3

CITY OF DANBURY

155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ENGINEERING DEPARTMENT
(203) 797-4641
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WILLIAM J. BUCKLEY, JR., P.E.
DIRECTOR OF PUBLIC WORKS / CITY ENGINEER

July 25, 2005

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

Dear Mayor Boughton and Common Council Members:

Cost Sharing Agreement
Emergency Vehicle Pre-emption System Equipment
Route 53 (Main Street) at Library Place
State Project No. 170-2436
Federal-Aid Project No. MGS-000R(241)
City Project No. 05-24

Enclosed please find a copy of the above noted cost sharing agreement which was sent to Mayor Mark D. Boughton under cover of a July 21, 2005 letter from John F. Carey, P.E. of the State of Connecticut Department of Transportation.

This agreement covers the installation of emergency vehicle pre-emption system equipment by the State at the intersection of Main Street and Library Place in conjunction with the City's construction of the downtown parking garage. The City's share of the cost of this project is $900.00. The City's funding share is covered by LOCIP funds that are already in place.

We request that the Common Council authorize Mayor Mark D. Boughton to execute this agreement with the State. The original proposed resolution prepared by the Corporation Counsel's office is enclosed for your reference and use.

If you have any questions, please feel free to contact our office.

Very truly yours,

William J. Buckley, Jr., P.E.
Director of Public Works/City Engineer

Encl.
C: Dena R. Diorio, with encl.
Laszlo L. Pinter, Esq.
Abdul B. Mohamed

RECYCLED PAPER

RESOLUTION

CITY OF DANBURY, STATE OF CONNECTICUT

_____ A. D., 200_

RESOLVED by the Common Council of the City of Danbury:

BE IT HEREBY RESOLVED, that Mark D. Boughton, Mayor of the City of Danbury, 155 Deer Hill Avenue, Danbury, CT 06810, is hereby duly authorized to execute an Agreement between the State of Connecticut and the City of Danbury for the sharing of the cost of the installation of Emergency Vehicle Pre-emption System equipment at the intersection of Route 53 (Main Street) at Library Place in the City of Danbury.

AGREEMENT BETWEEN THE STATE OF CONNECTICUT AND THE CITY OF DANBURY FOR SHARING THE COST OF THE INSTALLATION OF EMERGENCY VEHICLE PRE-EMPTION SYSTEM EQUIPMENT

STATE PROJECT NO. 170-2436
FEDERAL-AID PROJECT NO. MGS-000R(241)

This Agreement, concluded at Newington, Connecticut, this day of , 20 , by and between the State of Connecticut, Department of Transportation, Stephen E. Korta II, Commissioner, acting herein by Arthur W. Gruhn, P.E., Chief Engineer, Bureau of Engineering and Highway Operations, duly authorized, hereinafter referred to as the State, and the City of Danbury acting herein by Mark D. Boughton, Mayor, 155 Deer Hill Avenue, Danbury, CT 06810, hereunto duly authorized, hereinafter referred to as the Second Party.

WITNESSETH THAT,

WHEREAS, the Second Party has requested that the State install Emergency Vehicle Pre-emption System (EVPS) equipment at the intersection of Route 53 (Main Street) at Library Place in the City of Danbury, and

WHEREAS, the State has determined that the requested improvement is warranted at the said location, and

WHEREAS, the State, pursuant to Sections 13b-4, 13b-23 and 13b-24 of the General Statutes of Connecticut, as revised, is authorized to enter into this Agreement.

NOW THEREFORE, KNOW YE, it is mutually agreed that:

1. The State shall install EVPS equipment at the intersection of Route 53 (Main Street) at Library Place in the City of Danbury. The work shall be assigned a project number for the commitment of funds. Should the project be canceled prior to completion, the State shall determine the salvage value of materials and make an appropriate refund to the Second Party.

2. The Second Party shall forward to the State, upon demand, prior to the commencement of any work, a single final payment in full of Nine Hundred Dollars ($900.00). This project has Federal participation and the single final payment of Nine Hundred Dollars ($900.00) constitutes the Second Party's share of the cost to install the EVPS equipment.

3. The Second Party will own and provide maintenance for the EVPS equipment. The Second Party will be responsible for paying for the electrical energy necessary to operate the traffic control signal.

4. Activation of the EVPS will be by devices permanently affixed to emergency apparatus only, which must be the property of the city. Installation will not be permitted on personal or non-city-owned vehicles.

5. The EVPS devices shall be wired to automatically terminate the transmission of pre-emption calls when the vehicle arrives at the location of the emergency. A parking brake switch or similar positive method is acceptable.

6. The Second Party shall record this Agreement in the appropriate permanent files of the city wherein the signal is located, at no cost to the State.

7. The State assumes no financial obligation under the terms of this Agreement until the Second Party is notified in writing by the State that said agreement has been approved as to form.

8. The Second Party agrees that the attached "Policy Statement, Policy No. Admin. – 19, May 12, 2003 Subject: Policy on Disadvantaged Business Enterprise Program" is hereby made a part of this Agreement. The State advises the Second Party that failure to carry out the requirements set forth in this Policy Statement shall constitute a breach of contract and may result in termination of this Agreement by the State or such remedy as the State deems appropriate.

9. The Second Party hereby acknowledges and agrees to comply with the policies enumerated in "Connecticut Department of Transportation Policy Statement No. F&A -10 Subject: Code of Ethics Policy," February 8, 2005, a copy of which is attached hereto and made a part hereof.

10. The Second Party shall comply with the provisions contained in Section 1-86e of the Connecticut General Statutes which provides as follows:

(a) No person hired by the State as a Second Party 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; or

(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 Second Party or independent contractor based on an understanding that the actions of the Second Party or independent contractor on behalf of the state would be influenced.

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

12. The Second Party shall indemnify and save harmless the State of Connecticut, its officers, agents, and employees from claims, suits, actions, damages, and costs of every name and description resulting from the negligent performance, negligent acts, errors or omissions in the work performed by the Second Party and/or any of its subcontractors under this Agreement, including any supplements

thereto, or resulting from the non-performance of the Second Party and/or any of its subcontractors of any of the covenants and specifications of this Agreement, including any supplements thereto, and such indemnity shall not be limited by reason of any insurance coverage.

13. The Second Party agrees that in the event of an adjustment of claims or in the defense of any suit between the State and the Second Party, the Second Party shall not use the defense of Governmental Immunity.

14. (a) For the purposes of this section, "minority business enterprise" means any small contractor or supplier of materials fifty-one (51) 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 Conn. Gen. Stat. Section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good Faith Efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

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

(b) (1) The Second Party agrees and warrants that in the performance of the contract such Second Party will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such Second Party that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut. The Second Party further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed

and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such Second Party that such disability prevents performance of the work involved; (2) the Second Party agrees, in all solicitations or advertisements for employees placed by or on behalf of the Second Party, to state that it is an "affirmative action - equal opportunity employer" in accordance with regulations adopted by the Commission; (3) the Second Party agrees to provide each labor union or representative of workers with which such Second Party has a collective bargaining agreement or other contract or understanding and each vendor with which such Second Party has a contract of understanding, a notice to be provided by the Commission advising the labor union or worker's representative of the Second Party's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the Second Party agrees to comply with each provision of this section and Conn. Gen. Stat. Sections 46A-68e and 46A-68f and with each regulation or relevant order issued by said Commission pursuant to Conn. Gen. Stat. Section 46a-56, 46a-68e and 46a-68f; (5) the Second Party agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Second Party as relate to the provisions of this section and Section 46a-56. If the contract is a public works contract, the Second Party agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

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

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

(e) The Second Party shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Second Party shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for non-compliance in accordance with Conn. Gen. Stat. Section 46a-56; provided if such Second Party becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Second Party may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

(f) The Second Party agrees to comply with the regulations referred to in this section as they exist on the date of this contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.

15. (a) Pursuant to Section 4a-60a of the Connecticut General Statutes; (1) the Second Party agrees and warrants that in the performance of the contract such Second Party will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the Second Party agrees to provide each labor union or representative of workers with which such Second Party has a collective bargaining agreement or other contract or understanding and each vendor with which such Second Party has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Second Party's commitments under this section, and to post copies of the notice in conspicuous places available to

employees and applicants for employment; (3) the Second Party agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Section 46a-56 of the Conn. Gen. Stat.; (4) the Second Party agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Second Party which relate to the provisions of this section and Section 46a-56 of the Conn. Gen Stats.

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

16. The Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971, and as such, the Agreement may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three, or any state or federal law concerning nondiscrimination, notwithstanding that the State Labor Commissioner is not a party to this Agreement. The parties to this Agreement, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that

the State Labor Commissioner shall have continuing jurisdiction in respect to Agreement performance in regard to non-discrimination, until the Agreement is completed or terminated prior to completion.

17. The Second Party agrees, as part consideration hereof, that this Agreement is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that the Second Party will not discriminate in its employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner. A copy of said Guidelines is attached and hereby made a part of this Agreement.

18. This Agreement is subject to the provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this Agreement may be canceled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the Labor Commissioner may not be a party to this Agreement. The parties to this Agreement, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to Agreement performance in regard to listing all employment openings with the Connecticut State Employment Service.

19. It is mutually understood and agreed by the parties hereto that any official notice from one such party to the other such party, in order for such notice to be binding thereon, shall;

(a) Be in writing addressed to:

(1) 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

(2) when the Second Party is to receive such notice

(the person acting herein as signatory for
the Second Party receiving such notice;)

(b) Be delivered in person or be mailed United States Postal Service - "Certified Mail" to the address recited herein as being the address of the party 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 as well as any document(s) 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 hereto from subsequently agreeing in writing, to designate alternate persons (by name, title and affiliation) to which such notice(s) is (are) to be addressed; alternate means of conveying such notices(s) to the particular party(ies); and/or alternative 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.

20. 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:

(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 a three-year 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;

(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 three-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 ensure 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 lower tier subcontracts and purchase orders:

(1) The prospective lower tier participant 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.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

21. 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.

22. This agreement is subject to the provisions of Executive Order No. 16 of Governor John G. Rowland promulgated August 4, 1999 and, as such, the agreement may be canceled, terminated or suspended by the state for violation of or noncompliance with said Executive Order No. 16. The parties of this agreement, as part of the consideration hereof, agree that said Executive Order No. 16 is incorporated herein by reference and made part hereof. The parties agree to abide by such Executive Order.

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

The Second Party irrevocably consents with respect to any claims or remedies at law or in equity, arising out of or in connection with this Agreement to the jurisdiction of the Connecticut Superior Court (except as otherwise required by law or that Agreement), and, with respect to any claim between the Parties, to venue in Judicial District of Hartford-New Britain at Hartford or the United States Federal Court, District of Connecticut, and irrevocably waives any objections that it may have

to such jurisdiction on the grounds of lack of personal jurisdiction of such court or the laying of venue of such court or on the basis of forum non conveniens or otherwise. Nothing herein shall be construed to waive any of the State's immunities.

24. This 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.

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

WITNESSES:

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION
STEPHEN E. KORTA, II
COMMISSIONER

_____
Name

BY:_____ (SEAL)
Arthur W. Gruhn, P.E.
Chief Engineer
Bureau of Engineering
and Highway Operations

_____
Name

DATE:

WITNESSES:

SECOND PARTY:
CITY OF DANBURY

_____
Name

BY:_____ (SEAL)
Name: Mark D. Boughton
Title: Mayor

_____
Name

DATE: