

SECTION 5

STATE REQUIRED CONTRACT PROVISIONS

CONTRACTOR'S PROPOSED PROGRESS CHART – HIGHWAY CONSTRUCTION BAR CHART

Project Number(s): _____

Town(s) of: _____

Date Submitted: _____

Description: _____

Operation	Quantity	Duration
Organization		
Clearing & Grubbing		
Earth Excavation		
Rock Excavation		
Channel Excavation		
Borrow		
Drainage (Trench, Pipe)		
Pile Driving		
Footing		
Abutments & Wings		
Steel Erection		
Floor Slabs		
Concrete Pavement		
Bit. Conc. Pavement		
Bridge Railing		
Curbing		
Sidewalk		
Fencing		
Electrical Work		
Traffic Items		
Misc. & Clean up		

Calendar Days

Total Calendar Days: _____

Signed By: _____

Equipment to expect to use:

REV. 5/98
PRINTED ON RECYCLED PAPER

STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION
P.O. BOX 317546
NEWINGTON, CT 06111-7546

PROJECT NUMBER

TOWN

MATERIALS	SOURCE OF SUPPLY AND MAILING ADDRESS PG. 1 of 2
AGGREGATES:	
Coarse	
Fine	
BITUMINOUS CONCRETE	
BITUMEN:	
Asphalt Cement	
Asphalt Cutbacks	
Emulsion	
Tar	
BRICK	
CEMENT - PORTLAND	
Type I	
Type II	
Type 1A	
Type IIA	
TYPE OF DELIVERY:	
Truck	
R.R. Car	
CONCRETE BLOCKS	
CONCRETE, PORTLAND CEMENT	
CURING MATERIAL:	
Mats	
Paper	
Compound	
Other	
DAMP-PROOFING and/or WATERPROOFING:	
Primer	
Seal	
Fabric	
FENCE:	
Property or Wire	
Posts: Steel	
Wood	
Chain Link	
Fittings for Chain Link	
GRAVEL	
GUIDE RAIL:	
Wire Rope	
Fittings	
Posts:	
Metal	
Wood	
JOINT FILLER	
JOINT SEALER	
LOAD TRANSFER UNIT	
METAL FLASHING	
METAL BEAM TYPE RAIL (BRIDGE)	
METAL BEAM TYPE RAIL	
METAL BRIDGE RAIL	
OVERHEAD SIGN SUPPORTS	
PAINT:	
2nd Prime Coat (Field)	
1st Field Coat	

MATERIALS	SOURCE OF SUPPLY AND MAILING ADDRESS PG. 2 of 2
PILING:	
Sheets	
Bearing	
Pipe	
Wood (Pressure Treated)	
Precast, Prestressed	
PIPE:	
C.C.M.	
Cast Iron	
Reinf. Concrete	
Vitrified Clay	
PRECAST, PRESTRESSED UNITS	
STEEL:	
Bar Mat Fabric and/or Wire Mesh	
Metal Cribbing	
Reinforcement	
Scuppers	
SHEAR CONNECTORS:	
Spiral	
Welded	
STRUCTURAL (BRIDGES)	
STRUCTURAL (Side mounted sign supports)	
	CONTRACTOR
	SIGNED BY
	DATE

NOTE: Items not listed above shall be listed below.

(Seal)

AFFIRMATIVE ACTION PROGRAM CERTIFICATION

City/Town of _____

Firm Name: _____

Address: _____

Project Description: _____

Bid Amount: _____

Date: _____

I _____ of _____
(Name of Person) (Name of Firm)

intend to honor our Affirmative Action Program on file with the Connecticut Department of Transportation, Office of Contract Compliance. I further certify that our Affirmative Action Program is current and that the last approval was on (Date) _____, 20____ and it expires on (Date) _____, 20____.

Signed By: _____

Title: _____

EEO Officer: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

PRODUCER	THIS CERTIFICATION IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED	INSURER A:	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE	\$
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
						MED EXP (Any one person)	\$
						PERSONAL & ADV INJURY	\$
						GENERAL AGGREGATE	\$
						PRODUCTS - COMP/OP AGG	\$
							\$
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	\$
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN EA ACC	\$
						AUTO ONLY: AGG	\$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
							\$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS	OTH-ER
						E.L. EACH ACCIDENT	\$
						E.L. DISEASE - EA EMPLOYEE	\$
						E.L. DISEASE - POLICY LIMIT	\$
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER

CANCELLATION

City of Los Angeles
Office of the City Administrative Officer, Risk Management
200 North Main Street, Room 1240
Los Angeles, CA 90012

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Schedule 1

SPECIAL PROVISIONS
DISADVANTAGED BUSINESS ENTERPRISES
FOR FEDERAL FUNDED PROJECTS

(For Municipal Advertised and Awarded Projects Only)

Revised – February 26, 2009

NOTE: Certain of the requirements and procedures stated in this Special Provisions are applicable prior to the award and execution of the Contract document.

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

- A. "ConnDOT" means the Connecticut Department of Transportation.
- B. "DOT" 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").
- C. "Broker" means a party acting as an agent for others in negotiating Contracts, Agreements, purchases, sales, etc., in return for a fee or commission.
- D. "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.
- E. "Contractor," means a prime contractor, consultant, second party or any other entity doing business with or engaged by the Municipality or, as the context may require, with or by another Contractor.
- F. "Disadvantaged Business Enterprise" ("DBE") means a small business concern:
 - 1. That is at least fifty-one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty-one percent (51%) of the stock of which 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.
- G. "DOT-assisted Contract" means any Contract between a recipient and a Contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees.

- H. "Good Faith Efforts" means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. Refer to Appendix A of 49 Code of Federal Regulation ("CFR") Part 26 – "Guidance Concerning Good Faith Efforts," a copy of which is attached to this provision, for guidance as to what constitutes good faith efforts.
- I. "Small Business Concern" means, with respect to firms seeking to participate as DBEs in DOT-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 specified in 49 CFR Part 26, Section 26.65(b).
- J. "Socially and Economically Disadvantaged Individuals" means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is—
1. Any individual who ConnDOT 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:
 - i. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - ii. "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;
 - iii. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - iv. "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, Federated States of Micronesia, or Hong Kong;
 - v. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - vi. Women;
 - vii. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

II. GENERAL REQUIREMENTS

- A. The Contractor, sub-recipient or subcontractor 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 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 Municipality and ConnDOT deem appropriate.
- B. The Contractor shall cooperate with the Municipality, ConnDOT and DOT in implementing the requirements concerning DBE utilization on this Contract in accordance with Title 49 of the Code of Federal Regulations, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs" ("49 CFR Part 26"), as revised. The Contractor shall also cooperate with the Municipality, ConnDOT and DOT in reviewing the Contractor's activities relating to this Special Provision. This Special Provision is in addition to all other equal opportunity employment requirements of this Contract.
- 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 the Municipality.
- D. For the purpose of this Special Provision, DBEs to be used to satisfy the DBE goal must be certified by ConnDOT's Division of Contract Compliance for the type(s) of work they will perform.
- E. If the Contractor allows work designated for DBE participation required under the terms of this Contract and required under III-B to be performed by other than the named DBE organization without concurrence from the Municipality, the Municipality will not pay the Contractor for the value of the work performed by organizations other than the designated DBE.
- F. At the completion of all Contract work, the Contractor shall submit a final report to the Municipality indicating the work done by, and the dollars paid to DBEs. If the Contractor does not achieve the specified Contract goals for DBE participation, the Contractor shall also submit written documentation to the Municipality detailing its good faith efforts to satisfy the goal that were made during the performance of the Contract. Documentation is to include, but not be limited to the following:
 - 1. A detailed statement of the efforts made to select additional subcontracting opportunities to be performed by DBEs 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 with ConnDOT certified DBEs, including the names, addresses, dates and telephone numbers of each DBE contacted, 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 nature of response from firms contacted.
 - 3. Provide a detailed statement for each DBE that submitted a subcontract proposal, which the Contractor considered not to be acceptable stating the reasons for this conclusion.

4. Provide documents to support contacts made with ConnDOT requesting assistance in satisfying the Contract specified goal.
 5. Provide documentation of all other efforts undertaken by the Contractor to meet the defined goal.
- G. Failure of the Contractor, at the completion of all Contract work, to have at least the specified percentage of this Contract performed by DBEs as required in III-B will result in the reduction in Contract payments to the Contractor by an amount determined by multiplying the total Contract value by the specified percentage required in III-B and subtracting from that result, the dollar payments for the work actually performed by DBEs. However, in instances where the Contractor can adequately document or substantiate its good faith efforts made to meet the specified percentage to the satisfaction of the Municipality and ConnDOT, no reduction in payments will be imposed.
- H. All records must be retained for a period of three (3) years following acceptance by the Municipality of the Contract and shall be available at reasonable times and places for inspection by authorized representatives of the Municipality, ConnDOT 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 audits findings involving the records are resolved.
- I. Nothing contained herein, is intended to relieve any Contractor or subcontractor or material supplier or manufacturer from compliance with all applicable Federal and State legislation or provisions concerning equal employment opportunity, affirmative action, nondiscrimination and related subjects during the term of this Contract.

III. SPECIFIC REQUIREMENTS:

In order to increase the participation of DBEs, the Municipality requires the following:

- A. The Contractor shall assure that certified DBEs will have an opportunity to compete for subcontract work on this Contract, particularly by arranging solicitations and time for the preparation of proposals for services to be provided so as to facilitate the participation of DBEs regardless if a Contract goal is specified or not.
- B. The DBE contract goal percentage for the Project is 10% (Construction) and 0% (Construction Inspection). The goal shall be based upon the total contract value. Compliance with this provision may be fulfilled when a DBE or any combination of DBEs perform work under contract in accordance with 49 CFR Part 26, Subpart C Section 26.55, as revised. Only work actually performed by and/or services provided by DBEs which are certified for such work and/or services can be counted toward the DBE goal. Supplies and equipment a DBE purchases or leases from the prime Contractor or its affiliate cannot be counted toward the goal.
- If the Contractor does not document commitments, by subcontracting and/or procurement of material and/or services that at least equal the goal, it must document the good faith efforts that outline the steps it took to meet the goal in accordance with VII.
- C. Within 7 days after the bid opening, the low bidder shall indicate in writing to the Municipality, on the forms provided, the DBE(s) it will use to achieve the goal indicated in III-B. The submission shall include the name and address of each DBE that will participate in this Contract, a description of the work each will perform, the dollar amount of participation, and the percentage this is of the

bid amount. This information shall be signed by the named DBE and the low bidder. The named DBE shall be from a list of certified DBEs available from ConnDOT. In addition, the named DBE(s) shall be certified to perform the type of work they will be contracted to do.

- D. The prime Contractor shall submit to the Municipality all requests for subcontractor approvals on the standard forms provided by the Municipality.

If the request for approval is for a DBE subcontractor for the purpose of meeting the Contract DBE goal, a copy of the legal Contract between the prime and the DBE subcontractor must be submitted along with the request for subcontractor approval. Any subsequent amendments or modifications of the Contract between the prime and the DBE subcontractor must also be submitted to the Municipality with an explanation of the change(s). The Contract must show items of work to be performed, unit prices and, if a partial item, the work involved by all parties.

In addition, the following documents are to be attached:

1. An explanation indicating who will purchase material.
 2. A statement explaining any method or arrangement for renting equipment. If rental is from a prime, a copy of the Rental Agreement must be submitted.
 3. A statement addressing any special arrangements for manpower.
- E. The Contractor is required, should there be a change in a DBE they submitted in III-C, to submit documentation to the Municipality which will substantiate and justify the change (i.e., documentation to provide a basis for the change for review and approval by the Municipality) prior to the implementation of the change. The Contractor must demonstrate that the originally named DBE is unable to perform in conformity to the scope of service or is unwilling to perform, or is in default of its Contract, or is overextended on other jobs. The Contractor's ability to negotiate a more advantageous Agreement with another subcontractor is not a valid basis for change. Documentation shall include a letter of release from the originally named DBE indicating the reason(s) for the release.
- F. Contractors subcontracting with DBEs to perform work or services as required by this Special Provision shall not terminate such firms without advising the Municipality in writing, and providing adequate documentation to substantiate the reasons for termination if the DBE has not started or completed the work or the services for which it has been contracted to perform.
- G. When a DBE is unable or unwilling to perform, or is terminated for just cause, the Contractor shall make good faith efforts to find other DBE opportunities to increase DBE participation to the extent necessary to at least satisfy the goal required by III-B.
- H. In instances where an alternate DBE is proposed, a revised submission to the Municipality together with the documentation required in III-C, III-D, and III-E, must be made for its review and approval.
- I. Each quarter after execution of the Contract, the Contractor shall submit a report to the Municipality indicating the work done by, and the dollars paid to the DBE for the current quarter and to date.
- J. Each contract that the Municipality signs with a Contractor and each subcontract the Contractor signs with a subcontractor must include the following assurance: *The contractor, sub recipient*

or subcontractor 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 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.

IV. MATERIAL SUPPLIERS OR MANUFACTURERS

- A. If the Contractor elects to utilize a DBE supplier or manufacturer to satisfy a portion or all of the specified DBE goal, the Contractor must provide the Municipality with:
 - 1. An executed "Affidavit for the Utilization of Material Suppliers or Manufacturers" (sample attached), and
 - 2. Substantiation of payments made to the supplier or manufacturer for materials used on the project.
- B. Credit for DBE suppliers is limited to 60% of the value of the material to be supplied, provided such material is obtained from a regular DBE dealer. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the Contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products, need not keep such products in stock if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as material suppliers or manufacturers.
- C. 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 Municipality, Department of Transportation or Contractor.

V. NON-MANUFACTURING OR NON-SUPPLIER DBE CREDIT:

- A. Contractors may count towards their DBE goals the following expenditures with DBEs that are not manufacturers or suppliers:
 - 1. 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 Municipality to be reasonable and consistent with fees customarily allowed for similar services.
 - 2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is a DBE but is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fees are determined by the Municipality to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - 3. 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 the

Municipality to be reasonable and not excessive as compared with fees customarily allowed for similar services.

VI. BROKERING

- A. 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.
- B. DBEs involved in the brokering of subcontract work that they were approved to perform may be decertified.
- C. 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. Department of Transportation's Office of the Inspector General for prosecution under Title 18, U.S. Code, Section 10.20.

VII. REVIEW OF PRE-AWARD GOOD FAITH EFFORTS

- A. If the Contractor does not document pre-award commitments by subcontracting and/or procurement of material and/or services that at least equal the goal stipulated in III-B, the Contractor must document the good faith efforts that outline the specific steps it took to meet the goal. The Contract will be awarded to the Contractor if its good faith efforts are deemed satisfactory and approved by ConnDOT. To obtain such an exception, the Contractor must submit an application to the Municipality, which documents the specific good faith efforts that were made to meet the DBE goal. **Application form for Review of Pre-Award Good Faith Efforts is attached hereto.**

The application must include the following documentation:

- 1. a statement setting forth in detail which parts, if any, of the Contract were reserved by the Contractor and not available for bid by subcontractors;
- 2. a statement setting forth all parts of the Contract that are likely to be sublet;
- 3. a statement setting forth in detail the efforts made to select subcontracting work in order to likely achieve the stated goal;
- 4. copies of all letters sent to DBEs;
- 5. a statement listing the dates and DBEs that were contacted by telephone and the result of each contact;
- 6. a statement listing the dates and DBEs that were contacted by means other than telephone and the result of each contact;
- 7. copies of letters received from DBEs in which they declined to bid;
- 8. a statement setting forth the facts with respect to each DBE bid received and the reason(s) any such bid was declined;
- 9. a statement setting forth the dates that calls were made to ConnDOT's Division of Contract Compliance seeking DBE referrals and the result of each such call; and

10. any information of a similar nature relevant to the application.

The review of the Contractor's good faith efforts may require an extension of time for award of the Contract. In such a circumstance, and in the absence of other reasons not to grant the extension or make the award, the Municipality will agree to the needed extension(s) of time for the award of the Contract, provided the Contractor and the surety also agree to such extension(s).

- B. Upon receipt of the submission of an application for review of pre-award good faith efforts, the Municipality shall submit the documentation to ConnDOT initiating unit for submission to the ConnDOT Division of Contract Compliance. ConnDOT Division of Contract Compliance will review the documents and determine if the package is complete, accurate and adequately documents the Contractor's good faith efforts. Within fourteen (14) days of receipt of the documentation, the ConnDOT Division of Contract Compliance shall notify the Contractor by certified mail of the approval or denial of its good faith efforts.
- C. If the Contractor's application is denied, the Contractor shall have seven (7) days upon receipt of written notification of denial to request administrative reconsideration. The Contractor's request for administrative reconsideration should be sent in writing to the Municipality. The Municipality will forward the Contractor's reconsideration request to the ConnDOT initiating unit for submission to the DBE Screening Committee. The DBE Screening Committee will schedule a meeting within fourteen (14) days from receipt of the Contractor's request for administrative reconsideration and advise the Contractor of the date, time and location of the meeting. At this meeting, the Contractor will be provided with the opportunity to present written documentation and/or argument concerning the issue of whether it made adequate good faith efforts to meet the goal. Within seven (7) days following the reconsideration meeting, the chairperson of the DBE Screening Committee will send the Contractor, via certified mail, a written decision on its reconsideration request, explaining the basis of finding either for or against the request. The DBE Screening Committee's decision is final. **If the reconsideration is denied, the Contractor shall indicate in writing to the Municipality within fourteen (14) days of receipt of the written notification of denial, the DBEs it will use to achieve the goal indicated in III-B.**
- D. Approval of pre-award good faith efforts does not relieve the Contractor from its obligation to make additional good faith efforts to achieve the DBE goal should contracting opportunities arise during actual performance of the Contract work.

APPENDIX A TO 49 CFR PART 26 -- GUIDANCE CONCERNING GOOD FAITH EFFORTS

- I. When, as a recipient, you establish a Contract goal on a DOT-assisted Contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.
- II. In any situation in which you have established a Contract goal, Part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE Contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE Contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.
- III. The Department also strongly cautions you against requiring that a bidder meet a Contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a Contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.
- IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
 - A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the Contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
 - B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out Contract work items into economically feasible units to facilitate DBE participation, even when the prime Contractor might otherwise prefer to perform these work items with its own forces.

- C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the Contract in a timely manner to assist them in responding to a solicitation.
- D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as Contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the Contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime Contractor to perform the work of a Contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime Contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to meet the project goal.
- F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
- G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- H. Effectively using the services of available minority/women community organizations; minority/women Contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
- V. In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the Contract. For example, when the apparent successful bidder fails to meet the Contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

**AFFIDAVIT FOR THE UTILIZATION OF
MATERIAL SUPPLIERS OR MANUFACTURERS**

This affidavit must be completed by the Municipality 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 Project No. _____

Federal Aid Project No. _____

Description of Project _____

I, _____, acting in behalf of _____
(Name of person signing Affidavit) (DBE person, firm, association or organization)
of which I am the _____ certify and affirm that _____
(Title of Person) (DBE person, firm, association or organization)

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 organization)

contractual responsibility for the provision of the materials and/or supplies sought by _____
(Municipality Contractor)

If a manufacturer, I produce goods from raw materials or substantially alter them before resale, or if a supplier, I perform a commercially useful function in the supply process.

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

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

(Signature of Person Certifying)

(Date)