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Agreement No. 9.17-01(13)
CORE No. 14DOT0105AA

**MASTER AGREEMENT
BETWEEN
THE STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION
AND
NATIONAL RAILROAD PASSENGER CORPORATON
FOR AMTRAK SUPPORT SERVICES NECESSITATED BY
CONNECTICUT DEPARTMENT OF TRANSPORTATION PROJECTS**

THIS AGREEMENT, concluded at Newington, Connecticut, by and between the State of Connecticut, Department of Transportation, (“DOT”) James Redeker, Commissioner, duly authorized, and the National Railroad Passenger Corporation (“Amtrak”), a corporation organized under 49 U.S.C. § 24101 et seq. and the laws of the District of Columbia, having its principal place of business at 60 Massachusetts Avenue N.E., Washington, DC 20002, acting herein by Joseph Boardman, its President and CEO, hereunto duly authorized, hereinafter collectively referred to as the “Parties” and individually referred to as “Party.”

WHEREAS, Amtrak owns, controls and maintains certain railroad tracks located between New Haven, CT and Springfield, MA, more commonly known as the “Springfield Line”, and also provides intercity rail passenger service over such tracks; and

WHEREAS, Amtrak owns, controls and maintains certain railroad tracks located between New Haven, CT and Stonington, CT, more commonly known as the “Shoreline”, and also provides intercity rail passenger service and commuter rail service for DOT (“Shoreline East Service”) over such tracks; and

WHEREAS, DOT owns, controls, and maintains certain highways, bridges and facilities which may be adjacent to or cross the operational and safety envelope of the Springfield Line or the Shoreline (hereinafter “DOT Infrastructure”); and

WHEREAS, from time to time, DOT will undertake inspection, maintenance, rehabilitation, design or construction projects related to: existing or proposed DOT Infrastructure; Shore Line East Service; freight rail service, and existing or potential new passenger, regional, commuter or intercity rail services (hereinafter “Project” or “Projects”); and all such Projects must be safely integrated with Amtrak operations and infrastructure; and

WHEREAS, DOT may perform or retain the services of a consultant or contractor to provide design, inspection, engineering, or construction services in furtherance of a Project or Projects (the “Consultant” or the “Contractor”); and

WHEREAS all work arising out of or connected with a Project must be closely and safely integrated with Amtrak's operations along its right-of-way so as not to impede or interfere with safe operations; and

WHEREAS, in order to safely integrate a Project with Amtrak's operations, DOT requests Amtrak to perform certain services including: reviewing DOT's studies, concepts, designs, plans, specifications, estimates and schedules; conducting site inspections; attending meetings; developing cost estimates; constructing, relocating or modifying Amtrak infrastructure; providing protective services including flagmen, class "A" employees and controlled power outages and/or track outages in support of a Project; performing environmental reviews, if necessary, as well as any other additional services as may be agreed upon by the Parties ("Support Services"); and

WHEREAS, Amtrak is willing to perform (or have performed by third parties) such Support Services in accordance with the terms set forth in this Master Agreement; and

WHEREAS, the Parties wish to set forth their respective duties, rights, and obligations with respect to Projects undertaken pursuant to this Master Agreement; and

WHEREAS, DOT, acting by its Commissioner, is authorized to enter into this agreement ("Agreement" or "Master Agreement") pursuant to Sections 4-8, 13a-132, 13a-133, 13a-165, , 13b-23, and 13b-34 of the General Statutes of Connecticut, as revised; and

WHEREAS, DOT, acting by its Commissioner, has made the express finding required by Section 13b-35 of the General Statutes of Connecticut, as revised, attached hereto as Exhibit A.

NOW THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, and with the intent to be legally bound hereby, the Parties agree as follows:

1.0 PROJECTS.

1.1 Project Initiation. DOT or its agent will initiate a Project by transmitting to Amtrak a letter(s) describing the Project, including scope, schedule, and location map. The initial communications will also include a request for a force account estimate (FAE) as defined in Section 1.5 herein for Support Services needed during the preliminary engineering phase enabling DOT to produce final construction plans, specifications, and estimates for the Project.

1.2 Document Submission. DOT, on a Project-specific basis, shall submit studies, concepts, plans, specifications, estimates, scopes, schedules, or other Project related information ("Documents") to Amtrak for its review, comment, and approval. DOT and Amtrak agree that Amtrak shall have a minimum of thirty (30) working days to review any Documents. Amtrak agrees that it will endeavor to review all Documents and provide comments and/or estimates to DOT within sixty (60) working days of its receipt of such Documents and/or requests for estimates. DOT and Amtrak agree to work collectively to reconcile all comments and DOT agrees to incorporate all of Amtrak's comments into the final Documents for a Project. Any review of such Documents by Amtrak shall be for the purpose of examining the general

arrangement, design and details of a Project for any potential impact on Amtrak's operations and property. No review, correction or approval of Documents by Amtrak shall relieve DOT and its Consultant, Contractor or any subconsultants and subcontractors from the entire responsibility for errors or omissions in such Documents or for the adequacy of such Documents thereof. All Documents relating to a Project will be reviewed and approved by Amtrak and will result in a final set of plans, drawings and specifications ("Approved Plans").

Any material revision to the Approved Plans shall be resubmitted to Amtrak for approval. DOT acknowledges that all approvals herein shall be subject to DOT's compliance with Amtrak's safety, operations, security, environmental and engineering procedures. All Projects shall be constructed in conformance with the Approved Plans.

DOT's failure to adhere to the Approved Plans may result in revocation of any Temporary Permit to Enter, as defined herein, issued for a Project, and/or such other action as Amtrak, in its sole discretion, deems appropriate.

1.3 Inspection. Amtrak shall have the right to inspect the work performed by DOT's Contractors at any time during construction of the Project for quality and to determine, in general, if the work is being performed in such manner that a Project, when completed, will be in conformance with the Approved Plans.

1.4 Prosecution of Work. No Amtrak inspection or approval relieves DOT and its Contractors from the sole obligation to comply with the Approved Plans and all applicable Laws (as defined herein).

DOT shall supervise and direct the work of its Consultants and Contractors performed hereunder in compliance with all laws, regulations, codes, ordinances, rules or orders of any applicable governmental entity or public authority, as well as industry standards applicable to the performance of the work. DOT shall secure and pay, if applicable, for all permits and fees, license, approvals and inspections necessary for the proper execution and completion of a Project, including without limitation any applicable construction or environmental permits.

1.5 Force Account Estimate. Upon request by DOT, Amtrak will develop a Project-specific force account estimate ("FAE") detailing Amtrak costs associated with providing required Support Services for such Project. The FAE will detail the required labor, equipment, and material for the Support Services necessary to complete the Project scope as represented by DOT. Amtrak will provide the FAE to DOT in accordance with the Section 1.2 of this Agreement.

1.6 Support Services. Subject to limitations expressed elsewhere in this Master Agreement, Amtrak will make available agreed-to resources including personnel, material and equipment to support and advance a Project. The resources include all disciplines required to provide engineering reviews and guidance in the furtherance of a Project; as well as constructing, relocating or modifying Amtrak infrastructure necessitated by a Project, as agreed to by the Parties.

Additionally, Amtrak will determine, based on the scope of the Project and railroad infrastructure and operations, the type and extent of protection required to ensure safety of persons working on

Amtrak property and maintain continuity of railroad traffic. Protection personnel may include, but are not limited to flagmen, to protect such persons against the movement of trains and to obtain the use of track, as well as class "A" employees to provide protection from electrical hazards or other railroad employees, as deemed necessary by Amtrak.

Amtrak and DOT agree to cooperate and to require their consultant(s)/contractor(s) to cooperate so as to coordinate their respective schedules in an effort to not delay a Project. However, DOT acknowledges that Amtrak has other work commitments and demands that may preclude Amtrak from performing its Support Services hereunder according to DOT's schedule. Furthermore, only limited track outages are available, and these outages must be shared and/or rationed among all potential projects (including other Amtrak, DOT and third party projects) in the vicinity of a Project area. Upon request, Amtrak will provide DOT with potential track outages on a Project-specific basis so those limitations may be integrated into the overall Project schedule. In addition, Amtrak may have manpower restrictions further limiting its ability to conform to DOT's schedule. These restrictions may preclude Amtrak from performing its Support Services hereunder according to DOT's schedule, or may prevent DOT from access to a Project site according to DOT's schedule. Amtrak shall use reasonably diligent efforts to accommodate DOT's schedule so as to permit DOT to proceed as expeditiously as possible. However, Amtrak shall not be liable for any costs or damages attributable to delays to DOT's schedule. Notwithstanding any other provision of this Agreement, no work on Amtrak property or in a Project area that requires Support Services from Amtrak may be performed until all Support Services required by Amtrak are in place.

1.7 Construction Projects. With respect to construction Projects, upon Amtrak's receipt of final Documents, Amtrak will provide timely written approval for a Project and indicate that all Amtrak comments have been satisfactorily incorporated in accordance with Section 1.2 of this Agreement. DOT will advance or cause to be advanced, a Project in accordance with the terms of this Agreement, the Documents approved by Amtrak during the review process outlined above, and applicable law.

1.8 Compliance with Laws and Standards.

(a) DOT warrants that it shall comply with all laws, regulations, codes, ordinances, rules or orders of any governmental entity or public authority ("Laws") applicable to any work it performs related to a Project. In addition, DOT and its Consultants and Contractors shall perform all work associated with the design and construction phases of a Project in accordance with applicable Amtrak standards, policies and procedures, including without limitation, the then current edition of AREMA requirements.

(b) In providing Support Services, Amtrak shall comply with all applicable Laws unless Amtrak, in its sole discretion, has determined it is exempt therefrom.

1.9 Labor Rights. This Agreement shall not require Amtrak to contravene the provisions of any of its labor agreements. In the event of a conflict or inconsistency between this Agreement and any Amtrak labor agreement, the labor agreements shall control as to such provision.

1.10 Ownership and Maintenance Responsibility. Amtrak may request DOT undertake all or a portion of required construction, relocation or modification of Amtrak infrastructure as necessitated by a Project on behalf of Amtrak. In the event DOT agrees to perform such construction, relocation or modification on Amtrak's behalf, ownership and maintenance responsibility, including any costs thereto for the infrastructure, shall be Amtrak's responsibility subject to applicable law or other agreement to the contrary. The aforementioned is subject to any Real Property Agreements (as defined in Section 18.1 of this Agreement) which may further define ownership and maintenance responsibilities.

1.11 Project Completion. DOT will notify Amtrak upon substantial completion of a Project, and when a Project has been completed.

2.0 PROJECT AUTHORIZATION.

2.1 Project Authorization Letter (PAL). For each Project phase, DOT and Amtrak will complete and sign one PAL in the form substantially similar to Exhibit B of this Agreement. The PAL will define the scope of a Project and the budget for the Amtrak Support Services for a Project, and include the Project schedule developed by DOT. The Parties agree that this Master Agreement in conjunction with the signed PAL shall set forth the terms and conditions with respect to a Project. In the event both Parties agree that multiple PAL's are required for a Project phase, DOT shall number each PAL sequentially beginning with PAL-1.

2.2 Process. The PAL process will commence with DOT sending a letter, as described in Section 1.1 of this Agreement, requesting a FAE. Upon receipt by DOT of an acceptable FAE, DOT will transmit two (2) copies of the PAL to Amtrak for review and signature. Amtrak will sign and return the two original copies to DOT for further processing. Upon issuance of a Purchase Order (PO) by DOT, an original copy of the executed PAL along with the PO will be transmitted by DOT to Amtrak.

2.3 Content. Each PAL will include the Project scope, the Amtrak-provided FAE for the Support Services and the Project schedule developed by DOT. The PAL shall be deemed to include provision for any subsequent change to scope, schedule or budget required for a Project. Such changes shall be issued via a Change Order in accordance with Article 3.0 of this Agreement.

2.4 Execution. To be considered executed, the PAL must be signed by the DOT Commissioner or his/her duly authorized representative; for Amtrak, by its Chief Engineer or his/her duly authorized representative. No work by Amtrak shall commence until receipt of the executed PAL, PO, and a Notice To Proceed (NTP) letter issued by DOT.

3.0 PROJECT CHANGES.

3.1 Change Order (CO). Subsequent to the full execution of the PAL, either Party may become aware that a change in the scope, schedule and/or budget for Support Services, as defined in the PAL, is required. In the event that such a change is required, the CO shall be the sole means by which such change is incorporated into a Project. To effect the change, a CO shall be issued in a form substantially similar to the letter attached hereto as Exhibit C. No order,

statement, or conduct of either Party shall be deemed to effect or entitle either Party to a change unless the Parties comply with the CO procedure set forth herein.

3.2 Process. In the event that a CO is required, either Party may prepare and submit to the other, a request for a Change Order. The request should include a description detailing the reasoning for the change. Upon agreement by both Parties as to the nature of the change, Amtrak will provide a scope and/or FAE, as applicable, detailing the required change in Support Services. DOT shall review the scope and/or FAE and, if acceptable, undertake the necessary administrative action to issue the CO; thereby adjusting the Support Services originally contemplated in the PAL. DOT will number each CO for a Project sequentially; the first CO will be numbered CO-1.

3.3 Content. Each CO will include the applicable changes to the scope, schedule and/or budget as required to complete the Project. DOT will provide the Project scope and Amtrak will provide the FAE for any additional Support Services, as applicable. Such further changes shall also be issued via the Change Order process in accordance with this Section.

3.5 Execution. To be considered valid, the CO must only be signed by one of the DOT individuals identified in Section 2.4 of this Agreement. The Parties agree that the issuance of the FAE relative to each CO by Amtrak shall constitute its agreement to the change. No work set forth in the CO shall commence until Amtrak's receipt of an executed CO issued by DOT, unless processed as an emergency in accordance with Section 3.6 of this Agreement.

3.6 Emergency Work. In the event an emergency arises as part of a Project that requires additional Support Services, Amtrak agrees to perform the additional Support Services immediately as requested by DOT or as determined by Amtrak, without the necessity of having to execute a CO in advance. In the event of such an emergency, the knowledgeable Party will notify the other of the emergency as soon as practicable. Time permitting, the Parties will reach agreement with respect to the scope of additional work and shall memorialize the same in writing within two (2) calendar days thereof. A request for CO shall be issued by the appropriate Party within thirty (30) calendar days of the emergency. DOT shall have thirty (30) calendar days to return the executed CO to Amtrak. If a fully executed CO is not received by Amtrak within thirty (30) calendar days, Amtrak may stop performing the emergency work only after giving DOT two (2) business days' notice (48 hours), and if DOT fails to send the executed CO to Amtrak within such two (2)-day period.

4.0. ALLOWABLE COSTS.

4.1 DOT agrees to reimburse Amtrak for allowable costs of all Support Services to be provided under any PAL or CO, including Amtrak's fully allocated current overhead additives. The overhead rates are computed in accordance with Amtrak's accounting policies and procedures. These rates are to be updated at least annually by Amtrak and are to be provided to DOT Bureau of Finance and Administration, Office of External Audits. The rates in effect at the time of performance of the Support Services shall be the applicable overhead rates. A description of allowable costs for labor, equipment, and material are set forth in Sections 4.2 through Section 4.7 of this Agreement.

4.2 Labor. Direct labor costs for all assigned Amtrak employees for actual hours worked while performing the Support Services, include, but are not limited to: any adjustments and allowances in accordance with then current existing labor agreements; travel costs; overnight accommodations; travel time and mandatory rest time as the result of performing work hereunder; and Amtrak's overhead rates, inclusive of General and Administrative (G&A) overhead.

4.3 Equipment. Costs for equipment leased by Amtrak and required for performance of the work shall be charged at the actual cost of the lease, plus the G&A overhead rates. For Amtrak-owned equipment, reimbursement shall be at the rates published in "Amtrak Rental Rates for Amtrak Equipment", as amended periodically. For Amtrak-owned equipment, vehicles, work trains and rolling stock not specifically itemized therein, reimbursement shall be based on a comparable market rate. In addition, Amtrak's G&A overhead rate shall be applied to these rates. For purposes of this Section, vehicles or equipment obtained by Amtrak through the United States General Services Administration Schedule shall be construed as Amtrak-owned.

4.4 Material. Materials and supplies which are issued from Amtrak's inventory shall be charged at Amtrak's inventory value in effect at the time the material or supplies are issued, plus any actual shipping/transportation costs and shipping/transportation cost additives. Those materials and/or supplies which are procured by Amtrak (but not issued from Amtrak's inventory) shall be charged at Amtrak's actual cost incurred, plus any actual shipping/transportation costs and shipping/transportation cost additives. Temporary materials recovered and accepted for reuse shall be credited to the Project at Amtrak's inventory valuation for those materials prices Materials recovered and not accepted for reuse, if determined to have a net sale value, shall be credited to the Project at the value of the actual sale proceeds, less the material additive and G&A overhead. The material handling and G&A overhead rates set shall be added to the cost of all materials and supplies.

4.5 Third Party Services. Costs for third party contract services required for the Project shall be reimbursed at the actual cost plus the G&A overhead rate.

4.6 Start-Up and Training Costs. Costs associated with start-up and the cost of training new Amtrak employees required specifically for a Project shall be reimbursed at the actual cost plus Amtrak's overhead rates, inclusive of G&A overhead. Amtrak shall advise DOT in advance of any specific start-up costs or training costs to be billed pursuant to this Section.

4.7 Retroactive Wages. Retroactive wage and benefit costs (i.e., adjustments made subsequent to performance of the work) shall be reimbursed based on actual costs plus all associated overhead rates. DOT's obligation to reimburse Amtrak is subject to Amtrak providing appropriate documentation (e.g. labor agreements) to DOT for such retroactive costs and invoicing DOT in accordance with Article 5.0 of this Agreement.

5.0 INVOICING AND PAYMENTS.

5.1 Amtrak shall invoice DOT within ninety (90) calendar days of accruing costs under any PAL or CO. DOT shall pay all invoices via wire transfer within thirty (30) calendar days of receipt of said invoices. If DOT objects to any invoice or portion thereof, it shall make an adjusted payment and provide a written statement as to its objections. Within thirty (30) calendar days thereafter, Amtrak will provide DOT with additional documentation as required to demonstrate the accuracy of the billing. The objection shall be considered resolved unless DOT provides additional written exception within thirty (30) calendar days of receipt of such additional documentation. In the event the disallowed costs or any portion thereof are found valid based on the additional documentation, DOT shall pay Amtrak this validated amount on the next invoice. Non-payment of validated invoices pursuant to the terms of this Agreement shall constitute a material breach of the Agreement, and shall be cause for Amtrak to cease performing Support Services associated with a Project. Upon resolution of any such dispute, Amtrak shall promptly resume performance of Support Services. Except as provided in Section 4a-72 of the Connecticut General Statutes, and as may be permitted by Section 4a-71 of the Connecticut General Statutes, late payments on undisputed invoices shall accrue interest at a rate equal to the monthly effective yield for the short term investment fund administered by the Treasurer of the State of Connecticut, pursuant to Sections 3-27a to 3-27f of the Connecticut General Statutes, as revised, inclusive, whenever the State fails to make timely payments.

5.2 Invoicing. All requests for payment shall be submitted on the State Invoice Summary and Processing (ISP) Form together with all pertinent costs records. Pertinent cost records including, but not limited to material invoices, third party service invoices, an equipment utilization pricing statement, and a statement of other costs and charges shall be included with Amtrak's request for payment. Amtrak will invoice DOT no more frequently than once a month.

5.3 Payments. To ensure reimbursement to Amtrak is contemporaneous with incurring costs for the performance of Support Services under any PAL, DOT shall make a payment to Amtrak in an amount which represents approximately ten percent (10%) of Amtrak's FAE. Amtrak shall present a bill for this payment at the time the first invoice for Support Services performed under the PAL is submitted. When the total invoiced amount reaches ninety percent (90%) of the PAL cost estimate, the initial payment shall be applied to Amtrak's invoices.

5.4 Final Invoice. The final invoice will be identified as such and cover all remaining costs incurred to complete the Support Services required by the Project. This final invoice shall be submitted to DOT no later than six (6) months after completion of the Project. DOT shall pay Amtrak's final invoice in accordance with Article 5.0 of this Agreement

5.5 Final Payment. Upon receipt of the final invoice and payment in accordance with Section 5.3 of this Agreement, DOT will initiate an audit. As a result of the audit, and upon agreement by both parties, either Party may be responsible to make final payment to the other to complete the reconciliation.

6.0 ACCESS TO AMTRAK PROPERTY.

6.1 DOT Access. Upon execution of a PAL, Amtrak hereby agrees to allow DOT employees access to Amtrak property in order to inspect, direct and work on the Project, provided however, that any such employees have completed all necessary Amtrak safety training courses and said employees comply with all Amtrak safety requirements and the direction of Amtrak protective services personnel on site, as well as any applicable requirements in any real property Agreement between the Parties (“Real Property Agreement”) that is applicable to the work site.

6.2 Third Party Access. This Agreement does not provide permission for any Consultants, Contractors or subcontractors of DOT or any other person on behalf of DOT to enter Amtrak property. Any such third party seeking permission to enter Amtrak property in furtherance of a Project must execute and comply with Amtrak’s Temporary Permit to Enter Upon Property and, if there are Real Property Agreements related to the Project, abide by all applicable terms and conditions of such Real Property Agreements.

7.0. INSURANCE.

7.1 Amtrak Insurance. With respect to the Support Services provided by Amtrak for a Project, Amtrak shall provide and maintain force account insurance in the amount of Ten Million Dollars (\$10,000,000), the cost of which will be included in the FAE and reimbursed to Amtrak by DOT to cover Amtrak’s liabilities for injury or damage resulting from providing Support Services for a Project. Amtrak represents and warrants that force account insurance will be in place prior to the commencement of providing Support Services and shall remain in effect through to completion of each Project.

Amtrak may provide said coverage under a self-insurance program.

7.2 DOT Consultant and Contractor Insurance. DOT will require that each Consultant or Contractor who performs design, construction engineering and inspection, or construction functions in support of a Project comply with Amtrak insurance coverage specified in the document entitled “Insurance Requirements – National Railroad Passenger Corporation,” a copy of which is attached hereto as Exhibit D. DOT shall require those Consultants and Contractors to provide Amtrak with a certificate of insurance evidencing the insurance coverage required thereunder.

8.0 ENVIRONMENTAL LIABILITIES.

8.1 DOT, its Contractor(s), or Consultant(s), for the purpose of a Project, may need to perform environmental and/or geotechnical testing (e.g. soil or water testing) of Amtrak property. DOT shall require its Contractor(s) or Consultant(s), prior to performing any such testing activity, to obtain permission from Amtrak to conduct the planned activities by obtaining Amtrak’s “Temporary Permit to Enter Upon Property” in accordance with Section 6.2 of this Agreement.

8.2 Testing, Monitoring, or Remediation. If the results of any testing performed by DOT or on DOT’s behalf in connection with a Project indicate contamination of Amtrak property at levels requiring further testing, monitoring or remediation pursuant to applicable environmental

laws, all such testing, monitoring and/or remediation shall be at the sole cost and expense of DOT, regardless of the extent of the testing, monitoring and/or remediation and regardless of whether performed on or off Amtrak property except where Amtrak had prior knowledge of levels requiring testing, monitoring and/or remediation; or where Amtrak was under order to conduct testing, monitoring and/or remediation, and had yet to do so; or where with such knowledge or under such order, Amtrak had not adequately tested, monitored and/or remediated. Upon Amtrak request, DOT will provide Amtrak a copy of the test results.

9.0 INDEMNIFICATION.

9.1 Pursuant to Section 13b-34(i) of the Connecticut General Statutes, as revised, DOT is authorized to agree to indemnify and hold harmless Amtrak as set forth in this Article.

9.2 Except as provided in Sections 9.3 and 9.5 of this Article, DOT agrees to indemnify and hold harmless Amtrak and its officers, directors, and employees (collectively, the "Indemnified Parties"), irrespective of any negligence or fault on the part of the Indemnified Parties, from and against any and all damage or liability for personal injury, death, or property damage, (including, without limitation, cost of defense and attorneys' fees), regardless of the cause thereof, which would not have occurred but for the existence of this Agreement or a Project associated with a PAL issued under this Agreement.

9.3 DOT's agreement to indemnify and hold harmless the Indemnified Parties under Section 9.2 of this Article shall not apply to:

- (a) damages relating to the injury or death to Amtrak employees or agents engaged directly in fulfilling Amtrak's obligations under this Agreement or a Project associated with a PAL issued under this Agreement that are covered by the insurance required under Section 7.1 of this Agreement;
- (b) any claim for damages or for liability for personal injury, death, or property damages, including damage to Amtrak property caused by the malice, oppression or fraud of Amtrak and/or its officers, directors, employees, and/or agents.

9.4 The foregoing indemnification obligation on the part of DOT under Section 9.2 shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation, or benefits payable by or for DOT or any of its contractors or subcontractors, or consultants, and shall survive the termination of this Agreement, provided the occurrence leading to the injury, death or damage to property occurs prior to the termination of this Agreement.

9.5 Amtrak agrees to indemnify and hold harmless DOT for any claim for damages or for liability for personal injury, or death, or property damages, including damage to Amtrak property to the extent such damages or liability are covered by the force account insurance provided by Amtrak pursuant to this Agreement.

9.6 DOT shall require its Consultants and Contractors who perform design or engineering functions in support of a Project, to indemnify and hold harmless Amtrak and any other affected railroad from all liability caused by errors and omissions in their work or in the work of their subconsultants, agents or employees.

9.7 Before Amtrak will provide comments on any Documents, DOT shall require its Consultants who perform design or engineering functions in support of a Project to execute a Certificate in the form as set forth in Exhibit E ("Certificate") and submit such executed Certificate to Amtrak at the address listed in Article 14.0 hereof.

9.8 Amtrak reserves the right to require any Consultant of DOT to execute a non-disclosure agreement with Amtrak prior to Amtrak providing any confidential information to that Consultant.

10.0 SUCCESSORS AND ASSIGNS. Except as otherwise provided by this Agreement, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties hereto, except that neither Party shall assign or transfer this Agreement or any of its rights hereunder to any person, firm, or corporation without obtaining the prior written consent of the other, which consent shall not be unreasonably withheld.

11.0 FORCE MAJEURE. Should circumstances occur which are beyond the reasonable control of Amtrak or DOT and without the fault or negligence of Amtrak or DOT (i.e., acts of God or war, strikes, fire, floods, epidemics, theft, vandalism, terrorism, derailment, or unusually severe weather), which delay the completion of a Project, the delayed Party shall be excused from such delay and shall give to the other Party written notice thereof. Within ten (10) calendar days of commencement of the delay, the delayed Party shall provide to the other Party an estimate of the anticipated impact of the delay on the completion of a Project, including its impact, if any, on the Project schedule. Within ten (10) calendar days after the termination of any such delay, the delayed Party shall file written notice with the other Party specifying the actual duration of the delay.

12.0 FHWA REQUIREMENTS. With respect to the Support Services provided by Amtrak in conjunction with a Project which is funded in whole or part by the Federal Highway Administration (FHWA), Amtrak shall be governed by and comply with the provisions of 23 CFR Part 646 and 23 CFR Part 140, Subpart I, as amended, which is incorporated herein by reference and hereby made a part of this Agreement.

13.0 ADMINISTRATIVE AND STATUTORY REQUIREMENTS. With respect to the Support Services provided by Amtrak in conjunction with a Project, Amtrak shall comply, to the extent not inapplicable to Amtrak due to federal pre-emption, with the provisions contained in Exhibit F entitled "Administrative and Statutory Requirements" (including attachments), a copy of which is attached and hereby made a part of this Agreement.

14.0 OFFICIAL NOTICES. Any official notice from one Party to the other Party, in order for such notice to be binding thereon, shall:

Be in writing (hard copy) addressed to:

When DOT is to receive such notice:

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

When Amtrak is to receive such notice:

Chief Engineer
National Railroad Passenger Corporation
30th Street Station
2955 Market Street
Philadelphia, PA 19104

Be delivered in person with acknowledgement of receipt or be mailed via United States Postal Service – “Certified Mail” or by recognized overnight delivery service to the address recited herein as being the address of the party to receive such notice. The Parties may mutually agree, in writing, to a different method of giving and receiving notice.

15.0 MISCELLANEOUS

(a) No failure on the part of either Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies of the Parties provided herein are cumulative and not exclusive of any remedies provided for by law.

(b) Nothing in this Agreement shall be deemed to create any right in any person not a Party hereto other than permitted successors and assigns of a Party hereto, and this Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party.

(c) If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable in any respect, such determination shall not affect any other provision hereof.

(d) No recourse shall be had by either Party for any claim against any officer, director, stockholder, employee or agent of the other Party alleging personal liability on the part of such person with respect to performance of DOT's or Amtrak's obligations under this Agreement.

(e) Nothing herein shall be interpreted to require Amtrak to accept any design it deems unsatisfactory, nor to require Amtrak to grant permission for construction of a Project.

16.0 TERM AND TERMINATION

16.1 Effective Date and Term. Except as provided in Section 16.3 of this Agreement, this Agreement shall have a term of ten (10) years from the effective date ("Term"). The effective date is the date which the Agreement is approved as to form by the Attorney General of the State of Connecticut.

16.2 Termination. DOT shall have the right to terminate all or any part of the Support Services, for any reason, upon official notice to Amtrak as prescribed in Article 14.0 of this Agreement. Amtrak shall include in all contracts with third parties who Amtrak hires to perform work related to a Project, a provision allowing Amtrak to terminate such contract for convenience. In accordance with such notice, Amtrak shall discontinue such Services, shall halt the placing of further third party contracts relating thereto, and shall cancel all outstanding third party contracts for convenience relating thereto. Upon such termination, Amtrak shall be paid its costs for the Support Services performed as set forth in this Agreement up to the time of termination, and the right-of-way shall be restored to a safe condition as reasonably determined by Amtrak. DOT shall also reimburse Amtrak, in the manner provided by this Agreement, for all costs incurred subsequent to receipt of such notice, the incurrence of which is necessary in order to restore to serviceability any facilities which were wholly or partly unserviceable as a result of a Project at the time of such receipt. In the event of such termination, Amtrak shall promptly submit its termination claim.

16.3 Ongoing Projects. The terms and conditions of this Agreement and any issued PAL and CO (if any CO has been issued) for a Project that is ongoing at the end of the Term shall remain in full force and effect and will continue until the Project is completed. Further, any CO required to complete an ongoing Project after the expiration of the Term shall be executed as needed until such time the Project is complete. Alternatively, any Project, PAL, or CO may be terminated in accordance with Section 16.2 above.

17.0 CONDITIONS PRECEDENT; CROSS DEFAULTS

17.1 Real Estate Needs. If, after consultation with the DOT Commissioner or the Commissioners designee, Amtrak determines that additional real property interests are needed by DOT in order to pursue a Project, no PAL or CO executed pursuant to this Agreement for the construction of that Project shall have any force or effect unless and until the Parties execute a separate agreement relating to the real property interests (Real Property Agreement) upon Amtrak property as may be required.

17.2 Default. Any material breach of the terms of this Agreement by DOT (such as non-payment, failure to maintain insurance or honor an indemnity) shall constitute a default hereunder, and Amtrak may terminate this Agreement, curtail or cease to provide Support Services hereunder, at Amtrak's option. Any such default of this Agreement shall also constitute a default under any Real Property Agreement associated with the Project and Amtrak shall have

the right to avail itself of any and all default remedies outlined in those agreements.

18.0 CONFLICT.

In case of a conflict between the provisions of any particular PAL, CO, or the Agreement on the one hand, and any specification, document, or other publication referenced in any particular PAL, CO or the Agreement on the other, the PAL, CO or the Agreement respectively will control.

19.0 ENTIRE AGREEMENT


This Agreement constitutes the entire agreement between the Parties as to scope and subject matter. All prior discussions and understandings concerning such scope and subject matter are superseded by this Agreement. This Agreement or any part hereof may not be changed, amended or modified, except by written agreement of the Parties.

SIGNATURES TO FOLLOW

Agreement No. 9.17-01(13)

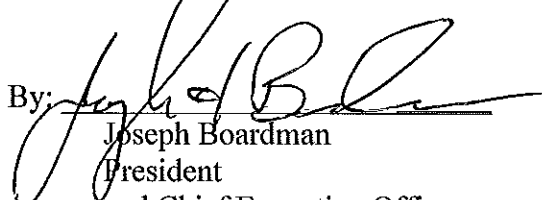
The Parties have executed this Master Agreement by their duly authorized representatives on the day and year indicated, with full knowledge of and agreement with its terms and conditions.

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

By: 
James Redeker
Commissioner


Date: 9/24/15

NATIONAL RAILROAD PASSENGER
CORPORATION

By: 
Joseph Boardman
President
and Chief Executive Officer

Date: 9/9/2015

APPROVED AS TO FORM:

By: 
Asst Attorney General Robert W. Clark
State of Connecticut

Date: 10/1/15

APPROVED AS TO FORM:

By: 
Counsel for Amtrak

Date: 8/24/15

EXHIBIT A

EXPRESS FINDING

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

BE IT KNOWN, THAT I, James Redeker, Commissioner of Transportation, State of Connecticut, intend to exercise the powers conferred to me in Section 13b-34 of the Connecticut General Statutes, as revised, and herewith make this Express Finding pursuant to the provisions of Section 13b-35 of the Connecticut General Statutes, as revised:

I find that the projects to be undertaken pursuant to this Agreement will fall under any one or more of the statutory elements set forth in Section 13b-35 of the Connecticut General Statutes in that such projects will address:

- 1) certain specific transportation facilities that may be discontinued, disrupted or abandoned in whole or in part, which discontinuance, disruption or abandonment will be detrimental to the general welfare of the State, and the exercise of powers in subsection (a) of Section 13b-34 of the General Statutes of Connecticut, as revised, is essential to the continuation of such necessary transportation facilities; and/or
- 2) specific transportation facilities that otherwise may not be operated in the manner required by the general welfare of the state; and/or
- 3) the need for additional transportation facilities and services.

Pursuant to this Express Finding, I intend to execute a Master Agreement between the State of Connecticut, Department of Transportation and the National Railroad Passenger Corporation (Amtrak), for Amtrak Support Services necessitated by DOT Projects.

Dated at Newington, Connecticut, this 27 day of September, 2015.

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION

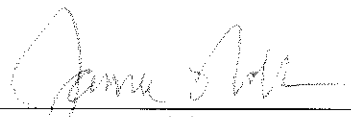
By: 
James Redeker
Commissioner

EXHIBIT B

Mr. [_____]
Director I&C Projects
National Railroad Passenger Corporation
30th Street Station, 4S-027, Mail Box 64
2955 Market Street
Philadelphia, PA 19104

Date: _____

Dear Mr. [_____],

Subject: Project Authorization Letter (PAL)
[insert project description]
State Project No. [DOTxxxxxxx(PE or CN)]
PAL-1
Master Agreement No. 9.17-01(13)
Federal Aid No.

The Connecticut Department of Transportation (DOT) has initiated the [engineering, construction or maintenance] Project and National Railroad Passenger Corporation (Amtrak) has determined Support Services will be required to integrate the Project activities with Amtrak operations and infrastructure.

DOT acknowledges receipt of an acceptable Force Account Estimate (FAE) for the costs associated with those Support Services. The FAE dated [month, day, year] in the amount of [\$_____] attached hereto sets forth the maximum budget of this PAL. This budget shall not be exceeded without first obtaining written authorization from DOT pursuant to the terms of the Master Agreement.

This PAL itself is not an authorization to provide Support Services or begin performance in any way. Amtrak may begin to provide Support Services only after receiving a purchase order and notice to proceed issued by DOT directly to Amtrak.

Please indicate your concurrence with this PAL by signing below and returning a copy to DOT, as indicated. By your concurrence, the Master Agreement and PAL will be incorporated into one another and collectively will contain the legal and binding obligations of DOT and Amtrak with respect to the Project.

Mr. [_____]

-2-

Date [_____]

The signed copy of this PAL should be returned to: Principal Engineer, Connecticut Department of Transportation, Utilities Section, 2800 Berlin Turnpike, Newington, CT 06131.

Very truly yours,

[insert name]
Engineering Administrator
Bureau of Engineering
and Construction

Concurred By _____ Date: _____

[insert name]
Chief Engineer
National Railroad Passenger Corporation

Enclosure

EXHIBIT C

Mr. [_____]
Director I&C Projects
National Railroad Passenger Corporation
30th Street Station, 4S-027, Mail Box 64
2955 Market Street
Philadelphia, PA 19104

Date: _____

Dear Mr. [_____],

Subject: Change Order (CO)
 [insert project description]
 State Project No. [DOTxxxxxxx(PE or CN)]
 CO-1
 Master Agreement No. 9.17-01(13)
 Federal Aid No.

On [date], the Connecticut Department of Transportation (DOT) and National Railroad Passenger Corporation (Amtrak) executed a Project Authorization Letter (PAL) for Support Services required to integrate Project activities with Amtrak operations and infrastructure.

As the Project has progressed, it has become apparent that additional Support Services are required in order to complete the Project as intended. The Parties agree that the PAL did not fully capture all Support Services required by the Project and that a CO is needed to incorporate those additional Support Services.

Amtrak acknowledges the need for the additional Support Services and has provided the attached Force Account Estimate (FAE) detailing the associated cost. The FAE dated [date] in the amount of [\$ _____] is accepted by DOT, and pursuant to this CO is incorporated in the budget. The revised budget in the amount of [\$ _____] shall not be exceeded without first obtaining written authorization from DOT.

If you have any questions regarding this Change Order, please contact [Mr./Ms. _____], the Project Manager at (860) 594-xxxx.

Very truly yours,

[insert name]
District Engineer
Bureau of Engineering and Construction

Enclosure

EXHIBIT D

INSURANCE REQUIREMENTS

**NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)
CHICAGO UNION STATION COMPANY (CUSCO)
WASHINGTON TERMINAL COMPANY (WTC)
Revised as of March 14, 2013**

DEFINITIONS

In these Insurance Requirements, "Railroad" or "Amtrak" shall mean National Railroad Passenger Corporation and, as appropriate, its subsidiaries Chicago Union Station Company ("CUSCO") and Washington Terminal Company ("WTC"). "Contractor" shall mean the party identified as "Permittee" in the Temporary Permit to Enter Upon Property Agreement or the party with whom Amtrak has contracted in another agreement (e.g., Preliminary Engineering Agreement, Design Phase Agreement, Construction Phase Agreement or Force Account Agreement), as well as its officers, employees, agents, servants, contractors, subcontractors, or any other person acting for or by permission of Contractor. "Operations" shall mean activities of or work performed by Contractor. "Agreement" shall mean the Temporary Permit to Enter Upon Property Agreement or other such agreement, as applicable.

INSURANCE

Contractor shall procure and maintain, at its sole cost and expense, the types of insurance specified below. Contractor shall evidence such coverage by submitting to Amtrak the original Railroad Protective Liability Policy and certificates of insurance evidencing the other required insurance, prior to commencement of Operations. In addition, Contractor agrees to provide certified copies of the insurance policies for the required insurance within 30 days of Amtrak's written request. All insurance shall be procured from insurers authorized to do business in the jurisdiction(s) where the Operations are to be performed. Contractor shall require all subcontractors to carry the insurance required herein or Contractor may, at its option, provide the coverage for any or all subcontractors, provided the evidence of insurance submitted by Contractor to Amtrak so stipulates. The insurance shall provide for thirty (30) days prior written notice to Amtrak in the event coverage is substantially changed, canceled or non-renewed. All insurance shall remain in force until all Operations are satisfactorily completed (unless otherwise noted below), all Contractor personnel and equipment have been removed from Railroad property, and any work has been formally accepted. Contractor may provide for the insurance coverages with such deductibles or retained amounts as Amtrak may approve from time to time, except, however, that Contractor shall, at its sole expense, pay for all claims and damages which fall within such deductible or retained amount on the same basis as if there were full commercial insurance in force in compliance with these requirements. Contractor's failure to comply with the insurance requirements set forth herein shall constitute a violation of the Agreement.

1. **Workers' Compensation Insurance** complying with the requirements of the statutes of the jurisdiction(s) in which the Operations will be performed, covering all employees of Contractor.

Employer's Liability coverage with limits of not less than \$1 million each accident or illness shall be included.

In the event the Operations are to be performed on, over, or adjacent to navigable waterways, a U.S. Longshoremen and Harbor Workers' Compensation Act Endorsement and Outer Continental Lands Act Endorsement are required.

2. **Commercial General Liability (CGL) Insurance** covering liability of Contractor with respect to all operations to be performed and all obligations assumed by Contractor under the terms of the Agreement. Products-completed operations, independent contractors and contractual liability coverages are to be included, with the contractual exclusion related to construction/demolition activity within fifty (50) feet of the railroad deleted and no exclusions for Explosion/Collapse/Underground (X-C-U) applicable or added.

The policy shall name National Railroad Passenger Corporation and, as appropriate CUSCO or WTC, and all commuter agencies and railroads that operate over the property or tracks at issue as additional insureds with respect to the operations to be performed. In addition, the policy shall include an ISO endorsement Form CG 24 17 10 01 or its equivalent providing contractual liability coverage for railroads listed as additional insureds. Coverage for such additional insureds shall be primary and non-contributory with respect to any other insurance the additional insureds may carry.

Coverage under this policy shall have limits of liability of not less than \$5 million each occurrence, combined single limit, for bodily injury (including disease or death), personal injury and property damage (including loss of use) liability. Such coverage may be provided by a combination of a primary CGL policy and a following form excess or umbrella liability policy.

3. **Automobile Liability Insurance** covering the liability of Contractor arising out of the use of any vehicles which bear, or are required to bear, license plates according to the laws of the jurisdiction in which they are to be operated, and which are not covered under Contractor's CGL insurance. The policy shall name National Railroad Passenger Corporation and, as appropriate CUSCO or WTC, and all commuter agencies and railroads that operate over the property or tracks at issue as additional insureds with respect to the operations to be performed. Coverage under this policy shall have limits of liability of not less than \$1 million each occurrence, combined single limit, for bodily injury (including disease or death), personal injury and property damage (including loss of use) liability.

In the event Contractor or any subcontractor will be transporting and/or disposing of any hazardous material or waste off of the jobsite, a MCS-90 Endorsement is to be added to this policy and the limits of liability are to be increased to \$5 million each occurrence.

4. **Railroad Protective Liability (RRP) Insurance** covering the Operations performed by Contractor or any subcontractor within fifty (50) feet vertically or horizontally of railroad tracks. The current ISO Occurrence Form (claims-made forms are unacceptable) in the name of National Railroad Passenger Corporation (and as appropriate CUSCO or WTC, and all commuter agencies and railroads that operate over the property or tracks at issue) shall have limits of liability of not less than \$5 million each occurrence, combined single limit, for Coverages A and B, for losses arising out of injury to or death of all persons, and for physical loss or damage to or destruction of property, including the loss of use thereof. A \$10 million annual aggregate shall apply. Additionally, Policy Endorsement CG 28 31 - Pollution Exclusion Amendment, is required to be

endorsed onto the policy. Further, "Physical Damage to Property" as defined in the policy is to be deleted and replaced by the following endorsement:

"It is agreed that 'Physical Damage to Property' means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured's care, custody and control."

The original RRP Liability Insurance Policy must be submitted to Amtrak prior to commencement of Operations.

5. **All Risk Property Insurance** covering damage to or loss of all remaining personal property of Contractor, its contractors and subcontractors used during Operations including, but not limited to, tools, equipment, construction trailers and their contents and temporary scaffolding at the project site, whether owned, leased, rented or borrowed for the full replacement cost value. Insurance policies of Contractor, its contractors and subcontractors, covering tools, equipment and other personal property will include a waiver of subrogation and any other rights of recovery in favor of Amtrak and Contractor.
6. **Contractor's Pollution Liability Insurance** covering the liability of Contractor arising out of any sudden and/or non-sudden pollution or impairment of the environment, including clean-up costs and defense, that arise from the Operations of Contractor, with National Railroad Passenger Corporation and, as appropriate CUSCO or WTC, and all commuter agencies and railroads that operate over the property or tracks at issue named as additional insureds. Coverage under this policy shall have limits of liability of not less than \$2 million each occurrence. The coverage shall be maintained during the term of the project, and for at least two (2) years following Amtrak's acceptance of the completion of all Operations to be performed.
7. **Pollution Legal Liability Insurance** is required if any hazardous material or waste is to be transported or disposed of off of the jobsite. Contractor, its subcontractor or transporter, as well as the disposal site operator, shall maintain this insurance. Contractor shall designate the disposal site, and must provide a certificate of insurance from the disposal facility to Amtrak. The policy shall name National Railroad Passenger Corporation and, as appropriate CUSCO or WTC, and all commuter agencies and railroads that operate over the property or tracks at issue as additional insureds, with limits of liability of not less than \$2 million per claim.

Further, any additional insurance coverages, permits, licenses and other forms of documentation required by the United States Department of Transportation, the Environmental Protection Agency and/or related state and local laws, rules and regulations shall be obtained by Contractor.

8. **Professional Liability Insurance** covering the liability of Contractor for any and all errors or omissions committed by Contractor in the performance of the Operations, regardless of the type of damages. The coverage shall be maintained during the term of the Operations, and for at least three (3) years following completion thereof. The policy shall have a retroactive date that precedes any design work on the project and shall have limits of liability of not less than \$2 million per claim and \$2 million in the annual aggregate. . For a Project scopes which include under grade bridges (bridges which carry trains) the policy shall have limits of liability not less than \$10 million per claim and \$10 million in the annual aggregate.

If Contractor is not performing professional design or engineering services, Contractor may elect to satisfy this requirement through the addition of endorsement CG2279 "Incidental Professional

Liability” to its CGL policy.

9. **Waiver of Subrogation** As to all insurance policies required herein, Contractor waives all rights of recovery, and its insurers must waive all rights of subrogation of damages against Amtrak and, as appropriate, CUSCO and WTC, and their agents, officers, directors, and employees. The waiver must be stated on the certificate of insurance.
10. **Punitive Damages** Unless prohibited by law, no liability insurance policies required above shall contain an exclusion for punitive or exemplary damages.
11. **Claims-Made Insurance** If any liability insurance specified above shall be provided on a claims-made basis then, in addition to coverage requirements above, such policy shall provide that:
 - a. The retroactive date shall coincide with or precede Contractor’s start of Operations (including subsequent policies purchased as renewals or replacements);
 - b. The policy shall allow for the reporting of circumstances or incidents that might give rise to future claims;
 - c. Contractor will use its best efforts to maintain similar insurance under the same terms and conditions that describe each type of policy listed above (e.g., CGL, Professional Liability) for at least three (3) years following completion of the Operations; and
 - d. If insurance is terminated for any reason, Contractor will purchase an extended reporting provision of at least six (6) years to report claims arising from Operations.
12. **Evidence of Insurance** Contractor shall furnish evidence of insurance as specified above at least fifteen (15) days prior to commencing Operations. Prior to the cancellation, renewal, or expiration of any insurance policy specified above, Contractor shall furnish evidence of insurance replacing the cancelled or expired policies. THESE DOCUMENTS SHALL INCLUDE A DESCRIPTION OF THE PROJECT AND THE LOCATION ALONG THE RAILROAD RIGHT-OF-WAY (typically given by milepost designation) IN ORDER TO FACILITATE PROCESSING. The fifteen (15) day advance notice of coverage may be waived by Amtrak in situations where such waiver will benefit Amtrak, but under no circumstances will Contractor begin Operations without providing satisfactory evidence of insurance as approved by Amtrak. Such evidence of insurance coverage shall be sent to:

Director I&C Projects
National Railroad Passenger Corporation
30th Street Station, Mail Box 64
Philadelphia, PA 19104-2817

EXHIBIT E

CERTIFICATE BY [insert name of consultant] TO NATIONAL RAILROAD PASSENGER CORPORATION

This Certificate ("Certificate") effective this ____ day of _____, 20__, is made by [insert name of entity], a [insert type of entity (e.g., corporation/partnership/limited liability company) and state of incorporation or formation – for example, a Delaware limited liability company] with its principal offices located at [insert location] ("Consultant") to National Railroad Passenger Corporation, a District of Columbia corporation with its principal offices located at 60 Massachusetts Avenue, N.E., Washington, DC, 20002 ("Amtrak").

WHEREAS, Amtrak owns, maintains and/or operates intercity passenger rail service over a certain railroad right-of-way between [insert start point of corridor] and [insert end point of corridor] (known as the [Keystone/Northeast] Corridor); and

WHEREAS, [insert name of entity with which Amtrak has entered into a site access, design phase or construction phase agreement] (hereinafter ["Developer/City/State"]) proposes to [insert general description of the project, such as "construct a commercial office building"] [above/adjacent to/in the vicinity of] Amtrak's right-of-way in [insert town/city and state], at railroad milepost [insert milepost number] (the "Project"); and

WHEREAS, [Developer/City/State] has retained the services of Consultant to provide engineering and/or design services in support of the Project; and

WHEREAS, due to the location of the Project relative to Amtrak property and the potential impact of the Project on Amtrak's property and/or operations, the Project work may not proceed without Amtrak's prior review and approval of the [plans, drawings and specifications]; and

WHEREAS, in order to advance the Project, Consultant desires Amtrak's review and approval of its [plans, drawings, and specifications]; and

WHEREAS, Consultant agrees that protection of Amtrak's property and operations is a paramount public safety concern.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for and in consideration of the covenants and agreements contained herein, intending to be legally bound, Consultant hereby represents, acknowledges, and agrees as follows:

1. **Recitals.** The recitals set forth above in the WHEREAS clauses are incorporated into the terms of this Certificate as if fully set forth herein.
2. **Consideration for Execution of this Certificate.** In consideration, *inter alia*, for Amtrak reviewing the [plans, drawings, and specifications] which are needed for Consultant to perform its obligations under Consultant's agreement with [Developer/City/State], Consultant hereby executes this Certificate.
3. **Indemnification.** Consultant hereby releases and agrees to defend, indemnify and hold harmless Amtrak and any other affected railroad, as well as their respective officers, directors, employees, agents, successors, assigns, and subsidiaries (collectively "the Indemnified Parties"), from and against any and all losses, liabilities, claims, demands, fines, suits, and costs (including cost of defense and attorneys' fees)

which any of the Indemnified Parties may hereafter incur, be responsible for, or pay as a result of negligent errors or omissions in Consultant's work and/or in the work of its officers, directors, employees, agents, subconsultants, successors, assigns, subsidiaries, and any other persons acting for or by permission of Consultant relating to the design and/or engineering services Consultant is providing for [Developer/City/State] in support of the Project. The foregoing obligation shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation, or benefits payable by or for Consultant or its subconsultants or agents, and shall survive the termination of the agreement between Amtrak and the [Developer/City/State].

4. Insurance. Consultant agrees to procure and maintain in effect professional liability insurance covering the liability of Consultant for all negligent errors or omissions committed by Consultant, its officers, directors, employees, agents, subconsultants, successors, assigns, and subsidiaries, and any other persons acting for or by permission of Consultant in the performance of any design and/or engineering services in support of the Project. The insurance shall be maintained during the term of Consultant's agreement with [Developer/City/State] and for at least three years following completion of all services to be performed by Consultant in support of the Project. The insurance shall have limits of liability of not less than [insert amount] million dollars [(\$xx,xxx,xxx)] per claim.

Prior to Amtrak reviewing any [plans, drawings, and specifications], Consultant shall provide to Amtrak an insurance certificate reflecting that Consultant has the insurance as stated above. At least one (1) time every year thereafter, Consultant shall provide to Amtrak an updated insurance certificate reflecting that Consultant has the insurance as stated above.

5. Review of Documents. Any review of Consultant's [plans, drawings, and specifications] by Amtrak shall be for the purpose of examining the general arrangement, design and details of the Project for potential impact on Amtrak's property and operations. Amtrak assumes no responsibility for, and makes no representations or warranties, express or implied, as to the design, condition, workmanship and/or adequacy of the [plans, drawings, and specifications].

6. Permit to Enter. Nothing herein is intended to grant Consultant the right to enter upon the right-of-way or other property of Amtrak. If entry onto, above, or below Amtrak's right-of-way or other property is required for purposes of this Project by Consultant, Consultant must execute the then-current version of Amtrak's "Temporary Permit to Enter Upon Property".

7. Governing Law. This Certificate shall be governed by and construed under the laws of the District of Columbia. All legal proceedings in connection with any dispute arising under or relating to this Certificate shall be brought in the United States District Court for the District of Columbia.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has executed this Certificate.

Consultant

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT F

ADMINISTRATIVE AND STATUTORY REQUIREMENTS

1. Civil Rights

As a condition to receiving federal financial assistance under the Agreement, if any, Amtrak shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d – 2000d-7), all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the “Title VI Contractor Assurances”, attached hereto, all of which are hereby made a part of this Agreement.

2. Non-Discrimination.

References in this section to "contract" shall mean this “Agreement” and references to "contractor" shall mean “Amtrak.”

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

- i. "Commission" means the Commission on Human Rights and Opportunities;
- ii. "Contract" and “contract” include any extension or modification of the Contract or contract;
- iii. "Contractor" and “contractor” include any successors or assigns of the Contractor or contractor;
- iv. “gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
- v. “good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- vi. "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
- vii. "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
- viii. "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
- ix. "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
- x. "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a

municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

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

- (b) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this Section and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this Section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the Contractor agrees to comply with each provision of this Section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.
- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

3. Sovereign Immunity

It is understood and agreed by the parties hereto, that Amtrak shall not use the defense of sovereign immunity in the adjustment of claims or in the defense of any suit, including any suit between the State and Amtrak, unless requested to do so by the State.

4. Suspension or Debarment

Suspended or debarred railroads, suppliers, contractors, second parties, 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 Amtrak shall constitute certification that to the best of its knowledge and belief Amtrak 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:

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

(2) Has not, within the prescribed statutory time period preceding this Agreement, been convicted of or had a civil judgment rendered against him/her for commission of fraud or 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 statement, or receiving stolen property;

(3) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Has not, within a five-year (5) period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.

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

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

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

(2) Where the prospective subcontractor or 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. Prohibited Activities.

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

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

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

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

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

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

6. High Value Contracts

A. If this Agreement has an aggregate value of Five Million Dollars (\$5,000,000) or more, Amtrak agrees to the following:

If a court of competent jurisdiction determines that an officer, employee or appointing authority of Amtrak takes or threatens to take any personnel action against any employee of Amtrak in retaliation for such employee's disclosure of information to any employee of the State or quasi-public agency (if applicable) or the Auditors of Public Accounts or the Attorney General under the provisions of Connecticut General Statutes Section 4-61dd(a), Amtrak acknowledges that the statutes provide that a court may assess a civil penalty of not more than Five Thousand Dollars for each offense, up to a maximum of twenty percent of the value of the contract. Each violation shall be a separate and distinct offense, and, in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the State may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.

B. If this Agreement has an aggregate value of Two Million Five Hundred Thousand Dollars (\$2,500,000) or more, then Amtrak agrees to the following:

The State is entitled to receive a copy of records and files related to the performance of Amtrak under this Agreement, and such records and files shall be subject to the Freedom of Information Act and may be disclosed by the State pursuant to the Freedom of Information Act.

7. Jurisdiction and Forum

This Agreement shall be deemed to have been made in Newington, Connecticut.

8. State Elections Enforcement Commission

For all State contracts as defined in Section 9-612 of the Connecticut General Statutes (P.A. 10-1) having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's Notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the

notice. The State Elections Enforcement Commission Notice titled "Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations" is attached hereto and hereby made a part of this Agreement.

9. Code of Ethics

Amtrak agrees not to interfere with the State's implementation of the policies enumerated in "Connecticut Department of Transportation Policy Statement No. F&A-10, Subject: Code of Ethics Policy," June 1, 2007, a copy of which is attached hereto and made a part hereof.

10. Executive Orders

This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings, and Executive Order No. Sixteen of Governor John G. Rowland, promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Agreement as if they had been fully set forth in it. The Agreement may also be subject to Executive Order No. 14 of Governor M. Jodi Reil, promulgated April 17, 2006, concerning procurement of cleaning products and services and 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 Amtrak's request, the State shall provide a copy of these orders to Amtrak

11. Audit and Inspection of Plants, Places of Business and Records

The following definitions apply to this Section 11.

Claims: All actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmaturing, contingent, known or unknown, at law or in equity, in any forum.

Amtrak Parties: Amtrak'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 Amtrak is in privity of oral or written contract and Amtrak intends for such other person or entity to perform under the Agreement in any capacity.

Records: All working papers and such other information and materials as may have been accumulated by Amtrak in performing the Agreement, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries, memoranda and correspondence, kept or stored in any form.

State: The State of Connecticut, including the DOT and any office, department, board, council, commission, institution or other agency or entity of the State.

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

- B. Amtrak shall maintain, and shall require each of Amtrak Parties to maintain, accurate and complete Records. Amtrak shall make all of its and Amtrak Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
- C. The State shall make all requests for any audit or inspection in writing and shall provide Amtrak with at least two weeks (2) notice prior to the requested audit and inspection date.
- D. Amtrak shall keep and preserve or cause to be kept and preserved all of its and Amtrak Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, Amtrak shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
- E. Amtrak shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and Amtrak shall cooperate with an exit conference.

TITLE VI CONTRACTOR ASSURANCES

For this document Contractor means Consultant, Consulting Engineer, Second Party, or other entity doing business with the State and Contract shall mean the same as Agreement.

During the performance of this Contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. **Compliance with Regulations:** The Contractor shall comply with the regulations relative to nondiscrimination in federally assisted programs of the United States Department of Transportation (hereinafter, "USDOT"), Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Subsection 5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

4. **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Connecticut Department of Transportation (ConnDOT) or the Funding Agency (FHWA, FTA and FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to ConnDOT or the Funding Agency, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the ConnDOT shall impose such sanctions as it or the Funding Agency may determine to be appropriate, including, but not limited to:

- A. Withholding contract payments until the Contractor is in-compliance; and/or
- B. Cancellation, termination, or suspension of the Contract, in whole or in part.

6. **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the ConnDOT or the Funding Agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the ConnDOT to enter into such litigation to protect the interests of the Funding Agency, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.



Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (*italicized words* are defined on the reverse side of this page).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract or state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall knowingly *solicit* contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor or principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

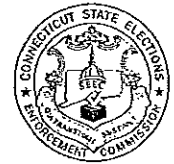
CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "Lobbyist/Contractor Limitations."



DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.



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) 594-30

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

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. Those 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 A. 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