

STATE PROPERTIES REVIEW BOARD

Minutes of Meeting Held On January 11, 2024

– solely by means of electronic equipment - via telephone conference –

Pursuant to CGS §1-225a, the State Properties Review Board conducted a Regular Meeting at 9:30AM on January 11, 2024. Pursuant to the statute, this Meeting was held solely by means of electronic equipment, with Participants connecting via telephone conference at (860)-840-2075 and used passcode 389034483#.

The Notice provided designated this Regular Meeting as open to the public. Call in instruction were provided as: Dial toll free (860)-840-2075 and use passcode 389034483#. If you have any questions or need assistance to attend these Meetings, or for some reason the Call-In Numbers do not work, please contact SPRB Director Dimple Desai, immediately, at dimple.desai@ct.gov to make appropriate arrangements.

Members Present – solely by means of electronic equipment:

Bruce R. Josephy, Chairman
Jeffrey Berger, Vice Chairman
John P. Valengavich, Secretary
Jack Halpert
William Cianci

Members Absent:

Edwin S. Greenberg

Staff Present – solely by means of electronic equipment:

Thomas Jerram

Guests Present – solely by means of electronic equipment:

Christopher VanDeHoef, CEO Penn Lincoln Strategies
Natalie Diaz, Penn Lincoln Strategies

Mr. Valengavich moved and Mr. Halpert seconded a motion to enter into Open Session. The motion passed unanimously.

OPEN SESSION

1. ACCEPTANCE OF MINUTES

Mr. Valengavich moved and Mr. Berger seconded a motion to approve the minutes of the January 8, 2024 Meeting. The motion passed unanimously.

2. COMMUNICATIONS

3. REAL ESTATE- UNFINISHED BUSINESS

4. REAL ESTATE – NEW BUSINESS

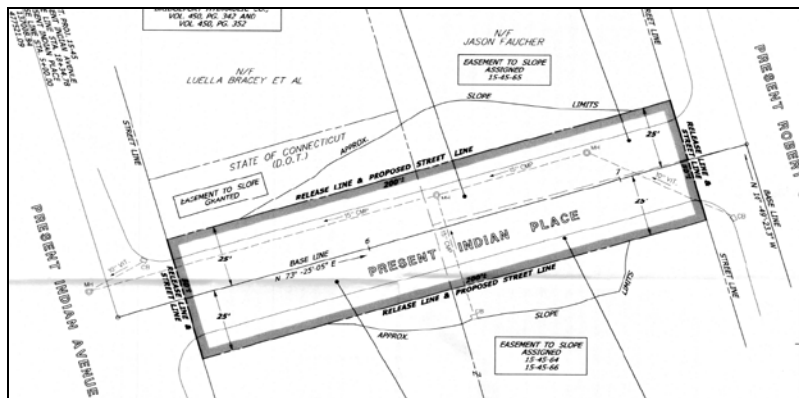
PRB File #: 23-224
Transaction/Contract Type: RE – TRR
Origin/Client: DOT/DOT
DOT Project #: 15-45-64B
Grantee: City of Bridgeport
Property: Bridgeport, Indian Place (roadway)
Project Purpose: Construction of Routes 25 & 8
Item Purpose: Quit Claim Deed

Under this Proposal (PRB #23-224) DOT seeks Board approval of this Quit Claim Deed conveying 10,029 square feet of land and easements to the City of Bridgeport.

DOT provided this narrative in support of the Release:

Attached are the deed and map for the proposed release of vacant land consisting of 10,029± square feet, and all appurtenances related to a Town Road Release in the Town of Bridgeport. The land is located on the easterly side of Present side of Indian Avenue and westerly side of Present Robert Street, to be released to the City of Bridgeport (City).

The land and rights were acquired by the Department of Transportation for the construction project of Connecticut Routes 25 and 8. The project has been completed. It is now necessary to transfer the land and rights to the City, as outlined in the proposed deed and map.



Release Map

The Quit-Claim deed releases the following:

<u>Grantor</u>	<u>Instrument</u>	<u>Volume/Page</u>	<u>Recorded Date</u>
Stella A. Zaffis	Certificate of Condemnation	1392/227	01/16/1969
Theodore J. Zitnay	Certificate of Condemnation	1384/158	09/06/1968
Ralph Ahmonte and Robert Delmonico	Certificate of Condemnation	1404/271	08/13/1969

RECOMMENDATION: Staff recommends approval of the Release for the following reasons:

1. The conveyance complies with Section 13a-80 of the CGS governing the release of property and easements by the commissioner of transportation;
2. Properties and rights acquired by the State for the construction of any Project are released for highway purposes to the Municipality upon completion of construction; and
3. The deed description is consistent with the map description.

PRB File #: 24-001
Transaction/Contract Type: RE – Amendment
Origin/Client: DOT/DOT
DOT Project #: 6.01-01(09)
Prime Contractor: Project Service LLC
Property: 23 Fuel and Food Service Plazas on Route 15, I-95, I-395 & Employees' Cafeteria at DOT headquarters in Newington
Project Purpose: Concession Agreement Changes
Item Purpose: Amendment #2 to Concession Agreement

Project Background

At the State Properties Review Board meeting held on April 11, 2022, the Board voted to return this file (PRB #22-065) pending DOT resubmission of an executed Second Amendment to Concession Agreement.

Under this Proposal (PRB #24-001), DOT has now resubmitted a Second Amendment to Concession Agreement for SPRB review.

DOT provided the following narrative in support of this Second Amendment:

This request is for SPRB's review and approval of the attached proposed SECOND AMENDMENT to the Project Service LLC Concession Agreement dated October 19, 2009, amended November 18, 2009 (FIRST AMENDMENT TO CONCESSION AGREEMENT). This Second Amendment has been recently reviewed for approval by the OAG. This amendment language was also reviewed by SPRB in April 2022 (see attached Return). However, it was not approved because it required the signature of both parties. Both parties have now affixed their signatures, and the attached Amendment is now ready for SPRB's approval.

As a reminder, this proposed SECOND AMENDMENT is primarily for revision of the following terms:

1. PSLLC has agreed to provide CTDOT with copies of all subcontracts upon request.
2. The sale of marijuana has been explicitly prohibited in any part of the Facilities.
3. Advertising: Marketing, promotional and advertising activities of any format, which will take place within the service areas, will be provided to CTDOT no later than 30 days prior to the end of each Contract year. Additionally, the advertisement of craft beverages, along with products and services that promote CT's local attractions and tourism, have been listed as an exception to ads prohibited under section 8.11. The heading of section 8.11 was revised for clarification. PSLLC agrees to digitally display information related to the safety of the traveling public at CTDOT's request.
4. Hours of Operation: "Required" hours of operation have been clarified for all major and non-major subcontractors. A schedule of fines for noncompliance has also been established under 8.21.

5. Additional Language Addressed: Amendments and updates to the standard contracting provisions (enacted after the first amendment) were added; and irrelevant exhibits were deleted.

RECOMMENDATION – Staff recommend approval of the Second Amendment to Concession Agreement for the following reasons:

1. Ensure compliance with hours of operation;
2. Compliance with current state statutes;
3. Prohibits the sale of certain products;
4. Enhance the promotion of Connecticut’s local attractions and tourism; and
5. Make a change in hours of operation of two franchises not anticipated by the terms of the Concession Agreement.

From PRB #22-065

Project Background

At the November 9, 2009 SPRB Meeting the Board approved, under PRB #09-272, a Concession Agreement proposed by DOT for the Licensee to operate 23 Fuel and Food Service Plazas on Route 15, I-95, I-395 & Employees’ Cafeteria at DOT headquarters in Newington. The Concession Agreement was for a term of 35 years ending November 15, 2044.

A First Amendment to Concession Agreement was also approved under PRB #09-272, to amend Section 5.21 – Prevailing Wages, requiring the Prime Contractor to pay prevailing wages on construction work at the Facilities and to give preference to Connecticut residents for the construction work.

Under this Proposal (PRB #22-065), DOT seeks SPRB approval to the Second Amendment to Concession Agreement to address the following:

1. Make certain changes to the Concession Agreement to clarify and adjust the hours of operation for Major Subcontractors and ensure compliance with hours of operation to adequately serve the traveling public;
2. Ensure compliance with current state statutes regarding prohibited substances, including the most recent Public Act 21-1, signed by Governor Ned Lamont on June 22, 2021;
3. Enhance the promotion of Connecticut’s local attractions and tourism; and
4. Make a change in hours of operation not anticipated by the terms of the Concession Agreement.

DOT provided SPRB with a draft copy of the Second Amendment to Concession Agreement, as well as a copy of the original Concession Agreement and First Amendment to Concession Agreement, both approved by the Attorney General’s Office on November 18, 2009.

The following is a summary of the proposed changes to the Concession Agreement, proposed in the Second Amendment to Concession Agreement:

1. Section 12.2. - Required Subcontract Terms. – Provision of Subcontracts by the Prime Contractor, subject to confidentiality requirements;
2. Section 8.11. - No Sale of Prohibited Items – Specifically prohibits the sale of marijuana;
3. Section 8.18. - Advertising – Makes changes to the Prime Contractor’s responsibility to submit to DOT a Marketing Plan as well as permitting the Prime Contractor to advertise

a long term agreement to create a service plaza environment that is inviting, comfortable, safe and clean, and that gives a favorable impression of the State, providing “an appealing oasis.” The plaza facilities were constructed in the 1940’s and 1950’s, and have had no significant capital improvements in the past 25 years. The contractor would be required to make a substantial capital investment in initial improvements, and then commit to further capital reinvestment periodically over the term of the agreement.

SELECTION PROCESS: DOT issued an RFP dated July 18, 2008. Responses were received from 8 firms intending to submit proposals, and ultimately two proposals were received when due on December 22, 2008:

1. **DAI Team--DAI-Carlyle-CFI/Gulf¹:** Doctor’s Associates, Inc./Paul Landino (DAI), in conjunction with Carlyle Infrastructure, LP (Carlyle). DAI is the parent of Subway®, which has 30,000 locations worldwide. Paul Landino is President and co-founder of Subcon, Inc., Subway’s development agent for the NY/CT region. Carlyle Infrastructure is one of the Carlyle Group’s Limited Partnerships, Carlyle being one of the largest private equity firms in the world. **Cumberland Farms/Gulf** is the gasoline and convenience store partner. Proposed subcontractors for food services are Dunkin Donuts, Wendy’s, Arby’s, Papa Johns, and Mohegan Sun Express. Other team members are **OR&L Facility Services** (maintenance and operations); **Centerplan and BL Companies** (design, construction, environmental issues); and **Pita Communications, Inc.** (tourism plan).
2. **HMS Team—Host-Alliance-Clough Harbor & Associates-Cubellis Architects; CabAire; and CT Center for Advanced Technology.** MSHost Family Restaurants, Inc. (HMS), a wholly owned subsidiary of Host International, Inc., a leading worldwide provider of food and beverage retail, including retail concessions at airports and on toll road throughout the U.S., including PA, NY, NJ, DE, and Maine. Fuel partner is **Alliance Energy, LLC** owner of 180 service stations in the Northeast. Alliance food retail offerings are Starbucks, Quizno’s, Burger King and Tim Horton’s. Other team members are **Clough Harbour & Associates** (civil engineering, environmental); **Cubellis Architects; CabAire; and CT Center for Advanced Technology.**

The DOT Committee to review the proposals and select the prime contractor had the following members:

Charlene A. Casamento, Bureau Chief of Finance & Administration, DOT (Chair)
Daniel J. Smachetti, Director, Property & Facilities Services, DOT Bureau of Finance & Admin.
Edgar T. Hurle, Transportation Planning Director, DOT Bureau of Policy & Planning
Gale Mattison, Executive Financial Officer, OPM
Robert S. Dakers, Director of Municipal Finance Services, OPM

Additional assistance was received from:

Richard Nucllo, DOT (retired)
Michael Barton, Consultant, Whys Solutions, LLC
Ann Catino, Attorney, Halloran & Sage, LLP

For the criteria considered, a comparison of the two proposals, and DOT’s reasons for accepting DAI proposal, please see the attachment: RFP for the Redevelopment, Operation and Maintenance of Service Plaza Facilities, dated April 3, 2009.

¹ As of October 19, 2009, Alliance Energy LLC will be the fuel and convenience store operator on the DAI team, with primary food vendors likely to be Subway, Dunkin Donuts, McDonalds, Mohegan Sun Express.

Upon review of the proposals, on April 3, 2009, DOT selected the DAI partnership as the prime contractor, and the selection team became a negotiating team to complete the Concession Agreement.

Paul D. Landino, President/CEO of Project Service LLC executed the subject Concession Agreement on October 19, 2009.

Board approval of the Agreement is recommended for the following reasons:

STATUTORY AUTHORITY: The Commissioner of Transportation has authority to enter into the agreement under Sections 13a-20, 13a-23, 13a-33, 13a-80a, 13a-143 and 13b-23 of the Statutes.

SELECTION PROCESS: The RFP was widely advertised and distributed nationally to well-known food and fuel providers. Eight firms expressed interest individually, and then four of them combined to submit the two proposals considered.

QUALIFICATIONS, PRIME CONTRACTOR: DAI Team has substantial experience in food service, convenience store and fuel service. Carlyle as financial partner has deep knowledge and experience in project finance and will provide business support.

INITIAL INVESTMENT: Exhibit I-1, Construction Budget projects \$178 million. There will be no financing contingency and likely no debt to construct and renovate the facilities. \$37 million will come from existing cash flow, \$99 million from Prime Contractor equity contributions, and \$42 million from tenant fit outs. There are also immediate improvement repairs of \$650,000 (see Exhibit D) at Greenwich N/B; I-395 Montville, and I-95 Darien N/B.

REINVESTMENT: Exhibit I-2, Reinvestment Budget estimates \$52+ million will be invested in capital improvements over the life of the agreement.

SERVICE AREA IMPROVEMENTS: Darien N/B, Darien S/B and Milford S/B on I-95 will be completely demolished and rebuilt by 2015. Service areas on I-95 will undergo complete exterior renovations and interior gutting and upgrade. The remaining Service Areas (10 on Route 15 and 3 on I-395) will have cosmetic exterior changes and major interior renovations. On Route 15, 8 of the 10 facilities will have fuel islands relocated to improve safety. The cumulative total parking spaces will increase 278 car spaces, 5 bus spaces and 120 truck parking spaces, with idle reduction technology in 82 spaces.

ECONOMICS: As of July 2008, the average daily traffic count on I-95 S/B exceeds 79,000 vehicles. \$52 million gallons of fuel and \$56 million of food and beverage were purchased annually. DOT's analysis shows the State is capturing approximately 3.4-7.7% of the traffic, which is far below the "capture rate" of nearby states. The redevelopment is expected to capture more business and increase the revenue stream, particularly at the "gateway" locations at Greenwich N/B and Darien N/B.

Matrix Capital Markets Group, Richmond, VA (*see letter report, attached, dated October 19, 2009*) analyzed the concession agreement, and concluded the State will receive (1) \$248 million in contractor payments to the state over the 35 years of the contract, and (2) \$248 million in 3rd party investments in the facilities (\$136 mm capital improvements, \$60 million invested in operations, and \$52 million in future capital expenditures). Matrix projected a 10.44% internal rate of return (IRR) to the Prime Contractor.

Concerning the revenue stream from the expiring agreement, Matrix also concludes that the \$.11/gallon participation payments received from ExxonMobil cannot be replicated because it equates to ExxonMobil paying "nearly 100% of its motor fuel profits to the State." This is a

consequence of credit card fees which cost 2% of each transaction. Matrix estimates a profit before contribution and credit card fees of \$.17/gallon. The participation fee to the State is \$.11/gallon and if gas costs \$2.50/gallon, the credit card transaction fee is \$.05/gallon, for a total of \$.16/gallon.

The prior concessions agreements with McDonalds and ExxonMobil granted DOT participation payments well above market rates. Current percentage lease rates for gas stations indicate a market rate of 1 to 2 cents per gallon. Convenience store payments are typically from 2%-4% of gross sales; restaurant (no alcohol) percentage leases vary from 4% to 7%. The expiring agreement with McDonalds grants DOT 10% of gross receipts at HQ in Newington and 13.25% at 10 turnpike locations. In total payments for fuel, convenience store and food services, DOT has received an average of \$12 million per year over the last 6 years.

Nothing approximating this revenue stream was offered as minimum guaranteed payments from either respondent to the RFP. However, the DAI estimates \$248 million in payments over 35 years, beginning at the level of the MAG in year 1 to \$14,680,000 in year 35, which is an average of \$7 million per year. And, as noted above, an additional \$248 million will be invested in the facilities by DAI.

REMEDICATION AGREEMENT: Because the premises have identified and yet to be identified environmental remediation requirements, DOT and the Prime Contractor have agreed to establish a baseline identifying current environmental conditions. The Prime Contractor will manage and implement remediation activities in conjunction with its redevelopment of the properties. The costs of remediation of current conditions will be born solely by DOT. Negotiations are continuing with ExxonMobil over recovering remediation costs.

Summary of Terms of the Concession Agreement

Leased Premises	23 fuel and food service plazas on Route 15, I-95, and I-395, plus the employees’ cafeteria at DOT headquarters in Newington.
Prime Contractor	Project Service LLC, formed by DAI, Carlyle and Subcon
Effective Commencement Date	December 7, 2009
Lease Term	35 years ending November 15, 2044
Lease Extension	10 years maximum. Parties may extend for 1 additional 4 year period and 2 separate 2 year periods, in any order, at the election of DOT
Continuity of Operations	State may extend 12 to 24 months
Payments to DOT: Participation Payments with Minimum Annual Guarantee (MAG)	Please see the attached schedule. MAG commences at \$1 million and increases to \$4.5 million in year 30, based on participation payments. DOT will receive 1.25% (year 1) - 5.50% (year 30) of Gross Receipts; and \$.01/gallon (year 1) - \$.0225/gallon (year 25) when product sales exceed the MAG.
Pricing	All pricing of food, fuel and items to be sold must be competitive.
Gross Receipts	All amounts received for all sales of food, beverages, goods, articles, commodities, equipment, devices, services, and video game machines and/or game income, or sales of any nature, without deductions of any kind. See page 13 of Agreement for definition and exceptions.
Investment	Exhibit I-1 presents a construction budget of \$178 million in initial capital improvements; and Exhibit I-2 shows \$52 million in capital investments over the 35 year term.
Construction Process	All improvements are subject to review and approval by DOT;

	and will incorporate environmentally sensitive and energy conservation technology which results in a LEED Silver 2.2 equivalent product (certification not required).
Construction Payment and Performance Bonds	Contracts will provide payment and performance bonds with each of DOT and Prime Contractor named as obliges.
Construction Escrow Account	For each Service Area, Prime Contractor will fund an escrow account, for areas being demolished & rebuilt, escrow will = 100% of budgeted construction costs; all others, 50% of budgeted construction costs.
Blocked Period	To prevent change of ownership before the initial capital improvements are completed, sales other than to original Equity Owners are blocked for the shorter period of 6 years or project completion.
Insurance	Builders' Risk, Commercial General Liability: \$1 mill/\$2 mill; Automobile Liability: \$1 mill; Workers' Compensation: \$1 mill and in accordance with state & federal laws.
Debt & Leverage	The contract provides for full rights to pledge and grant security interests in its rights under the Agreement, including all cash flows and subcontracts, to an "Institutional Lender." The contract limits leverage under a fixed charge ratio that cannot exceed 1.25 times the Prime Contractor's operating revenue.
Audit	DOT has audit rights of all books and records of Prime Contractor Subcontractors, and may obtain copies of all audits prepared conducted by Prime Contractor of its subcontractors.
Title to Property	Land, buildings, structures, improvements, fixtures and UST Systems will be owned by the State, with no creation of liens. All equipment, including food and beverage equipment, small wares, and furnishings will be owned by Prime Contractor or its subs. Upon termination, vendor subs may remove their property, remainder reverts to the State.
Reserved Rights	DOT can use the facilities for any purpose that does not interfere or compete with the permitted uses granted to the Prime Contractor.
Executive Orders, Affidavits, Certifications	As required by statute.

5. ARCHITECT-ENGINEER - UNFINISHED BUSINESS

6. OTHER BUSINESS:

7. VOTES ON PRB FILE:

PRB FILE #23-224 – Mr. Halpert moved and Mr. Valengavich seconded a motion to approve PRB FILE #23-224. The motion passed unanimously.

PRB FILE #24-001 – Mr. Valengavich moved and Mr. Halpert seconded a motion to approve PRB FILE #24-001. The motion passed unanimously.

8. NEXT MEETING – Special Meeting, Friday, January 12, 2024 – will be held solely by means of electronic equipment.

The meeting adjourned.

APPROVED: _____ **Date:** _____
John Valengavich, Secretary