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CITY OF DANBURY

HEALTH & HUMAN SERVICES DEPARTMENT
155 DEER HILL AVENUE, DANBURY, CONNECTICUT 06810

Central Health Office
Tel: (203) 797-4625
Fax: (203) 796-1596

Social Services Office
Tel: (203) 797-4569
Fax: (203) 797-4566

September 18, 2014

Hon. Mayor Mark D. Boughton
Hon. Members of City Council
155 Deer Hill Avenue
Danbury, CT 06810

Re: Still River Corridor Linear Park
Lease from State of Connecticut
Parcels "F" and "N"
Total acreage: 4.03 acres

Dear Mayor and Council Members:

In March of 2000, the City of Danbury leased land from the State of Connecticut as part of a project designed to create a linear park along the Still River corridor. Although the project has not yet been completed, the city's vision of an extended pathway for pedestrians and bicyclists remains alive.

The initial lease is set to expire in early 2015, but the State of Connecticut has offered the city a new five (5) year lease, for the same purposes, together with two five-year extension periods.

Please review the proposal and consider it in the usual fashion. If we may be of assistance to you, please let us know.

Sincerely,

Daniel Baroody
Associate Director of Health

Attachments

All City Services 311
Eviction Prevention 203-797-4565
Information-Referral 203-797-4569

Dial 2-1-1 for all
Connecticut Services!

Emergency Shelter 203-796-1661
Emergency Shelter Fax 203-796-1660
WIC Program 203-797-4638



RESOLUTION

13-1

CITY OF DANBURY, STATE OF CONNECTICUT

_____ A.D. 2014

RESOLVED BY THE CITY COUNCIL OF THE CITY OF DANBURY

WHEREAS, on December 7, 1999, the Common Council the City of Danbury approved a lease of two parcels of property owned by the State of Connecticut to be used as part of a proposed "linear park" in the Still River corridor in Danbury; and

WHEREAS, on March 7, 2000, the City of Danbury entered into a lease of said parcels, consisting of 4.03 acres of land, which lease is scheduled to expire according to its terms on February 28, 2015; and

WHEREAS, the State of Connecticut has offered to continue the lease of said parcels upon terms as described in a certain, "LEASE AGREEMENT BETWEEN STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION AND CITY OF DANBURY STILL RIVER CORRIDOR CITY OF DANBURY FILE NO. 034-124-010C," hereinafter referred to as the "Lease;" and

WHEREAS, the term of said Lease is for five (5) years, commencing on March 1, 2015, together with two (2) additional five-year renewal terms; and

WHEREAS, a one-time administrative fee of five hundred dollars (\$500), payable to the "Treasurer, State of Connecticut" is required in order to help defray the cost of processing the Lease; and

WHEREAS, it is in the best interests of the City of Danbury to enter into said Lease in order to accomplish the goals of the linear park concept for the benefit of area pedestrians and bicyclists.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT Mark D. Boughton, Mayor of the City of Danbury, be and hereby is authorized to enter into said Lease and take such further action as may be required to accomplish the purposes hereof.

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Agreement No. _____

LEASE AGREEMENT
 BETWEEN
 STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION
 AND
 THE CITY OF DANBURY
 STILL RIVER CORRIDOR
 CITY OF DANBURY
 FILE NO. 034-124-010C

THIS LEASE AGREEMENT ("Agreement"), concluded at Newington, Connecticut, this ____ day of _____, 201__, by and between the State of Connecticut, Department of Transportation ("State"), James Redeker, Commissioner, acting herein by Terrence J. Obey, Director, Division of Rights of Way, duly authorized, and the City of Danbury ("Second Party"), a municipal corporation, with a mailing address of 155 Deer Hill Avenue, Danbury, Connecticut 06810, acting herein by Mark D. Boughton, its Mayor, hereunto duly authorized.

WITNESSETH: THAT,

WHEREAS, the Second Party has requested the use of certain land, hereinafter described ("Premises"), for construction and maintenance of a linear park and to allow pedestrian and bicycle access, and

WHEREAS, the State and the Second Party acknowledge and agree that the Premises is designated for transportation use under relevant provisions of the Federal Aid Highway Act, as amended, and that all other uses are temporary and subordinate thereto, and

WHEREAS, the State has the authority pursuant to Section 13a-80 and 13a-80a of the Connecticut General Statutes, as revised, to enter into this Agreement with the advice and consent of the Secretary, Office of Policy and Management of the State of Connecticut and the State Properties Review Board of the State of Connecticut.

NOW, THEREFORE, KNOW YE:

The State does hereby lease to the Second Party, subject to all stipulations, restrictions, specifications and covenants herein contained, the Premises situated in the City of Danbury, County of Fairfield, and State of Connecticut, containing a total of approximately 4.03 acres of vacant land referred to as Lease "F" (.157 acres) and Lease "N" (3.875 acres), as shown on a sketch attached hereto, herein referred to as: "EXHIBIT A".

1. The sole purpose of this Agreement is to allow the Second Party to, and the Second Party agrees that it will, use the Premises for construction and maintenance of a linear park and to allow pedestrian and bicycle access. Due to the Premises proximity to the State highway, the Second Party agrees that the Second Party's obligations to hold harmless and indemnify the State and others as provided in Item 6 of the "Specifications" (referred to and defined in Article 7 hereof) for or against any and all claims, losses, liabilities and other matters arising out of or incident to this Agreement and/or the use or occupancy of the Premises or the acts or omissions of the Second Party shall include, without limitation, any injury (including death) and damage to property that is caused by any debris that falls, is thrown or otherwise emanates from any bridge or roadway which is near or above either the Premises or any adjacent property.

2. The term of this Agreement is for a five (5) year period of time commencing March 1, 2015, to and including February 28, 2020.

3. There is a one-time Administrative Fee of Five Hundred Dollars (\$500.00) due and made payable to "Treasurer, State of Connecticut" to help defray the cost of processing this Agreement.

4. The Second Party shall have the right to renew this Agreement for two (2) additional five (5) year periods of time, subject to a review and update of the rental fee, by giving the State official notice, as the same is hereinafter defined.

5. This Agreement may be terminated at any time, with or without cause, by either party hereto, by giving the other party thirty (30) days official notice, as the same is hereinafter defined, and upon expiration of said notice period, this Agreement shall terminate with the same effect as if the date specified in such notice was the date originally specified herein as the date as of which this Agreement otherwise is due to expire.

6. The Second Party may, at its option and expense, record a Notice of Lease, in which case, it is mutually understood and agreed by the parties hereto that when pages -1- thru and including -4- hereof are duly recorded in the land records of the town(s) in which the Premises exist, the said pages are and shall continue to function as a Notice of Lease pursuant to Section 47-19 of the Connecticut General Statutes, as revised.

7. It is mutually understood and agreed by the parties hereto that this Agreement is made subject to each and every specification and covenant, unless specifically deleted therefrom, contained in the "Standard Highway Lease Specifications & Covenants: Governmental", dated August 29, 2013 ("Specifications"), which is hereby made an integral part of this Agreement by attachment hereto.

8. Modification of the existing non-access line to allow pedestrian and bicycle access to trails, and other improvements planned to be made to the Premises by the will require that the Second Party obtain an Encroachment Permit in accordance with Item (20) of the Specifications. The Second Party must contact the Special Service Section Chief of the State's District IV Maintenance Office, at (203) 591-3610, to apply for this Permit.

9. The Second Party shall install a six (6) foot high, chain-link fence along the lease line, from the Still River to the existing chain-link fence owned by the State.

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STANDARD HIGHWAY LEASE
SPECIFICATIONS & COVENANTS: GOVERNMENTAL

Connecticut Department of Transportation
Bureau of Engineering and Construction
Division of Rights of Way
Leasing Section

August 29, 2013

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Definitions:

The following definitions shall apply to this Standard Highway Lease Specifications and Covenants:

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

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

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

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

(1) The Second Party shall pay the costs of all water, electricity and other public utilities, if any, supplied to the Second Party under this Agreement, unless otherwise specified in the Agreement.

(2) The Second Party hereby assumes all taxes, if any, levied or to be levied on the Premises for the tax period coincident with the duration of this Agreement. A grant-in-lieu of taxes (under Section 12-19a of the General Statutes of Connecticut as the same may be amended) shall be assumed by the Second Party for the period coincident with the duration of this Agreement, if such a grant-in-lieu of taxes concerning the Premises is required of the State.

(3) The Second Party agrees to maintain the Premises in a clean condition, to the satisfaction of the State and to arrange for the orderly use of the Premises. The Second Party further agrees that it shall not permit hazardous or highly inflammable, volatile, or explosive substances to be placed on, under, or over the Premises or permit unreasonably objectionable smoke, fumes, vapors, or odors to arise above the surface of the Premises and that no accumulation of boxes, barrels, packages, waste paper or other articles shall be permitted in or upon the Premises. Ice and snow control of the sidewalks, if any, abutting the Premises shall be the obligation of the Second Party.

(4) The Second Party agrees that no junk shall be permitted to be stored on the Premises. The term "junk" shall mean old or scrap paper, copper, brass, rope, rags, batteries, paper trash, rubber debris, waste or junked, dismantled, or wrecked automobiles, parts thereof, iron, steel and other old or scrap ferrous or non-ferrous materials.

The Second Party shall not allow any unregistered or abandoned motor vehicles to remain on the Premises and shall cause the same to be removed. The Second Party shall not allow any boats to be stored on any of the premises.

(5) The Second Party shall not sublet or assign the Premises or any part thereof without receipt of prior written approval of the State and the Federal Highway Administration, if required.

(6) Indemnification.

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

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

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

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

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

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

(7) The Second Party agrees to secure and maintain for the duration of this Agreement, including any supplements thereto and all renewals thereof, if any, with the State being named as an additional insured party, the following minimum liability insurance coverage or coverages regarding the Premises at no cost to the State. In the event the Second Party secures excess/umbrella liability insurance to meet the minimum requirements specified below, the State shall be named as an additional insured.

Commercial General Liability Insurance, including Contractual Liability Insurance, providing for a total limit of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to or death of all persons in any one accident or occurrence, and for all damages arising out of injury to or destruction of property in any one accident or occurrence, and, subject to that limit per accident, a total (or aggregate) limit of Two Million Dollars (\$2,000,000) for all damages arising out of bodily injuries to or death of all persons in all accidents or occurrences and out of injury to or destruction of property during the policy period.

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

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

(8) The State and the Federal Highway Administration, if appropriate, shall have the right to inspect the Premises at any time, and to repair, maintain, improve or reconstruct any State facility and/or its appurtenances. The State shall notify the Second Party by letter of its intention, if possible, stating the time when such work is to be performed. However, if any emergency arises, a telephone call from the State shall suffice. The Second Party agrees that upon being notified by the State, the Second Party shall take steps as necessary to have the Premises closed to all persons and cleared of all vehicles.

(9) The Second Party agrees to enhance the aesthetic appearance of the Premises at its own expense, if required by the State, either by the creation of grassed areas and suitable plantings or by some artificial means to beautify said Premises, subject in either case to written approval of the State. If the Second Party elects to utilize the former course of action, the work shall be completed within the next following "planting season."

(10) The Second Party shall not erect signs, displays, or devices on the Premises, unless otherwise specifically allowed in this Agreement, except those signs necessary for the proper control and maintenance of the Premises. However, no signs may be erected until written permission is first received from the State.

(11) If deemed necessary by the State, the Second Party agrees to surface and grade the Premises, as may be required by the State for the maintenance of the hereinabove specified use, at no expense to the State for the duration of this Agreement, as approved by the State in writing.

(12) If deemed necessary by the State, the Second Party agrees to install and maintain, at its own expense, fencing or another device suitable to the State around the Premises, so as to control the ingress and egress of vehicles and persons to and from the Premises.

(13) If deemed necessary by the State, the Second Party agrees to install and maintain, at its own expense, a suitable electrical system for the lighting of the Premises. Such electrical system and the Second Party's installation and maintenance, thereof, shall not interfere with or damage any of the State facility and/or its appurtenances or impede the operation and maintenance thereof.

(14) If deemed necessary by the State, the Second Party agrees to install and maintain for the duration of this Agreement, suitable devices approved by the State for the protection of all piers or pier columns and appurtenances, if any, located on the Premises, at no expense to the State.

(15) If deemed necessary by the State, the Second Party agrees to install and maintain, at its own expense, a suitable drainage system for the purpose of draining surface water from the Premises. Such drainage system or the Second Party's installation and maintenance thereof shall not interfere with or damage any portion of the State facility and/or its appurtenances or impede the operation and maintenance thereof.

(16) The Second Party agrees to comply with and conform to all the laws of the State of Connecticut, and the ordinances and zoning regulations of the Town(s) in which the Premises is located, regarding health, nuisance, fire, highway, and sidewalks, so far as the Premises is or may be concerned.

(17) "Environmental Laws" shall mean and include any federal, state or local statute, law, ordinance, code, rule, regulation, order, or decree regulating or relating to the protection of human health or the environment, or imposing liability or standards of conduct concerning any hazardous, toxic, or waste substance, element, compound, mixture or material, as now or at any time hereafter in effect, including, without limitation, the Federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. section 9601 *et seq.*, the Federal Oil Pollution Act of 1990, 33 U.S.C. section 2701, *et seq.*, the Federal Toxic Substances Control Act, 15 U.S.C. section 2601 *et seq.*, the Federal Resource Conservation and Recovery Act, as amended, 42 U.S.C. section 6901 *et seq.*, the Federal Hazardous Material Transportation Act, 49 U.S.C. section 1801 *et seq.*, the Federal Clean Air Act, 42 U.S.C. section 7401 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. section 1251 *et seq.*, the River and Harbors Act of 1899, 33 U.S.C. section 401 *et seq.*, and all rules and regulations of the United States Environmental Protection Agency, or any other state, local or federal agency or entity having jurisdiction over environmental or health and safety matters, as such may have been amended.

"Hazardous Substances" shall mean any and all materials, chemicals, or other substances that are hazardous or toxic or otherwise regulated or controlled pursuant to any of the Environmental Laws.

The Second Party shall comply strictly and in all respects with the requirements of the Environmental Laws. Furthermore, the Second Party shall not store, generate or use any Hazardous Substances at, on, or under the leased property.

(18) All the Second Party's obligations hereunder shall survive this Lease or any other agreement or action, including, without limitation, any consent decree, or order, between the Second Party and the government of the United States or any department or agency thereof, the State and/or the Municipality.

(19) In addition to Item (6) hereinabove, the Second Party hereby agrees as follows:

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

(20) The Second Party agrees that no improvements as hereinbefore mentioned or other improvements shall be

undertaken until written approval is received from the State and the Federal Highway Administration, if appropriate. The Second Party agrees that as an integral part of the process of obtaining the above-mentioned written approval, the Second Party shall apply for, receive and comply with, a Permit or Permits issued by the State in conformance with all pertinent provisions of the current Encroachment Permit Regulations, including amendments thereto. The Second Party shall comply with the applicable provisions of 23 C.F.R., Section 710, Subpart D, which is hereby made a part hereof by reference thereto.

The State and the Federal Highway Administration, if appropriate, reserves the right to review and approve all plans prior to any and all construction and site improvements at the aforementioned Premises. This includes, but is not necessarily limited to, any and all permanent or temporary structures, roadways, site grading, drainage and landscaping. No such construction or site improvement shall commence unless and until the State provides its written approval for same. The State shall neither unreasonably delay its decision nor shall it unreasonably withhold its approval.

(21) Upon termination of this Agreement for any reason, the Second Party will vacate the Premises, remove all of its personal property from the Premises at its own expense, leaving the Premises in as good or better condition as when it took occupancy, reasonable use expected, and hereby agrees that no relocation benefits of any kind will be paid to the Second Party by the State, time shall be of the essence.

(22) It is further agreed that at the termination of this Agreement for any reason, improvements (including, but not limited to signs, lighting, fences, pier protection devices, paved areas or sidewalks) shall not be removed from the Premises, and shall be the property of the State, or at the State's option, the Second Party shall restore the Premises to the same physical condition existing immediately before the execution of this Agreement, at no expense to the State. In the event the Second Party shall not fulfill this obligation within a reasonable time when requested by the State, the State shall at its option arrange to have the work done and shall bill the Second Party for all expenses incurred. The Second Party shall promptly pay when billed without recourse.

(23) The Second Party may record this Agreement, including any supplements hereto and all renewals thereof, if any, in the land records of the town(s) in which the Premises exists, at no expense to the State.

(24) It is further mutually understood and agreed by the parties hereto that this Agreement shall not be effective until said Agreement has been approved by the Secretary, Office of Policy and Management, by the Attorney General and by the State Properties Review Board of the State of Connecticut, where appropriate.

(25) The Second Party shall make all payments to the State by check, made payable to "The Treasurer, State of Connecticut" and addressed to the "Accounts Receivable Unit, Department of Transportation, P.O. Box 317546, Newington, Connecticut 06131-7546."

(26) As a condition to receiving federal financial assistance under the Agreement, if any, the Second Party shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d-2000d-7), all requirements imposed by the regulations of the United States Department of Transportation (49 CFR Part 21) issued in implementation thereof, and the Title VI Assurances for Deeds, Licenses, Leases, Permits or Similar Instruments attached hereto, all of which are hereby made a part of this Agreement.

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

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

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

- (a) Be in writing (hardcopy) addressed to:
 - (i) When the State is to receive such notice-

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

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

(The person(s) acting herein as signatory for the Second Party)

- (b) Be delivered in person with acknowledgement of receipt or be mailed by the United States Postal Service – "Certified Mail" to the address recited herein as being the address of the party(ies) to receive such notice; and
- (c) Contain complete and accurate information in sufficient detail to properly and adequately identify and describe the subject matter thereof.

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

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

(30) It is mutually understood and agreed by the parties hereto that any right of extension of the terms of this Agreement specifically granted herein by the State to the Second Party, if any, shall only be exercised by the Second Party by causing notice in the form and manner herein specified, to be received by the State not less than sixty (60) days nor more than one hundred fifty (150) days prior to the effective date of such extension.

(31) Suspended or debarred second parties, suppliers, materialmen, lessors or other vendors may not submit proposals for a State contract or subcontract during the period of suspension or debarment regardless of their anticipated status at the time of contract award or commencement of work.

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

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

(ii) Has not within the prescribed statutory time period preceding this Agreement been convicted of or had a civil judgment rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

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

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

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

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

(i) The prospective subcontractors, sub-subcontractors, participant(s) certifies, by submission of this 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.

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

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

(33) The State reserves mining and excavating rights. The Second Party shall not remove sand, gravel or other fill material from the Premises.

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

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

(36) The Second Party agrees that the sole and exclusive means for the presentation of any claim against the State arising from or in connection with this Agreement shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims against the State) and the Second Party further agrees not to initiate legal proceedings in any State or Federal Court in addition to, or in lieu of, said Chapter 53 proceedings. Nothing herein shall be construed to waive the State's immunities.

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

(38) The Agreement, when fully executed by both parties and this "Standard Highway Lease Specifications & Covenants, Connecticut Department of Transportation" together constitute the entire agreement between the parties

hereto and shall supersede all previous communications, representations, or agreements, either oral or written, between the parties hereto with respect to the subject matter hereof; and no agreement or understanding varying or extending the same shall be binding upon either party hereto unless in writing signed by both parties hereto; and nothing contained in the terms or provisions of this Agreement shall be construed as waiving any of the rights of the State under the laws of the State of Connecticut.

(39) For purposes of this paragraph, the term "State" shall mean the agency through which this Agreement was entered into on behalf of the State of Connecticut. The Second Party, for a period of ten (10) years following the date of termination of this Agreement, shall maintain copies of all records required by law to be generated by it with respect to environmental conditions on the Premises which are the subject of this Agreement, and of all incidents impacting same ("Event"). For purposes of this Agreement, an Event shall include, but not be limited to, the discharge, spillage, uncontrolled loss, seepage, or infiltration, of oil, or petroleum, or chemical liquids or solid, gaseous products, or hazardous waste, or waste regulated under state or federal law. Within twenty-four (24) hours following the occurrence of any Event, the Second Party shall notify the State of same in writing. Said notification to the State shall be in addition to, and not in lieu of, any and all other record keeping and reporting requirements imposed upon the Second Party by law. Upon written request by the State, the Second Party shall permit the State to inspect the Premises any and all records required to be maintained hereunder, and promptly shall provide the State with such copies of same as the State may request in writing, at no cost to the State. The Second Party hereby waives any claim of privilege that may attach to said records.

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