as revised, which maintenance shall include but not be limited to and maintenance of new concrete sidewalks including snow and ice removal on Route 7 or any other sidewalk installed as part of this project in the Town of Wilton as depicted on Plan entitled; PROPOSED TOWN SIDEWALK EXTENSION PLAN PREPARED FOR SHARP HILL SQUARE, DANBURY ROAD, WILTON, CONNECTICUT.
- 2.04 Reimburse the State for any and all costs and expenses of every name and description borne by the State as a result of the Project including but not limited to investigation; inspection; administration; legal; and processing; it being mutually understood and agreed that there shall be no exception to, exclusion from, or limitation of this specification unless the same is set forth in a properly executed supplemental agreement specifically written for this purpose.
- 2.05 Comply with and conform to all pertinent laws, ordinances, rules and regulations, whether state, federal, or municipal, both during the construction phase of the Project and the subsequent permanent maintenance thereof.
- 2.06 With respect to the operations performed by the Second Party under the terms of this Agreement and also those performed for the Second Party by its subcontractors, the Second Party shall carry, and shall ensure that its subcontractors carry, for the duration of this Agreement, and any supplements thereto, with the State being named as an additional insured party for paragraphs (a) and (b) below, the following minimum insurance coverage at no direct cost to the State. In the event the Second Party secures excess/umbrella liability insurance to meet the minimum requirements specified in paragraphs (a) and/or (b) below, the State of Connecticut shall be named as an additional insured.

(a) COMMERCIAL GENERAL LIABILITY

Commercial General Liability Insurance, including Contractual Liability Insurance, providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, and subject to that limit per accident, a total (or aggregate) limit of Two Million Dollars (\$2,000,000) for all damages arising out of bodily injuries to or death of all persons in all accidents or occurrences and out of injury to or destruction of property during the policy period.

(b) AUTOMOBILE LIABILITY

The operation of all motor vehicles, including those hired or borrowed, used in connection with the Agreement shall be covered by Automobile Liability Insurance providing for a total limit of One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence. In cases where an insurance policy shows an aggregate limit as part of the automobile liability coverage, the aggregate limit must be at least Two Million Dollars (\$2,000,000).

(c) WORKERS' COMPENSATION

With respect to all operations the Second Party performs and all those performed for the Second Party by subcontractor(s), the Second Party shall carry, and shall ensure that its subcontractor(s) carry, Workers' Compensation Insurance and, as applicable, insurance required in accordance with the U.S. Longshore and Harbor Workers' Compensation Act, in accordance with the requirements of the laws of the State of Connecticut and the laws of the United States respectively

(d) CERTIFICATE OF INSURANCE

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

(e) COPIES OF APPLICABLE INSURANCE POLICIES

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

- 2.07 (a) Indemnify, defend and hold harmless the State and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all (1) Claims arising, directly or indirectly, in connection with the Agreement, including the acts of commission or omission (collectively, the "Acts") of the Second Party or Second Party Parties; and (2) liabilities, damages, losses, costs and expenses, including but not limited to, attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Agreement. The Second Party shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. The Second Party's obligations under this section to indemnify, defend and hold

harmless against Claims includes Claims concerning confidentiality of any part of or all of the Second Party's bid, proposal or any Records, any intellectual property rights, other proprietary rights of any person or entity, copyrighted or uncopied compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance.

(b) Not be responsible for indemnifying or holding the State harmless from any liability arising due to the negligence of the State or any third party acting under the direct control or supervision of the State.

(c) Reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Second Party or any Second Party Parties. The State shall give the Second Party reasonable notice of any such Claims.

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

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

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

2.08 In addition to Section 2.07 of this Agreement, the second party hereby agree as follows:

- (a) The Second Party shall, or if the Second Party is one of several parties, the parties shall jointly and severally, protect, indemnify, defend, and hold harmless the State and any of its officers, employees and agents and their respective heirs, legal representatives, successors and assigns, from and against any and all loss, damage, cost, charge, lien, debt, fine, penalty, injunctive relief, claim, demand, expense, suit, order, judgment, adjudication, liability, or injury to person, property or natural resources, including attorneys' fees and consultants' fees (any of the foregoing being referred to in this Agreement as a "Claim") arising out of, attributable to, which may accrue out of, or which may result from (i) any violation or alleged violation of the Environmental Laws by any person or entity or other source whether related or unrelated to the Second Party, or (ii) the disposal or alleged disposal of Hazardous Substances (whether intentional or unintentional, direct or indirect, foreseeable or unforeseeable) by any person or entity or other source, whether related or unrelated to the Second Party.

- (b) "Environmental Laws" shall mean and include any federal, state or local statute, law, ordinance, code, rule, regulation, order, or decree regulating or relating to the protection of human health or the environment, or imposing liability or standards of conduct concerning any hazardous, toxic, or waste substance, element, compound, mixture or material, as now or at any time hereafter in effect, including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. Sect. 9601 et seq., the Federal Oil Pollution Act of 1990, 33 U.S.C. Sect. 2701 et seq., the Federal Toxic Substances Control Act, 15 U.S.C. Sect. 2601 et seq., the Federal Resource Conservation and Recovery Act, as amended, 42 U.S.C. Sect. 6901 et seq., the Federal Hazardous Material Transportation Act, 49 U.S.C. Sect. 1801 et seq., the Federal Clean Air Act, 42 U.S.C. Sect. 7401 et seq., the Federal Water Pollution Control Act, 33 U.S.C. Sect. 1251 et seq., the River and Harbors Act of 1899, 33 U.S.C. Sect. 401 et seq., and all rules and regulations of the United States Environmental Protection Agency, or any other state, local or federal agency or entity having jurisdiction over environmental or health and safety matters, as such may have been amended.
- (c) "Hazardous Substances" shall mean any and all materials, chemicals, or other substances that are hazardous or toxic or otherwise regulated or controlled pursuant to any of the Environmental Laws.
- (d) The Second Party shall test all soils and materials excavated from the State highway right of way and shall not replace any soils or materials containing Hazardous Substances within State highway rights of way.
- (e) The Second Party shall comply strictly and in all respects with the requirements of the Environmental Laws. Furthermore, the Second Party shall not store, generate or use any Hazardous Substances at, on, or under the area within the right of way in which the Project is located.
- (f) The Second Party shall not list the State as the owner, generator or transporter of any Hazardous Substances excavated from State highway rights of way. All costs associated with the handling, storage, use, transportation or disposal of Hazardous Substances shall be borne by the Second Party.
- (g) This provision shall survive this Agreement.

2.09 Agree that nothing in this agreement shall preclude the Second Party from asserting its Governmental Immunity rights in the defense of third party claims. The Second Party's Governmental Immunity defense against third party claims, however, shall not be interpreted or deemed to be a limitation or compromise of any of the rights or privileges of the State, at law or in equity, under this Agreement, including but not limited to, those relating to damages.

2.10 Comply with, the attached herewith, and all "Mandatory State and Federal Administrative Requirements", incorporated herein by reference and attached herewith as "Exhibit B", as may be amended from time to time, and all Schedules, as may be amended

from time to time, attached herewith, which are also hereby made part of this Agreement.

- 2.11 Agree that all obligations incurred by the Second Party under this Agreement shall be binding upon any successors in interest to the Second Party unless a supplemental agreement properly executed by both the State and the Second Party changes this requirement.

SECTION 3 THE STATE SHALL:

- 3.01 Allow the Second Party to construct and maintain in a manner and to the extent as is more particularly described in Article 2.03 hereinabove and on the attached plans entitled: PROPOSED TOWN SIDEWALK EXTENSION PLAN PREPARED FOR SHARP HILL SQUARE, DANBURY ROAD, WILTON, CONNECTICUT.
- 3.02 Make periodic inspections, as determined by the District 3 Maintenance Director, for conformity with State maintenance standards and policies. Any conditions requiring correction shall be reported through the District 3 Maintenance Director's Office, Connecticut State Department of Transportation, in writing, to the Office of the Second Party's First Selectwoman, Lynne Vanderslice, at Wilton Town Hall, 238 Danbury Road, Wilton, Connecticut, 06897.
- 3.03 Issue any and all permits for any work, excavation, or for the placement of any obstruction or substruction within, under, over, or upon the Project requested by the Second Party or others, outside the scope of the maintenance responsibilities of the Second Party, when the conditions of such issuance are met.
- 3.04 Require all parties being issued the said permits other than the Second Party, to name the State as an additional insured, on all insurance required by the State as a condition precedent to the issuance of such permits that concern the Project being maintained by the Second Party pursuant to this Agreement.
- 3.05 Reserve the right to investigate and to inspect at all times, all phases of the Project including appurtenances.
- 3.06 Reserve the right to claim and recover by process of law such sums or otherwise receive satisfaction as may be sufficient to correct any and all errors or make good any and all defects in the workmanship and/or material involved pursuant to the Agreement.

SECTION 4 THE STATE AND THE SECOND PARTY FURTHER MUTUALLY AGREE:

- 4.01 That, if in the opinion of the State, the Project malfunctions or ceases to function or causes any damage or any threat of damage to State property, the Second Party with the written permission of the State at each occurrence, shall immediately repair such damage and/or remove any such threat of damage to State property to the satisfaction of the State (in addition to any payment(s) of damages to third parties, if any) or after written notice to the Second Party, the State shall take steps

to repair such damage and/or remove any such threat of damage to State property and all costs incurred thereby shall be reimbursed by the Second Party to the State, it being understood and agreed by the Second Party that any and all consequential damages, if any, resulting from such action(s) of the State in repairing such damage and/or removing any such threat of damage, shall be borne completely by the Second Party in addition to the reimbursement(s) to the State herein specified.

4.02 That this Agreement shall commence and take effect upon its execution by the State.

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

(a) Be in writing (hardcopy) addressed to:

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

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

(ii) When the Second Party is to receive such Notice:

(b) Be delivered in person with acknowledgement of receipt or be mailed by the United States Postal Service - "Certified Mail" to the to the Office of First Selectwoman having a place of business at Wilton Town Hall, 238 Danbury Road, Wilton, Connecticut, 06897.

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

The term "Official Notice", as used herein, shall be construed to include, but not be limited to any request, demand, authorization, direction, waiver, and/or consent of the party(ies) as well as any document(s), including any electronically-produced versions, provided, permitted, or required for the making or ratification of any change, revision, addition to or deletion from the document, contract, or agreement in which this "Official Notice" specification is contained.

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

4.04 That the Second Party shall assume full responsibility for the accuracy of all products of its work or that of any consultants utilized under this Agreement and shall so indicate by having the signature and Connecticut Professional Engineer's Seal of any engineer used to perform work under the terms of this Agreement affixed on the title sheet(s) of all plans and/or documents. In addition, the title sheet(s) of all plans and/or documents will be signed by the authorized individual of the Second Party responsible for receipt of "Official Notices".

4.05 That the Second Party shall record the Agreement (including any supplements thereto, if any) in the Land Records of the town(s) wherein the Project is located, at no expense to the State; and the recording shall be done immediately upon notification that the fully executed and approved Agreement is ready to be recorded.

Failure to record the Agreement as specified herein, is understood to be sufficient grounds for the State to revoke the Permit, terminate the Agreement, or both, whichever is (are) deemed appropriate by the State.

4.06 That the duration of the Agreement shall not be limited by the term of the Permit issued by the State, but shall remain in full force and effect until the State and the Second Party mutually agree in writing to terminate the Agreement. However, it is mutually agreed by the Parties hereto that the State, upon written notice, may, in its sole discretion, terminate this Agreement, and such action shall in no event be deemed a breach of contract. Any such action may be taken by the State for its own convenience.

4.07 That the sole and exclusive means for the presentation of any Claim against the State arising from or in connection with this Agreement shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims against the State) and the Second Party further agrees not to initiate legal proceedings in any State or Federal Court in addition to or in lieu of, said Chapter 53 proceedings.

4.08 That the Parties deem the Agreement to have been made in the Town of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Agreement to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Second Party waives any objection which it may now have or will have to the laying of venue of any

Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

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

- 4.09 That all of the Second Party's obligations hereunder shall survive this or any other agreement or action, including, without limitation, any consent decree, or order, between the Second Party and the government of the United States or any department or agency thereof, the State and/or the municipality.
- 4.10 That this Agreement (including each and every component of the hereinabove specified Supporting Documents as the same may be revised and/or amended) constitutes, when fully executed and approved as indicated, the entire agreement between the Parties hereto and shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto with respect to the subject matter hereof; no agreement or understanding varying or extending the same shall be binding on either party unless in writing signed by both parties hereto and approved in like fashion; and nothing contained in this Agreement shall be construed as waiving any of the rights of the State under the laws of Connecticut, as may be amended.
- 4.11 That in case of conflict between the Agreement and terms or requirements of any other documents, the Agreement shall govern.

Agreement No. 1.11-01 (21)

IN WITNESS WHEREOF, the parties hereto do hereby set their hands on the day and year indicated.

WITNESSES:

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION
JOSEPH J. GIULIETTI, COMMISSIONER

Bonnie Marone
Name: Bonnie Marone

By: Paul Rizzo
Paul Rizzo
Bureau Chief
Bureau of Highway Operations

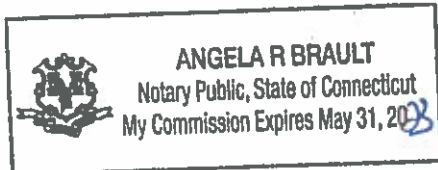
Richard Rangan
Name: Richard Rangan

Date: 5/27/2021

STATE OF CONNECTICUT)
) ss: Newington 5/27/2021 A.D., 2021
COUNTY OF HARTFORD) Date

Personally appeared for the State, Paul Rizzo, Signer of the foregoing instrument and acknowledged the same to be the free act and deed of the Department of Transportation, and his free act and deed as Bureau Chief, before me.

My Commission Expires:



Angela R Brault
Notary Public

Date: 5/27/2021

Agreement No. 1.11-01(21)

WITNESSES:

SECOND PARTY
Town of Wilton

By: _____

Name:

Lynne Vanderslice
First Selectwoman

Date: _____

Name:

STATE OF)
)
COUNTY OF)

ss:

A.D., 2021

Personally appeared for the Second Party, Lynne Vanderslice, First Selectwoman, signer of the foregoing instrument and acknowledged the same to be the free act and deed of Lynne Vanderslice, and her free act and deed as First Selectwoman before me.

My Commission Expires:

Notary Public

Date: _____

Return
SIGNATURE COPY

TOWN WILTON	ROUTE NO. 7	PMT 28-REV 8/00 (302-06-0386) DEPARTMENT OF TRANSPORTATION BUREAU OF HIGHWAY OPERATIONS STATE OF CONNECTICUT ENCROACHMENT PERMIT	DATE OF ISSUE 1/11/2021	PERMIT NO. 3022067 Page 1 of 2
NAME OF HIGHWAY Danbury Road			DATE EFFECTIVE 1/11/2021	
LOCATION OF WORK OR BEGINNING AND ENDING POINTS #200 Danbury Road to the NRV T Trailhead			DATE OF EXPIRATION 1/11/2022	AMT. OF SURETY BOND CERTIFY CHECK
			SURETY COMPANY/BANK	
TO: TOWN OF WILTON 238 DANBURY RD. WILTON, CT 06897 ATTN: Frank Smeriglio			BOND NUMBER: PERMIT IS NOT VALID UNTIL SIGNATURE COPY IS SIGNED AND RETURNED TO THE OFFICE. PLEASE RETURN AT ONCE.	
			FEE: 100 DATE REC'D: 3/4/2021 POWD NO:	

Permission is hereby granted to do the following work under the control and direction of the Department of Transportation, Bureau of Engineering and Highway Operations at the location designated hereon, subject to the statements made on the application for permit, and to the pertinent provisions of the current Highway Encroachment Permit Regulations manual, including amendments thereto.

This permit does not become effective until all necessary local and State licenses and permits are obtained by the Permittee or designated agent, and further the Permittee shall be subject to all Federal, State and local regulations.

This permit is issued in strict compliance with, but not limited by, the following specific requirements, referenced attachments, and the current edition of Department of Transportation's Standard Specifications for Roads, Bridges and Incidental Construction as applicable.

The Department of Transportation Permit Inspector, Stephen Rice 860-202-3214, MUST BE NOTIFIED AND THE CALL BEFORE YOU DIG REQUEST NUMBER RECORDED 48 HOURS IN ADVANCE OF STARTING WORK ON THE PROJECT. REQUEST NO. _____

Maintenance Agreement 1.11-01 (21) must be fully executed prior to the start of work under this permit.

Permission is granted to work within the highway right of way to construct new ADA/PROWAG compliant concrete sidewalks & pedestrian ramps, and install 6" bituminous curbing at the driveways as delineated on plans with last revisions dated 1/15/2021 and the permit application received on 3/4/2021. All work shall be in accordance with the current publication of the Department of Transportation "Standard Specifications for Roads, Bridges, and Incidental Construction," the latest Department Standard Details, and the following stipulations:

- Bond #7901059600 from 200 Danbury Road, LLC is attached to this permit.
- A copy of this permit must be available on site at all times.
- No work shall begin until the executed maintenance agreement is returned to this office.
- The sidewalk will tie into the existing pedestrian ramp at the NRV T Trailhead, the landing may need to be replaced to ensure ADA compliance.
- Vehicular and pedestrian traffic must be adequately protected through the use of appropriate traffic control patterns. Uniformed police officers or personnel who are certified for traffic control to a level equivalent to the National Safety Council shall be utilized to direct traffic through the work area. All traffic control signing and appurtenances shall be in accordance with the latest edition of the "Manual on Uniform Traffic Control Devices" and must meet NCHRP 350 requirements.
- No work that will interfere with the flow of traffic will be permitted before 8:30 a.m. and after 4:00 p.m., Monday through Friday.
- Holiday Restrictions- No permit work within the highway right of way will be permitted the day before a legal holiday and no work shall be resumed until 12:00 noon the day following the holiday, unless otherwise approved or indicated. Weekends shall be considered as part of the holiday when the legal holiday falls on either Friday or Monday.

The Permit Inspector must be notified upon completion of work for final inspection and approval.

CALL Before you DIG! TOLL FREE, STATEWIDE 1-800-922-4455

Any and all liability for injury, damage or loss resulting from such work as may be undertaken under the terms of this permit is assumed by the Permittee. The Permittee is hereby designated responsible for all future maintenance of all installations or encroachments constructed under this Permit, which in the sole judgement of the State are not part of the highway appurtenances normally maintained by the State.

The Permittee hereby agrees to indemnify and hold harmless the State of Connecticut for any and all such injury, damage, or loss that may be incurred, either directly, or as a result of said work, and to reimburse the Department of Transportation for any expenses incurred due to the performance of any such work undertaken under the terms of this permit.

This permit is revocable at the discretion of the Department of Transportation Commissioner or designated representative.

SIGNATURE COPY

TOWN WILTON	ROUTE NO. 7	PMT 2B-REV 8/00 (302-06-0388) DEPARTMENT OF TRANSPORTATION BUREAU OF HIGHWAY OPERATIONS STATE OF CONNECTICUT ENCROACHMENT PERMIT	DATE OF ISSUE 1/11/2021	PERMIT NO. 3022067 Page 2 of 2
NAME OF HIGHWAY Danbury Road			DATE EFFECTIVE 1/11/2021	
LOCATION OF WORK OR BEGINNING AND ENDING POINTS #200 Danbury Road to the NRVV Trailhead			DATE OF EXPIRATION 1/11/2022	AMT. OF SURETY BOND CERTIFY CHECK
TO: TOWN OF WILTON 238 DANBURY RD. WILTON, CT 06897 ATTN: Frank Smeriglio			SURETY COMPANY/BANK	
200 DANBURY, LLC 283 MAIN STREET RIDGEFIELD, CT 06877			BOND NUMBER: PERMIT IS NOT VALID UNTIL SIGNATURE COPY IS SIGNED AND RETURNED TO THE OFFICE. PLEASE RETURN AT ONCE.	
			FEE: 100 DATE REC'D: 3/4/2021 PO/NO NO:	

- All liability is assumed by the permittee. All areas disturbed as a result of this operation will be restored to the equivalency of their original condition or better at permittee's expense. The permittee will be billed in full by the Department for engineering and replacement costs of any area disturbed or destroyed by the permitted operations.

- The Department reserves the right to require the permittee to reimburse the State for all expenses incurred in connection with this permit including but not necessarily limited to inspection, State-owned equipment, supplies, etc. as outlined under regulation 13b-17-11.

- Requirements of the permit are subject to change as field condition warrant. Any change will require a review and prior approval by the District Office.

INSURANCE EXPIRES: 3/19/2021 DANBURY ROAD, LLC
PRIOR TO THE INSURANCE EXPIRATION DATE, THE PERMITEE MUST SUBMIT AN UPDATED CERTIFICATE OF INSURANCE TO DOCUMENT APPROPRIATE CONTINUING INSURANCE COVERAGE.


PERMITEE'S SIGNATURE 	DATE 5/12/2021		DEPARTMENT OF TRANSPORTATION BUREAU OF HIGHWAY OPERATIONS BY Steve Moran
			DISTRICT MAINTENANCE DIRECTOR

EXHIBIT A
STANDARD ENCROACHMENT AGREEMENT SPECIFICATIONS & COVENANTS
CONNECTICUT DEPARTMENT OF TRANSPORTATION
April, 2012

These "Standard Encroachment Agreement Specifications & Covenants, Connecticut Department of Transportation" are primarily intended as an integral component of, and to be used in conjunction with the properly executed written agreement entered into by the State of Connecticut, Department of Transportation and, as the Second Party thereto, any municipality seeking permission to utilize a limited portion of a State highway for a purpose not in conflict with the best interests of the State of Connecticut.

(1) The Second Party shall not perform any maintenance prior to the effective date of the Permit specified as a component of the Supporting Documents identified in the Agreement.

(2) The Second Party shall provide, upon the completion of the Project, and upon obtaining written permission of the State on each such occurrence, all physical maintenance of all portions of the Project within the State highway limits, except as may be otherwise specified in the Agreement, which maintenance shall not be the occasion of any cost or expense to the State in any manner whatsoever. Any cost or expense incurred by the State in connection herewith shall be reimbursed to the State upon official notice to the Second Party as specified in this Agreement.

(3) In the event that the State deems it advisable, convenient or necessary to design, construct, reconstruct, install or maintain a highway or portion thereof or any storm drainage facilities or any other highway appurtenance or construction activity within the Project area, the Second Party shall bear the entire cost of relocating the Project that may be required as a result of such future State activity.

(4) The Second Party acknowledges that notwithstanding the fact that it may be eligible for reimbursement from the State under the laws of the State of Connecticut, for its costs to readjust, relocate or remove the Project within or from the State highway right of way, the Second Party, on behalf of itself and its successors in interest, does herein waive any right to reimbursement that it may have against the State with respect to the Project.

This provision shall survive the Agreement.

EXHIBIT B
and Schedules 1-3
MANDATORY STATE AND FEDERAL ADMINISTRATIVE REQUIREMENTS

The Second Party and its invitees shall be cognizant of and fully comply with the following:

- (1) As a condition to receiving federal financial assistance under this Contract/Agreement, if any, the Second Party shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d - 2000d-7), all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the "Title VI Assurances for Deeds, Licenses, Leases, Permits or Similar Instruments", as set forth in Exhibit B, Schedule 1 (attached herewith and incorporated by reference).
- (2) This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Agreement as if they had been fully set forth in it. The Agreement may also be subject to Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services and to Executive Order No. 49 of Governor Dannel P. Malloy, promulgated May 22, 2015, mandating disclosure of certain gifts to public employees and contributions to certain candidates for office. If Executive Order No. 14 and/or Executive Order No. 49 are applicable, they are deemed to be incorporated into and are made a part of the Agreement as if they had been fully set forth in it. At the Second Party's request, the Department shall provide a copy of these orders to the Second Party.
- (3) The Second Party hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy Statement Policy No. F&A-10, Subject: Code of Ethics Policy," June 1, 2007, as set forth in Exhibit B, Schedule 2 (attached herewith and incorporated by reference).
- (4) That suspended or debarred contractors, consulting engineers, suppliers, materialmen, lessors, or other vendors may not submit proposals for a State contract or subcontract during the period of suspension or debarment regardless of their anticipated status at the time of contract award or commencement of work.
- (a) The signature on the Agreement by the Second Party shall constitute certification that to the best of its knowledge and belief the Second Party or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of Federal or State funds:
 - (i) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (ii) Has not, within the prescribed statutory time period preceding this Agreement, been convicted of or had a civil judgement rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of

records, making false statements, or receiving stolen property;

- (iii) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(ii) of this certification; and
- (iv) Has not, within a five-year period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.

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

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

- (i) The prospective subcontractors, sub-subcontractors participants certify, by submission of its/their proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (ii) Where the prospective subcontractors, sub-subcontractors participants are unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.

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

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

Schedule 1

TITLE VI ASSURANCES FOR DEEDS, LICENSES, LEASES, PERMITS OR SIMILAR INSTRUMENTS

The following clauses shall be included in deeds, licenses, leases, permits, or similar instruments entered into (a) for the subsequent transfer of real property acquired or improved with federal financial assistance, and (b) for the construction or use of or access to space on, over, or under real property acquired or improved with federal financial assistance.

1. The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself/herself, his/her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a United States Department of Transportation (USDOT) program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, entitled "Nondiscrimination in Federally Assisted Programs of the Department of Transportation," and as said Regulations may be amended.

2. The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself/herself, his/her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add "as a covenant running with the land") that: (1) no person on the grounds of race, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, entitled "Nondiscrimination in Federally Assisted Programs of the Department of Transportation," and as said Regulations may be amended.



Schedule 2
CONNECTICUT DEPARTMENT OF TRANSPORTATION
POLICY STATEMENT

POLICY NO. F&A-10
June 1, 2007

SUBJECT: Code of Ethics Policy

The purpose of this policy is to establish and maintain high standards of honesty, integrity, and quality of performance for all employees of the Department of Transportation ("DOT" or "Department"). Individuals in government service have positions of significant trust and responsibility that require them to adhere to the highest ethical standards. Standards that might be acceptable in other public or private organizations are not necessarily acceptable for the DOT. It is expected that all DOT employees will comply with this policy as well as the Code of Ethics for Public Officials, and strive to avoid even the appearance of impropriety in their relationships with members of the public, other agencies, private vendors, consultants, and contractors. This policy is, as is permitted by law, in some cases stricter than the Code of Ethics for Public Officials. Where that is true, employees are required to comply with the more stringent DOT policy. The Code of Ethics for Public Officials is State law and governs the conduct of all State employees and public officials regardless of the agency in which they serve. The entire Code, as well as a summary of its provisions, may be found at the Office of State Ethics' web site: www.ct.gov/ethics/site/default.asp. For formal and informal interpretations of the Code of Ethics, DOT employees should contact the Office of State Ethics or the DOT's Ethics Compliance Officer or her designee. All State agencies are required by law to have an ethics policy statement. Additionally, all State agencies are required by law to have an Ethics Liaison or Ethics Compliance Officer. The DOT, because of the size and scope of its procurement activities, has an Ethics Compliance Officer who is responsible for the Department's: development of ethics policies; coordination of ethics training programs; and monitoring of programs for agency compliance with its ethics policies and the Code of Ethics for Public Officials. At least annually, the Ethics Compliance Officer shall provide ethics training to agency personnel involved in contractor selection, evaluation, and supervision. A DOT employee who has a question or is unsure about the provisions of this policy, or who would like assistance contacting the Office of State Ethics, should contact the Ethics Compliance Officer or her designee.

The DOT Ethics Compliance Officer is:

Denise Rodosevich, Managing Attorney
Office of Legal Services

**For questions, contact the Ethics
Compliance Officer's Designee:**

Alice M. Sexton, Principal Attorney
Office of Legal Services
2800 Berlin Turnpike
Newington, CT 06131-7546
Tel. (860) 594-3045

To contact the Office of State Ethics:

Office of State Ethics
20 Trinity Street, Suite 205
Hartford, CT 06106

Tel. (860) 566-4472
Facs. (860) 566-3806

Web: www.ethics.state.ct.us

Enforcement

The Department expects that all employees will comply with all laws and policies regarding ethical conduct. Violations of the law may subject an employee to sanctions from agencies or authorities outside the DOT. Whether or not another agency or authority imposes such sanctions, the Department retains the independent right to review and respond to any ethics violation or alleged ethics violation by its employees. Violations of this policy or ethics statutes, as construed by the DOT, may result in disciplinary action up to and including dismissal from State service.

Prohibited Activities

1. ***Gifts:*** DOT employees (and in some cases their family members) are prohibited by the Code of Ethics and this Policy from accepting a gift from anyone who is: (1) doing business with, or seeking to do business with, the DOT; (2) directly regulated by the DOT; (3) prequalified as a contractor pursuant to Conn. Gen. Stat. §4a-100 by the Commissioner of the Department of Administrative Services (DAS); or (4) known to be a registered lobbyist or a lobbyist's representative. These four categories of people/entities are referred to as "restricted donors." A list of registered lobbyists can be found on the web site of the Office of State Ethics (www.ct.gov/ethics/site/default.asp). A list of prequalified consultants and contractors, *i.e.*, those seeking to do business with the DOT, can be found on the DOT's Internet site under "Consultant Information" and "Doing Business with ConnDOT," respectively.

The term "gift" is defined in the Code of Ethics for Public Officials, Conn. Gen. Stat. §1-79(e), and has numerous exceptions. For example, one exception permits the acceptance of food and/or beverages valued up to \$50 per calendar year from any one donor and consumed on an occasion or occasions while the person paying or his representative is present. Therefore, such food and/or beverage is not a "gift." Another exception permits the acceptance of items having a value up to ten dollars (\$10) provided the aggregate value of all things provided by the donor to the recipient during a calendar year does not exceed fifty dollars (\$50). Therefore, such items are not a "gift." Depending on the circumstances, the "donor" may be an individual if the individual is bearing the expense, or a donor may be the individual's employer/group if the individual is passing the expense back to the employer/group he/she represents.

This policy requires DOT employees to immediately return any gift (as defined in the Code of Ethics) that any person or entity attempts to give to the employee(s). If any such gift or other item of value is received by other than personal delivery from the subject person or entity, the item shall be taken to the Office of Human Resources along with the name and address of the person or entity who gave the item. The Office of Human Resources, along with the recipient of the item of value, will arrange for the donation of the item to a local charity (e.g., Foodshare, local soup kitchens, etc.). The Office of Human Resources will then send a letter to the gift's donor advising the person of the item's donation to charity and requesting that no such gifts be given to DOT employees in the future.

2. ***Contracting for Goods or Services for Personal Use With Department Contractors, Consultants, or Vendors:*** Executive Order 7C provides that: "Appointed officials and state employees in the Executive Branch are prohibited from contracting for goods and services, for personal use, with any person doing business with or seeking business with his or her agency, unless the goods or services are readily available to the general public for the price which the official or state employee paid or would pay."

3. ***Gift Exchanges Between Subordinates and Supervisors/Senior Staff:*** A recent change in the Code of Ethics prohibits exchanges of gifts valued at \$100 or more between (*i.e.*, to and from) supervisors and employees under their supervision. The Citizen's Ethics Advisory Board has advised that: (1) the monetary limit imposed by this provision is a per-gift amount; (2) gifts given between supervisors and subordinates (or vice versa) in celebration of a "major life event," as defined in the Code of Ethics, need not comply with the \$100 limit; and (3) the limitations imposed by this provision apply to a direct supervisor and subordinate and to any individual up or down the chain of command. The Citizen's Ethics Advisory Board has also advised that supervisors or subordinates may not pool their money to give a collective or group gift valued at \$100 or more, even though each of the individual contributions is less than \$100.
4. ***Acceptance of Gifts to the State:*** A recent change to the Code of Ethics for Public Officials modified the definition of the term "gift" to limit the application of the so-called "gift to the State" exception. In general, "gifts to the State" are goods or services given to a State agency for use on State property or to support an event and which facilitate State action or functions. Before accepting any benefit as a "gift to the State," DOT employees should contact the Ethics Compliance Officer.
5. ***Charitable Organizations and Events:*** No DOT employee shall knowingly accept any gift, discount, or other item of monetary value for the benefit of a charitable organization from any person or entity seeking official action from, doing or seeking business with, or conducting activities regulated by, the Department.
6. ***Use of Office/Position for Financial Gain:*** DOT employees shall not use their public office, position, or influence from holding their State office/position, nor any information gained in the course of their State duties, for private financial gain (or the prevention of financial loss) for themselves, any family member, any member of their household, nor any "business with which they are associated." In general, a business with which one is associated includes any entity of which a DOT employee or his/her immediate family member is a director, owner, limited or general partner, beneficiary of a trust, holder of 5 percent or more stock, or an officer (president, treasurer, or executive or senior vice president). DOT employees shall not use or distribute State information (except as permitted by the Freedom of Information Act), nor use State time, personnel, equipment, or materials, for other than State business purposes.
7. ***Other Employment:*** DOT employees shall not engage in, nor accept, other employment that will either impair their independence of judgment with regard to their State duties or require or induce them to disclose confidential information gained through their State duties.

Any DOT employee who engages in or accepts other employment (including as an independent contractor), or has direct ownership in an outside business or sole proprietorship, shall complete an Employment/Outside Business Disclosure Form (see attached) and submit it to the Department's Human Resources Administrator. Disclosure of other employment to the DOT Human Resources Administrator shall not constitute approval of the other employment for purposes of the Code of Ethics for Public Officials.

Inquiries concerning the propriety of a DOT employee's other employment shall be directed to the Office of State Ethics to assure compliance with the Code of Ethics for Public Officials. Employees anticipating accepting other employment as described above should give ample time (at least one month) to the Office of State Ethics to respond to such outside employment inquiries. No employee of the DOT shall allow any private obligation of employment or enterprise to take precedence over his/her responsibility to the Department.

8. ***Outside Business Interests:*** Any DOT employee who holds, directly or indirectly, a financial interest in any business, firm, or enterprise shall complete an Employment/Outside Business Disclosure Form (see attached) and submit it to the Department's Human Resources Administrator. An indirect financial interest includes situations where a DOT employee's spouse has a financial interest in a business, firm, or enterprise. A financial interest means that the employee or his spouse is an owner, member, partner, or shareholder in a non-publicly traded entity. Disclosure of such outside business interests to the DOT Human Resources Administrator shall not constitute approval of the outside business interest under this Policy or the Code of Ethics for Public Officials. DOT employees shall not have a financial interest in any business, firm, or enterprise which will either impair their independence of judgment with regard to their State duties or require or induce them to disclose confidential information gained through their State duties. Inquiries concerning the propriety of a DOT employee's outside business interests shall be directed to the Office of State Ethics to assure compliance with the Code of Ethics for Public Officials.
9. ***Contracts With the State:*** DOT employees, their immediate family members, and/or a business with which a DOT employee is associated, may not enter into a contract with the State, other than pursuant to a court appointment, valued at \$100 or more unless the contract has been awarded through an open and public process.
10. ***Sanctioning Another Person's Ethics Violation:*** No DOT official or employee shall counsel, authorize, or otherwise sanction action that violates any provision of the Code of Ethics.
11. ***Certain Persons Have an Obligation to Report Ethics Violations:*** If the DOT Commissioner, Deputy Commissioner, or "person in charge of State agency procurement" and contracting has reasonable cause to believe that a person has violated the Code of Ethics or any law or regulation concerning ethics in State contracting, he/she must report such belief to the Office of State Ethics. All DOT employees are encouraged to disclose waste, fraud, abuse, and corruption about which they become aware to the appropriate authority (see also Policy Statement EX.O.-23 dated March 31, 2004), including, but not limited to, their immediate supervisor or a superior of their immediate supervisor, the DOT Office of Management Services, the Ethics Compliance Officer, the Auditors of Public Accounts, the Office of the Attorney General, or the Office of the Chief State's Attorney.
12. ***Post-State Employment Restrictions:*** In addition to the above-stated policies of the Department, DOT employees are advised that the Code of Ethics for Public Officials bars certain conduct by State employees *after they leave State service. Upon leaving State service:*
- ***Confidential Information:*** DOT employees must never disclose or use confidential information gained in State service for the financial benefit of any person.
 - ***Prohibited Representation:*** DOT employees must never represent anyone (other than the State) concerning any "particular matter" in which they participated personally and substantially while in State service and in which the State has a substantial interest.
- DOT employees also must not, for one year after leaving State service, represent anyone other than the State for compensation before the DOT concerning a matter in which the State has a substantial interest. In this context, the term "represent" has been very broadly defined. Therefore, any former DOT employee contemplating post-State employment work that might involve interaction with any bureau of DOT (or any Board or Commission administratively under the DOT) within their first year after leaving State employment should contact the DOT Ethics Compliance Officer and/or the Office of State Ethics.

- **Employment With State Vendors:** DOT employees who participated substantially in, or supervised, the negotiation or award of a State contract valued at \$50,000 or more must not accept employment with a party to the contract (other than the State) for a period of one year after resigning from State service, if the resignation occurs within one year after the contract was signed.

13. **Ethical Considerations Concerning Bidding and State Contracts:** DOT employees also should be aware of various provisions of Part IV of the Code of Ethics that affect any person or firm who: (1) is, or is seeking to be, prequalified by DAS under Conn. Gen. Stat. §4a-100; (2) is a party to a large State construction or procurement contract, or seeking to enter into such a contract, with a State agency; or (3) is a party to a consultant services contract, or seeking to enter into such a contract, with a State agency. These persons or firms shall not:

- With the intent to obtain a competitive advantage over other bidders, solicit any information from an employee or official that the contractor knows is not and will not be available to other bidders for a large State construction or procurement contract that the contractor is seeking;
- Intentionally, willfully, or with reckless disregard for the truth, charge a State agency for work not performed or goods not provided, including submitting meritless change orders in bad faith with the sole intention of increasing the contract price, as well as falsifying invoices or bills or charging unreasonable and unsubstantiated rates for services or goods to a State agency; and
- Intentionally or willfully violate or attempt to circumvent State competitive bidding and ethics laws.

Firms or persons that violate the above provisions may be deemed a nonresponsible bidder by the DOT.

In addition, no person with whom a State agency has contracted to provide consulting services to plan specifications for any contract, and no business with which such person is associated, may serve as a consultant to any person seeking to obtain such contract, serve as a contractor for such contract, or serve as a subcontractor or consultant to the person awarded such contract.

DOT employees who believe that a contractor or consultant may be in violation of any of these provisions should bring it to the attention of their manager.

Training for DOT Employees

A copy of this policy will be posted throughout the Department, and provided to each employee either in hard copy or by e-mail. As set forth above, State law requires that certain employees involved in contractor/consultant/vendor selection, evaluation, or supervision must undergo annual ethics training coordinated or provided by the Ethics Compliance Officer. If you believe your duties meet these criteria, you should notify your Bureau Chief to facilitate compilation of a training schedule. In addition, the DOT Ethics Compliance Officer can arrange for periodic ethics training provided by the Office of State Ethics. Finally, the Department will make available, on its web site or otherwise, a copy of this policy to all vendors, contractors, and other business entities doing business with the Department.

Important Ethics Reference Materials

It is strongly recommended that every DOT employee read and review the following:

- Code of Ethics for Public Officials, Chapter 10, Part 1, Conn. General Statutes Sections 1-79 through 1-89a found at: www.ct.gov/ethics/site/default.asp
- Ethics Regulations Sections 1-81-14 through 1-81-38, found at: www.ct.gov/ethics/site/default.asp
- The Office of State Ethics web site includes summaries and the full text of formal ethics advisory opinions interpreting the Code of Ethics, as well as summaries of previous enforcement actions: www.ct.gov/ethics/site/default.asp. DOT employees are strongly encouraged to contact the Department's Ethics Compliance Officer or her designee, or the Office of State Ethics with any questions or concerns they may have.

(This Policy Statement supersedes Policy Statement No. F&A-10 dated January 6, 2006)



Ralph J. Carpenter
COMMISSIONER

Attachment

List 1 and List 3

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

cc: Office of the Governor, Department of Administrative Services, Office of State Ethics

CONNECTICUT REQUIRED CONTRACT/AGREEMENT PROVISIONS 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 are set forth in Required Contract Provisions (Form PR-1273 or 1316, as appropriate) and these Special Provisions which are imposed pursuant to Section 140 of Title 23 U.S.C., as established by Section 22 of the Federal-Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.

b) "Company" refers to any entity doing business with the Connecticut Department of Transportation and includes but is not limited to the following:

Contractors and Subcontractors
Consultants and Subconsultants
Suppliers of Materials and Vendors (where applicable)
Municipalities (where applicable)
Utilities (where applicable)

c) The Company will work with the Connecticut Department of Transportation (ConnDOT) and the Federal Government in carrying out equal employment opportunity obligations and in their review of his/her activities under the contract.

d) The Company and all his/her subcontractors or subconsultants holding subcontracts not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity: (The equal employment opportunity requirements of Executive Order 11246, as set forth in volume 6, Chapter 4, Section 1, subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors.) The company will include these requirements in every subcontract of \$10,000 or more with such modification of language as necessary to make them binding on the subcontractor or subconsultant.

2. Equal Employment Opportunity Policy:

The Company will develop, accept and adopt as its operating policy an Affirmative Action Plan utilizing the ConnDOT Affirmative Action Plan Guideline. This Plan shall be designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex or national origin, and to promote the full realization of equal employment opportunity through a positive continuation program.

3. Equal Employment Opportunity Officer:

The Company will designate and make known to ConnDOT 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 equal employment opportunity program 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 often than once every six months, at which time the Company's equal employment opportunity policy and its implementation will be reviewed and explained. The meeting will be conducted by the EEO Officer or other knowledgeable company official.

(2) All new supervisor 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 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 minority 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 place their equal employment opportunity policy in areas readily accessible to employees, applicants for employment and potential employees. The Company will bring the equal opportunity policy to the attention of employees through meetings, employee handbooks, or other appropriate means.

5. **Recruitment:**

a. When advertising for employees, the Company will include in all advertisements 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 workforce would normally be derived. The Company shall comply with this provision and the recruitment requirements outlined in their ConnDOT approved Affirmative Action Plan.

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 his/her EEO Officer, identify sources of potential minority group employees, and establish with such identified sources, procedures whereby minority group employees, and applicants may be referred to the Company for employment consideration.

In the event that the Company has a valid bargaining agreement providing for exclusive hiring hall referrals, he/she 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 his/her present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in 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 company's personnel actions shall comply with this provision and the requirements outlined in their ConnDOT approved Affirmative Action Plan.

- 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 practices.
- 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 action shall include all affected persons.
- d. The general contract provision entitled A(76) Affirmative Action Requirements is made part of this document by reference.

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 contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or 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 the 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, the Company will use his/her 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 a contractor's association acting as agent will include the procedures set forth below:

- a. The Company will use 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 best efforts to incorporate an Equal Opportunity clause into each union agreement to

the extent that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex or national origin.

c. The Company is to obtain information as to the referral practices and policies of the labor union except to the extent that 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 (ConnDOT) 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, national origin; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The United States Department of Labor has held that it shall be no excuse that the union with which the contractor 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 under Executive Order 11246 as amended, and these special provisions, such Company shall immediately notify ConnDOT.

9. Subcontracting:

a. The Company will use his/her best efforts to solicit bids from and to utilize minority group subcontractors, or subcontractors with meaningful minority group and female representation among their employees. Companies shall obtain lists of minority-owned construction firms from the Division of Contract compliance.

b. The Company will use its best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. Records and Reports:

a. The Company will keep such records as are necessary to determine compliance with equal employment opportunity obligations. The records kept by the Company will be designed to indicate:

1. The number of minority and non-minority group members and women employed in each classification on the project;
2. The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women; (applicable only to contractors who rely in whole or in part on unions as a source of their work force),
3. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
4. The progress and efforts being made in securing the services of minority group subcontractors, or subcontractors with meaningful minority and female representation among their employees.

b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of ConnDOT and the Federal Highway Administration.

c. The Company will submit an annual report to ConnDOT each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form PR 1391. If on-the-job training is being required by "Training Special Provision", the Company will be required to furnish Form

FHWA 1409.

11.

Affirmative Action Plan

Companies with contracts, agreements or purchase orders valued at \$10,000 or more will submit a ConnDOT Affirmative Action Plan.