

LEASE, OPERATING AND FUNDING AGREEMENT  
BETWEEN  
STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION  
AND  
THE CITY OF NEW HAVEN

THIS LEASE, OPERATING AND FUNDING AGREEMENT (“Agreement”) is entered into as of the Effective Date (as hereinafter defined) by and between the State of Connecticut, Department of Transportation (“CTDOT”), Joseph J. Giulietti, Commissioner, duly authorized, and the City of New Haven (“CITY”), a Connecticut municipal corporation, with a mailing address of 165 Church Street, New Haven, Connecticut 06510, acting herein by Justin Elicker, its Mayor, duly authorized. CTDOT and CITY may be referred to in this Agreement each individually as a “Party” and collectively as the “Parties.”

WHEREAS, CTDOT, CITY, and the New Haven Parking Authority are parties to the existing Lease and Funding Agreement for Union Station Transportation Center and Related Improvements dated March 26, 1982, and five amendments thereto (collectively, the “Predecessor Agreement”), which expires on June 30, 2022;

WHEREAS, CTDOT and CITY executed the Letter of Intent dated September 20, 2020, outlining vision of the New Haven Union Station Partnership for the development and improvement of New Haven Union Station Transportation Center and New Haven State Street Station and setting goals for the planning and funding of capital improvements for the rail stations;

WHEREAS, pursuant to the Letter of Intent, CTDOT and CITY wish to enter into this Agreement to arrange for the continued operation of the Union Station Transportation Center and associated parking facilities and the addition of State Street Station under the new partnership approach to the operation, funding, and shared oversight by the Parties of one collective multi-modal transportation center campus;

WHEREAS, pursuant to the Letter of Intent, CTDOT and CITY wish to enter into a Capital Partnership Agreement, to be signed concurrently with this Agreement, to memorialize their intention to pursue capital improvements for the multi-modal transportation center campus;

WHEREAS, CTDOT has the authority, pursuant to Section 13b-36(b) 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;

WHEREAS, by an Order of the Board of Alders adopted on November 15, 2021, CITY has the authority to enter into this Agreement and perform its obligations hereunder; and

Subject to all the terms and conditions of this Agreement, and in consideration of the mutual covenants and agreements herein contained, CTDOT and CITY agree as follows:

ARTICLE 1. DEFINITIONS AND ACRONYMS

- 1.1 “ADA Requirements” means the Americans with Disabilities Act of 1990 and the regulations set forth at CFR 49 Part 37.
- 1.2 “Annual Budget” is the budget for all operating expenses at the Campus, including those to perform the Station SOW, Parking SOW, and Brokerage SOW, for the Fiscal Year.
- 1.3 “Annual Rent” is defined in Section 9.3.
- 1.4 “BESB” means the Connecticut Department of Aging and Disability Services, Bureau of Education and Services for the Blind.
- 1.5 “Brokerage Manager” is defined in Section 7.3.
- 1.6 “Brokerage Services” means the marketing, brokering, and retail and commercial leasing and licensing of available space at the Campus and the provisions transportation-related and traveler-convenience amenities.
- 1.7 “Brokerage SOW” is defined in Schedule 4.
- 1.8 “Campus” is defined in Section 2.2
- 1.9 “Campus Capital Plan” means the plan of capital investment at the Campus agreed upon by the Parties;
- 1.10 “Capital Improvement Account” is defined in Section 4.11.
- 1.11 “Capital Plan” means a plan of capital investment for the Station Facilities
- 1.12 “Capital Projects” means any new construction or expansion, renovation, or replacement of existing facilities, repair projects to functional use and longevity of facilities and equipment, or improvements to assets at the Campus, excluding any regular work or activities to maintain State of Good Repair.
- 1.13 “CGS” means the Connecticut General Statutes, as revised.
- 1.14 “CHRO” means Commission on Human Rights and Opportunities.
- 1.15 “City Parties” means CITY’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 CITY is in privity of oral or written contract and CITY intends for such other person or entity to perform under the Agreement in any capacity.

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

1.17 "Commissioner" means the Commissioner of the Connecticut Department of Transportation

1.18 "Commissioner's Designee" means the individual authorized to sign specified instruments on behalf of the Commissioner as stated in a current written delegation of authority signed by the Commissioner.

1.19 "Confidential Information" means any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual including, but not limited to, such individual's name, date of birth, mother's maiden name, motor vehicle operator's license number, Social Security number, employee identification number, employer or taxpayer identification number, alien registration number, government passport number, health insurance identification number, demand deposit account number, savings account number, credit card number, debit card number or unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation. Without limiting the foregoing, Confidential Information shall also include any information that DOT classifies as "confidential" or "restricted." Confidential Information shall not include information that may be lawfully obtained from publicly available sources or from federal, state, or local government records which are lawfully made available to the general public.

1.20 "Confidential Information Breach" means, generally, an instance where an unauthorized person or entity accesses Confidential Information in any manner, including but not limited to the following occurrences: (1) any Confidential Information that is not encrypted or protected is misplaced, lost, stolen or in any way compromised; (2) one or more third parties have had access to or taken control or possession of any Confidential Information that is not encrypted or protected without prior written authorization from the State; (3) the unauthorized acquisition of encrypted or protected Confidential Information together with the confidential process or key that is capable of compromising the integrity of the Confidential Information; or (4) if there is a substantial risk of identity theft or fraud to the contractor, CTDOT or State.

1.21 "Daily Stations Operations Log" is defined in the Station Management Scope of Work in Schedule 2, Section 4(c).

1.22 "Daily Parking Operations Log" as defined in the Parking Management Scope of Work in Schedule 3, Section 4(d).

1.23 "Day" means all calendar days other than Saturdays, Sundays and days designated as national or State holidays upon which banks in Connecticut are closed.

1.24 "Dispute Resolution" means the process described in Article 13.

1.25 "Effective Date" is the date the Agreement is approved as to form by the Attorney General of the State of Connecticut, as evidenced by the signature provided below.

1.26 "EMS" means Emergency Medical Services.

1.27 "Environmental Laws" means 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, 42 U.S.C. SS 9601, et seq., the Federal Oil Pollution Act of 1990, 33 U.S.C. SS 2701, et seq., the Federal Toxic Substances Control Act, 15 U.S.C. SS 2601, et seq., the Federal Resource and Recovery Act, 42 U.S.C. SS 6901 et seq., the Federal Hazardous Material Transportation Act, 49 U.S.C. SS 1801 et seq., the Federal Clean Air Act, 33 U.S.C. SS 7401 et seq., the Federal Water Pollution Control Act, 33 U.S.C. SS 1251 et seq., the River and Harbors Act of 1899, 33 U.S.C. SS 401 et seq., Title 22a of the Connecticut General Statutes, and all rules and regulations of the United States Environmental Protection Agency, the Connecticut Department of Environmental Protection, and any other state, local or federal agency or entity having jurisdiction over environmental or health and safety matters, all as such are amended from time to time.

1.28 "Executive Oversight Panel" is defined in Section 4.2.

1.29 "Extension Term" is defined in Section 3.3.

1.30 "Facility Management Report" is defined in Schedule 2, Section 4(d).

1.31 "Fiscal Year" means each twelve (12) month period throughout the Term that begins on July 1 of a calendar year and extends through June 30 of the subsequent calendar year.

1.32 "Hazardous Substance" means 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.

1.33 "Initial Term" is defined in Section 3.2.

1.34 "Joint Advisory Committee" as established and defined in the Predecessor Agreement.

1.35 "Mayor" means the Mayor of the City of New Haven.

1.36 "Mayor's Designee" means the individual authorized to sign specified instruments on behalf of the Mayor as set forth in a current writing signed by the Mayor.

1.37 "Mutual Written Consent" means the process agreed-upon between the parties to memorialize their agreement by the exchange of a writing or writings signed by the Commissioner (or the Commissioner's Designee) and the Mayor (or the Mayor's Designee), only as specifically authorized in this Agreement, and stating any agreed-upon effective date, which writing(s) may be transmitted between the parties by email or facsimile.

- 1.38 "Official Notice" is defined in Article 14.
- 1.39 "Operating Account" is defined in Section 4.11.
- 1.40 "Operations Committee" is defined in Section 4.3.
- 1.41 "Operating Reserve Account" as established and defined in the Predecessor Agreement.
- 1.42 "OSHA" means the Occupational Safety and Health Administration.
- 1.43 "PARCS" means the parking access and revenue control system as more particularly described in Schedule 3, Section 11.
- 1.44 "Parking Asset Management Program" means the asset management program for the Parking Facilities, as more particularly described in Schedule 3, Section 4(b).
- 1.45 "Parking Facilities" is defined in Section 6.1.
- 1.46 "Parking Facilities Management and Maintenance Plan" or "PFMM Plan" is the annual plan for SOGR maintenance of Parking Facilities infrastructure and systems, including detailed maintenance measures such as inspection and parts replacement to be routinely performed at specified time intervals, as more particularly described in Schedule 3 at Section 4(b).
- 1.47 "Parking Facilities Management Report" is defined in Schedule 3 at Section 4(e)
- 1.48 "Parking Manager" is defined in Schedule 3 at Section 1.
- 1.49 "Parking Revenue Management Plan" is defined in Schedule 3 at Section 11(b).
- 1.50 "Parking Facilities Security Plan" is defined in Schedule 3 at Section 16(a).
- 1.51 "Parking Snow and Ice Management Plan" is defined in Schedule 3 at Section 15(a).
- 1.52 "Parking SOW" is defined in Schedule 3 at Section 1.
- 1.53 "Predecessor Agreement" is defined in the recitals and the definition is incorporated herein.
- 1.54 "Premises" is defined in Section 2.1.
- 1.55 "Records" means all working papers and such other information and materials as may have been accumulated by CITY in performance of this 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.
- 1.56 "Revenue" means all monies generated by Campus operations and activities, as authorized by

the Operations Committee, under the CTDOT-CITY partnership pursuant to this Agreement. Revenue will include, but not be limited to, parking fees, rental amounts, licensing and concession fees.

1.57 "Scope(s) of Work" means individually the Station SOW, Parking SOW, and Brokerage Services SOW and collectively all three Scopes of Work.

1.58 "SOP Manual" is defined in Schedule 4 at Section 4.

1.59 "State" means the State of Connecticut, including CTDOT, and any office, department, board, council, commission, institution or other agency or entity of the State of Connecticut.

1.60 "State Indemnified Parties" means the State and its officers, agents, and employees.

1.61 "State of Good Repair" or "SOGR" means the condition sufficient for the asset or facilities to operate at a full level of performance, resulting from performing controlled maintenance pursuant to standard operating procedures and maintenance manuals, meeting Federal, State and applicable local code and health department standards, meeting public safety needs and standards, and maintaining facilities in a safe, neat, clean, and well-kept condition.

1.62 "Station" means both Union Station located at 50 Union Ave, New Haven, Connecticut and State Street Station located at 259 State Street, New Haven, Connecticut.

1.63 "Station Asset Management Plan" means the plan that includes both short-term, day-to-day repairs and improvements and longer term, cyclical upgrades to, and replacement of, Station Facilities assets and related systems and their components, and includes an integrated work order management system that documents and tracks day-to-day repairs and improvements and informs when it is necessary for component or system overhaul or replacement.

1.64 "Station Facilities" is defined in Section 5.1.

1.65 "Station Facilities Management and Maintenance Plan" or "SFMM Plan" is the annual plan for SOGR maintenance of Station Facilities infrastructure and systems, including detailed maintenance measures such as inspection and parts replacement to be routinely performed at specified time intervals, as more particularly described in Schedule 2, Section 4(b).

1.66 "Station Manager" is defined in Schedule 2 at Section 1.

1.67 "Station Security Plan" is defined in Schedule 2 at Section 14(a).

1.68 "Station Snow and Ice Management Plan" is defined in Schedule 2 at Section 12(a).

1.69 "Station SOW" is defined in Schedule 2 at Section 1.

1.70 "Term" means collectively the Initial Term and any Extension Period(s) entered into by the Parties pursuant to Article 3.



1.71 "Transition Period" is defined as the period of time commencing on the Effective Date and ending on June 30, 2022.

## ARTICLE 2. DESCRIPTION AND USE OF THE LEASED PREMISES

2.1 In consideration of the Annual Rent, CTDOT does hereby lease and demise to CITY and CITY does hereby lease and take from CTDOT, subject to all stipulations, restrictions, specifications and covenants herein contained, the premises known as the New Haven Union Station and the New Haven State Street station situated in the Town of New Haven, County of New Haven, and State of Connecticut (collectively, the "Premises"), as more particularly described and set forth on the maps attached as Schedule 1 to this Agreement. The Premises shall exclude rail platforms, canopies and exterior portions of stairwell enclosures at the rail stations, as depicted on Schedule 1. Lessee accepts possession of the Premises "as-is, where is, with all faults" and subject to all restrictions, easements and matters of record. This lease is exclusive of all mining, excavating, and air rights that may exist with respect to the Premises.

2.2 The Premises, together with CITY-owned property identified on Schedule 1, shall make up the "Campus" for the purposes of this Agreement.

2.3 CITY agrees and acknowledges that the primary purpose of Premises shall be for public transportation use and CITY shall use the Premises for such purpose in accordance with the terms and conditions of this Agreement. The Parties agree that their mutual oversight of the Campus shall support such primary transportation purpose, and agree that any other uses or activities at the Campus are subordinate thereto. The Parties will endeavor to expand public access to and use of multimodal transportation services at the Campus. CITY shall have no obligation by virtue of this Agreement to operate any public transportation service or assume operation of existing public transportation carriers serving the Campus.

2.4 CITY covenants and agrees that access and use of the Premises by CITY and all contractors and vendors it engages to perform work or provide goods and services pursuant to this Agreement must be in accordance with all applicable local, State and Federal law and regulations.

2.5 Nothing in this Agreement concerning the management or oversight of the Campus shall be construed to derogate or supersede CITY regulatory functions, requirements, jurisdiction, or enforcement with respect to CITY-owned property integrated into the Campus, including, without limitation, zoning, city plan commission, building department, or health department.

## ARTICLE 3. TERM & TERMINATION.

3.1 This Agreement shall become effective upon consent by the Secretary of the Office of Policy and Management and its approval as to form by the Attorney General of the State of Connecticut pursuant to CGS § 3-125.

3.2 This Agreement shall commence on the Effective Date and continue in full force and effect for thirty-five (35) years from July 1, 2022 (the "Initial Term").

3.3 The Parties may mutually agree to extend the Initial Term for two (2) consecutive periods of ten (10) years each (each an "Extension Term"), memorialized in writing and signed by each the Commissioner and the Mayor no later than six (6) months prior to the expiration of the Initial Term and, if applicable, the first Extension Term.

3.4 The Parties at any time during the Term may mutually agree in writing to early termination of the Agreement, which writing shall specify the agreed-upon effective date of termination and be signed by each the Commissioner and the Mayor.

3.5 CTDOT may terminate the Agreement upon uncured breach by CITY in accordance with the following:

- (a) CTDOT shall provide notice of such breach via Official Notice to CITY and afford CITY an opportunity to cure such breach within the time period set forth in the notice, which shall be at least thirty (30) days from CITY's receipt of the notice, which CTDOT may extend at its discretion if CITY has commenced to cure and is making a good faith effort toward completion of cure. The notice of the breach shall include an effective termination date, which shall not be sooner than the stated cure period. During such cure period, CITY shall not enter into any new contracts, extend any existing contracts, or issue any purchase orders, or allow any of its contractors or vendors to do the same, with respect to performance of duties under this Agreement, except upon the explicit written authorization and direction of the Operations Committee.
- (b) If the breach is not cured by the stated date and, unless otherwise modified by CTDOT in writing prior thereto, CTDOT shall send notice of termination via Official Notice. Upon receipt, CITY shall, in accordance with such notice, discontinue performance under the Agreement and work cooperatively with CTDOT and any successor operator at the Campus to ensure continuity of operations, until the date of termination as stated in such notice. During any continuity of operations period, CTDOT may extend the effective date of termination to ensure uninterrupted operations of the Premises and mobilization of its successor operator.
- (c) Notwithstanding the foregoing, in the event that the Parties cannot in good faith resolve a breach by CITY, prior to CTDOT terminating this Agreement, the Parties must have engaged in Dispute Resolution in accordance with Article 13 as to the subject-matter of the breach without reaching a mutually-agreed upon resolution or without CITY timely commencing the cure required by such resolution, which may include, but is not limited to, preparation and submission of a corrective action plan.

3.6 Upon expiration of the Term or earlier termination of the Agreement, CITY shall terminate or conclude all existing contracts and purchase orders, or upon direction of the Operations Committee, assign such contracts or purchase orders to CTDOT or its successor lessee or operator of the Premises. CITY shall not enter into any further subcontracts, purchase orders or commitments under this Agreement. With respect to any contracts or purchase orders that are not assigned or transferred to CTDOT or its successor lessee or operator and where CTDOT's notice of termination pursuant to Section 3.5(c) was not given with sufficient time for CITY to terminate such contracts and purchase orders without incurring costs, such costs may be deemed reimbursable operating expenses of the Campus prior to termination.



3.7 Upon expiration of the Term or earlier termination of the Agreement, all rights and obligations under this Agreement shall be null and void, so that no Party shall have any further rights or obligations to the other Party, except with respect to the provisions in the Agreement which survive termination.

3.8 Upon expiration of the Term or earlier termination of the Agreement, CITY and its contractors shall work cooperatively with CTDOT and its successor lessee or operator to ensure continuity of operations at the Premises.

3.10 Upon expiration of the Term or earlier termination of the Agreement, CITY shall surrender the Premises to CTDOT in substantially the same condition as that existing at the beginning of the Initial Term, subject to reasonable wear and tear and any construction, alterations, or improvements approved by the Parties in accordance with the terms and conditions of this Agreement. In the event CITY does not remove all of its personalty from the Premises upon the expiration or earlier termination of this Agreement, CTDOT, at its option, may deem CITY's failure to remove such personalty be an abandonment of such property and title shall automatically vest in CTDOT at no cost to the CTDOT. If CTDOT elects to remove and dispose of such abandoned personalty, CITY shall reimburse CTDOT for the cost of removal and disposition. CTDOT shall have no liability to CITY for CITY's abandoned personalty or the obligation to provide notice with reference to this provision. CITY shall not remove from the Premises any personal property or equipment purchased during the Term with budgeted funds from the Operating Account.

3.11 (a) In the event that the Premises, or any part thereof, or access thereto, shall be destroyed or substantially damaged by fire or other insured casualty and CITY continues to have reasonably convenient and uninterrupted access to and use of the Premises, then the Premises shall not thereby be rendered unfit for use and occupancy by CITY, provided repairs to the Premises can be completed within one hundred eighty (180) days from the date on which the damage occurred. The Operations Committee shall oversee the repairs with reasonable diligence and applying to the same, proceeds of insurance coverage provided under this Agreement.

(b) If the Premises are destroyed or substantially damaged as provided above in subsection (a) (that renders all or a substantial portion of the Premises unfit for use for a period of at least one hundred eighty (180) days), then either Party may upon thirty (30) days' prior written notice terminate this Agreement, provided that any such termination election by CITY shall be null and void if such damage was due to the negligence or willful misconduct of CITY or any CITY contractor, or, if within thirty (30) days after delivery of such termination notice by CITY, the restoration work (required to restore the affected portion of the Premises so that it can return to use) has been substantially completed to the satisfaction of the Operations Committee.

#### ARTICLE 4. JOINT OVERSIGHT OF THE CAMPUS OPERATIONS AND BUDGET

4.1 The Parties shall jointly oversee Campus operations through their participation on the Executive Oversight Panel and the Operations Committee established pursuant to this Agreement, as more particularly described in this Article 4. CTDOT or CITY shall not be reimbursed for staff time, resources, and any costs associated with participating on the Executive Oversight Panel or Operations Committee. No such costs of participation shall be included in the annual operations budget for the Campus.

4.2 The Executive Oversight Panel shall consist of the Commissioner and the Mayor who shall be responsible for the oversight and approval of the following activities with respect to the operations and management of the Campus:

- (a) Strategic planning;
- (b) Annual budget direction and final approval of annual budget submitted by the Operations Committee;
- (c) Resolution of issues escalated by the Operations Committee;
- (d) Participation in Dispute Resolution;
- (e) Decision-making regarding the pursuit of capital projects and redevelopment of the Campus, provided CTDOT and CITY enter into written agreements, with all approval required under applicable law, before commencing any such capital projects;
- (f) Final approval of all capital expenditures and SOGR projects at the Campus having an estimated cost of \$500,000 or more, recommended by Operations Committee;
- (g) Review and approval of Operations Committee recommendations for Capital Projects to be pursued;
- (h) Review and approval of all reports and plans prepared and submitted by CITY, and approved by the Operations Committee, that require Executive Oversight Panel approval pursuant to this Agreement, or that Operations Committee in its discretion advances to the Executive Oversight Panel for review and approval; and
- (i) Final approval of contractor selection or other delegation by CITY of its duties under the Agreement.

4.3 The Operations Committee shall consist of:

- (a) two CTDOT employees designated by the Commissioner, who shall be voting members; and
- (b) two CITY employees designated by the Mayor, who shall be voting members; and
- (c) one representative from each CTDOT (designated by the Commissioner) and CITY (designated by the Mayor), who need not be employees, who shall be non-voting members.

4.4 Members of the Operations Committee shall have no personal financial interest in the Campus and shall not stand to benefit from potential development or other activities at the Campus.

4.5 Approval of actions by the Operations Committee shall require three affirmative votes of voting members.

4.6 When unable to attend an Operations Committee meeting, a voting member of the Operations Committee may authorize in writing a proxy holder to serve in the voting member's place for the sole purpose of casting a vote. The proxy must be in the form of a written statement of the Operations Committee member, dated and signed, providing the proxy holder with explicit instructions as to how the Operations Committee member wishes to vote.

4.7 The Operations Committee shall be responsible for oversight of day-to-day operations of the Campus by CITY and its contractors and provide operations support for any Campus capital projects. The Operations Committee shall:

- (a) Establish a website, maintained by CITY, to provide notice, agendas, and minutes in accordance

with all public meeting requirements;

- (b) Review the proposed annual budget prepared by CITY and recommend a final budget for approval by the Executive Oversight Panel;
- (c) Establish parking rates at the Campus
- (d) Perform periodic inspections of Campus operations and facilities;
- (e) Select qualified service and trade professionals (or oversee and approve CITY's recommended selection) providing services as needed for Campus operations SOGR projects. The Operations Committee may set procurement requirements, participate in competitive selection processes, review bids and proposals, and participate in interviews of bidders or proposers, subject to any applicable laws or regulations;
- (f) Oversee development and deployment of retail strategy for the Campus, including concessions (subject to approvals under applicable law), leasing, and licensing, of the Campus, which may include engaging the assistance of a professional firm, subject to any applicable laws or regulations;
- (g) Review any agreements with CITY contractors or vendors prior to CITY finalizing. Upon review of contractor performance under any such agreements, the Operations Committee may direct that agreements not be extended or be terminated early for cause due to contractor breach, subject to agreement on a process of removal and replacement of contractor;
- (h) Review and advance to the Executive Oversight Panel for approval all SOGR projects estimated to cost \$500,000 or more before CITY or its contractor is authorized to commence such projects; and
- (i) Coordinate and advance Capital Projects which may include transit-oriented development or public-private partnership opportunities that, upon Executive Oversight Panel approval, the Parties may agree to pursue, for the Campus or surrounding area, all subject to applicable laws or regulations. Separate written agreement of the Parties shall be finalized, with all required approvals, prior to award or commencement of any Capital Project.

4.8 The Operations Committee, upon its review and recommendation, shall advance to the Executive Oversight Panel for approval, all SOGR projects estimated to cost \$500,000 or more and new Capital Project initiatives, in accordance with the following process:

- (a) Preparation and annual update of a Campus Capital Plan for the Campus to identify projects to support ongoing SOGR needs for the Campus facilities, which may include new initiatives or improvements to existing facilities, no later than March 1 of each calendar year;
- (b) Review of the annual facility condition assessment report prepared by CITY or its contractor to identify projects based on short-term, medium-term and long-term needs, no later than March 1 of each calendar year;
- (c) Review of any other proposed projects advanced by CTDOT or CITY representatives on the Operations Committee;
- (d) Evaluation of each project and associated cost estimates;
- (e) Preparation of recommendations of projects to advance to a solicitation process for design and construction; and
- (f) Presentation of executive summary or briefing to the Executive Oversight Panel for its review and final approval.

4.9 Budget Process. The Parties agree that the operation of Campus is a not for-profit venture for the Parties as public entities, fulfilling a common mission to build the funds in the Capital Improvement Account. Compensation for work performed by CITY or that it delegates to its political subdivision or other public entity to perform pursuant to this Agreement shall be budgeted and reimbursed as further described herein, and shall make the party whole but not be profit-generating for either Party. In furtherance of the foregoing, the following shall apply:

- (a) CITY shall propose compensation for work it performs and/or contracts out to private contractors as part of the Annual Budget process for review and approval by the Operations Committee.
- (b) Direct expenses shall represent all approved expenses incurred in the completion of each of the Scopes of Work, which may include but not be limited to the direct labor and associated benefits, repairs and maintenance, insurance, supplies, utilities (overhead) and third-party vendor contracts.
- (c) Revenues will consist of all receipts generated by the Campus, which may include but are not limited to parking revenues, concession revenues, leasing revenues and licensing revenues, and other income generated at the Campus as approved by the Operations Committee.
- (d) The Annual Budget for each upcoming Fiscal Year shall be submitted by CITY to the Operations Committee no later than March 1. The Operations Committee will be required to review and provide a recommendation for approval of the Annual Budget to the Executive Oversight Panel no later than May 1 of each year, consistent with Section 4.2.
- (e) The Executive Oversight Panel shall approve the Annual Budget no later than June 30. If approval is not given by June 30, the previous Fiscal Year's Annual Budget will be used for reporting purposes until such time as the new Fiscal Year's Annual Budget is approved.
- (f) The Annual Budget shall reflect all revenues generated by the Campus, as well as all expenses broken out by each Scope of Work.

4.10 The Transition Period shall constitute a period for policy-setting and planning for the Operations Committee. Parties will operate under the budget approved under the Predecessor Agreement by the Joint Advisory Committee (as defined therein), allowing for existing contracts and arrangements to be closed out as they expire or performance thereunder is completed and for the management of State Street Station and new arrangements for the Campus to be phased-in. During the Transition Period, the Operations Committee shall perform an initial review of the Station Facilities and Parking Facilities to define and document all base conditions. In the event there are any issues, the Station Manager or Parking Manager, as applicable, shall arrange for repair to address the issue to meet a base condition acceptable to the Operations Committee and inform the Operations Committee of an anticipated timeline for completion.

4.11 CITY shall establish the accounts to hold Campus operating funds ("Operating Account") and capital funds ("Capital Improvement Account") for the express purpose of this Agreement, transferring the balances in the Operating Reserve Account and Capital Reserve Account established under the Predecessor Agreement into, respectively, the Operating Account and the Capital Improvement Account. CITY shall establish these accounts as restricted or special funds accounts for the purpose of this Agreement and shall not co-mingle the Campus funds within these accounts with other CITY accounts or

funds. CITY shall provide the Operations Committee with transparency into the Operating Account and Capital Improvement Account at all times, and shall respond promptly to the Operations Committee's accounting inquiries. The Operations Committee may review and approve CITY's protocol for transferring funds between accounts.

4.12 All reports and plans to be provided by CITY or its contractor as referenced herein or within the Scopes of Work shall be in a format acceptable to the Operations Committee.

## ARTICLE 5. OPERATION, MAINTENANCE AND MANAGEMENT OF THE STATION FACILITIES

5.1 The Station Facilities in operation at the Campus as of the Effective Date include:

- (a) New Haven Union Station located at 50 Union Avenue and comprising of approximately 107,400 Square Feet plus approximately 12,000 square feet of an underground passageway; and
- (b) New Haven State Street Station located at 259 State Street, on the east side of State Street, between Chapel and Court Streets, and comprising approximately 32,000 square feet.
- (c) Additional Station Facilities developed during the Term may be incorporated into the Campus and, if applicable, leased to CITY by mutual written agreement of the Parties signed by the Commissioner (or Commissioner's Designee) and the Mayor (or Mayor's designee") with all approvals required by applicable law.

5.2 CITY shall perform, or arrange for the performance of, all duties required for the operation, maintenance, and management of the Station buildings, grounds and facilities as set forth in the scope of work attached as Schedule 2 to this Agreement ("Station SOW"), which the Operations Committee may update from time to time throughout the Term. The Operations Committee will recommend updates and revise the Station SOW accordingly, which the Parties shall approve by Mutual Written Consent. Upon the effective date stated in such Mutual Written Consent, the revised Station SOW shall be incorporated herein as the operative Schedule 2 to the Agreement.

5.3 CITY shall prepare and update annually throughout the Term the following, all as more particularly set forth and described in the Station SOW, and no later than March 1 of each calendar year, submit to the Operations Committee for review and approval:

- (a) Annual budget for the Station SOW,;
- (b) Station Asset Management Program, SFMM Plan, and all other Station Facilities-related plans specified in the Station SOW; and
- (c) List of capital improvements related to Station Facilities proposed for inclusion in the annual Campus Capital Plan.

5.4 Upon Operations Committee and Executive Oversight Panel review and approval, as applicable, CITY may procure the services of qualified contractors to perform all or part of the duties set forth in the Station SOW.



5.5 Reimbursement to CITY for performing Station SOW duties, or compensation of contractors performing on CITY's behalf, shall be established by the approved annual budget for the Station SOW, as follows:

- (a) The annual budget for Station SOW activities for the upcoming Fiscal Year shall be submitted to the Operations Committee no later than March 1;
- (b) The annual budget for Station SOW as approved and recommended by the Operations Committee shall be submitted to the Executive Oversight Panel no later than May 1; and
- (c) Compensation parameters for CITY or its contractor(s) may be established by the Operations Committee and be updated from time to time. City's compensation proposal for its staff and/or its contractor(s), as set forth in its proposed annual budget for Station SOW submitted to the Operations Committee, must follow any such established parameters.

5.6 Periodic Inspection and Performance Review

- (a) The Operations Committee shall perform a monthly Campus walk-through as part of the Operations Committee meeting, including the Station Facilities.
- (b) By July 31 of each calendar year, CTDOT shall prepare an annual performance review, share with CITY for review and comment, and submit to the Operations Committee and then to the Executive Oversight Panel for review and approval. Such performance review will include recommended corrective action, if any, with respect to work performed at the Station Facilities.

## ARTICLE 6. OPERATION, MAINTENANCE AND MANAGEMENT OF THE OF PARKING FACILITIES

6.1 The Parking Facilities existing in parking operations at the Campus as of the Effective Date include the garage and surface lot parcels located immediately adjacent to New Haven Union Station as more particularly described in subsections (a) through (c) and set forth on Schedule 1:

- (a) New Haven Union Station garage located at 40 Union Avenue, immediately east of New Haven Union Station, and comprised of approximately 289,000 square feet, six levels, and approximately 876 parking spaces;
- (b) New Haven Union Station east lot parcel located at 30 Union Avenue, immediately east of New Haven Union Station garage, and comprised of approximately 73,500 square feet. As of the Effective Date, this east lot parcel is operated as surface parking lot with a capacity of approximately 254 cars.
- (c) New Haven Union Station west lot parcel located immediately adjacent to the west of Union Station and comprised of approximately 52,940 square feet.
- (d) Additional parking facilities developed to serve the Campus during the Term may be incorporated into the Campus and, if applicable, leased to CITY by mutual written agreement of the Parties signed by the Commissioner (or Commissioner's Designee) and the Mayor (or Mayor's designee") with all approvals required by applicable law.



6.2 CITY shall perform, or arrange for the performance of, all duties for the operation, maintenance and management of the Parking Facilities as set forth in the scope of work attached as Schedule 3 to this Agreement ("Parking SOW"), which the Operations Committee may update from time to time throughout the Term. The Operations Committee will recommend updates and revise the Parking SOW accordingly, which the Parties must approve by Mutual Written Consent. Upon the effective date stated in such Mutual Written Consent, the revised Parking SOW shall be incorporated herein as the operative Schedule 3 to the Agreement.

6.3 City shall prepare and update annually the following, all as more particularly set forth and described in the Parking SOW (Schedule 3), and no later than March 1 of each calendar year, submit to the Operations Committee for review and approval:

- (a) Annual budget for the Parking SOW;
- (b) Parking Asset Management Plan, PFMM Plan, and all other Parking Facilities-related plans specified in the Parking SOW; and
- (c) List of capital improvements related to Parking Facilities proposed for inclusion in the annual Campus Capital Plan.

6.4 Upon Operations Committee and Executive Oversight Panel review and approval, as applicable, CITY may procure the services of qualified contractors to perform all or part of the duties set forth in the Parking SOW.

6.5 Reimbursement to CITY for performing Parking SOW duties, and/or compensation of contractors performing on CITY's behalf, shall be established by the approved annual budget for the Parking SOW, as follows:

- (a) The annual budget for Parking SOW activities for the upcoming Fiscal Year shall be submitted to the Operations Committee no later than March 1;
- (b) The annual budget for Parking SOW as approved and recommended by the Operations Committee shall be submitted to the Executive Oversight Panel no later than May 1; and
- (c) Compensation parameters for CITY or its contractor(s) may be established by the Operations Committee and be updated from time to time. City's compensation proposal for its staff and/or its contractor(s), as set forth in its proposed annual budget for Station SOW submitted to the Operations Committee, must follow any such established parameters.

6.6 Periodic Inspection and Performance Review

- (a) The Operations Committee shall perform a monthly Campus walk-through as part of the Operations Committee meeting, including the Parking Facilities.
- (b) By July 1 of each calendar year, CTDOT shall prepare an annual performance review, share with CITY for review and comment, and submit to the Operations Committee and then to the Executive Oversight Panel for review and approval. Such performance review will include recommended corrective action, if any, with respect to work performed at the Parking Facilities.

ARTICLE 7. MANAGEMENT OF RETAIL AND COMMERCIAL BROKERING AND PROVISION OF AMENITIES

7.1 At the direction of the Operations Committee, City shall contract, or cause to be contracted, with and oversee a qualified, experienced professional firm selected upon recommendation of the Operations Committee and the approval of the Executive Oversight Panel, to develop a plan and strategy for the Brokerage Services for Operations Committee and Executive Oversight Panel approval, to be completed within the first two (2) years of the Term..

7.2 Upon Operations Committee and Executive Oversight Panel approval of the plan and strategy, CITY shall develop a proposed scope of work for Brokerage Services (“Brokerage Services SOW”) which may include but not be limited to activities set forth in the draft Brokerage Services SOW attached as Schedule 4 to this Agreement, for Operations Committee review, revision and final approval. Once the Brokerage Services SOW is finalized by the Operations Committee, the Parties shall approve the same by Mutual Written Consent, and upon the effective date stated in such Mutual Written Consent, the Brokerage Services SOW shall be incorporated herein as the operative Schedule 4 to the Agreement.

7.3 CITY shall undertake the activities set forth in the Brokerage Services SOW, and upon approval of the Operations Committee, will contract with a qualified firm or firms to undertake, on an on-going and as-needed basis, the activities set forth in the Brokerage Services SOW, in whole or in part, and which may include, but not be necessarily limited to, a master agreement with a retail leasing firm that employs a certified broker. CITY or its contractor engaged to perform these duties is hereinafter referred to as the “Brokerage Manager.” The annual budget for the Brokerage Services SOW will establish compensation for performance of the Brokerage Services SOW or portions thereof, for review and approval by the Operations Committee.

7.4 CITY shall prepare and update annually, by March 1, the following:

- (a) Annual budget for the Brokerage Services SOW, and within such annual budget, propose compensation, for review and approval by the Operations Committee; and
- (b) Campus retail/commercial brokering plan.

7.5 Within ninety (90) days from the Effective Date, CITY, with assistance as needed from its existing contractor performing Brokerage Services, shall make a recommendation to the Operations Committee, for its review, revision and approval, regarding phase-out of the current tenant agreements in hold-over and development of a plan for marketing and brokering space and entering new, updated agreements at the Campus, including, rental, license, concession and other agreements. CITY or its contractor shall prepare draft agreements for review and approval of the Operations Committee prior to executing. CTDOT reserves the right review all such agreements to ensure all required flow-down provisions are included as required pursuant to this Agreement and that they are otherwise in acceptable form.

7.6 From time to time throughout the Term (but no less frequently than every five (5) years), and at any time upon the request of the Operations Committee, the Brokerage Manager shall update rental, licensing, concession, and other arrangements, including but not limited to any proposed fees for transportation operators at the Campus, subject to the review and approval of the Operations Committee and the Executive Oversight Panel, as applicable.

## ARTICLE 8. PERFORMANCE GOALS AND OUTCOMES

8.1 The Parties agree to performance goals and outcomes for the Campus for critical areas of performance as follow in Sections 8.2 through 8.13. Based upon these goals and outcomes, the Operations Committee shall establish related performance metrics and contractual duties and requirements for any contractors within the first two (2) years of the Term. The Parties acknowledge that the following performance goals and outcomes are included as a guideline only, and that the performance metrics and contractual duties and requirements may alter the same, subject to approval by the Parties.

8.2 Customer service/satisfaction. The Operations Committee shall establish goals for providing a first-class customer and passenger experience for the public accessing and using the Campus and set benchmarks for achieving and documenting an overall customer satisfaction rating of good or better, including the following outcomes:

- (a) Ability for customers to retrieve information easily (legible signage, paper and digital information retrieval);
- (b) Ease and comfort of transport between garages, station, and platforms;
- (c) Accessible amenities;
- (d) Vibrant mix of high quality national and local retail/food establishments;
- (e) Ability for customers to provide feedback in an easy manner (kiosk and mobile format); and
- (f) Ability for customers to obtain assistance and/or information.

8.3 Safety. The Parties, in order to provide a multimodal transportation environment that maximizes the safety and security of all on-site at the Campus, shall pursue the following safety goals and outcomes for the Campus:

- (a) Set safety goals for employees, contractors, patrons and visitors that are systematic, clearly defined, measured and continuously improved;
- (b) Establish a comprehensive approach to system safety that will facilitate early recognition, identification, and evaluation of hazards and the mitigation of risks;
- (c) Establish safety programs and procedures that consistently meet or exceed the mandated requirements of applicable federal, state and local regulations, as well as established industry best practices;
- (d) Develop and update (to ensure that it remains current) throughout the Term written policies, procedures, instructions and rules to support safety goals;
- (e) Establish a safety culture where every Campus employee is responsible for their own safety, as well as the safety of their co-workers and the general public, and establish a safety committee, reporting to the Operations Committee, that will:
  - i. be comprised of employees of all levels to manage and take ownership of safety;
  - ii. develop and communicate employee awareness of safety through education and outreach;

- iii. provide employees with safety and technical training programs that are updated as necessary to incorporate new or revised regulations, technology, and/or modifications to existing equipment or procedures; and
  - iv. perform Campus-wide safety audits jointly with the Operations Committee to ensure continued compliance; and
- (f) Develop and update (to ensure that it remains current) throughout the Term a Campus-wide safety and emergency response program that will be reviewed annually by the Operations Committee:
- i. addressing building and fire code compliance and inspections, accident reporting, and emergency response procedures in accordance with OSHA standards for the following: fire, injury to the public, utility interruption, explosion, collapse, emergency evacuation, bomb threats, biological and chemical threats, demonstration/civil unrest, shelter in place, and terror attack;
  - ii. overseen by a designated safety program officer (staff of City or contractor) who will report directly to the Operations Committee (“Safety Program Officer”);
  - iii. including clear designation of responsibilities and roles by staff and contractors performing work at the Campus and ensuring all have a clear understanding of the program and their roles in its implementation; and
  - iv. The Safety Program Officer will perform periodic analysis of historical safety data and report to Operations Committee.

- 8.4 Security. The Parties agree to pursue the following security goals and outcomes at the Campus:
- (a) Perform and update (to ensure that it remains current) throughout the Term a periodic Campus-wide risk assessment in collaboration with applicable partners and stakeholders, including, but not limited to, rail operators, local, State and railroad police, and State and federal security and emergency management agencies;
  - (b) Identify transportation/rail security standards and key practices for the Campus;
  - (c) Establish and maintain collaborative protocols and positive relationships with and among local, state, federal, and railroad law enforcement agencies and fire and EMS first responders; and
  - (d) Develop and update (to ensure that it remains current) throughout the Term a Campus-wide facility security and emergency response plan that will be reviewed annually by the Operations Committee and that establishes and includes:
    - i. emergency response procedures in accordance with applicable standards for the following: bomb threats, biological and chemical threats, demonstration/civil unrest, shelter in place, and terror attack;
    - ii. oversight by a designated security program officer(s) (in coordination with New Haven Police Department and State/Federal law enforcement and homeland security partners) who will report directly to the Operations Committee (the “Campus Safety Officer”); and
    - iii. scheduled drills and exercises conducted from time to time in collaboration with the Campus Safety Officer and applicable partners and stakeholders.

8.5 Diversity, Equity, and Inclusion. The Parties believe that successful operation of the Campus includes the pursuit of goals and outcomes to provide an environment with a diverse mix of minds, backgrounds and experiences. The Parties will strive to:

- (a) Cultivate an inclusive work environment at the Campus;
- (b) Solicit Station patron, resident and community feedback in further Campus development projects; and
- (c) Create opportunities for small, local, and minority business enterprises (MBE) at the Campus, which may include pursuing MBE, SBE and/or DBE contracting set-aside goals above minimums established by applicable State and federal law.

8.6 Accessibility. The Parties agree to pursue accessibility goals and outcomes at the Campus that serve to:

- (a) Establish and maintain accessibility to transportation services, and eliminate barriers, for people with disabilities;
- (b) Ensure compliance with, and aim to exceed, minimum standards established by applicable accessibility regulations promulgated pursuant to the ADA Requirements and other applicable laws or codes;
- (c) Perform periodic site inspections throughout the Term to identify accessibility problems or non-compliance and deploy appropriate solutions to make existing facilities more usable for people with disabilities and/or bring facilities into compliance;
- (d) Deploy accessible design for any new facilities/improvements at the Campus and ensure that provision of new amenities at the Campus maximizes accessibility
- (e) Provide user information on transportation services and amenities in accessible formats for persons with different types of disabilities (e.g. information in large print, braille or alternative, electronic format);
- (f) Provide assistance equipment, facilities, and technology such as lifts, ramps, signage, communication devices, and illumination, and regularly monitor operation to ensure remain in good operating condition. Any identified repair shall be prioritized as critical; and
- (g) Train staff to properly assist individuals with disabilities in a respectful, courteous way; and recognize that individuals with disabilities have different abilities and needs requiring different types of assistance.

8.7 Maintenance and State of Good Repair. The Parties agree to establish performance goals and outcomes and set benchmarks for achieving and documenting an overall maintenance record of good or better, as determined by the Operations Committee.

- (a) Establish a general maintenance plan, with a point of contact and delegation plan
- (b) Establish procedures and schedule for internal inspection and preventative maintenance of mechanicals and physical plant
- (c) Establish procedures for addressing/resolving emergency and immediate maintenance needs
- (d) Establish a matrix for evaluation of response time and job performance
- (e) Prepare a master facilities plan that would be used for all aspects of managing the Campus.



8.8 Cleanliness. The Parties agree to establish performance goals and outcomes and set benchmarks as follow:

- (a) Develop procedures and schedules at set forth in the Station SOW and Parking SOW for a general cleaning plan and deep cleaning plan, with a point of contact and delegation plan/duties;
- (b) Establish procedures and schedule for internal cleanliness inspection and evaluation;
- (c) Establish procedures for addressing/resolving emergency and immediate cleaning needs;
- (d) Establish a matrix for evaluation of response time and job performance; and
- (e) Set benchmarks for achieving and documenting an overall cleanliness rating as determined by the Operations Committee.

8.9 Financial viability: The Parties agree to ensure financial viability of the Campus, by pursuing the following:

- (a) Leverage of assets to optimize revenue-generating operations
- (b) Identification and implementation of cost savings measures
- (c) Development of a strategic budget planning model/strategies to minimize unnecessary expenditures and optimize resource allocation to strengthen Campus operations
- (d) Pursuit of underleveraged or alternative revenue sources

8.10 Economic vitality of city and state. The Campus occupies a unique geographic location at the intersection and hub rail links directly to New York City to the west, Hartford/Springfield to the north and Providence and Boston to the east, as well as serving as a historic entry to New Haven and the region. The Parties agree that, in establishing performance metrics, the Operations Committee shall seek to:

- (a) Develop marketing plan in coordination with the Brokerage Manager to attract a vibrant mix of high quality national and local retailers, food and other concessionaires and vendors at the Campus, subject to applicable statutory requirements;
- (b) Develop marketing plan in coordination with nearby transportation hubs to advertise easy accessibility of New Haven Union and State Street Stations and local attractions, employers, schools/universities, and major economic sectors;
- (c) Support high quality adjacent redevelopment efforts and improved links to downtown New Haven, the Long Wharf area, and the Hill neighborhood; and
- (d) Establish capital funding priorities to expand and develop additional retail and vendor space throughout the Campus.

8.11 Supporting transit. The Parties recognize that that vibrant and well managed rail and bus transportation is critical to ensuring greater utilization of the State's transportation system to assure economic viability and growth and support of the surrounding communities. New Haven is the central hub in Connecticut for Amtrak, Metro North Railroad, *CTrail* Shore Line East and Hartford Line service, and all the communities they serve. The Operations Committee shall establish performance goals and outcomes for the Campus that will strive to:

- (a) Ensure availability and ease of use of high-quality intermodal transportation options;



- (b) Develop ease of connections between the several transportation modes at the Stations and the Campus;
- (c) Develop plans for ease of parking and “last mile” surface transportation options including but not limited to CT *transit* bus, ride share, taxi); and
- (d) Provide customers accurate and up-to-date information to utilize the connected rail/bus transportation system in a timely fashion and by means easily accessible to customers (including in electronic format).

8.12 Sustainability. The Parties recognize the growing environmental challenges posed by climate change including the threat of rising sea levels to low lying areas such as the Station and the Campus. The Operations Committee shall set sustainability targets for any major renovations to existing Campus buildings and garages and for any future developments on the east and west Union Station lots, which goals will be:

- (a) Consistent with the checklist criteria for LEED Silver standard level building and construction design;
- (b) Consistent with the Connecticut Governor Ned Lamont's Executive Order No. 3 dated September 3, 2019 to reduce greenhouse emissions by 45% by 2030 and to achieve zero carbon energy by 2045, as may be revised and other Governor Executive Orders related to sustainability that may be issued during the Term of this Agreement;
- (c) Consistent with the New Haven Board of Alders Resolution Endorsing a Declaration of a Climate Emergency to Restore a Safe Climate, adopted September 3, 2019, as may be revised, and other Board of Alder resolutions related to sustainability that may be issued during the Term of this Agreement; and
- (d) Reflect the evolving standards of environmental preservation to meet the ongoing issues of climate change and other environmental challenges.

8.13 To ensure that, within the first two years of the Term, these goals are pursued, the Operations Committee may develop performance metrics to impose on contracted Station Manager, Parking Manager, and Brokerage Manager, performing work at the Campus pursuant to this Agreement. The Operations Committee shall submit any proposed performance metrics to the Executive Oversight Panel for approval. CITY shall include the approved performance metrics in its contracts and monitor, document, and report to the Operations Committee the relative performance of its contractors with respect thereto.

## ARTICLE 9. REVENUE AND ANNUAL RENT.

9.1 Upon commencement of the Term, CITY shall develop a process for managing Revenue, accounts, and a deposit and account transfer process, and submit by July 1, 2022 to the Oversight Committee for review and approval. CITY shall update this process from time to time throughout the Term upon Operations Committee request. No later than the expiration of the Transition Period, unless otherwise approved by the Operations Committee, CITY shall have all accounts established and commence managing Revenues and making deposits and transfers in accordance with such approved process and the requirements of this Article 9.

9.2 In accordance with such approved process, throughout the Term, CITY shall:

(a) cause the timely collection and deposit into the Operating Account all Revenue generated by operations and Operations Committee-approved activities at the Campus managed by CITY pursuant to this Agreement and keep such funds separated from other CITY funds;

(b) for accounting and reporting purposes, code all Revenue by category; and

(c) submit Revenue reports to the Operations Committee upon its request, and not less frequently than monthly.

9.3 Annual Rent shall include the total receipts of Revenue generated by operations at the Campus managed by CITY pursuant to this Agreement during each Fiscal Year minus all Operations Committee-approved expenses for the operation of the Campus for the Fiscal Year. Approved expenses for operation are those included in the approved Annual Budget, including but not limited to reimbursement for worked performed pursuant to Articles 5 through 7 by CITY and any contractors and/or vendors, and any unforeseen operating costs that the Operations Committee and Executive Oversight Panel approve for reimbursement.

9.4 CITY's use and occupancy of the Premises is in consideration of Annual Rent. Annual Rent shall not be remitted to CTDOT, but rather reserved by CITY, with Operations Committee oversight, for capital investment as more particularly described herein. Within thirty (30) days after close of the Fiscal Year, CITY shall deposit Annual Rent into the Capital Improvement Account, separated from other CITY funds, for use to fund capital investments into the Premises that have been approved by the Executive Oversight Panel pursuant to this Agreement.

9.5 In the event monthly Revenues do not exceed monthly operating costs, with the prior approval of the Executive Oversight Panel, the monthly deficit will be funded from the Capital Improvement Fund. Additionally, in the event of deficit operations, nothing herein precludes either Party from identifying and contributing other sources of funding to cover expenses of the monthly costs set forth in the approved Annual Budget. The Parties shall work cooperatively to identify and pursue additional funding from other sources to support the Premises during deficit operations, and neither Party shall unreasonably withhold consent that may be required from the Parties to accept such funding.

#### ARTICLE 10. RECONCILIATION OF REVENUE AND EXPENSES AND AUDIT

10.1 CITY shall maintain complete and accurate records for all Revenues received and funds expended in the operation of the Campus, in accordance with the accounting principles generally accepted in the United States of America and as required by the Governmental Accounting Standards Board g and upon reasonable notice make such records available to the Operations Committee, CTDOT, and any other entity having jurisdiction or audit authority.

10.2 CITY shall perform reconciliation of revenues and expenses against the annual budgets for each of the Station SOW, Parking SOW, and Brokerage Services SOW, including but not limited to CITY's staffing plan, staffing levels and equipment requirements and purchases for the Campus. CITY shall provide such reconciliation to the Operations Committee, CTDOT, and any other entity having

jurisdiction or audit authority.

10.3 CITY shall prepare and submit to the Operations Committee monthly reporting of operating results and financial statements.

#### 10.4 Audit

- (a) CTDOT, the State and their agents may inspect places of business related to performance of this Agreement.
- (b) City shall engage a certified public accounting ("CPA") firm to complete an annual audit of the expenses and revenues generated from the Campus, for the Fiscal Year to be paid for from the Revenues, and provide the annual audit to CTDOT no later than six (6) months following the close of the Fiscal Year.
- (c) The Operations Committee and the Executive Oversight Panel may request additional audits and CITY promptly provide all records and requested assistance for such audits.
- (d) CTDOT may require an additional audit and inspection of records upon at least twenty-four (24) hours' written notice to CITY prior to the requested audit and inspection date. If CTDOT suspects fraud or other abuse, or in the event of an emergency, CTDOT is not obligated to provide any prior notice.
- (e) All records related to any audit performed under this Article must be kept for at least seven (7) years and CITY shall require that the CPA firm provide CTDOT with access to any records of the CPA firm so that the State may audit or review all such records.
- (f) CITY shall cooperate fully, and require its contractors and/or vendors to cooperate fully, with CTDOT, the State and their agents in connection with an audit or inspection.

### ARTICLE 11. INDEMNIFICATION

11.1 CITY 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 this Agreement, including, without limitation, the acts of commission or omission (collectively, the "Acts") of CITY or City Parties and any injury (including death) and damage to property; 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 this Agreement. CITY shall use counsel reasonably acceptable to the State in carrying out its obligations under this section. CITY's obligations under this Article to indemnify, defend and hold harmless against Claims includes Claims concerning confidentiality of any part of or all of CITY'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.

11.2 CITY 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.

11.3 CITY shall reimburse the State for any and all damages to the real or personal property of State

caused by the Acts of CITY or any City Parties. The State shall give CITY reasonable notice of any such Claims and CITY shall reimburse the State within sixty (60) days of the notice.

11.4 CITY's duties under this Article shall remain fully in effect and binding in accordance with the terms and conditions of this Agreement, without being lessened or compromised in any way, even where CITY 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.

11.5 CITY shall carry and maintain at all times during the Term, including any Extension Terms, and during the time that any provisions survive the Term, including any Extension Terms, sufficient insurance to satisfy its obligations under this Agreement. CITY shall name the State as an additional insured on the policy. CTDOT shall be entitled to recover under the insurance policy even if a body of competent jurisdiction determines that CTDOT or the State is contributorily negligent.

11.6 CITY shall 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 arising out of or attributable to CITY, 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 CITY, 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 CITY.

11.7 This Article shall survive the expiration or earlier termination of this Agreement and shall not be limited by reason of any insurance coverage.

## ARTICLE 12. INSURANCE

12.1 CITY agrees to secure and maintain the following minimum insurance coverages in subsections (a) through (h), or with prior approval of the Operations Committee, pass to the Station Manager, Parking Manager or Brokerage Manager the obligation to secure and maintain the same, and also agrees that it will ensure that any and all contractors secure and maintain the following minimum coverages in subsections (a) through (e), which coverages shall become effective at the end of the Transition Period and continue throughout the Term of this Agreement:

- (a) COMMERCIAL GENERAL LIABILITY INSURANCE including Contractual Liability Insurance, Independent Contractors, Premises and Operations, Products and Completed Operations and Broad Form Property Damage coverages with a total limit of liability of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to, or death of, all persons and/or damage to any 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. Coverage shall include:
  - i. Products – Completed operations - \$1,000,000

- ii. Personal and Advertising Injury - \$1,000,00
  - iii. Fire Damage (damage to rented premise) - \$100,000
- (b) AUTOMOBILE LIABILITY INSURANCE which covers all motor vehicles, including those owned, hired or non-owned, which are used in connection with this Agreement with a One Million Dollars (\$1,000,000) combined single limit per accident for bodily injury, or death of, all persons and/or damage to any property in any one accident or occurrence. If CITY does not own an automobile, but one is used in the execution of the Agreement, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the Agreement then automobile coverage is not required.
- (c) WORKER'S COMPENSATION & EMPLOYER'S LIABILITY INSURANCE and, as applicable, insurance required in accordance with the U. S. Longshore and Harbor Workers' Compensation Act, all in accordance with the requirements of the laws of the State of Connecticut, and of the laws of the United States, respectively, which covers all of CITY's employees at or working from the Premises, which coverage shall include Employer's Liability Insurance with minimum limits of:
  - i. \$1,000,000 Each Accident
  - ii. \$1,000,000 Disease - Each Employee; and
  - iii. \$1,000,000 Disease - Policy Limit
- (d) PROFESSIONAL LIABILITY (ERRORS AND OMISSIONS LIABILITY) in the event CITY and/or any of its contractors provide any architecture, engineering, design, accounting, legal or other professional services under or in connection with this Agreement and/or at or with regard to the Campus, each person and entity providing such services shall be duly licensed and maintain Professional Liability coverage, at such party's sole cost and expense, in an amount not less than Two Million Dollars (\$2,000,000) per occurrence. In the case of any engineer, architect or other design professional, each such policy must be kept in effect for a period of seven (7) years after substantial completion of the project on or for which any such services are rendered; otherwise the professional involved shall maintain such coverage for a period for at least three (3) years following completion of its work hereunder. If coverage is procured by any professional on a claims made basis, the retroactive date must be the date prior to the professional's commencement of any work under or pursuant to this Agreement or the project to which it relates, whichever is earlier.
- (e) RAILROAD PROTECTIVE LIABILITY in the event CITY or any of its contractors perform work within fifty (50) feet of the railroad right-of-way or State-owned rail property, with respect to the operations performed by CITY or its contractor(s), CITY or its contractor shall carry Railroad Protective Liability insurance providing coverage of at least Two Million Dollars (\$2,000,000) for each accident or occurrence resulting in damages from (1) bodily injury to or death of all persons and/or (2) injury to or destruction of property, and subject to that limit per accident or occurrence, an aggregate coverage of at least Six Million Dollars (\$6,000,000) for all damages during the policy period, and with all entities falling within any of the following listed categories specified as named insured: (i) the owner of the railroad right-of-way, (ii) the owner of any railcar licensed or



permitted to travel within that affected portion of railroad right-of-way, (iii) the operator of any railcar licensed or permitted to travel within that affected portion of the railroad right-of-way, (iv) the State, if not falling within any of the above-listed categories, and (v) any other party with an insurable interest. If such insurance is required, CITY or its contractor shall obtain and submit evidence of the minimum coverage indicated above to CTDOT prior to commencement of the rail related work and/or activities and shall maintain coverage until the work and/or activities is/are accepted by the State.

- (f) GARAGE KEEPERS LEGAL LIABILITY COVERAGE secured and maintained by CITY (and/or its contractor who is operating the parking garages and parking lots under this Agreement) in the amount of One Million Dollars (\$1,000,000) per occurrence.
- (g) COMMERCIAL CRIME POLICY secured and maintained by CITY in the amount of One Million Dollars (\$1,000,000), with coverage to include but not limited to, employee dishonesty, money and securities (inside and outside), and forgery or alteration. With prior approval of the Operations Committee, CITY may pass this obligation on to the Station and/or Parking Manager.
- (h) UMBRELLA LIABILITY secured and maintained by CITY in the amount of Twenty-Five Million Dollars (\$25,000,000) per occurrence and in the aggregate. With prior approval of the Operations Committee, CITY may pass this obligation on to each the Station Manager and/or Parking Manager or other contractor operating or managing a portion of the Premises where the public has access.

12.2 All products and completed operations coverage required to be maintained by CITY and its contractors shall continue to be maintained for at least three (3) years following final acceptance of their work.

12.3 Notwithstanding any other provision of this Article 12 to the contrary, any party required to maintain insurance hereunder shall be deemed to be in compliance with this Article even if such party's insurance policy(ies) are not written for amounts specified in section 12.1 above (other than worker's compensation insurance), provided said party carries Umbrella Liability insurance for any differences in the amounts specified therefor and the policy(ies) for such Umbrella Liability insurance follow(s) the form of said party's primary coverages.

12.4 Except as otherwise provided to the contrary in this Article, any insurance required by this Agreement may be obtained by means of any combination of primary and umbrella coverages and by endorsement and/or rider to a separate or blanket policy and/or under a blanket policy in lieu of a separate policy or policies, provided that CITY shall deliver a certificate of insurance of any said separate or blanket policies and/or endorsements and/or riders evidencing to the State that the same complies in all respects with the provisions of this Agreement, and that the coverages, and the protection afforded the State, thereunder are at least equal to the coverages and protection which would be provided under a separate policy or policies procured solely for the Premises and/or the work, if any, to be performed by CITY or its contractors.

12.5 The State and its officers, agents and employees (collectively, "State Indemnified Parties") shall be named as additional insureds under any and all coverages maintained pursuant to Section 12.1 as well as



any umbrella or excess liability insurance which provides coverage over and above such insurance.

12.6 Upon CITY's execution of this Agreement and on or before the tenth (10th) business day preceding every subsequent anniversary date of the execution of the Agreement during the Term, CITY agrees to furnish to the State one (1) or more certificates of insurance evidencing that CITY and its contractors have obtained the insurance required hereunder. Each certificate of insurance shall be in such form as is supplied or approved by the State, fully executed by an insurance company or companies satisfactory to the State, and shall specify the amounts of deductibles, if any, for each type of coverage in the policy or policies. Deductibles shall not exceed amounts approved, in advance, by an authorized representative of the State in writing. CITY shall produce, and shall require its contractors to produce, within five (5) business days, a copy or copies of all applicable insurance policies when requested by the State. In providing said policies, CITY and/or its contractors, as appropriate, may redact provisions of any policy that are clearly proprietary. If, at any time during the Term of this Agreement, CITY or its contractors shall fail to provide any such insurance documentation within five (5) business days period, or duly maintain (or ensure that its contractors maintain) all required insurance coverage in full force and effect, then the State, in addition to any other remedies it may have, all of which are reserved for the State, may either immediately terminate this Agreement or procure or provide alternate insurance coverage and charge CITY the cost thereof, which amounts shall then be promptly paid by CITY to the State. Copies of all required insurance policies shall be retained by CITY until three (3) years after the expiration of the Term of this Agreement.

12.7 Each policy of insurance maintained pursuant to this Agreement shall be written to provide at least those coverages provided under standard forms therefor as have been approved the State of Connecticut's Insurance Commissioner. Each such policy also shall not be subject to cancellation unless notice is given to the State, by Official Notice, at least thirty (30) days prior to the date of cancellation. All insurance certificates required to be provided to the State hereunder shall evidence the insurers' agreement to the foregoing on the face thereof.

12.8 All of CITY's and its contractors' insurers shall be licensed to do business in the State and be rated A- or better by the latest edition of A.M. Best's Rating Guide or, if such guide is no longer available, any generally recognized replacement therefor. All insurance required hereunder (other than errors and omissions coverages) shall be written on "occurrence" basis (as opposed to "claims made") basis.

12.9 CITY's contractors shall be fully and solely responsible for and thus shall pay any and all costs and expenses as a result of any and all coverage deductibles. None of CITY's or its contractors' insurers shall have any right of subrogation or recovery against the State or any of the other State Indemnified Parties, all of which rights are hereby waived by CITY. All insurance maintained by CITY and its Contractors shall be primary and noncontributory and shall not be in excess of any other insurance.

12.10 Nothing herein shall preclude any Party, or its contractors, from procuring and maintaining, at such Party's sole cost and expense, such additional insurance coverage as such party deems desirable or appropriate, provided, however, that all liability insurance maintained by CITY or its contractors which covers the Premises and/or any work to be performed under this Agreement shall name the State as an additional insured. Any insurance maintained by the State shall be in excess of any and all insurance maintained by CITY and/or its contractors, and shall not contribute with it.

12.11 CITY shall neither do nor allow its contractors to do anything (or fail to do anything) whereby any of the insurance required by the provisions of this Article 12 shall or may be invalidated in whole or in part. In the event that any of the contractors so acts (or fails to act), then CITY shall promptly use commercially reasonable efforts to eliminate that condition.

12.12 CTDOT shall have the right to review and revise the insurance requirements applicable to CITY and its contractors during the Term and to make reasonable adjustments to the types and amounts of, and terms pertaining to, insurance coverage required hereunder, as CTDOT reasonably deems to be prudent, in its sole discretion under the circumstances, based upon increased costs of construction, inflation, statutory law, court decisions, claims history, and other relevant factors, and in coordination with Sections 12.18 and 12.19.

12.13 Unless requested otherwise by CTDOT, CITY, its contractors and their insurers shall waive sovereign immunity as a defense and shall not use the defense of sovereign immunity in the adjustment of Claims or in the defense of any suit brought against them or any State Indemnified Parties, unless, and then only if and when, approved in writing by the State, which approval may be withheld in its sole and absolute discretion. CITY shall assume and pay all costs and billings for premiums and audit charges earned and payable under the required insurance.

12.14 The failure of the State, at any time or from time to time, to enforce the provisions of this Article 12 concerning insurance coverage shall not constitute a waiver of those provisions nor in any respect reduce the obligation of CITY to indemnify, defend and hold and save harmless CTDOT or the State Indemnified Parties. Likewise, the limits of coverage of any insurance purchased by CITY or its contractors shall not in any way limit, reduce or restrict their obligations under any indemnification, defense, and save and hold harmless provisions stated in this Agreement or other contracts.

12.15 CITY shall assume and pay all costs and billings for premiums and audit charges earned and payable under all insurance that is maintained by it. Each insurance policy shall state that the insurance company shall agree to investigate and defend the insured against all Claims for damages, even if groundless.

12.16 The provisions of this Article 12 shall be incorporated and made a part of each contract or other agreement which CITY enters into under or in connection with this Agreement or the Premises with any third party (which shall include any person engaged by CITY to perform work on or at, or which is allowed to conduct business on or from or to otherwise use or occupy, any portion of the Premises) appropriately modified to reflect the relationship of the parties; providing, however, that all references to, and all rights and protections afforded to the State, as provided in these provisions, shall remain unchanged. If any contractor does not maintain, and demonstrates that it cannot reasonably be expected to obtain, the levels or types of coverage required by this Article, CITY may request the State to approve different levels and/or types of coverage for such contractor. CTDOT may withhold its approval of any such request in its sole and absolute discretion. Additionally, no such approval shall be effective unless approved in writing by the Secretary of the State's Office of Policy and Management and the State's Director of Insurance and Risk Management.

12.17 The provisions of this Article 12 shall survive the expiration of the Term or earlier termination of

this Agreement.

12.18 From time to time throughout Term, but no later than every five (5) years, the Operations Committee shall review the insurance coverages, minimum limits, and other requirements of this Article 12 and, upon consultation with and approval of the State Director of Insurance and Risk Management and the Worker's Compensation and Risk Management Division for City of New Haven, the Operations Committee shall update such coverages, limits and requirements. In such event, the Parties agree to incorporate the updated insurance coverages, limits, and requirements into a revised Article 12 memorialized by Mutual Written Consent, which upon the effective date specified therein, shall be incorporated herein as the operative Article 12 to the Agreement.

12.19 From time to time throughout Term, but no later than every five (5) years, in coordination with review set forth in Section 12.18, the Operations Committee shall review the insurance coverages, minimum limits, and other requirements of this Article 12 and determine which obligations to pass onto the Station Manager, Parking Manager, Brokerage Manager, and contractors, tenants, concessionaires, operators, and licensees at the Campus. CITY shall incorporate updated requirements into new contracts or extensions of contracts entered into during the Term.

#### ARTICLE 13. DISPUTE RESOLUTION

13.1 With respect to disputes between the Parties arising out of or relating to the performance of their respective obligations under the Agreement, including but not limited to satisfactory performance in accordance with the requirements of the Agreement by CITY, its Station Manager, Parking Manger, Brokerage Manager, or other contractor, the Parties through their representatives on the Operations Committee shall attempt in good faith to promptly resolve any dispute or controversy by negotiation during its regularly scheduled monthly meetings, or any Special Meetings that the Operations Committee schedules as needed to specifically address such dispute or controversy. If the Operations Committee is unable to reach a resolution, then the matter shall be escalated in accordance with this Article 13.

13.2 When the Operations Committee is unable to reach a resolution as to any particular dispute, a Party may give the other Party written notice of the dispute, delivered in accordance with Article 14. A copy of the written notice and response shall additionally be transmitted by electronic mail, if to CITY, addressed to the Mayor with a copy to the Economic Development Administrator, and if to CTDOT, addressed to the Commissioner with a copy to the Rail Administrator. The receiving Party shall promptly submit to the other Party a written response, but in no event later than five (5) business days after receipt of the notice. The notice and the response shall each include a statement of the Party's position and a summary of arguments supporting that position. The Parties agree that in efforts to resolve disputes, all reasonable requests for relevant information made by one Party to the other will be honored.

13.3 The Executive Oversight Panel shall review the submissions, and within thirty (30) days of the date that the written notification of a dispute is received by the receiving Party, shall meet at a mutually acceptable time and place, and, thereafter, as often as they reasonably deem necessary, to attempt to resolve the dispute. Upon completion of the resolution process to the mutual satisfaction of the Commissioner and Mayor, they will notify the Operations Committee of the agreed-upon resolution. If

the Commissioner and Mayor are unable to reach agreement as to the resolution of the disputed issue(s) within thirty (30) days from the first meeting of the Executive Oversight Panel on the respective disputed issue, or other period of time as mutually agreed upon by the Commissioner and Mayor, the issue(s) shall be subject to non-binding mediation set forth in Section 13.4.

13.4 If the Executive Oversight Panel is unable to resolve a dispute, such dispute shall be subject to non-binding mediation as a condition precedent to any other proceedings by either Party unless both Parties agree to waive the mediation process. A Party's request for mediation shall be submitted in writing to the other Party in accordance with Article 14. The Parties shall jointly select one (1) disinterested mediator. The mediator shall be qualified in and have experience in the field of surface transportation or mixed use facility operation. In the event the Parties are unable to agree on a mediator, the mediator shall be selected by alternative strikes by each Party from a list of five (5) mediators provided by the American Arbitration Association or the American Dispute Resolution Center in New Britain, Connecticut. The Parties shall share the mediator's fee and any filing fees equally. The mediation shall commence within thirty (30) days after receipt of the request, or other period of time as mutually agreed upon by the Parties, and shall be held at 4 Brewery Street, New Haven, Connecticut, unless another location is mutually agreed upon by the Parties. If the Parties are unable to resolve their dispute through mediation, the Parties reserve all other remedies under the Agreement and at law.

13.5 For issues related to safety, compliance with Federal, State, or local law or regulation, or other matters for which CTDOT determines immediate redress is required but that CITY disputes, CITY shall not delay its performance of any work required to redress such issues during the pendency of any dispute resolution process that may be initiated under this Article. If a Federal, State or local authority having jurisdiction over the operations performed by CITY pursuant to this Agreement makes a determination that there is a violation by CITY of applicable safety or other regulations, that determination shall be final and binding on CITY, and shall not, as between CTDOT and CITY, be the subject of dispute resolution under this Agreement.

13.6 The occurrence of a dispute or controversy shall in no event relieve either Party from its respective obligations under the Agreement during the pendency of Dispute Resolution, provided that the parties are mutually, in good faith, participating in the process without delay or interruption, in accordance with this Article 13.

**ARTICLE 14. OFFICIAL NOTICE**

Any "Official Notice" from one such Party to the other such Party (or Parties), in order for such Official Notice to be binding thereon, shall:

14.1 Be in writing (hardcopy) addressed to:

(a) When DOT is to receive such Notice –

Commissioner of Transportation  
Connecticut Department of Transportation  
2800 Berlin Turnpike

P.O. Box 317546  
Newington, Connecticut 06131-7546;

With a copy to:

Agency Legal Director  
Connecticut Department of Transportation  
2800 Berlin Turnpike  
P.O. Box 317536  
Newington, Connecticut 06131-7546

(b) When CITY is to receive such Notice –

Economic Development Administrator  
165 Church Street, 4R  
New Haven, Connecticut 06510

With a copy to:

Office of the Corporation Counsel  
165 Church Street, 4<sup>th</sup> Floor  
New Haven, Connecticut 06510

With a copy to:

Special Counsel for Economic Development  
165 Church Street, 4R  
New Haven, Connecticut 06510

14.2 Be delivered in person with acknowledgement of receipt, be mailed by the United States Postal Service – “Certified Mail”, or delivered by a nationally recognized overnight courier to the address recited herein as being the address of the Party(ies) to receive such Notice; and

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

## ARTICLE 15. STATE AND FEDERALLY REQUIRED PROVISIONS

### 15.1 Set-Aside Requirements

(a) With respect to operations at the Campus funded with revenues generated by the Campus pursuant to this Agreement, CITY shall meet or exceed its independent requirements under State law for Set-aside goal setting and reporting to the Commission on Human Rights and Opportunities.

(b) If federal funds are used to fund operations or work undertaken pursuant to any of the Scopes of Work of this Agreement, at the Campus,

(i) when CTDOT is the grant recipient (e.g. CARES funding), the Operations Committee must bring the project to CTDOT’s DBE screening committee for prior review and assignment of



goal percentage. With respect to such goal, CITY shall meet or exceed CTDOT's DBE program requirements as set forth on Schedule 5 attached to this Agreement, as may be updated by CTDOT from time to time; or

- (ii) when CITY is the grant recipient, CITY is responsible for determining the Set-aside goal and the associated federal requirements and complying therewith.

15.2 CITY shall comply with the provisions set forth in Schedule 6 attached to this Agreement, including Title VI requirements that must flow-down to contractors and tenants. CITY will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject made in connection with all Federal funding and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Recipient in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S. C. §§ 2000d through 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

15.3 Prevailing wage and Standard wage per CGS. CITY acknowledges that it will comply with the requirements under State law administered by the Connecticut Department of Labor, including but not limited to, standard wage (CGS § 31-57f) and prevailing wage (CGS § 31-53 and § 31-53a) that may apply to services performed under this Agreement.

15.4 CITY, with Operations Committee approval and CTDOT support, will be responsible to provide required vending opportunities to the Connecticut Department of Aging and Disability Services, BESB and pursue and obtain required BESB waivers of vending and concession right of first refusal, all pursuant to CGS § 10-303.

15.5 CTDOT reserves the right to review contracts/agreements (to ensure required provisions included, whether by State requirement, e.g. State nondiscrimination, or by Federal requirement, e.g., Title VI, and any federal grant-specific requirements as may apply throughout the term) and reserves the right to direct removal of contractors throughout the term as CTDOT may determine, e.g., as a result of contractor violation of requirements, contractor suspension/disbarment from State work

15.6 CTDOT Administrative and Statutory Requirements. CITY shall comply with the requirements set forth in the "CTDOT Administrative and Statutory Requirements" attached as Schedule 7 to this Agreement.

#### ARTICLE 16. Additional Provisions

16.1 During the Term, CITY shall not introduce, sponsor or support any legislation that would modify any of its obligations arising from this Agreement or obligations surviving the expiration of the Predecessor Agreement, including but not limited to obligations associated with Federal grants-in-aid or other Federal participation at the Campus, or that would abrogate the CITY-CTDOT partnership with respect to the



Campus without CTDOT consent.

16.2 CITY shall not assign this Agreement in whole or in part, or any rights or obligation hereunder, voluntarily or otherwise, in any manner, without the prior written consent of CTDOT, with the exception of contracting-out duties under any Scope of Work with prior approval of the Operations Committee and, as applicable, the Executive Oversight Panel as set forth herein. CTDOT may void any purported assignment in violation of this section and declare CITY in breach of the Agreement. Any termination by CTDOT for such a breach is without prejudice to CTDOT's rights or remedies. CITY shall not sublet the Premises other than as specifically permitted in this Agreement without CTDOT's prior written approval.

16.3 References to Statutes, Public and Special Acts, Regulations, Codes and Executive Orders. All references in this Agreement to any statute, public and special acts, regulation, code or executive order shall mean such statute, public act, regulation, code or executive order, respectively, as it has been amended, replaced or superseded at any time. Notwithstanding any language in this Agreement that relates to such statute, public act, regulation, code or executive order, and notwithstanding a lack of a formal amendment to this Agreement, this Agreement shall always be read and interpreted as if it contained the most current and applicable wording and requirements of such statute, public and special acts, regulation, code or executive order as if their most current language had been used in and requirements incorporated into this Agreement at the time of its execution.

16.4 Electronic Signatures. This Agreement may be executed by electronic signatures and such electronic signatures shall be deemed to be the original signatures of the Parties.

16.5 Counterparts. This Agreement may be executed in counterparts, which together shall constitute a single binding agreement. The Parties agree that executed counterparts may be transmitted by facsimile or other electronic means and that such counterparts shall constitute an original.

16.6 Waiver. No waiver of any breach of the Agreement shall be interpreted or deemed to be a waiver of any other or subsequent breach. All remedies afforded in the Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Agreement or at law or in equity.

16.7 Severability. If any term or provision of the Agreement or its application to any person, entity or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of the Agreement or the application of such term or provision shall not be affected as to persons, entities or circumstances other than those as to whom or to which it is held to be invalid or unenforceable. Each remaining term and provision of the Agreement shall be valid and enforced to the fullest extent possible by law.

16.8 Entire Agreement. The Agreement is the entire contract between the Parties with respect to its subject matter, and supersedes all prior agreements, proposals, offers, counteroffers and understandings of the Parties, whether written or oral.

*[Signature pages immediately follow.]*





This Agreement is made with the advice and consent of the undersigned in conformance with Section 4-67g of the Connecticut General Statutes, as revised.

\_\_\_\_\_  
Paul Hinsch, Policy Director of Asset Management  
Office of Policy & Management  
State of Connecticut

Date: \_\_\_\_\_

APPROVED:

William Tong  
ATTORNEY GENERAL

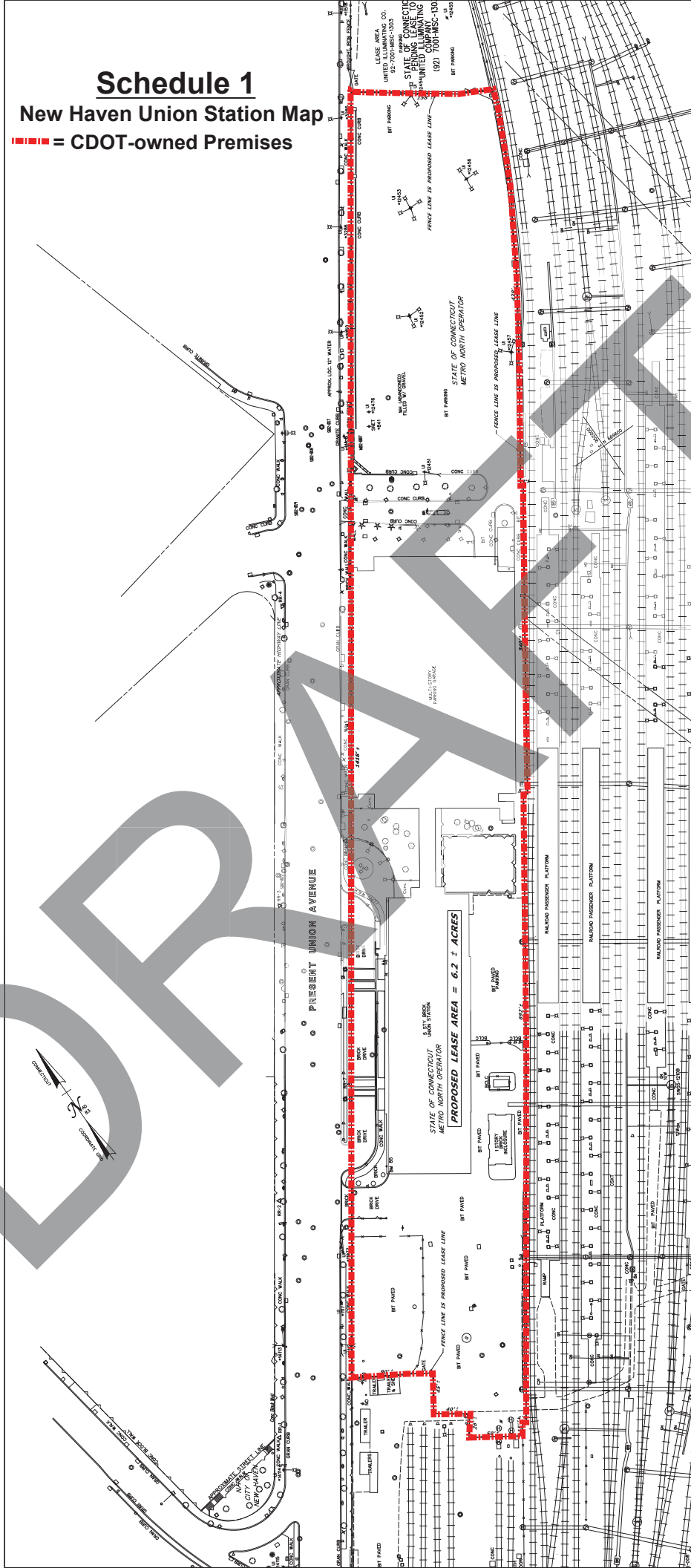
\_\_\_\_\_  
Joseph Rubin  
Assistant Deputy Attorney General

Date: \_\_\_\_\_

# Schedule 1

## New Haven Union Station Map

■■■■ = CDOT-owned Premises





**DRAFT**

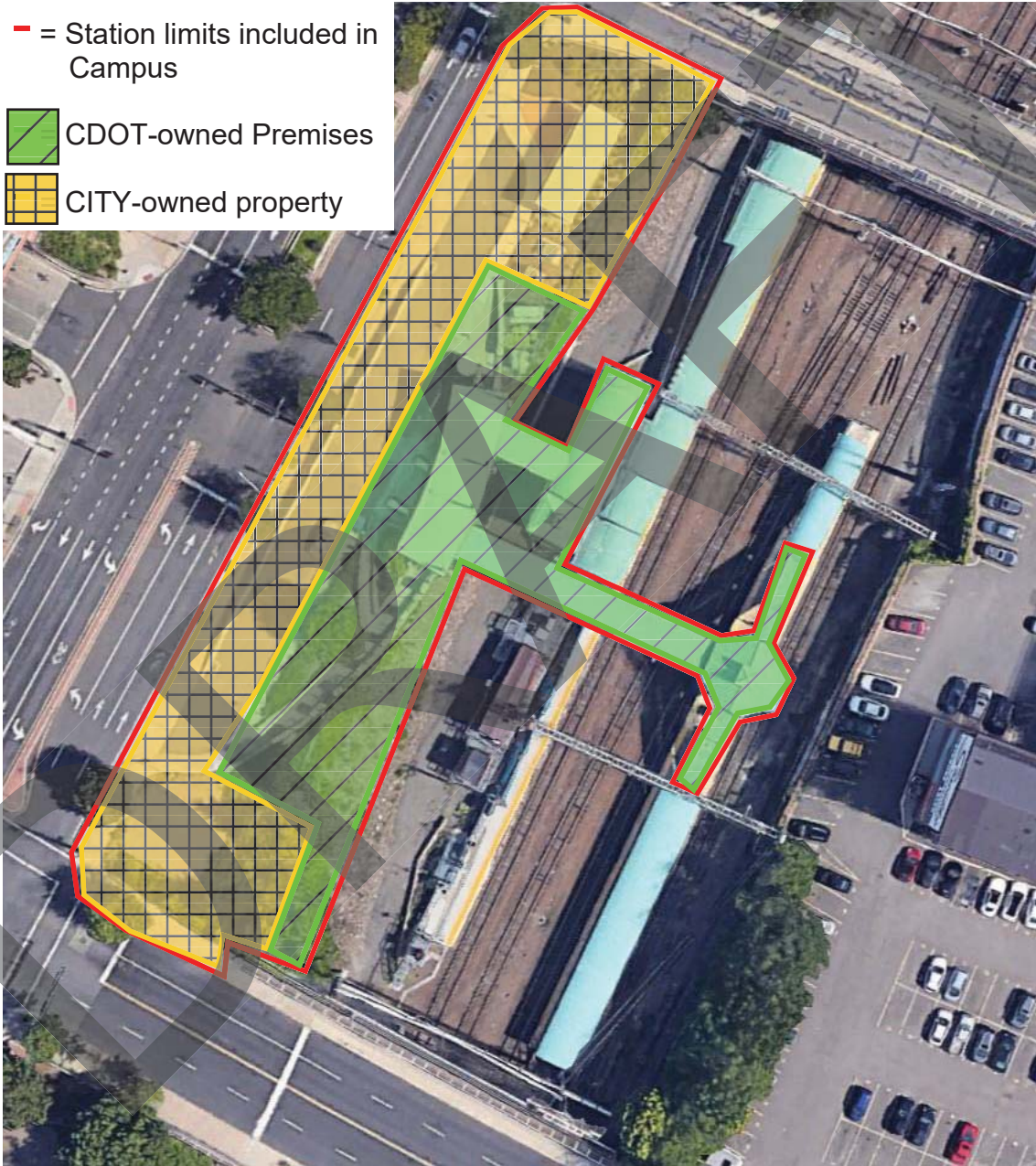


# Schedule 1 State Street Station Map

— = Station limits included in Campus

 CDOT-owned Premises

 CITY-owned property



**SCHEDULE 2**

**Scope of Work for Operation, Management and Maintenance Station Facilities (Article 5)**

1. General. CITY shall perform, or with the Operations Committee prior approval, shall engage a contractor to perform, the duties required pursuant to Article 5 of the Agreement as more particularly described in this scope of work (“Station SOW”), on a twenty-four (24) hour, 365 (or 366, as applicable) day per year basis, required for the operation, management and maintenance of the station buildings, grounds, and related facilities (excluding Parking Facilities) at the Campus, referred to as the “Station Facilities” for the purpose of this Schedule. For the purposes of this Schedule, CITY or its contractor performing this Station SOW is referred to as the “Station Manager.”
2. Performance Goals. The Station Manager shall complete this Scope of Work in accordance with the performance goals established from time to time by the Operations Committee and shall impose the performance goals on any subcontractors. The Station Manager shall take such appropriate action (including but not limited to notice, probation, removal, or termination), as it deems necessary to ensure the compliance with the performance goals, as established by the Operations Committee, subject to any applicable collective bargaining agreements or other legal requirements, and shall report all such actions to the Operations Committee. In the event the Station Manager fails to take appropriate action, the Operations Committee may act appropriately to ensure compliance with the performance goals.
3. Hours of Public Operation. The Station Manager shall maintain the following daily hours of operation whereby the Station Facilities will remain open to the public which may be revised from time to time by the Operations Committee.

<b>Hours of Operations</b>
12 AM through 12:59 AM and 4:00 AM through 11:59 PM

4. Oversight, Planning & Reporting

- (a) The Station Manager shall comply with all directives from the Operations Committee related to station management, including, but not limited to, procedures, customer service policies, expenses, audits, security, advertising, signage, hours of operation, the personnel the Station Manager assigns to perform the work, and depositing of revenue. In no event shall the Station Manager be required to carry-out a directive that would cause it to violate collective bargaining agreements with its employees.

- (b) The Station Manager shall establish an initial asset management program for the Station Facilities by July 1, 2022, and update it on an annual basis or other period of time as required by the Operations Committee (“Station Asset Management Program”). The Station Asset Management Program may be deployed electronically within a secure online, hosted system and shall include a physical inventory of the Station Facilities’ assets, major systems equipment and components that require routine and periodic, cyclical maintenance. The Station Asset Management Program may include a work order management system that documents and tracks the various maintenance requirements and associated task schedules that will be executed through the annual Station Facilities Management and Maintenance Plan (as defined in subsection (c) of this Section 4). The Station Asset Management Program shall identify life cycle replacement schedules and associated funding levels needed to accomplish necessary future overhaul or replacement of the inventory.
- (c) The Station Manager shall develop a plan for maintenance and management activities for the Station Facilities (“Station Facilities Management and Maintenance Plan” or “SFMM Plan”) and update it on an annual basis or other period of time as required by the Operations Committee, in accordance with the Station Asset Management Program. The SFMM Plan shall include the following:
- i. Rules, policies, procedures, and regulations concerning the operation and use of the Station Facilities;
  - ii. Maintenance and cleaning plans and schedules for Station Facilities in compliance with the requirements of this Section 4;
  - iii. Any maintenance or management requirements included in the construction plans, specifications, or other documentation provided by the Operations Committee to the Station Manager.; and
  - iv. Such other matters as the Operations Committee may require.

The SFMM Plan must incorporate this Stations SOW and performance standards established by the Operations Committee as may be updated from time to time with prior Operations Committee approval. The SFMM Plan and updates thereto are subject to review and approval by the Operations Committee, prior to going into effect. The SFMM Plan, and the annual updates thereto, shall be submitted to the Operations Committee for review and approval no later than sixty (60) days prior to the Annual Budget submission.

- (d) The Station Manager shall submit a daily operations log for the Station Facilities to the Operations Committee by 10:00 AM, providing a summary of the previous day’s operations (“Daily Stations Operations Log”). The Station Manager must include in the Daily Stations Operations Log any issues enumerated below that cannot immediately

be addressed and will provide an anticipated timeline for repair and implementation to address the concern.

(e) The Station Manager shall prepare monthly reports for the Station Facilities, detailing any significant issues encountered in the previous month ("Facility Management Report"). Each Facility Management Report will include, but not be limited to, a summary of scheduled and non-scheduled maintenance activities, safety review and incident reports, schedule of preventative maintenance activities and any Operations Committee approved capital improvements, and a summary of the previous month's financial balance sheet position.

5. Personnel of Station Manager & Subcontractors. The Station Manager shall:

(a) Provide qualified personnel to properly manage, operate, maintain, and monitor the Station Facilities daily. The Station Manager shall ensure that its employees, representatives, and agents, and any subcontractor employees:

- i. are trained and competent in the performance of their assigned duties;
- ii. proficiently and safely perform their jobs, maintaining excellent appearance, professional demeanor and integrity;
- iii. maintain standards of courtesy, politeness, professionalism, and inoffensive conduct and demeanor;
- iv. conduct the work in an orderly, safe, and appropriate manner so as to be pleasing to passengers, patrons, and the general public in or around the Station Facilities;
- v. refrain from any conduct which might tend to annoy, disturb, or be offensive to such persons in and around the Station Facilities;
- vi. adhere to ADA Requirements.

(b) The Station Manager shall ensure that general public inquiries and complaints are addressed when presented and take appropriate action as necessary.

(c) With respect to any subcontracted services, the Station Manager shall be responsible for specification development, selection, supervision and quality control reporting. The Operations Committee reserves the right to review and approve such specifications and selection.

6. Facilities Management Responsibilities. The Station Manager shall be responsible for the overall daily operation of the Station Facilities, managing the Station Facilities to provide a positive experience for the general public in an efficient and cost-effective manner in accordance with the approved Annual Budget and applicable performance standards established by the Operations Committee. Responsibilities include, without limitation,



performance of all operational and passenger-related tasks required for a transportation center and, more specifically, the following:

- (a) Twenty-four (24) hours, 365 (or 366, if applicable) days/year management and management of the Station Facilities including regular and extraordinary maintenance and repair;
- (b) Providing a presence at the Station Facilities for purposes of maintaining a safe and secure environment, protecting station assets, and monitoring facilities;
- (c) Coordinating and overseeing tenant improvements;
- (d) Coordinating access to Metro-North Railroad station platforms (up to the doors or down to the platforms at State Street Station), including, but not limited to, assisting the Station Facility and the Operations Committee contractors and vendors with such matters as securing, prior to access, the Metro-North Railroad Permit to Enter and handling logistics;
- (e) Compliance with applicable federal (including but not limited to ADA compliance), state and municipal laws, ordinances, rules, regulations and orders, and applicable operating railroad rules and policies relative to property, environmental, and health and safety matters;
- (f) Overseeing ground transportation services related to the Station Facilities and station management, including, but not limited to, taxi queuing, shuttle buses, and other connecting services at the Station Facilities, along with pedestrian and non-motorized vehicular access (e.g., bicycles);
- (g) Implementing and managing all work pursuant to the approved SFMM Plan in accordance with the Station Asset Management Program;
- (h) Managing warranty service for assets for which the Station Manager has procurement and/or maintenance responsibility; and
- (i) Storing and properly securing equipment and supplies used in connection with all work the Station Manager is required to perform or provide.

7. Facility Maintenance. The Station Manager shall, in accordance with the Station Facilities Management Plan:

- (a) Undertake preventative maintenance, routine maintenance, and repair techniques generally accepted by the industry and the manufacturer's recommendations to maintain the Station Facilities in a state of good repair to the satisfaction of the Operations Committee;



- (b) Conduct at least once every eight (8) hours, a visual inspection of the Station Facilities to note any issues in regard to maintenance, equipment, signage, and safety, and take appropriate action to address the identified issues and correct any problems and address any concerns. The Station Manager must include in the Daily Stations Operations Log any safety or maintenance concerns that cannot immediately be addressed and will provide in such log an anticipated timeline for repair and implementation to address the concerns;
- (c) Perform general building operation and maintenance duties/services to the following areas, including developing and implementing a basic/general repair and routine maintenance program for such areas, excluding sub-tenant responsibilities:
- (i) HVAC services;
  - (ii) Locksmith services;
  - (iii) Plumbing services;
  - (iv) Elevator & escalator services;
  - (v) Glass replacement;
  - (vi) Electrical systems and generator;
  - (vii) General trades (masons, carpenters, painters, and the like);
  - (viii) Station Facility lighting and security systems;
  - (ix) Snow and ice control/removal;
  - (x) Landscaping and parking lot striping and markings;
  - (xi) Vandalism/graffiti removal;
  - (xii) Pest and vermin control;
  - (xiii) Raising/lowering of colors (flags); and
  - (xiv) Maintenance of sidewalks;
- (d) Perform and schedule preventative maintenance, including developing and implementing testing task frequency schedules and tests, coinciding this with planned routine maintenance;
- (e) Perform all maintenance services in accordance with applicable performance standards;
- (f) Maintain a record of all inspections and maintenance services in accordance with applicable performance standards;

- (g) Provide emergency services, including, but not limited to, back-up generators at stations during commercial power outages;
- (h) Develop and implement a building cleaning, trash removal and recycling program, to include the Operations Committee approved standard of cleanliness, twenty-four (24) hours, 365 (or 366, as applicable) days/year;
- (i) Comply with applicable building codes, fire and public safety regulations, workplace safety regulations, rail safety regulations, and security coordination activities (e.g., fire drills, evacuation plans);
- (j) Perform as required environmental, health, and safety site evaluations, including the drainage system; and
- (k) Maintain on-site in sufficient amount and deploy all required equipment, tools, appliances, materials, supplies, signs, and services reasonable and necessary for the efficient maintenance and/or operation of the Station Facilities.

8. Station Infrastructure Cleaning & Servicing Requirements. The Station Manager shall keep the Station Facilities, structures, walkways, stairways, and facades in a state of good repair to the satisfaction of the Operations Committee, and in good and functional condition, subject to applicable preservation standards and normal wear and tear by performing the following:

- (a) Annually pressure washing and painting (if needed) station buildings (such need to be set forth in the annual Station Asset Management Program and SFMM Plan updates);
- (b) Daily cleaning and servicing of public waiting areas, walkways, stairways, paths, and associated furnishings. Cleaning and servicing activities shall include:
  - (i) Sweeping and mopping floors;
  - (ii) Wiping all benches with damp cloth;
  - (iii) Spraying the disinfectant to all public surfaces that is acceptable pursuant to the applicable State of Connecticut guidelines;
  - (iv) Emptying trash and recycling receptacles, installing new liners, cleaning the tops of trash and recycling receptacles; and
  - (v) Cleaning spills, litter, animal, and bird droppings.

Daily cleaning and servicing activities may take place during active hours of operation but shall be scheduled at times of lower station activity, to the maximum extent practical, and shall be conducted in a manner that avoid any safety hazards to the public;

- (c) Periodic cleaning of walls, shelters, floors, walls, walkways, and seating areas, including:
  - (i) Cleaning gum from shelters, floors, walls, walkways, stairways, and seating areas monthly or more frequency as directed by the Operations Committee; and

- (ii) Pressure washing floors, walls, walkways, stairways, trash and recycling receptacles, and seating areas annually or more frequently as directed by the Operations Committee, ensuring these areas are kept clean and serviceable; pressure washing will include removing excess water to prevent slipping hazard. Pressure washing shall be done during periods of reduced customer volume at the Station or when the Station is closed;
- (d) Inspecting, servicing, cleaning, and maintaining the elevators and escalators, including:
  - (i) Daily sweeping and basic cleaning of the elevators and escalators;
  - (ii) Bi-weekly cleaning of the elevator's interior walls, ceiling, and light fixtures, and doors;
  - (iii) Periodic system checks in accordance with manufacturer's recommendations, industry standards, and local ordinances;
  - (iv) Provide 24/7 immediate response to reports of trapped customers;
  - (v) Manage State elevator and escalator inspection and certification process to ensure compliance; and
  - (vi) Management of warranties provided by the vendor;
  - (vii) Maintain annual State elevator and escalator certification; and
  - (viii) Execution of inspection, service, and maintenance work;
- (e) Inspecting, servicing, cleaning, and maintaining the bathrooms, including:
  - (i) Furnishing all restroom paper supplies including seat covers, toilet paper, paper towels, and feminine hygiene products, as well as soap dispensers;
  - (ii) Public and employee restrooms are to be cleaned and serviced at the end of each day they are open and available for use. Such cleaning and service shall include:
    - a. Replenish restroom paper supplies;
    - b. Clean and sanitize sinks, hand dryers, toilets and urinals;
    - c. Damp mop floors;
    - d. Spot clean walls and remove graffiti;
    - e. Clean mirrors, windows and vents;
    - f. Fill soap dispensers and replace deodorizers as needed;
    - g. Empty trash containers and install new plastic bags; and
    - h. Clean all fixtures;
  - (iii) Deep cleaning of public and employee restrooms shall be performed monthly, including:

- a. Scrub, disinfect and wax restroom floors; and
  - b. Wash down and disinfect walls, partitions and doors;
- (f) Responding immediately and appropriately to address unusual or extreme conditions such as spills, bodily fluids, broken glass, and the like that could present a potential threat to public health and safety. The Station Manager shall provide emergency repairs to damaged station components. The Station Manager must address all potential hazards to public safety upon becoming aware of the existence of such a condition. The Station Manager must include in the Daily Stations Operations Log any potential hazard to public safety that cannot immediately be addressed and will provide in such log an anticipated timeline for repair and implementation to address the hazard.
9. Lighting Requirements. The Station Manager shall inspect all lighting elements daily to ensure all lighting fixtures, timers, and other controls are functional. Any deficiencies or outages that cannot be rectified within forty-eight (48) hours after the Station Manager becomes aware of such issue must be included in the Daily Stations Operations Log, and the Station Manager will provide in such log an anticipated timeline for repair and implementation to address the condition.
10. Signage Requirements. The Station Manager shall monitor signage and repair or replace damaged, illegible or missing signs within one (1) week or, in the case of signs that perform a safety function, as soon as practicable but in no more than forty-eight (48) hours of becoming aware of the condition. If the signage cannot be repaired in the time frame herein, the Station Manager must include the issue in the Daily Stations Operations Log and the Station Manager will provide in such log an anticipated timeline for repair and implementation to address the condition.
11. Graffiti and Vandalism Requirements. No Graffiti shall be permitted. The Station Manager shall:
  - (a) Remove graffiti anywhere in/on the Station Facilities as soon as practicable but in no case more than twenty-four (24) hours of the Station Manager becoming aware of the graffiti. If the removal cannot be completed in the time frame herein, the Station Manager must include the issue in the Daily Stations Operations Log and the Station Manager will provide in such log an anticipated timeline for repair and implementation to address the condition;
  - (b) With respect to graffiti containing profanity, hate speech or content that is discriminatory, vulgar, or obscene, that relates to gang or criminal activity, or that is otherwise determined by the Station Manager or Operations Committee to be offensive, immediately remove or apply an aesthetic temporary covering;

- (c) Make immediate emergency repairs to damage from vandalism and implement permanent repairs pursuant to a schedule as provided by the Station Manager. Any repairs that cannot be implemented immediately will be included in the Daily Stations Operations Log and the Station Manager will provide in such log an anticipated timeline for repair and implementation to address the condition; and
- (d) For damage that presents a potential safety hazard, immediately implement protective measures. Any protective measures that cannot be implemented immediately will be included in the Daily Stations Operations Log and the Station Manager will provide in such log an anticipated timeline for repair and implementation to address the condition.

12. Snow and Ice Removal Requirements. The Station Manager shall:

- (a) Develop and submit a plan for the removal of snow and ice from the Station Facilities (the "Station Snow and Ice Management Plan") identifying labor, equipment, materials, management, station assignments, initial starting location, back-up contractors, names and phone numbers for staff of the Station Manager and any snow and ice contractor(s). The Snow and Ice Management Plan shall be submitted to the Operations Committee for approval by October 15th of each year. All elements of such plan shall be in place by November 15th of each year. By that same date, Station Manager shall complete a pre-season checklist and status report including, but not limited to whether all equipment is in good operating order, and supplying an inventory of stored supplies and equipment for the season are stored for each Station;
- (b) Perform snow removal operations and de-icing treatments in accordance with the Station Snow and Ice Management Plan, subject to the Operations Committee's satisfaction;
- (c) Monitor winter weather forecasts and advise the Operations Committee of the snow and ice removal plan no later than twenty-four (24) hours prior to the forecast of snow exceeding four (4) inches. Snow removal shall continue uninterrupted until snow removal is complete. Snow shall be removed from sidewalks, paved surfaces, auxiliary areas, and any area (excluding platforms) where snow and/or ice poses a safety risk to customers, the Station Manager's personnel, or the general public;
- (d) In coordination with the Operations Committee for large storms (defined as greater than 4 inches of snow or as otherwise may defined by the Operations Committee), retain a contractor to use large equipment to move/remove the snow; and
- (e) Station Manager shall conduct snow removal operations as follows:
  - i. Apply de-icing treatments to paved surfaces and walkways before storm start;



- ii. Initiate snow removal no later than when a snowfall of one (1) inch has accumulated and continue during and after the storm departure, as needed;
- iii. If weather conditions change during the winter weather event, the Station Manager shall be prepared to address a storm event of greater than four (4) inches without significant delay or safety hazard. Reports of freezing rain and ice accumulation shall be addressed immediately, and all facilities shall be actively inspected for such conditions;
- iv. The Station Manager shall consult with and take direction from the Operations Committee when there are conflicting weather forecasts;
- v. Clear snow from all fire protection standpipes except on platforms, immediately following a winter weather event;
- vi. After the conclusion of the winter weather event, remove snow to offsite or alternative locations when snow piles reach a level that impacts access to the Station Facilities, interferes with pedestrian traffic, or otherwise presents a safety concern. The Station Manager shall only move snow to the Operations Committee approved offsite storage location(s). In the event of a significant snow storm or series of storms, in order to appropriately manage snow and ice removal in accordance with the requirements in this Section 12, the Station Manager shall promptly engage contractor(s) with appropriate equipment and staffing levels to provide needed assistance; and
- vii. Apply post storm de-icing treatments as necessary.

13. Landscape Maintenance Requirements. The Station Manager shall:

- (a) Ensure that all planted areas, including trees, shrubs, hedges, grass areas and ground cover are maintained to present a manicured appearance free of trash, debris and weeds, and to prevent obstruction of sidewalks and paths;
- (b) Perform weed removal at least monthly during growing season and apply United States Environmental Protection Agency approved pre-emergent weed spray each spring;
- (c) Trim/prune ground cover (ivy, ice plant, and the like) twice a year. Remove all vegetation clippings from each site; grass clippings shall be removed from site in connection with each trimming;
- (d) Conduct daily inspections of landscaped areas for any vandalism, and perform repairs within a week;
- (e) Conduct trash pickup and trash collection;
- (f) Perform mulching and plant pruning, semi-annually, during the spring and summer. Gather and remove leaves at the start of spring and during fall. All leaves shall be removed prior to the winter season. Any required plant replacement needed shall take place at the appropriate time for planting annually;

- (g) Pick up and remove litter from the parking areas, islands and perimeter landscape areas in addition to regular pavement sweeping as necessary;
- (h) Sweep pedestrian walkways and paths monthly; and
- (i) Power wash all pedestrian walkways, stairways and paths annually.

14. Station Security. The Station Manager shall:

- (a) Prepare and submit, by July 1, 2022, a security plan that identifies measures and special arrangements used to assure the security of customers, staff and equipment at the Station Facilities (“Station Security Plan”) to the Operations Committee for approval, and update the plan as necessary from time to time throughout the Term or when specifically requested by the Operations Committee. The Station Manager shall prepare and deploy the Station Security Plan in order to provide for the security of the Station Facilities and the safety of transportation passengers and customers at the Station Facilities, throughout the Term;
- (b) Increase security services during anticipated high travel and holiday periods throughout the year; and
- (c) Arrange for additional subcontracted and/or local police department services as needed, including but not limited to, supporting holiday or anticipated high travel periods.

15. Elevator/Escalator Malfunctions. The Station Manager shall:

- (a) Undertake preventative maintenance, routine maintenance, and repair techniques generally accepted by the industry and the manufacturer’s recommendations to maintain elevators/escalators in good and functional condition, subject to normal wear and tear, and to prevent malfunction;
- (b) With respect to New Haven Union Station, in the event that the elevator on the North End is not operational, signage shall be displayed that the elevator on the South End should be used to access the Lower Level with additional signage in the Lower Level directing the general public to the tunnels and the reverse;
- (c) In the event that neither the North End or South End elevator is operational, the Station Manager shall work with the rail operations personnel to request alternate arrangements for the members of the general public that require elevators to include, but not be limited to, an alternate exit from the Station across to the platform of Track 3;
- (d) In the event of an escalator failure or removal from service, appropriate signage shall be displayed, and such other steps taken as are appropriate; and
- (e) In the event of the cessation of the operation of either an elevator or an escalator, the Station Manager shall provide the Operations Committee an anticipated timeline for repair and return to operation.

16. Additional Duties. The Station Manager shall perform any additional duties in coordination with the Brokerage Manager and/or the Parking Manager as directed by the Operations Committee.
17. Inspection by CTDOT. In accordance with a schedule established by the Operations Committee, CTDOT, through its Station Property Management unit, shall perform regularly scheduled inspections of the Station Facilities, complete the inspection checklists attached to this Schedule, or ones substantially similar, as may be updated from time to time by the Operations Committee, and submit the same to the Operations Committee for review. CTDOT, through its Station Property Management unit, reserves the right to conduct additional inspections from time to time in its sole discretion.

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Station Exterior	Inspection Date:			
Category	Good	Fair	Poor	Notes
General Cleanliness				
Sidewalks & Curbs				
Painting				
Masonry				
Metalwork (Railings, Etc.)				
Asphalt				
Fountains/Sculptures/Benches/Etc.				
Parking Lot & Drive Striping				
Signage				
Handicap Access in Compliance				
Entrance doors				
Windows & Glass				
Building Address/Numbering				
Lighting				
Canopies & Overhangs				
General caulking				
Parapet Walls				
Skylights in Good Condition				
Fire Service Connections				
Rain Drains & Grates Clean				
Gum Removal				

Landscaping

Inspection Date:

Category	Good	Fair	Poor	Notes
Overall Appearance/Curb Appeal				
Lawn Appears Well Groomed				
Shrubs & Trees Pruned				
Flowers				
Irrigation System Working				
Weeds Under Control				
Gum Removal				

Station Interior

Inspection Date:

Category	Good	Fair	Poor	Notes
General Cleanliness				
Flooring (Tile, Carpet, Etc.)				
Walls (Paint & Wall Coverings)				
Ceiling				
Lighting				
Signage				
Directory				
Furnishings				
Plants & Planters				
Artwork, Sculptures, Etc.				
Floor Mats				
Baseboards				
Exit & Directional Signs				
Lighting				
Fire Extinguishers, Hoses, Etc.				
Trash Receptacles				



Drinking Fountain(s)				
Electrical & Equipment Rooms				
Building & Tenant Doors				
Fire Alarm System Inspected				
Fire Extinguishers Inspected				
Fire Doors Working				
Restroom Partitions Clean & Working				
Restroom Fixtures Clean & Working				
Paper & Soap Dispensers Stocked				
Plumbing Hardware Clean & Working				
Restroom Mirrors Clean				
Restroom Floor Drains Clear				
Restroom Signage In Place				
Restrooms Meet ADA Requirements				
Gum Removal				

Unoccupied Space

Inspection Date:

Category	Good	Fair	Poor	Notes
General Cleanliness				
For Lease Signs In Place				
Trash & Junk Mail Removed				
Windows Cleaned				
Carpet & Flooring Cleaned				
All Lighting Working				

Tenant Space

Inspection Date:

Category	Good	Fair	Poor	Notes
General Cleanliness				
Flooring Clean & Maintained				
Doors Clean & Operating				
Windows Clean & Operating				
HVAC Vents				
Lighting				
Thermostats				
Kitchen Areas				
Lighting Clean & Operating				
Emergency Signs Operating				
Fire Extinguishers Inspected				

Stairwells

Inspection Date:

Category	Good	Fair	Poor	Notes
General Cleanliness				
Handrails Secure & Painted				
Treads & Landings Maintained				
General & Emergency Lighting				
Signage In Place & Compliant				
Doors & Hardware Operational				

Equipment Rooms

Inspection Date:

Category	Good	Fair	Poor	Notes
Clean & Orderly				
Warning Signs & Labels In Place				
Painted Surfaces Maintained				
Ventilation / Exhaust Working				
Service Panel(s) Unobstructed				
Lock Out Tags In Place				
Safety Equipment Available				
Spare Parts In Place				
Lighting Working Properly				
Safety Equipment Available				

Elevators

Inspection Date:

Category	Good	Fair	Poor	Notes
Walls / Panels Clean				
Floors / Ceilings Clean				
Doors & Call Buttons Operational				
Lighting Adequate & Maintained				
State Inspection Card Visible				
Elevator Numerals Working				
Emergency Communication Working				
All Required Signage Visible				
Meets ADA requirements				
Operate As Required				
Inspection Log Maintained				

Roof

Inspection Date:

Category	Good	Fair	Poor	Notes
General Cleanliness				
Drains Clear Of Obstructions				
No Visible Punctures Or Tears				
Flashings Properly Installed				
Gutters Clean & Debris Free				
Roof Drains Working & Debris Free				
Roof Penetrations Properly Sealed				
Antennas & Dishes On Pads				

HVAC

Inspection Date:

Category	Good	Fair	Poor	Notes
Working & Properly Maintained				
Service Access Panels Closed Tightly				
Disconnects Visible & Marked				
Units Identified By Service Area				

**SCHEDULE 3**

**Scope of Work for the Operation, Management and Maintenance of Parking Facilities**

1. General. CITY shall perform, or with the Operations Committee prior approval engage a contractor to perform, the duties required pursuant to Article 6 of the Agreement as more particularly described in this scope of work (“Parking SOW”) on a twenty-four (24) hour, 365 (or 366, as applicable) day per year basis, for the management and maintenance of the Parking Facilities at the Campus. For the purposes of this Schedule, CITY or the contractor are referred to as the “Parking Manager.”
2. Performance Standards. The Parking Manager shall manage the Parking Facilities in accordance with the performance standards or metrics established from time to time by the Operations Committee. The Parking Manager shall take such appropriate action (including but not limited to notice, probation, removal, or termination), as it deems necessary to ensure the compliance with the performance standards or metrics, as established by the Operations Committee, subject to any applicable collective bargaining agreements or other legal requirements, and shall report all such actions to the Operations Committee. In the event the Parking Manager fails to take appropriate action, the Operations Committee may act appropriately to ensure compliance with the performance standards or metrics.
3. Hours of Public Operation. The Parking Manager shall maintain the following hours of operation whereby the Parking Facilities will remain open to the public which may be revised from time to time by the Operations Committee.

<b>Day of Week</b>	<b>Hours of Operations</b>
Monday through Friday	24 hours/day
Saturday/Sunday/Holiday	24 hours/day

4. Oversight, Planning & Reporting.
  - (a) The Parking Manager shall comply with all directives from the Operations Committee related to parking management, including, but not limited to, parking fees, procedures, parking monitoring and enforcement, monthly income and expenses, audits, security, traffic control, graphics, signage, facility maintenance, hours of operation, parking mix (e.g., percentage of monthly and daily patrons), terms and conditions of monthly and daily space rentals, location and priority of space assignments, space markings, the personnel the Parking Manager assigns to the Parking Facilities, and depositing of revenue. In no event shall the Parking Manager

be required to carry-out a directive that would cause it to violate collective bargaining agreements with its employees.

- (b) The Parking Manager shall establish an initial asset management program for the Parking Facilities by July 1, 2022, and update it on an annual basis or other period of time as required by the Operations Committee (“Parking Asset Management Program”). The Parking Asset Management Program may be deployed electronically within a secure online, hosted system and shall include a physical inventory of the Parking Facilities’ assets, major systems equipment and components that require routine and periodic, cyclical maintenance. The Parking Asset Management Program may include a work order management system that documents and tracks the various maintenance requirements and associated task schedules that will be executed through the annual Parking Facilities Management and Maintenance Plan (defined in subsection (c) of this Section 4). The Parking Asset Management Program shall identify life cycle replacement schedules and associated funding levels needed to accomplish necessary future overhaul or replacement of the inventory.
- (c) The Parking Manager shall develop a plan for maintenance and management activities for the Parking Facilities (“Parking Facilities Maintenance and Management Plan” or “PFMM Plan”) in accordance with the Parking Asset Management Program and update it on an annual basis or other period of time as required by the Operations Committee. In developing the PFMM Plan, the Parking Manager shall review and reasonably incorporate industry standards pursuant to the American Concrete Institute’s Guide for Structural Maintenance of Parking Structures (2013), as the same may be updated. The PFMM Plan shall include the following:
- i. Rules, policies, procedures, and regulations concerning the operation and use of the Parking Facilities;
  - ii. Maintenance and cleaning plans and schedules for Parking Facilities in compliance with the requirements of this Parking SOW and the Agreement;
  - iii. Any maintenance or management requirements included in the construction plans, specifications, or other documentation provided by the Operations Committee to the Parking Manager; and
  - iv. Such other matters as the Operations Committee may require.
- (d) The PFMM Plan must incorporate this scope of work and performance standards as may be updated from time to time with prior Operations Committee approval. The PFMM Plan and updates thereto are subject to review and approval by the Operations Committee prior to going into effect. The PFMM Plan, and the annual updates thereto, shall be submitted to the Operations Committee for review and approval no later than sixty (60) days prior to the Annual Budget submission.



- (e) The Parking Manager shall submit a daily operations log for the Parking Facilities to the Operations Committee by 10:00 AM, providing a summary of the previous day's operations ( "Daily Parking Operations Log"). The Parking Manager must include in the Daily Parking Operations Log any issues enumerated below that cannot immediately be addressed and will provide an anticipated timeline for repair and implementation to address the issue.
- (f) The Parking Manager shall prepare a monthly report for the Parking Facilities, detailing any significant issues encountered in the previous month, hereinafter referred to as "Parking Facilities Management Report." Each Parking Facilities Management Report must include:
  - i. A summary of scheduled and non-scheduled maintenance activities, safety review and incident reports, schedule of preventative maintenance activities and of any Operations Committee approved capital improvements;
  - ii. A summary of parking activity, including, at a minimum, safety issues/concerns, passenger service issues/concerns, marketing activities, equipment problems/needs, monthly parking reports and PARCS generated facility data (e.g., peak vehicle accumulation, monthly/transient counts, average length of transient stay, parking enforcement actions);
  - iii. A parking financial summary, consisting of an itemized statement setting forth the total amount of gross revenues and all deductions from gross revenues used to determine revenues. Upon Operations Committee request, the Parking Manager shall additionally include the number of hourly, daily, and monthly parkers and other usage information which shall be obtained from the PARCS and the Parking Manager's internal records; and
  - iv. Such other matters as the Operations Committee may require.

5. Personnel of Parking Manager & Subcontractors. The Parking Manager shall, in accordance with the PFMM Plan:

- (a) Provide qualified personnel to properly manage, operate, maintain, and monitor the Facilities daily. The Parking Manager shall ensure that its employees and any subcontractor employees:
  - i. are trained and competent in the performance of their assigned duties;
  - ii. proficiently and professionally conduct their jobs in an orderly safe and appropriate manner so as to be pleasing to passengers, patrons, and the general public in or around the Parking Facilities;
  - iii. maintain standards of courtesy, politeness, professionalism, and inoffensive conduct and demeanor;
  - iv. shall refrain from any conduct which might tend to annoy, disturb, or be offensive to such persons in and around the Parking Facilities; and
  - v. adhere to ADA Requirements;

- (b) Ensure that general public inquiries and complaints are addressed when presented and take appropriate action as necessary; and
- (c) With respect to any subcontracted services, be responsible for specification development, selection, supervision and quality control reporting. The Operations Committee reserves the right to review and approve such specifications and selection.

#### 6. Parking Facilities Management Responsibilities

The Parking Manager shall be responsible for the overall daily operation of Parking Facilities, managing the Parking Facilities to provide the greatest benefit to the general public in the most efficient and cost-effective manner in accordance with the approved Annual Budget and the PFMM Plan. Responsibilities include, without limitation, performance of all operational and passenger-related tasks required for the Parking Facilities, including but not limited to:

- (a) Twenty-four (24) hours, 365 (or 366, if applicable) days/year management and management of the Parking Facilities including regular and extraordinary maintenance and repair;
- (b) Providing a presence at the Parking Facilities for purposes of maintaining a safe and secure environment, protecting the Parking Facilities assets, and monitoring facilities;
- (c) Compliance with applicable federal, state and municipal laws, ordinances, rules, regulations and orders, relative to property, environmental and health, and safety matters;
- (d) Implementing and managing all work pursuant to the approved PFMM Plan, and in accordance with the Parking Asset Management Plan;
- (e) Managing warranty service for assets for which the Parking Manager has procurement and/or maintenance responsibility;
- (f) Storing and properly securing equipment and supplies used in connection with all work the Parking Manager is required to perform or provide; and
- (g) Overseeing specification development, selection, supervision and quality control reporting of any and all subcontracted services. The Operations Committee reserves the right to review and approve such specifications.

#### 7. Parking Facilities Maintenance. The Parking Manager shall:

- (a) Undertake preventative maintenance, routine maintenance, and repair techniques generally accepted by the industry and the manufacturer's recommendations to maintain the Parking Facilities in a state of good repair to the satisfaction of the Operations Committee;

- (b) Conduct at least once every eight (8) hours, a visual inspection of the Parking Facilities to note any issues in regard to maintenance, equipment, signage, and safety, and take appropriate action to address the identified issues and correct any problems and address any concerns. The Parking Manager must include in the Daily Parking Operations Log any safety or maintenance concerns that cannot immediately be addressed and will provide in such log an anticipated timeline for repair and implementation to address the concern;
- (c) Perform general parking operation and maintenance duties/services to the following areas, including developing and implementing a basic/general repair and routine maintenance program for such areas, excluding sub-tenant responsibilities:
- i. HVAC services;
  - ii. Locksmith services;
  - iii. Plumbing services;
  - iv. Elevator services;
  - v. Glass replacement;
  - vi. Electrical systems and generator;
  - vii. General trades (masons, carpenters, painters, and the like);
  - viii. Parking Facilities lighting and security systems;
  - ix. Snow and ice control/removal;
  - x. Landscaping and parking lot striping and markings;
  - xi. Vandalism/graffiti removal; and
  - xii. Pest and vermin control;
- (d) Perform and schedule preventative maintenance, including developing and implementing testing task frequency schedules and tests, coinciding this with planned routine maintenance;
- (e) Perform all maintenance services in accordance with applicable performance standards;
- (f) Maintain a record of all inspections and maintenance services in accordance with applicable performance standards;
- (g) Provide emergency services, including, but not limited to, back-up generators at Parking Facilities during commercial power outages;
- (h) Develop and implement a building cleaning, trash removal and recycling program, to include the Operations Committee approved standard of cleanliness, twenty-four (24) hours, 365 (or 366, as applicable) days/year;
- (i) Comply with applicable building codes, fire and, public safety regulations, workplace safety regulations, rail safety regulations, and security coordination activities (e.g., fire drills, evacuation plans);

- (j) Perform as required environmental, health, and safety site evaluations, including the drainage system;
- (k) Maintain on-site in sufficient amount and deploy all required equipment, tools, appliances, materials, supplies, signs, and services reasonable and necessary for the efficient maintenance and/or operation of the Parking Facilities;
- (l) Re-stripe and re-number parking lots and spaces on a regular schedule in accordance with industry standards or other scheduled period of time as may be established by the Operations Committee; and
- (m) Conduct snow removal work on garage roof floor (in accordance with this Parking SOW) to ensure roof parking spaces are available for use.

#### 8. Parking Infrastructure Cleaning & Servicing Requirements

The Parking Manager shall keep the Parking Facilities, structures, walkways, stairways, and facades in a state of good repair to the satisfaction of the Operations Committee, subject to applicable preservation standards and normal wear and tear, by performing the following, and in accordance with the PFMM Plan:

- (a) Cleaning activities per industry standards for concrete and other specific materials as applicable;
- (b) Annually pressure washing and painting (if needed) of the Parking Facilities (such need to be set forth in the annual Parking Asset Management Program and PFMM Plan updates);
- (c) Daily cleaning and servicing of public waiting areas, walkways, stairways, paths, and associated furnishings. Cleaning and servicing activities shall include:
  - i. Sweeping and mopping floors;
  - ii. Spraying Operations Committee's approved disinfectant to all touchpoint surfaces
  - iii. Emptying trash and recycling receptacles, installing new liners, cleaning the tops of trash and recycling receptacles; and
  - iv. Cleaning spills, litter, animal, and bird droppings.

Daily cleaning and servicing activities may take place during active hours of operation but shall be scheduled at times of lower parking activity, to the maximum extent possible, and shall be conducted in a manner that avoids any safety hazards to the public;

- (d) Periodic cleaning of public waiting areas and their associated walkways, stairways, paths, and furnishings, walls, and floors, including:

- i. Cleaning gum from floors, walls, walkways, stairways, monthly or more frequently as directed by the Operations Committee; and
  - ii. Pressure washing floors, walls, walkways, stairways, trash and recycling receptacles annually or more frequently as directed by the Operations Committee, ensuring these are kept clean and serviceable; pressure washing will include removing excess water to prevent slipping hazard. Pressure washing shall be done during periods of reduced customer volume at the Parking Facilities;
- (e) Inspecting, servicing, cleaning, and maintaining the elevators, including:
- i. Daily sweeping and basic cleaning of the elevators;
  - ii. Bi-weekly cleaning of the elevator's interior walls, ceiling, light fixtures, and doors;
  - iii. Coordinate periodic system checks in accordance with manufacturer's recommendations, industry standards, and local ordinances;
  - iv. Provide 24/7 immediate response to reports of trapped customers;
  - v. Coordinate State elevator inspection and certification process to ensure compliance;
  - vi. Management of warranties provided by the vendor;
  - vii. Maintain annual State elevator certification; and
  - viii. Manage the inspection, service, and maintenance work;
- (f) Responding immediately and appropriately to address unusual or extreme conditions (e.g., spills, bodily fluids, broken glass, and the like) that could present a potential threat to public health and safety. The Parking Manager shall provide emergency repairs to damaged Parking Facilities components and take steps to protect the public, as appropriate. The Parking Manager must address all potential hazards to public safety immediately upon becoming aware of the existence of such a condition. The Parking Manager must include in the Daily Parking Operations Log any potential hazard to public safety that cannot immediately be addressed and will provide in such log an anticipated timeline for repair and implementation to address the concern.

9. PARCS Maintenance Requirements. The Parking Manager shall:

- (a) Monitor PARCS equipment at the New Haven Union Station Parking Garage ("Parking Garage"), provide notification to the Operations Committee via the Daily Parking Operations Log of any equipment failures, manage vendor warranties, and execute service and maintenance work; and
- (b) Perform basic daily/periodic PARCS servicing and maintenance including, but not limited to, cleaning, clearing ticket jams, resetting equipment time, restocking tickets, software upgrades, and reprogramming.

10. Garage Infrastructure Servicing, Maintenance and Repair. The Parking Manager shall conduct or cause to be conducted:

- (a) Routine maintenance of the parking garage systems including but not limited to architectural, structural, plumbing, mechanical, electrical, fire protection, communications/security and way finding systems;
- (b) Cleaning activities for concrete and other construction materials that constitute the Parking Facilities;
- (c) Daily cleaning and servicing of public waiting areas, walkways, stairways, paths, and associated furnishings. Cleaning and servicing activities shall include:
  - i. Sweeping and mopping floors;
  - ii. Spraying Operations Committee's approved disinfectant to all touchpoint surfaces;
  - iii. Emptying trash and recycling receptacles, installing new liners, cleaning the tops of trash and recycling receptacles; and
  - iv. Cleaning spills, litter, animal, and bird droppings;
- (d) Daily cleaning and servicing activities may take place during active hours of operation but shall be scheduled at times of lower parking activity, to the maximum extent possible, and shall be conducted in a manner that avoids any safety hazards to the public.
- (e) Periodic cleaning of the garage and its associated walls, floors, walkways, stairways, paths and furnishings, including:
  - i. Cleaning gum from floors, walls, walkways, stairways, monthly or more frequently as directed by the Operations Committee;
  - ii. Pressure washing (as appropriate) floors, walls, walkways, stairways, trash and recycling receptacles, and annually or more frequently as directed by the Operations Committee ensuring these are kept clean and serviceable; removing excess water to prevent slipping hazard. To the extent practical, pressure washing shall be done during non-peak periods; Inspecting, servicing, cleaning, and maintaining the elevators;
  - iii. Daily sweeping and basic cleaning of the elevators;
  - iv. Bi-weekly cleaning of the elevator's interior walls, ceiling, light fixtures, and doors;
  - v. Coordinate periodic system checks in accordance with manufacturer's recommendations, industry standards, and local ordinances;
  - vi. Provide 24/7 immediate response to reports of trapped customers;
  - vii. Coordinate State elevator inspection and certification process to ensure compliance;
  - viii. Management of warranties provided by the vendor;
  - ix. Maintain annual State elevator certification; and
  - x. Manage the inspection, service, and maintenance work.



11. Electric Vehicle Charging Stations. The Parking Manager shall:

- (a) Monitor the electric vehicle charging stations;
- (b) Provide notification to the Operations Committee via the Daily Parking Operations Log of any equipment failures;
- (c) Manage vendor warranties; and
- (d) Execute service, repair, and maintenance.

12. Bicycle Racks. The Parking Manager shall:

- (a) Monitor the bicycle racks;
- (b) Provide notification to the Operations Committee via the Daily Parking Operations Log of any equipment issues;
- (c) Manage vendor warranties; and
- (d) Execute service, repair, and maintenance work.

13. Parking Facilities Revenue Collection. The Operations Committee shall set the parking fee rates and the Parking Manager shall implement the same. Parking fees may include short- and long-term parking, weekend parking, and monthly permit parking. The Operations Committee may authorize reserved parking for designated groups and specify the rates, days and hours for such agreements. Hours of operation and fees may be revised from time-to-time by the Operations Committee upon written notice to the Parking Manager. The Parking Manager shall:

- (a) Collect parking fees (hourly/daily/monthly) using the PARCS equipment;
- (b) Develop and update from time to time (with the Operations Committee approval), implement and enforce the parking fee collection process ("Parking Revenue Management Plan");
- (c) Enforce parking rules and regulations and issue parking citations or violations, as may be applicable. Develop and regularly update operation procedures for the parking facilities, including, but not limited to, cash handling, internal audit in system recording and revenue control procedures. These procedures are subject to the approval of the Operations Committee and shall be incorporated into the PFMM Plan as well as the Parking Revenue Management Plan;
- (d) Operate, service, repair, maintain and ensure optimum performance of all the PARCS equipment, systems, and software for the Parking Facilities;
- (e) Handle daily customer service issues, including but not limited to questions related to the PARCS, equipment failures, parking operation, request for monthly parking permits, and parking enforcement questions;
- (f) Post and update, as needed, professional quality signs at the Parking Facilities entrance with parking fee information;
- (g) Manage and enforce a monthly permit parking program, if implemented; and
- (h) Develop and administer the monthly permit holder program including, but not limited to, the permit database and customer waiting lists for the Parking Facilities. The customer waiting list shall be cleared and reopened annually.

14. Lighting Requirements. The Parking Manager shall inspect all lighting elements daily to ensure all lighting fixtures, timers, and other controls are functional. Any deficiencies or outages that cannot be rectified within forty-eight (48) hours after the Parking Manager becomes aware of such issue must be included in the Daily Parking Operations Log, and the Parking Manager will provide in such log an anticipated timeline for repair and implementation to address the condition.

15. Signage Requirements. The Parking Manager shall:

Monitor static signage and repair or replace damaged, illegible or missing signs within one (1) week or, in the case of signs that perform a safety function, as soon as practicable but in no more than forty-eight (48) hours of becoming aware of the condition. If the signage cannot be repaired in the time frame herein, the Parking Manager must include the issue in the Daily Parking Operations Log and the Parking Manager will provide in such log an anticipated timeline for repair and implementation to address the condition.

16. Graffiti and Vandalism Requirements. No graffiti shall be permitted. The Parking Manager shall:

- (a) Remove graffiti anywhere in/on the Parking Facilities as soon as practicable but in no case more than twenty-four (24) hours of the Parking Manager becoming aware of the graffiti. If the removal cannot be completed in the time frame herein, the Parking Manager must include the issue in the Daily Parking Operations Log and the Parking Manager will provide in such log an anticipated timeline for repair and implementation to address the condition;
- (b) With respect to graffiti containing profanity, hate speech or content that is discriminatory, vulgar, or obscene, that relates to gang or criminal activity, or that is otherwise determined by the Parking Manager or Operations Committee to be offensive, immediately remove or apply an aesthetic temporary covering;
- (c) Make immediate emergency repairs to damage from vandalism and implement permanent repairs pursuant to a schedule as provided by the Parking Manager. Any repairs that cannot be implemented immediately will be included in the Daily Parking Operations Log and the Parking Manager will provide in such log an anticipated timeline for repair and implementation to address the condition; and
- (d) For damage that presents a potential safety hazard, immediately implement protective measures. Any protective measures that cannot be implemented immediately will be included in the Daily Parking Operations Log and the Parking Manager will provide an anticipated timeline for repair and implementation to address the condition.

17. Snow and Ice Removal Requirements. The Parking Manager shall:

- (a) Develop and submit an annual plan detailing snow and ice removal procedures and protocols for the Parking Facilities ( "Parking Snow and Ice Management Plan")

identifying labor, equipment, materials, management, station assignments, initial starting location, back-up contractors, names and phone numbers for staff of the Parking Manager and any snow and ice contractor(s). The Parking Snow and Ice Management Plan shall be submitted to the Operations Committee for approval by October 15th of each year. All elements of such plan shall be in place by November 15th of each year. By that same date, the Parking Manager shall complete a pre-season checklist and status report including, but not limited to whether all equipment is in good operating order, and whether the required inventory of supplies and equipment for the season is stored for all Parking Facilities;

- (b) Perform snow removal and de-icing operations in accordance with the Parking Snow and Ice Management Plan, subject to the Operations Committee's satisfaction;
- (c) Monitor winter weather forecasts and advise the Operations Committee of the snow and ice removal plan no later than twenty-four (24) hours prior to the forecast of snow exceeding four (4) inches. Snow removal shall continue uninterrupted until snow removal is complete. Snow shall be removed from sidewalks, paved surfaces, auxiliary areas, and any area where snow and/or ice poses a safety risk to customers, the Parking Manager's personnel, or the general public;
- (d) In coordination with the Operations Committee for large storms (defined as greater than 4 inches of snow or otherwise defined by the Operations Committee), retain a contractor to use large equipment to move/remove the snow; and
- (e) Conduct snow removal operations as follows:
  - i. Apply de-icing treatments to paved surfaces and walkways before storm start;
  - ii. Initiate snow removal no later than when a snowfall of one (1) inch has accumulated and continue during and after the storm departure, as needed;
  - iii. If weather conditions change during the winter weather event, the Parking Manager shall be prepared to address a storm event of greater than four (4) inches without significant delay or safety hazard. Reports of freezing rain and ice accumulation shall be addressed immediately, and all facilities shall be actively inspected for such conditions;
  - iv. The Parking Manager shall consult with and take direction from the Operations Committee when there are conflicting weather forecasts;
  - v. Clear snow from all fire protection standpipes immediately following a winter weather event;
  - vi. After the conclusion of the winter weather event, remove snow to offsite or alternative locations when snow piles reach a level that impacts access to the Parking Facilities, interferes with pedestrian traffic, or otherwise presents a safety concern. The Parking Manager shall only move snow to the Operations Committee approved offsite storage location(s). In the event of a significant snow storm or series of storms, in order to appropriately manage snow and ice removal in accordance with the requirements in this Section 15, the Parking Manager shall promptly engage contractor(s) with appropriate equipment and staffing levels to provide needed assistance; and

vii. Apply post storm de-icing treatments as necessary.

18. Parking Facilities Security. The Parking Manager shall:

- (a) Prepare and submit, by July 1, 2022, a security plan ( "Parking Facilities Security Plan") to the Operations Committee for approval;
- (b) Increase security services during anticipated high travel and holiday periods throughout the year; and
- (c) Arrange for additional subcontracted and/or local police department services as needed, including but not limited to, supporting holiday or anticipated high travel periods.

19. In accordance with a schedule established by the Operations Committee, CTDOT, through its Station Property Management Unit, shall perform regularly scheduled inspections of the Parking Facilities, complete the inspection checklists (attached to this Parking SOW) or ones substantially similar, as may be updated from time to time by the Operations Committee, and submit the same to the Operations Committee for review. CTDOT, through its Station Property Management unit, reserves the right to conduct additional inspections from time to time in its sole discretion.

20. The Parking Manager shall take such appropriate action (including but not limited to notice, probation, removal, or termination), as it deems necessary to ensure the compliance with applicable performance goals, as established by the Operations Committee, subject to any applicable collective bargaining agreements or other legal requirements, and shall report all such actions to the Operations Committee. In the event the Parking Manager fails to take appropriate action, the Operations Committee may act appropriately to ensure compliance with the applicable performance goals.

Parking Garage Exterior

Inspection Date:

Category	Good	Fair	Poor	Notes
General Cleanliness				
Sidewalks & Curbs				
Painting				
Masonry				
Metalwork (Railings, Etc.)				
Asphalt				
Parking Lot & Drive Striping				
Signage				
Handicap Access in Compliance				
Entrance doors				
Windows & Glass				
Building Address/Numbering				
Lighting				
Canopies & Overhangs				
General caulking				
Parapet Walls				
Skylights in Good Condition				
Fire Service Connections				
Rain Drains & Grates Clean				
Gum Removal				

Parking Garage Interior

Inspection Date:

Category	Good	Fair	Poor	Notes
General Cleanliness				
Flooring (Tile, Carpet, Etc.)				
Walls (Paint & Wall Coverings)				
Ceiling				
Lighting				
Signage				
Directory				
Furnishings				
Floor Mats				
Baseboards				
Exit & Directional Signs				
Lighting				
Fire Extinguishers, Hoses, Etc.				
Trash Receptacles				
Electrical & Equipment Rooms				

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Parking Garage Interior cont.

Inspection Date:

Category	Good	Fair	Poor	Notes
Building & Tenant Doors				
Fire Alarm System Inspected				
Fire Extinguishers Inspected				
Fire Doors Working				
Restroom Partitions Clean & Working				
Restroom Fixtures Clean & Working				
Paper & Soap Dispensers Stocked				
Plumbing Hardware Clean & Working				
Restroom Mirrors Clean				
Restroom Floor Drains Clear				
Restroom Signage In Place				
Restrooms Meet ADA Requirements				
Gum Removal				

Equipment Rooms

Inspection Date:

Category	Good	Fair	Poor	Notes
Clean & Orderly				
Warning Signs & Labels In Place				
Painted Surfaces Maintained				
Ventilation / Exhaust Working				
Service Panel(s) Unobstructed				
Lock Out Tags In Place				
Safety Equipment Available				
Spare Parts In Place				
Lighting Working Properly				
Safety Equipment Available				

Elevators

Inspection Date:

Category	Good	Fair	Poor	Notes
Walls / Panels Clean				
Floors / Ceilings Clean				
Doors & Call Buttons Operational				
Lighting Adequate & Maintained				
State Inspection Card Visible				
Elevator Numerals Working				
Emergency Communication Working				
All Required Signage Visible				
Meets ADA requirements				
Operate As Required				
Inspection Log Maintained				

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Parking Garage Roof

Inspection Date:

Category	Good	Fair	Poor	Notes
Parking Lot & Drive Striping				
General Cleanliness				
Drains Clear Of Obstructions				
No Visible Punctures Or Tears				
Flashings Properly Installed				
Gutters Clean & Debris Free				
Roof Drains Working & Debris Free				
Roof Penetrations Properly Sealed				
Antennas & Dishes On Pads				

HVAC

Inspection Date:

Category	Good	Fair	Poor	Notes
Working & Properly Maintained				
Service Access Panels Closed Tightly				
Disconnects Visible & Marked				
Units Identified By Service Area				

## Schedule 4

### Scope of Work for Brokerage Services

1. The scope of work for Brokerage Services shall include, but not be limited to, arranging for and managing the following activities at the Campus ("Brokerage SOW"):
  - (a) Concession agreements, subject to BESB waiver, as referenced in Section 15.4 of this Agreement, as applicable, for:
    - i. Food/beverage vendors, restaurants, and other food service establishments;
    - ii. Vending machines for food, beverages, and sundry items (meaning those stored and served at room temperature that do not require refrigeration or warming, including but not limited to gum and candy); and
    - iii. Vending machines for retail items.
  - (b) Leasing or licensing of:
    - i. Retail space and retail vending machines, subject to BESB waiver as applicable;
    - ii. Office space; and
    - iii. All other commercial space.
  - (c) Short-term and long-term access licensing for:
    - i. Bus bay use or access rights; and
    - ii. Event access and use, including but not limited to filming, with prior approval of CTDOT.
  - (d) Licensing for advertising or non-commercial informational messaging, in accordance with advertising policy for the Campus approved by the Operations Committee;
  - (e) Provision of transportation-related and traveler amenities requested or approved by the Operations Committee, which may include but not be limited to:
    - i. Pick-up/drop-off parking spots;
    - ii. Managing taxi and ride-sharing services;
    - iii. Auto valet parking service;
    - iv. Bicycle storage station;
    - v. Public IT resources such as Wi-Fi and charging stations;
    - vi. Transportation/travel customer service center including rail and bus;
    - vii. Information kiosk or desk; and
    - viii. Vending of travel-related items.
2. The Brokerage Manager shall perform the following duties:
  - (a) Designate a key employee with timely market knowledge, experience in his/her field, and seasoned understanding of structuring advantageous lease or licensing arrangements for a transportation center, who will manage the team performing the brokerage services and serve as the liaison between the Operations Committee, Station Manager, Parking Manager, tenants, concessionaires, and other licensees at the Campus;
  - (b) Advertise the available opportunity space within the Campus, in accordance with the plan approved by the Operations Committee;
  - (c) Market listings promptly and accurately and deploy a brokerage team to commence prospecting and generating leads;

- (d) Access information available about commercial real estate, and provide the Operations Committee with the latest data and timely market knowledge;
  - (e) Assist the Operations Committee to develop a schedule of competitive rates and fees for the space to be leased or licensed at the Campus;
  - (f) Prepare financial statements and reports as requested by the Operations Committee for its review, including but not limited to:
    - i. Monthly financial statement for all brokering of the Campus. The Brokerage Manager shall submit to the Operations Committee within fourteen (14) days after the close of each calendar month, a complete report of all monies collected, and reimbursable expenditures made during each previous month;
    - ii. Annual operating budget, including expenses, for brokerage services, submitted to the Operations Committee no later than March 1; and
    - iii. Annual property performance analysis, submitted to the Operations Committee no later than March 1.
  - (g) Maintain electronic copies of all executed tenant/vendor agreements in a secure searchable digital format and secure and accessible digital environment;
  - (h) Create abstracts for all executed tenant/vendor agreements, providing an executive summary of the terms and conditions, stored in a secure searchable digital format and secure digital environment;
  - (i) Provide valuation, market research, due diligence, and other advisory services to the Operations Committee as requested; and
  - (j) Provide expertise for optimal return on investment based on the planned occupancy and tenant retention, and enhance overall investment value in the Campus.
3. The Brokerage Manager, in coordination with the Station Manager as applicable, shall perform the following additional duties:
- (a) Address tenant service requests and manage all tenant relations, communications and oversight;
  - (b) Manage all tenants, vendors, licensees, and permittees at the Campus;
  - (c) Prepare, negotiate and finalize all agreements with tenants, vendors, licensees, and permittees, with prior Operations Committee approval;
  - (d) Perform routine on-site inspections and report any issues to the Operations Committee and as applicable the Station Manager or Parking Manager;
  - (e) Be available on-site as required by the Operations Committee during set times during normal business hours to provide services;
  - (f) Provide emergency 24/7/365 on-call service and any additional on-call services as required by the Operations Committee;
  - (g) Bill, collect and deposit rent and fees from all tenants/vendors/licensees as directed by the Operations Committee;
  - (h) Administer all tenant/vendor agreements and monitor compliance with requirements;
  - (i) Enforce terms of all agreements, and work with the Operations Committee to seek available remedies, including appropriate legal actions, should there be any violations;
  - (j) Review all tenant and vendor certificates of insurance and ensure compliance with coverage and limit requirements;
  - (k) Receive, verify, and process bills for approved expenses incurred related to brokerage

- services;
- (l) Identify recommended or required maintenance and renovations for the opportunity space and report to the Operations Committee; and
  - (m) Coordinate with tenants and other permitted occupants for the performance of any approved work, to be administered and overseen jointly by the Parties.
4. Standard Operating Procedures Manual. The Brokerage Manager shall prepare a draft Standard Operating Procedures Manual ("SOP Manual") within 60 days of the commencement date of performance of Brokerage Services at the Campus, for review and approval by the Operations Committee. The SOP Manual shall include the following and will be updated as needed but no less frequently than annually:
- (a) Brokerage services mission statement;
  - (b) Organizational chart of the Brokerage Manager showing management and staffing structure, and including descriptions of each position and contact numbers for key staff of the Brokerage Manager;
  - (c) Administrative policies of the Brokerage Manager applicable to its performance of Brokerage Services, including but not limited to those for human resources relating to hiring practices, equal opportunity and nondiscrimination policy, and accounting practices related revenue handling;
  - (d) Description of all the standard and emergency operating procedures for the Station Facilities developed by the Station Manager and/or Parking Manager that the Brokerage Manager shall provide to tenants and other permitted occupants;
  - (e) Description of any performance standards for the Brokerage Manager that the Operations Committee has approved;
  - (f) Designation of Brokerage Manager staff who will be available on a twenty-four (24) hour basis to immediately respond to emergency situations; such staff will provide a 24-hour emergency dispatch number to the Operations Committee and all tenants of the Station Facilities;
  - (g) Designation of a safety program officer for coordinating with Station Manager and tenants with respect to fire drills, evacuation plans, and first aid services, building and fire code compliance and inspections, and accident reporting;
  - (h) Description of the emergency response procedures and plans developed by, and coordinated between, the Station Manager and/or Parking Manager, as applicable, with respect to the areas accessed by tenants and other permitted occupants, which the Brokerage Manager shall provide to such tenants and other permitted occupants, and update from time to time in coordination with the Station Manager and/or Parking Manager, as applicable; and
  - (i) Such other matters as the Operations Committee may require.
5. The Brokerage Manager shall maintain true and accurate books and records in conformity with generally accepted accounting principles, and generate monthly reports reflecting operational statistics, including all receipts and all expenditures, in connection with the brokerage of the Campus and the brokerage services performed. The Operations Committee shall have the right, through its representatives, and at all reasonable times, to inspect and copy such books, records, reports, receipts and all supporting documentation.



## Schedule 5

### DBE Special Provisions Revised July 2020

#### I. ABBREVIATIONS AND DEFINITIONS AS USED IN THIS SPECIAL PROVISION

A. *Broker* means a party acting as an agent for others in negotiating Contracts, Agreements, purchases, sales, etc., in return for a fee or commission.

B. *Contract, Agreement or Subcontract* means a legally binding relationship obligating a seller to furnish supplies or services (including but not limited to, construction and professional services) and the buyer to pay for them. For the purposes of this provision, a lease for equipment or products is also considered to be a Contract.

C. *Contractor* means a consultant, second party or any other entity under Contract to do business with CTDOT or, as the context may require, with another Contractor (i.e. subcontractor) to CTDOT.

D. *CTDOT* means the Connecticut Department of Transportation.

E. *Disadvantaged Business Enterprise (“DBE”)* means a for profit small business concern:

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
3. Certified by CTDOT under Title 49 of the Code of Federal Regulations, Part 26, (Title 49 CFR Part 23 of the Code of Federal Regulations for Participation of Disadvantaged Business Enterprise in Airport Concessions)

F. *USDOT* means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (“FHWA”), the Federal Transit Administration (“FTA”), and the Federal Aviation Administration (“FAA”).

G. *USDOT-assisted Contract* means any Contract between CTDOT and a Contractor (at any tier) funded in whole or in part with USDOT financial assistance.

H. *Good Faith Efforts (“GFE”)* means all necessary and reasonable steps to achieve a DBE goal or other requirement which by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

I. *Small Business Concern* means, with respect to firms seeking to participate as DBEs in USDOT-assisted Contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration (“SBA”) regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts in 49 CFR Part 26, Section 26.65(b).

J. *Socially and Economically Disadvantaged Individual* means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

1. Any individual who CTDOT finds, on a case-by-case basis, to be a socially and economically disadvantaged individual.
2. Any individuals in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
  - “Black Americans”, which includes persons having origins in any of the Black racial groups of Africa;
  - “Hispanic Americans”, which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
  - “Asian-Pacific Americans”, which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, or Federated States of Micronesia;
  - “Subcontinent Asian Americans”, which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
  - Women;
  - Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

K. *Commercially Useful Function (“CUF”)* means the DBE is responsible for the execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved with its own forces and equipment. The DBE must be responsible for procuring, determining quantity, negotiating price, determining quality and paying for all materials (where applicable) associated with their work. The DBE must also perform at least 30% of the total cost of its contract with its own workforce.

## **II. ADMINISTRATIVE REQUIREMENTS**

### **A. General Requirements**

A DBE goal percentage equaling \_\_\_\_\_ percent (%) of the Contract value has been established for this Contract. This DBE goal percentage will be applied to the final Contract value to ultimately determine the required DBE goal. If additional work is required, DBE firms should be provided the appropriate opportunities to achieve the required DBE goal.

In order to receive credit toward the Contract DBE goal, the firms utilized as DBE subcontractors or suppliers must be certified as DBEs in the type of work to be counted for credit by CTDOT’s Office of Contract Compliance prior to the date of the execution of the subcontract. Neither CTDOT nor the State of Connecticut’s Unified Certification Program (UCP) makes any representation as to any DBE’s technical or financial ability to perform the work. Prime contractors are solely responsible for performing due diligence in hiring DBE subcontractors.

All DBEs shall perform a CUF for the work that is assigned to them. The Contractor shall monitor and ensure that the DBE is in compliance with this requirement. The Connecticut DBE UPC Directory of certified firms can be found on the CTDOT website <http://www.ct.gov/dot>. The directory lists certified DBE firms with a description of services that they are certified to perform. Only work identified in this listing may be counted towards the project’s

DBE goal. A DBE firm may request to have services added at any time by contacting CTDOT's Office of Contract Compliance. No credit shall be counted for any DBE firm found not to be performing a CUF.

Once a Contract is awarded, all DBEs that were listed on the pre-award DBE commitment document must be utilized. The Contractor is obligated to provide the value and items of the work originally established in the pre-award documentation to the DBE firms listed in the pre-award documentation. Any modifications to the pre-award commitment must follow the procedure established in Section II-C.

The Contractor shall designate a liaison officer who will administer the Contractor's DBE program. Upon execution of this Contract, the name of the liaison officer shall be furnished in writing to CTDOT's unit administering the Contract, CTDOT's Office of Contract Compliance and CTDOT's Office of Construction ("OOC"). Contact information for the designated liaison officer shall be furnished no later than the scheduled date for the pre-construction meeting.

**The Contractor shall submit a bi-monthly report to the appropriate CTDOT unit administering the Contract. This report shall indicate what work has been performed to date, with the dollars paid and percentage of DBE goal completed.**

**Verified payments made to DBEs shall be included in this bi-monthly report. A sample form is included on the CTDOT website.**

In addition, the report shall include:

1. A projected time frame of when the remaining work is to be completed for each DBE.
2. A statement by the Contractor either confirming that the approved DBEs are on schedule to meet the Contract goal, or that the Contractor is actively pursuing a GFE.
3. If retainage is specified in the Contract specifications, then a statement of certification that the subcontractors' retainage is being released in accordance with 1.08.01 (Revised or supplemented).

Failure by the Contractor to provide the required reports may result in CTDOT withholding an amount equal to one percent (1%) of the monthly estimate until the required documentation is received.

The Contractor shall receive DBE credit when a DBE, or any combination of DBEs, perform work under the Contract in accordance with this specification.

Only work actually performed by and/or services provided by DBEs which are certified for such work and/or services, as verified by CTDOT, can be counted toward the DBE goal. Supplies and equipment a DBE purchases or leases from the Contractor or its affiliate cannot be counted toward the goal.

Monitoring of the CUF will occur by CTDOT throughout the life of the project. If it is unclear that the DBE is performing the work specified in its subcontract with the prime Contractor, further review may be required. If it is determined that the DBE is not performing a CUF, then the work performed by that DBE will not be counted towards the DBE goal percentage.

## **B. Subcontract Requirements**

The Contractor shall submit to CTDOT's OOC all requests for subcontractor approvals on the standard CLA-12 forms provided by CTDOT. The dollar amount and items of work identified on the CLA-12 form must, at minimum, equal the dollar value submitted in the pre-award commitment. CLA-12 forms can be found at

<http://www.ct.gov/dot/construction> under the “Subcontractor Approval” section. All DBE subcontractors must be identified on the CLA-12 form, regardless of whether they are being utilized to meet a Contract goal percentage. A copy of the legal Contract between the Contractor and the DBE subcontractor/supplier, a copy of the Title VI Contractor Assurances and a copy of the Required Contract Provision for Federal Aid Construction Contracts (Form FHWA-1273) (Federal Highway Administration projects only) must be submitted along with a request for subcontractor approval. These attachments cannot be substituted by reference.

If retainage is specified in the Contract specifications, then the subcontract agreement must contain a prompt payment mechanism that acts in accordance with Article 1.08.01 (Revised or supplemented).

If the Contract specifications do not contain a retainage clause, the Contractor shall not include a retainage clause in any subcontract agreement, and in this case, if a Contractor does include a retainage clause, it shall be deemed unenforceable.

In addition, the following documents are to be included with the CLA-12, if applicable:

- An explanation indicating who will purchase material.
- A statement explaining any method or arrangement for utilization of the Contractor’s equipment.

The subcontract must show items of work to be performed, unit prices and, if a partial item, the work involved by all parties. If the subcontract items of work or unit prices are modified, the procedure established in Section II-C must be followed.

Should a DBE subcontractor further sublet items of work assigned to it, only lower tier subcontractors who are certified as a DBE firm will be counted toward the DBE goal. If the lower tier subcontractor is a non-DBE firm, the value of the work performed by that firm will not be counted as credit toward the DBE goal.

The use of joint checks between a DBE firm and the Contractor is acceptable, provided that written approval is received from the OOC prior to the issuance of any joint check. Should it become necessary to issue a joint check between the DBE firm and the Contractor to purchase materials, the DBE firm must be responsible for negotiating the cost, determining the quality and quantity, ordering the material and installing (where applicable), and administering the payment to the supplier. The Contractor should not make payment directly to suppliers.

Each subcontract the Contractor signs with a subcontractor must contain the following assurance:

“The subcontractor/supplier/manufacturer shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor/subcontractor/supplier/manufacturer to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.”

### **C. Modification to Pre-Award Commitment**

Contractors may not terminate for convenience any DBE subcontractor or supplier that was listed on the pre-award DBE commitment without prior written approval of the OOC. This includes, but is not limited to, instances in which a Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. Prior to approval, the Contractor must demonstrate to the satisfaction of the OOC, that it has good cause, as found in 49CFR Part 26.53 (f)(3), for termination of the DBE firm.

Before transmitting its request for approval to terminate pre-award DBE firms to the OOC, the Contractor must give written notice to the DBE subcontractor and include a copy to the OOC of its notice to terminate and/or substitute, and the reason for the notice.

The Contractor must provide five (5) days for the affected DBE firm to respond. This affords the DBE firm the opportunity to advise the OOC and the Contractor of any reasons why it objects to the termination of its subcontract and why the OOC should not approve the Contractor's action.

Once the Contract is awarded, should there be any amendments or modifications of the approved pre-award DBE submission other than termination of a DBE firm, the Contractor shall follow the procedure below that best meets the criteria associated with the reason for modification:

1. If the change is due to a scope of work revision or non-routine quantity revision by CTDOT, the Contractor must notify CTDOT's OOC in writing or via electronic mail that their DBE participation on the project may be impacted as soon as they are aware of the change. In this case, a release of work from the DBE firm may not be required; however the Contractor must concurrently notify the DBE firm in writing, and copy the OOC for inclusion in the project DBE file. This does not relieve the Contractor of its obligation to meet the Contract specified DBE goal, or of any other responsibility found in this specification.
2. If the change is due to a factor other than a CTDOT directive, a request for approval in writing or via electronic mail of the modification from the OOC must be submitted, along with an explanation of the change(s), prior to the commencement of work. The Contractor must also obtain a letter of release from the originally named DBE indicating their concurrence with the change, and the reason(s) for their inability to perform the work. In the event a release cannot be obtained, the Contractor must document all efforts made to obtain it.
3. In the event a DBE firm that was listed in the pre-award documents is **unable** or **unwilling** to perform the work assigned, the Contractor shall:
  - Notify the OOC Division Chief immediately and make efforts to obtain a release of work from the firm.
  - Submit documentation that will provide a basis for the change to the OOC for review and approval prior to the implementation of the change.
  - Use the DBE Directory to identify and contact firms certified to perform the type of work that was assigned to the unable or unwilling DBE firm. The Contractor should also contact CTDOT's Office of Contract Compliance for assistance in locating additional DBE firms to the extent needed to meet the contract goal.

Should a DBE subcontractor be terminated or fail to complete work on the Contract for any reason, the Contractor must make a GFE to find another DBE subcontractor to substitute for the original DBE. The DBE replacement shall be given every opportunity to perform at least the same amount of work under the Contract as the original DBE subcontractor.

If the Contractor is unable to find a DBE replacement:

- The Contractor should identify other contracting opportunities and solicit DBE firms in an effort to meet the Contract DBE goal requirement, if necessary, and provide documentation to support a GFE. (Refer to GFE in Section III.)



- The Contractor must demonstrate that the originally named DBE, who is unable or unwilling to perform the work assigned, is in default of its subcontract, or identify other issues that affected the DBE firm's ability to perform the assigned work. **The Contractor's ability to negotiate a more advantageous agreement with another subcontractor is not a valid basis for change.**

### **III. GOOD FAITH EFFORTS**

The DBE goal is **NOT** reduced or waived for projects where the Contractor receives a Pre-Award GFE determination from the Office of Contract Compliance prior to the award of the Contract. It remains the responsibility of the Contractor to make a continuing GFE to achieve the specified Contract DBE goal. The Contractor shall pursue every available opportunity to obtain additional DBE firms and document all efforts made in such attempts.

At the completion of all Contract work, the Contractor shall submit a final report to CTDOT's unit administering the Contract indicating the work done by and the dollars paid to DBEs. Only verified payments made to DBEs performing a CUF will be counted towards the Contract goal.

Goal attainment is based on the total Contract value, which includes all construction orders created during the Contract. If the Contractor does not achieve the specified Contract goal for DBE participation or has not provided the value of work to the DBE firms originally committed to in the pre-award submission, the Contractor shall submit documentation to CTDOT's unit administering the Contract detailing the GFE made during the performance of the Contract to satisfy the goal.

A GFE should consist of the following, where applicable (CTDOT reserves the right to request additional information):

1. A detailed statement of the efforts made to replace an unable or unwilling DBE firm, and a description of any additional subcontracting opportunities that were identified and offered to DBE firms in order to increase the likelihood of achieving the stated goal.
2. A detailed statement, including documentation of the efforts made to contact and solicit bids from certified DBEs, including the names, addresses, and telephone numbers of each DBE firm contacted; the date of contact and a description of the information provided to each DBE regarding the scope of services and anticipated time schedule of work items proposed to be subcontracted and the response from firms contacted.
3. Provide a detailed explanation for each DBE that submitted a subcontract proposal which the Contractor considered to be unacceptable stating the reason(s) for this conclusion.
4. Provide documentation, if any, to support contacts made with CTDOT requesting assistance in satisfying the specified Contract goal.
5. Provide documentation of all other efforts undertaken by the Contractor to meet the defined goal. Additional documentation of efforts made to obtain DBE firms may include but will not be limited to:
  - Negotiations held in good faith with interested DBE firms, not rejecting them without sound reasons.
  - Written notice provided to a reasonable number of specific DBE firms in sufficient time to allow effective participation.
  - Those portions of work that could be performed by readily available DBE firms.



**In instances where the Contractor can adequately document or substantiate its GFE and compliance with other DBE Program requirements, the Contractor will have satisfied the DBE requirement and no administrative remedies will be imposed.**

#### **IV. PROJECT COMPLETION**

At the completion of all Contract work, the Contractor shall:

1. Submit a final report to CTDOT's unit administering the Contract indicating the work done by, and the dollars paid to DBEs.
2. Submit verified payments made to all DBE subcontractors for the work that was completed.
3. Submit documentation detailing any changes to the DBE pre-award subcontractors that have not met the original DBE pre-award commitment, including copies of the Department's approvals of those changes.
4. Retain all records for a period of three (3) years following acceptance by CTDOT of the Contract and those records shall be available at reasonable times and places for inspection by authorized representatives of CTDOT and Federal agencies. If any litigation, claim, or audit is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records are resolved.

If the Contractor does not achieve the specified Contract goal for DBE participation in addition to meeting the dollar value committed to the DBE subcontractors identified in the pre-award commitment, the Contractor shall submit documentation to CTDOT's unit administering the Contract detailing the GFE made during the performance of the Contract to satisfy the goal.

#### **V. SHORTFALLS**

##### **A. Failure to meet DBE goals**

**As specified in (II-A) above, attainment of the Contract DBE goal is based on the final Contract value.** The Contractor is expected to achieve the amount of DBE participation originally committed to at the time of award; however, additional efforts must be made to provide opportunities to DBE firms in the event a Contract's original value is increased during the life of the Contract.

The Contractor is expected to utilize the DBE subcontractors originally committed in the DBE pre-award documentation for the work and dollar value that was originally assigned.

If a DBE is terminated or is unable or unwilling to complete its work on a Contract, the Contractor shall make a GFE to replace that DBE with another certified DBE to meet the Contract goal.

The Contractor shall immediately notify the OOC of the DBE's inability or unwillingness to perform, and provide reasonable documentation and make efforts to obtain a release of work from the firm.

If the Contractor is unable to find a DBE replacement, then the Contractor should identify other contracting opportunities and solicit DBE firms in an effort to meet the Contract DBE goal requirement, if necessary, and provide documentation to support a GFE.

When a DBE is unable or unwilling to perform, or is terminated for just cause, the Contractor shall make a GFE to find other DBE opportunities to increase DBE participation to the extent necessary to at least satisfy the Contract goal.

For any DBE pre-award subcontractor that has been released appropriately from the project, no remedy will be assessed, provided that the Contractor has met the criteria described in Section II-C.

### **B. Administrative Remedies for Non-Compliance:**

In cases where the Contractor has failed to meet the Contract specified DBE goal or the DBE pre-award commitment, and where no GFE has been demonstrated, then one or more of the following administrative remedies will be applied:

1. A reduction in Contract payments to the Contractor as determined by CTDOT, not to exceed the shortfall amount of the **DBE goal**. The maximum shortfall will be calculated by multiplying the Contract DBE goal (adjusted by any applicable GFE) by the final Contract value, and subtracting any verified final payments made to DBE firms by the Contractor.
2. A reduction in Contract payments to the Contractor determined by CTDOT, not to exceed the shortfall amount of the **pre-award commitment**. The maximum shortfall will be calculated by subtracting any verified final payments made by the Contractor to each DBE subcontractor from the amount originally committed to that subcontractor in the pre-award commitment.
3. A reduction in Contract payments to the Contractor determined by CTDOT for any pre-award DBE subcontractor who has not obtained the dollar value of work identified in the DBE pre-award commitment and has not followed the requirements of Section II-C or for any DBE firm submitted for DBE credit that has not performed a CUF.
4. The Contractor being required to submit a written DBE Program Corrective Action Plan to CTDOT for review and approval, which is aimed at ensuring compliance on future projects.
5. The Contractor being required to attend a Non-Responsibility Meeting on the next contract where it is the apparent low bidder.
6. The Contractor being suspended from bidding on contracts for a period not to exceed six (6) months.

## **VI. CLASSIFICATIONS OTHER THAN SUBCONTRACTORS**

### **A. Material Manufacturers**

Credit for DBE manufacturers is 100% of the value of the manufactured product. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.

If the Contractor elects to utilize a DBE manufacturer to satisfy a portion of, or the entire specified DBE goal, the Contractor must provide the OOC with:

- Subcontractor Approval Form (CLA-12) indicating the firm designation,
- An executed "Affidavit for the Utilization of Material Suppliers or Manufacturers" (sample attached), and
- Substantiation of payments made to the supplier or manufacturer for materials used on the project.

## **B. Material Suppliers (Dealers)**

Credit for DBE dealers/suppliers is limited to 60% of the value of the material to be supplied, provided such material is obtained from an approved DBE dealer/supplier.

In order for a firm to be considered a regular dealer, the firm must own, operate, or maintain a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. At least one of the following criteria must apply:

- To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
- A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating or maintaining a place of business if the person both owns and operates distribution equipment for the products. Any supplementing of the regular dealers' own distribution equipment shall be by long term lease agreement, and not on an ad hoc or contract to contract basis.
- Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph.

If the Contractor elects to utilize a DBE supplier to satisfy a portion or the entire specified DBE goal, the Contractor must provide the OOC with:

- Subcontractor Approval Form (CLA-12) indicating the firm designation,
- An executed "Affidavit for the Utilization of Material Suppliers or Manufacturers" (sample attached), and
- Substantiation of payments made to the supplier or manufacturer for materials used on the project.

## **C. Brokering**

- Brokering of work for DBE firms who have been listed by the Department as certified brokers is allowed. Credit for those firms shall be applied following the procedures in Section VI-D.
- Brokering of work by DBEs who have been approved to perform subcontract work with their own workforce and equipment is not allowed, and is a Contract violation.
- Firms involved in the brokering of work, whether they are DBEs and/or majority firms who engage in willful falsification, distortion or misrepresentation with respect to any facts related to the project shall be referred to the U.S. DOT, Office of the Inspector General for prosecution under Title 18, U.S. Code, Part I, Chapter 47, Section 1020.

## **D. Non-Manufacturing or Non-Supplier DBE Credit**

Contractors may count towards their DBE goals the following expenditures with DBEs that are not manufacturers or suppliers:

- Reasonable fees or commissions charged for providing a bona fide service such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment materials or supplies necessary for the performance of the Contract, provided that the fee or commission is determined by the OOC to be reasonable and consistent with fees customarily allowed for similar services.
- The fees charged only for delivery of materials and supplies required on a job site when the hauler, trucker, or delivery service is a DBE, and not the manufacturer, or regular dealer of the materials and supplies, and provided that the fees are determined by the OOC to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- The fees or commissions charged for providing bonds or insurance specifically required for the performance of the Contract, provided that the fees or commissions are determined by CTDOT to be reasonable and not excessive as compared with fees customarily allowed for similar services.

### **E. Trucking**

While technically still considered a subcontractor, the rules for counting credit for DBE trucking firms are as follows:

- The DBE must own and operate at least one fully licensed, insured, and operational truck used on the Contract.
- The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
- The DBE may lease trucks from a non-DBE firm; however the DBE may only receive credit for any fees or commissions received for arranging transportation services provided by the non-DBE firms. Additionally, the DBE firm must demonstrate that they are in full control of the trucking operation for which they are seeking credit.

### **VII. Suspected DBE Fraud**

In appropriate cases, CTDOT will bring to the attention of the USDOT any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take the steps, e.g. referral to the Department of Justice for criminal prosecution, referral to USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules provided in 49 CFR Part 31.

**CONNECTICUT DEPARTMENT OF TRANSPORTATION  
(OFFICE OF CONSTRUCTION)  
BUREAU OF ENGINEERING AND CONSTRUCTION**

This affidavit must be completed by the State Contractor's DBE notarized and attached to the contractor's request to utilize a DBE supplier or manufacturer as a credit towards its DBE contract requirements; failure to do so will result in not receiving credit towards the contract DBE requirement.

State Contract No. \_\_\_\_\_

Federal Aid Project No. \_\_\_\_\_

Description of Project \_\_\_\_\_

I, \_\_\_\_\_, acting in behalf of \_\_\_\_\_,  
(Name of person signing Affidavit) (DBE person, firm, association or corporation)

of which I am the \_\_\_\_\_ certify and affirm that \_\_\_\_\_  
(Title of Person) (DBE person, firm, association or corporation)

is a certified Connecticut Department of Transportation DBE. I further certify and affirm that I have read and understand 49 CFR, Sec. 26.55(e)(2), as the same may be revised.

I further certify and affirm that \_\_\_\_\_ will assume the actual and  
(DBE person, firm, association or Corporation)  
for the provision of the materials and/or supplies sought by \_\_\_\_\_.

If a manufacturer, I operate or maintain a factory or establishment that produces, on the premises, the materials, supplies, articles or equipment required under the contract an of the general character described by the specifications.

If a supplier, I perform a commercially useful function in the supply process. As a regular dealer, I, at a minimum, own and operate the distribution equipment for bulk items. Any supplementing of my distribution equipment shall be by long-term lease agreement, and not on an ad hoc or contract-by-contract basis.

I understand that false statements made herein are punishable by Law (Sec. 53a-157), CGS, as revised).

(Name of Corporation or Firm)

(Signature & Title of Official making the Affidavit)

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

Notary Public (Commissioner of the Superior Court)

My Commission Expires \_\_\_\_\_

**CERTIFICATE OF CORPORATION**

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_  
(Official) (President)

of the Corporation named in the foregoing instrument; that I have been duly authorized to affix the seal of the Corporation to such papers as require the seal; that \_\_\_\_\_, who signed said instrument on behalf of the Corporation, was then \_\_\_\_\_ of said corporation; that said instrument was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporation powers.

\_\_\_\_\_  
(Signature of Person Certifying)

\_\_\_\_\_  
(Date)

## Schedule 6

### TITLE VI CONTRACTOR ASSURANCES

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 (hereinafter includes consultants) will comply with the Regulations relative to Nondiscrimination in Federally-assisted programs of the United States Department of Transportation Federal Highway Administration and Federal Transit Administration, as they may be amended from time to time, 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, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income or Limited English Proficiency in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by 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 will be notified by the contractor of the contractor's obligations under this contract and Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration or Federal Transit Administration to be pertinent to ascertain compliance with such Acts, Regulations, 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 will so certify to the Recipient or the Federal Highway Administration or the Federal Transit Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Non-compliance:** In the event of the contractor's non-compliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration or the Federal Transit Administration may determine to be appropriate, including, but not limited to:

- a. withholding contract payments to the contractor under the contract until the contractor complies; and/or
- b. cancelling, terminating, or suspending a contract, in whole or in part.



TITLE VI CONTRACTOR ASSURANCES - page 2

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration or the Federal Transit Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with, litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

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## TITLE VI CONTRACTOR ASSURANCES - page 3

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601 ), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, ( 49 USC § 4 71, Section 4 7123 ), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to -ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U .S.C. 1681 et seq)

## Schedule 7

### **CTDOT ADMINISTRATIVE AND STATUTORY REQUIREMENTS**

1. For the purposes of this Schedule,

“Agency” means CTDOT;

“Business Associate” is defined in 45 C.F.R. § 160.103;

“Contract” means this Agreement;

“Contractor” means CITY; and

“Contractor Parties” means City Parties.

2. Whistleblowing. This Contract may be subject to the provisions of Section 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this 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 State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

3. Forum and Choice of Law. The parties deem the Contract 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 Contract 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 Contractor 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.

4. Sovereign Immunity. The parties acknowledge and agree that nothing in the Solicitation or the Contract 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 Contract. To the extent that this section conflicts with any

other section, this section shall govern.

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

- (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 the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.
- (b) The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor 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 the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
- (d) The Contractor shall pay for all costs and expenses of any audit or inspection which reveals information that, in the sole determination of the State, is sufficient to constitute a breach by the Contractor under this Contract. The Contractor shall remit full payment to the State for such audit or inspection no later than 30 days after receiving an invoice from the State. If the State does not receive payment within such time, the State may setoff the amount from any moneys which the State would otherwise be obligated to pay the Contractor in accordance with this Contract's setoff provision.
- (e) The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor 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, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
- (f) The Contractor 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 the Contractor shall cooperate with an exit conference.
- (g) The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.

6. Protection of Confidential Information.

- (a) Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.
- (b) Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for

protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Agency or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:

1. A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
2. Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;
3. A process for reviewing policies and security measures at least annually;
4. Creating secure access controls to Confidential Information, including but not limited to passwords; and
5. Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.

(c) The Contractor and Contractor Parties shall notify the Agency and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Agency and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Agency, any State of Connecticut entity or any affected individuals.

(d) The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.

(e) Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of the Agency.

#### 7. Executive Orders and Other Enactments.

(a) All references in this Contract to any Federal, State, or local law, statute, public or special act, executive order, ordinance, regulation or code (collectively, "Enactments") shall mean Enactments that apply to the Contract at any time during its term, or that may be made applicable to the Contract

during its term. This Contract shall always be read and interpreted in accordance with the latest applicable wording and requirements of the Enactments. At the Contractor's request, the Agency shall provide a copy of these Enactments to the Contractor. Unless otherwise provided by Enactments, the Contractor is not relieved of its obligation to perform under this Contract if it chooses to contest the applicability of the Enactments or the Agency's authority to require compliance with the Enactments.

(b) This Contract is subject to the provisions of Executive Order No. 3 of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. 17 of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. 16 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 Contract as if they had been fully set forth in it.

(c) The Contract may be subject to (1) Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services; (2) Executive Order No. 61 of Governor Dannel P. Malloy promulgated December 13, 2017 concerning the Policy for the Management of State Information Technology Projects, as issued by the Office of Policy and Management, Policy ID IT-SDLC-17-04; and (3) Executive Order Nos. 13F and 13G of Governor Ned Lamont, promulgated September 3, 2021 and September 10, 2021, respectively, concerning protection of public health and safety during COVID-19 pandemic, as extended by Executive Order No. 14A of Governor Ned Lamont, promulgated September 30, 2021. If any of the Executive Orders referenced in this section is applicable, it is deemed to be incorporated into and made a part of the Contract as if fully set forth in it.