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**Written Testimony in Opposition of:
Senate Bill 736
An Act Concerning a Surety Bond Guarantee Program for Emerging Contractors**

**Joint Committee on Labor & Public Employees Public Hearing
February 17, 2011**

Good afternoon Senator Prague, Representative Zalaski and members of the Labor and Public Employees Committee. My name is Kim Hawkins and I am the Director of the HEDCo Business Resource Center. I would like to thank the Committee for the opportunity to provide my written testimony in opposition of **Senate Bill 736: An Act Concerning a Surety Bond Guarantee Program for Emerging Contractors**.

In 2007, HEDCo was approved by DECD to manage "The Minority Bonding Guaranty Program" designed to assist minority owned construction firms in obtaining Payment Bonds for Capital Construction Projects located in Hartford.

At the time of approval the State provided a \$1,000,000.00 guarantee. Though our partnership with Travelers, we (HEDCo) were able to increase our ability to provide bonding opportunities up to \$20 million.

In 2010, the State Bond Commission approved the expansion of the program to include the Cities of Bridgeport, New Haven and New London. We traveled to those Cities and have made connections with organizations who work with the minority contracting community to make them aware of this important opportunity.

Currently, the Bond Commission has an item on the agenda to expand the minority bond guarantee program with an allocation of \$2million in view of the addition of the three cities to the program. This increases the guarantee fund from \$1 million to \$3 million. Travelers has agreed to expand their commitment to the additional cities as well.

I have enclosed in your package a copy of our amended assistance agreement along with the letter from Travelers stating their commitment to HEDCo and a report that shows the impact we have made over the past three years.

For these reasons, we urge the Committee to oppose Senate Bill 736. Thank you again, for the opportunity to address my disagreement toward this piece of legislation.



One Tower Square
Hartford, CT 06183

Terry F. Lukow
Executive Vice President
Construction Services
Bond, 2S2B
(860) 277-2225
FAX: (860) 277-3931

February 23, 2007

Samuel C. Hamilton, Executive Director
Hartford Economic Development Corporation
15 Lewis Street – Room 204
Hartford, CT 06103

Dear Sam:

Re: Performance and Payment Bond Pilot Program

I am writing to reaffirm the commitment of Travelers to provide up to \$20 Million in a surety facility subject to normal underwriting. This commitment is intended to assist in the expansion of minority-owned construction firms. Travelers' participation is contingent upon the following:

- 1) HEDCo is designated as the managing entity for this project by the State of Connecticut; Development of Economic and Community Development; and
- 2) The State of Connecticut places \$1,000,000 in a Reich & Tang account in HEDCo's name to be utilized for offset of losses and administration costs to operate this program.

Travelers will provide assistance through its underwriting, marketing, claim, and other personnel to enhance the success of this program. I look forward to hearing from you on the outcome of the award process.

Sincerely,

Terry F. Lukow

:avp

Payment Bond Approval

Company Name/Address	Contact Person	Largest Project	Bond Request	Bond Amt. App.	Project	Approval		Comments	App. Year
						Yes	No		
Reynolds Welding 3468 Main Street Hartford, CT 06120 860-545-0609	Jerrado Reynolds	221,753	50,000	50,000	Carbeta	X		bond was not required	2008
Brayman Hollow Masonry, I Adran Dupree 120 Ledyard Street Hartford, CT 06114 296-7702		4,368,324	500,000	250,000	das prequal.	X		letter given a bond approval	2010
MCM Acoustics 495 Farmington Avenue Hartford, CT 06105 523-9761	Michael Gallimore	200,000	250,000	0	none	X		financial responsibilities not being managed company was looking to determine if they qualify	2008
ATR Electrical Contractor Arthur Rose 920 Westersfield Avenue Hartford, CT 06114 982-6766									
Penny's Construction 67 Fishfy Street Hartford, CT 06120 241-0933	Preston Neal	165,000	250,000	0	MDC	X		submission of paperwork was late for bid date	2009
Murray Enterprise, LLC 98 Wadhams Road Bloomfield, CT 06002 860-286-9840	Kenneth Murray	25,000	150,000	0	none	X		looking to qualify for bonding. Moving from residential to commercial	2010

Payment Bond Approval

Company Name/Address	Contact Person	Largest Project	Bond Request	Bond Amt. App.	Project	Approval Yes No	Comments	App. Year
Reliable Mechanical 11 Palisado Avenue Windsor, CT 683-2959	Elija El-Hajj-Bey	670,000	750,000	250,000	New Haven das prequal	X	program doesn't cover New Haven	2009/20
Fine Line Builders Sargent Street Hartford, CT 06112 860-525-6878	Gus Rodney	85,000	100,000	100,000		X	increase bond capacity	2008
Urban Contractors Main Street Hartford, CT	Shirkir	980,000	1,000,000	1,000,000	hartford	X	bond not required	2008
Dersca Construction Co. Broad Street Hartford, CT 061	Yasha Esclara		1,000,000	1,000,000	housing	X	project didn't move forward	2008
Enterprise Fire Protection 242 Cook Avenue Meriden, CT 06451 203-671-5855	Freddie Robie	567,000	567,000		meriden		to large a jump in work capabilities	2010
Totals			7,692,000	3,325,000				

AMENDED AND RESTATED ASSISTANCE AGREEMENT
BY AND BETWEEN
THE STATE OF CONNECTICUT
ACTING BY THE DEPARTMENT OF ECONOMIC AND COMMUNITY
DEVELOPMENT
(An Equal Opportunity Employer)
AND
HARTFORD ECONOMIC DEVELOPMENT CORPORATION

RE: The Minority Bonding Guaranty Program

This AMENDED AND RESTATED ASSISTANCE AGREEMENT (as herein amended and restated, the "Agreement") is made and entered into by and between the STATE OF CONNECTICUT, (hereinafter the "State"), acting herein by Joan McDonald, its Commissioner of Economic and Community Development, (hereinafter the Commissioner"), pursuant to section 4-66c of the Connecticut General Statutes (the "Act") and Hartford Economic Development Corporation, Inc., a non-stock corporation organized and existing pursuant to the laws of the State of Connecticut (herein after the "Applicant" or "contractor") acting herein by Samuel C. Hamilton, its duly authorized Executive Director.

WITNESSETH:

WHEREAS, the governing body of the Applicant has submitted to the State a series of documents including acceptance in response to a funding letter submitted to it by the Commissioner dated August 30, 2007 (the "Commissioner's Proposal"), an Application for Financial Assistance, a resolution from the Applicant's appropriate organizational body authorizing the Applicant to submit said Application, a Project Financing Plan and Budget, and exhibits, if any, and has caused to have submitted an Opinion of counsel and other documents (all, together with all other documents and agreements executed by the Applicant in Connecticut with this Agreement, hereinafter the "Program Documents") for a program entitled The Minority bonding guaranty Program (hereinafter the "Program") and has represented to the State that it can rely upon the information within the Program Documents as being accurate and complete; and

WHEREAS, Applicant and State entered into an Original Assistance Agreement identified by project reference as "The Minority Bonding Guaranty Program" and executed by the Deputy Commissioner of DECD on November 23, 2007, pursuant to which State provided a grant to the Applicant of ONE MILLION DOLLARS (\$1,000,000) under the Urban Act, Connecticut General Statutes section 4-66c (the "Funding"); and

WHEREAS, on March 16, 2010, the State Bond Commission approved an expansion of the guaranty program to include the Cities of Bridgeport, New Haven, and New London; and

WHEREAS, as of the date hereof, State has not advanced any of the Funding; and

WHEREAS, Applicant and State have agreed to amend and restate the terms and conditions of the Original Assistance Agreement to, among other things, reflect the modification of the guaranty program deliverables and guidelines, extend the Project Financing Plan and Budget, and to confirm the agreements between the parties relative thereto; and

WHEREAS, the Original Agreement provided that any modification thereto must be in writing signed by the parties.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the State and the Applicant hereby agree as follows:

ARTICLE 1 - STATE OBLIGATIONS

1.1 Financial Assistance. The State hereby agrees, subject to the terms of this Agreement and its Exhibits, to provide financial assistance to the Applicant for the Program in the form of an Urban Act Grant in an amount not to exceed One Million and 00/100 Dollars (\$1,000,000) (hereinafter collectively referred to as the "Funding").

ARTICLE 2 - APPLICANT WARRANTIES, COVENANTS, AND OBLIGATIONS

The Applicant represents warrants and covenants as follows, and further covenants that on and after the closing and for so long as this Agreement or any clause thereof shall remain in effect:

2.1 Form of Entity. The Applicant is a corporation duly created and validly existing, or properly registered to do business, under the laws of the State of Connecticut and each other jurisdiction where the ownership of its property or the conduct of its business requires qualification. Further, that the Applicant will preserve and maintain its existence as a corporation duly organized validly existing, and in good standing under the laws of Connecticut, and will remain qualified to do business and in good standing in each other jurisdiction where the nature of its business or the ownership of its property makes such qualification necessary

2.2 Ability to Conduct Business. The Applicant has all franchises, permits, licenses, and other similar authorizations necessary for the conduct of its business as now being conducted by it, and it is not aware of any state of facts that would make it impossible or impractical to obtain any similar authorization necessary for the conduct of its business as planned to be conducted. The Applicant is not in violation, nor will the transactions contemplated by the Agreement or the Program Documents to which it is a party, cause a violation of the terms or provisions of any such franchise, permit, license, or similar authorization.

2.3 Authorization to Enter and Execute Program Documents. The execution and delivery of the Program Documents and this Assistance Agreement by the Applicant, and the performance of its obligations thereunder, are within its power, have been duly authorized by all necessary action on its part and are not in contravention of law nor in contravention of its organizational documents or governing by laws or of the provisions of any indenture, agreement, or undertaking to which it, its principals or employees are parties or by which they are bound.

2.4 Other Authorization Unnecessary. No consent, license, or approval from any governmental authority is or will be necessary for the valid execution and delivery by the Applicant of the Program Documents. The Applicant agrees that nothing in this Agreement relieves it from any obligation under law to obtain any such license, consent, or approval.

2.5 Agree to Undertake Program. The Applicant agrees to undertake and complete the Program Deliverables and Guidelines in accordance with the Attached Exhibit B.

2.6 Obstacles to Entering and Executing Program.

(A) Existing Suit or Other Actions. There is no action, suit, proceeding or investigation at law, in equity, or before any court, public board, arbitrator, or body, pending or, to the Applicant's knowledge, threatened against or affecting it, which could or might adversely affect the Program or any of the transactions contemplated by the Program Documents or the validity of the Program Documents, or the Applicant's ability to discharge its obligations under the Program Documents.

(B) Default of Existing Orders or Instruments. The Applicant is not in default beyond any applicable notice and grace periods with respect to any order of any court, arbitrator, or governmental body which could or might adversely affect the Program or any of the transactions contemplated by the Program Documents or the validity of the Program Documents, or the Applicant's ability to discharge its obligations under the Program Documents. In addition, the Applicant is not in default beyond any applicable notice and grace periods in the performance, observance or fulfillment of any of the terms, obligations, covenants, conditions, or provisions contained in any agreement or instrument to which the Applicant is a party or to which its property is subject, which default, together with all such defaults, singularly or in the aggregate, may have a materially adverse effect on the business, assets, liabilities, financial condition, results of operations or business prospects of the Applicant.

(C) Instance of Default. No Instance of Default (as defined in Section 4.1 hereof) has occurred or is continuing, and the Applicant has no knowledge of any currently existing facts or circumstances which, with the passage of time or the giving of notice, or both, would constitute an Instance of Default.

2.7 Material Adverse Change.

(A) Financial Condition. There has been no material adverse change in the financial condition of the Applicant, since the date of application for the Funding that has not been previously disclosed in writing to the Commissioner.

(B) Representations in Documents. All financial statements and all other written statements furnished by the Applicant in connection with the Funding do not contain any untrue statements of material fact and do not omit any material fact whose omission would make the statements contained therein or herein misleading.

(C) Other Facts. There is no fact which the Applicant has not disclosed to the Commissioner in writing, which writing, if any, is attached hereto as Exhibit A, which materially and adversely affects or, as far as the Applicant can reasonably foresee, is reasonably likely to prove to affect materially and adversely the business, operations, properties, prospects, profits, or condition of the Applicant. Further, the Applicant will notify the Commissioner, in writing, promptly of any material adverse change in the financial condition or business prospects of the Applicant.

2.8 Use of State Funding. The Funding shall be used for the Program as set forth in accordance with the most recently approved Project Financing Plan and Budget and Exhibit B. The Funding shall be used for that purpose and for no other purpose.

(A) Additional Costs Above Funding. Any amount in excess of the amount of the Funding that may be necessary to cover the cost of the Program as set forth in the most recently approved Program Financing Plan and Budget shall be the responsibility of the Applicant and shall not be covered by the Funding. The Applicant shall, as a minimum, provide the level and sources of funding as indicated

in the Program Documents, and shall expend those funds in accordance with the Program Financing Plan and Budget.

(B) Budget. The Program Financing Plan and Budget most recently approved by the Commissioner shall constitute the budget for the Program. The Program Financing Plan and Budget may be amended by request of the Applicant if such request is approved in writing by the Commissioner. Approval by the Commissioner of any revised Program Financing Plan and Budget shall not constitute or imply a revision of the amount of the Funding.

2.9 Payment of Other Obligations. The Applicant will pay and discharge promptly when due and payable all taxes, assessments and governmental charges levied or imposed upon it, its property, or any part thereof, or upon its income or profits, or any part thereof, as well as all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien or charge upon its property, provided that such charges need not be paid while being contested by the Applicant in good faith and by appropriate legal proceedings so long as adequate book reserves have been established with respect thereto and the Applicant's title to, and its right to use, its property is not materially and adversely affected thereby. The Applicant also agrees to pay all taxes or duties levied or assessed upon said sum against the State, the obligation evidenced hereby or the collateral securing the same and to pay all costs, expenses, and attorneys' reasonable fees incurred by the State in any proceeding for the collection of the obligations evidenced hereby or in any litigation or controversy arising from or connected with the Program Documents.

2.10 Compliance with Laws, Regulations, Rules, and Executive Orders. In the administration and execution of the Program, the Applicant shall comply with all pertinent provisions of local, State and Federal law applicable to it and/or its properties and/or its business, and maintain its property in good repair. Failure to do so shall constitute an Instance of Default by the Applicant under this Agreement. The Applicant agrees to provide each labor union or representative of workers with which such Applicant has a collective bargaining agreement or other contract or understanding and each vendor with which such Applicant has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Applicant's commitments under this Section, and to post copies of such notice in conspicuous places available to be seen by employees and applicants for employment.

Specifically, but not by way of limitation, the Applicant agrees to the following:

(A) Compliance with Nondiscrimination and Affirmative Action in accordance with C.G.S. section 4a-60.

(1) (a) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (b) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal

opportunity employer" in accordance with regulations adopted by the commission; (c) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (d) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (e) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records, and accounts, concerning the employment practices and procedures of the applicant as relate to the provisions of this section and section 46a-56. If the contract is a public works contract, the contractor agrees and warrants that it will make a good faith effort to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

(2) For the purposes of this section, "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (a) who are active in the daily affairs of the enterprise, (b) who have the power to direct the management and policies of the enterprise and (c) who are members of a minority, as such term is defined in subsection (a) of Conn. Gen. Stat. section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

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

For the purposes of this section, "Public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

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

(4) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.

(5) The contractor shall include the provisions of subsection (A)(1) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of this Agreement with the State and such provisions shall be binding on a subcontractor, vendor, or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. section 46a-56;

provided if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

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

(B) Further Agreements re Compliance with Nondiscrimination.

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56 of the General Statutes; the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56 of the General Statutes.

(2) The contractor shall include the provisions of subsection (B)(1) in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56 of the General Statutes; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

(3) For the purposes of sections (A) and (B) of this section 2.10, "contract" means the Agreement and includes any extension or modification of the contract, "contractor" includes any successors or assigns of the contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders. Further, "contract" does not include a contract where each contractor is: (i) a political subdivision of the state, including, but not limited to, a municipality; (ii) a quasi-public agency, as defined in section 1-120 of the Connecticut General Statutes; (iii) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in section 1-267 of the Connecticut General Statutes; (iv) the federal government; (v) a foreign government; or (vi) an agency of a subdivision,

agency, state or government described in the immediately preceding enumerated items (i), (ii), (iii), (iv) or (v).

(C) Executive Order No. Three. This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 and, as such, this Agreement may be cancelled, terminated or suspended by the State Labor Commissioner for violation or of noncompliance with said Executive Order No. Three, or any State or Federal Law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this Agreement. The parties to this Agreement, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to Agreement performance in regard to nondiscrimination, until the Agreement is completed or terminated prior to completion. The Applicant agrees as part consideration hereof, that this contract is subject to the guidelines and rules issued by the State Labor Commissioner to implement Executive Order No. Three and that it will not discriminate in its employment practices or policies, will file all reports as required, and will fully cooperate with the State and the State Labor Commissioner.

(D) Executive Order No. Sixteen. This Agreement is subject to, and Applicant hereby agrees to abide by Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, and, as such, the Agreement may be cancelled, terminated or suspended by the State for violation or noncompliance with said Executive Order No. Sixteen.

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

(F) Environmental Laws. INTENTIONALLY OMITTED.

(G) Taxes. The Applicant has filed all federal, state, and municipal income and other tax returns which are required to be filed, and has paid, or made provision for the payment of, all taxes which have become due pursuant to said returns, except such taxes, if any, which are being contested in good faith and as to which adequate reserves have been provided.

(H) Relocation. The Applicant shall not relocate any of its Hartford, CT operations outside of the State of Connecticut for a period of ten (10) years after the date upon which the Original Agreement was fully executed by the Attorney General of the State of Connecticut which date is identified as December 7, 2007. If the Applicant relocates within the State of Connecticut during the ten (10) year period, it shall offer employment at the new location to its employees from the original location if such employment is available.

(I) Campaign Contribution and Solicitation Prohibitions. For all State contracts as defined in C.G.S. sec. 9-612 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to

this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. This notice, SEEC Form 11, is attached hereto as Exhibit D.

2.11 Other Debt. The Applicant will not, either directly or indirectly, except in the course of its ordinary business and in a manner which will not have a materially adverse impact on the Applicant's ability to perform its obligations pursuant to the Agreement and the Program Documents guarantee, endorse, become surety for, or otherwise be or become responsible for the obligations of any other person, whether by agreement to purchase the indebtedness of any other person, or agreement for the furnishing of funds to any other person, directly or indirectly, through the purchase of goods, supplies, (or by way of stock purchase, capital contribution, advance or loan) or for the purpose of paying or discharging the indebtedness of any other person or otherwise, except for the endorsement by the Applicant of negotiable instruments for collection in the ordinary course of business without the written consent of the Commissioner.

2.12 Conflict of Interest. The Applicant will adopt and enforce measures appropriate to assure that no member of the Applicant's governing bodies and none of its officers or employees shall have or acquire voluntarily an interest in any agreement or proposed agreement in connection with the undertaking or carrying out of the Program.

2.13 Notification of Instance of Default by Applicant. The Applicant shall notify the Commissioner promptly of the occurrence of any default hereunder or under any of the other Program Documents, or any other document, instrument or agreement to which the Applicant or its properties are subject and of the actions it intends to take in order to cure such default in a timely manner.

2.14 Business Continuation and Transfer of Control. The Applicant shall not, either voluntarily or involuntarily, discontinue its business, be dissolved or otherwise suffer or permit any termination of its status as a business entity as described in Paragraph 2.1 above, or transfer, sell or assign all or a material portion of its properties or assets, or enter into any merger or consolidation with another entity without the prior written consent of the Commissioner.

2.15 Representations in Other Documents. All statements contained in any certificate, financial statement, legal opinion or other instrument delivered by or on behalf of the Applicant or any Guarantor pursuant to or in connection with this Agreement shall constitute representations and warranties made under this Agreement. All representations and warranties made under this Agreement shall be made at and as of the date of this Agreement, and at and as of the date of receipt of the Funding. All representations and warranties made under this Agreement shall survive the execution and delivery hereof and shall not be deemed to have been waived by any investigation made or not made by the State. The Program Documents to which the Applicant is a party, when delivered, will be legal, valid, and binding obligations of the Applicant, enforceable against it in accordance with their respective terms.

2.16 Security. INTENTIONALLY OMITTED.

2.17 Tax Exempt Status. Applicant: (i) is an organization described in section 501(c)(3) of the Internal Revenue Code (the "Code"), or corresponding provisions of prior law and that is not a "private foundation" as defined in the Code; (ii) it has received a letter or letters from the Internal Revenue Service to such effect; (iii) such letter or letters have not been modified, limited or revoked; (iv) is in compliance with all terms, conditions and limitations, if any, contained in such letter; (v) the facts and circumstances which form the basis of such letter as represented to the Internal Revenue Service continue to substantially exist; and (vi) is exempt from Federal income taxation under section 501(a) of the Code.

ARTICLE 3 - PROGRAM ADMINISTRATION

3.1 Records.

(A) Generally. The Applicant shall maintain records in a complete, businesslike manner, including full, accurate and current minutes and records of the Program in a form satisfactory to the Commissioner. The Applicant will furnish to the Commissioner or his designee, at such times as the Commissioner shall determine any document, data, and information relating to the Program in possession of the Applicant which is requested by the Commissioner. The Commissioner, or his designee, shall, for the purpose of determining the proper disposition of the Funding, have the right at any time during normal business hours to inspect the minutes, records, books, files, documents, payrolls, employment contracts and conditions, contracts, and any other papers or electronic records of the Applicant, or to make inspection of any physical location of the Applicant. The Applicant shall aid and cooperate with any such inspection.

(B) Connecticut Department of Labor ("DOL") Number Access Agreement. The Applicant agrees that the State, acting through the Department of Economic and Community Development ("DECD") may obtain directly from the DOL and disclose, as part of its reporting requirements to the Connecticut State Legislature and Auditors of Public Accounts, information pertaining to Applicant's employment levels. The Applicant shall execute such consents as the Commissioner and/or DOL may require authorizing the Commissioner to obtain the Applicant's employment records directly from DOL. The Applicant acknowledges and agrees that the information so obtained and disclosed may include employer name, address, and number of employees, by facility location, for the purposes of fulfilling DECD's reporting requirements in accordance with section 32-1m of the Connecticut General Statutes, as may be amended or modified. Further, the Applicant agrees that this employment information may be utilized for purposes of performing employment audits and research-related activities conducted by DECD.

The Applicant also agrees that if requested, it will complete any form provided by DECD that is needed to assist in the completion of DECD's annual consolidated report to the General Assembly as required under section 32-1m of the Connecticut General Statutes, as maybe amended or modified, if applicable.

3.2 Payment to Applicant. In order to permit the State to make payment to the Applicant with respect of the Funding, the Applicant agrees as follows:

(A) Tax Exempt Account Creation. Upon the execution of this Agreement, the State and the Applicant shall establish a sub-account in the Tax Exempt Proceeds Fund, Inc. (hereinafter referred to as the "**Fund**") in the name of the Applicant. Said Fund shall be the sole authorized depository for State funding subject to the Internal Revenue Code.

(B) Compliance with Internal Revenue Service Regulations. The Applicant agrees to comply with arbitrage restrictions imposed on the Fund by the Internal Revenue Code of 1986, as amended (hereinafter the "**Code**").

(C) Requisition Form. In order to bring about the transfer of monies into the Fund, the Applicant shall requisition funds on forms provided by the Commissioner and in the manner prescribed by this Agreement. Payment to the Fund will be made based upon said requisition forms.

(D) Payments from Tax Exempt Account. The Applicant shall be the sole party authorized to make withdrawals from the Fund; provided, however, that the Applicant shall not make any withdrawals from the Fund until:

(1) the Applicant has submitted to the State documentation describing the expenditure, and the State has approved such documentation; or

(2) the Applicant directs that all withdrawal drafts shall be made payable:

(i) directly to the contractor(s) or vendor(s) for the Program; or
(ii) to the Applicant itself for reimbursement after the Applicant has paid a contractor or vendor from other monies, provided, further, that the Applicant indicates on each draft made payable to the Applicant itself, the date(s) of previous payment(s) made to such contractor(s) or vendor(s) for the Program and the source of funding thereof.

(E) Fund Dividends. All dividends and distributions from investments purchased with the proceeds deposited with the Fund, if any, shall be automatically invested in additional Fund shares. The Applicant shall not receive such dividends or distributions in cash. Reinvested dividends must be returned to the State.

(F) Documentation. If requested by the Commissioner, the Applicant will promptly demonstrate to the satisfaction of the Commissioner that it has complied with any particular provision of this Article.

(G) Preagreement Costs. Unless authorized by the Commissioner in writing, no costs incurred prior to October 26, 2006 are eligible for payment from the Funding.

3.3 Insurance. Applicant shall maintain all required insurance in amounts, form, substance and quality acceptable to the State, as described more fully in Exhibit C, attached hereto and made a part hereof. A certificate evidencing such insurance shall be delivered to the Commissioner at the time of execution of this Agreement, and annually thereafter for the duration of the Agreement.

3.4 Personal Service Contracts. All Program cost items of personal service, except those to be performed by volunteers and those to be performed by employees of the Applicant who will not receive extra compensation for such service, shall be performed pursuant to a written contract, and the Applicant shall, upon request, provide the Commissioner with copies of all such contracts.

3.5 Inspections. The Commissioner shall from time to time, in her discretion, during regular business hours, have the right of making an inspection of the Collateral, and the Applicant shall assist the Commissioner in said inspection and shall make available such books and other records as the Commissioner may reasonably request.

3.6 Audit. Each Applicant subject to a federal and/or state single audit must have an audit of its accounts performed annually. The audit shall be in accordance with the DECD Audit Guide, located at <http://www.ct.gov/ecd/cwp/view.asp?a=1096&q=249676>, and the requirements established by federal law and state statute. All Applicants not subject to a federal and/or state single audit shall be subject to a Program-specific audit of its accounts within ninety (90) days of the completion of the Program or at such times as required by the Commissioner. Such audit shall be in accordance with the DECD Audit Guide. An independent public accountant as defined by generally accepted government auditing standards (GAGAS) shall conduct the audits. At the discretion and with the approval of the Commissioner,

examiners from the Department of Economic and Community Development may conduct Program-specific audits.

3.7 Repayment to State Based Upon Audit. In the event that an audit referred to in section 3.6 above demonstrates that the actual expenditures made by the Applicant in connection with the Program are less than the maximum allowable amounts for disbursement by the State, as set forth in section 1.1 above, any such excess disbursement made by the State in respect of the Funding shall become immediately due and payable by the Applicant to the State. Upon repayment by the Applicant of such excess amount of the Funding which has been disbursed to the Applicant, the stated amount of the Funding under this Agreement shall be amended, as applicable, so as to evidence the actual amount of the Funding which has been received by the Applicant.

3.8 Reports. The Applicant shall furnish upon request to the State within ninety (90) days of the end of each of the Applicant's fiscal year(s), or earlier as determined by the Commissioner for each year that this Agreement remains in effect, such financial and other information that the Commissioner may require at his/her discretion.

3.9 Semi-Annual Project Financial Statements. The Applicant shall provide a semi-annual unaudited Balance Sheet and cumulative Statement of Program Cost to the Commissioner in the approved DECD project statement format as outlined in the most current Accounting Manual located at <http://www.ct.gov/ecd/cwp/view.asp?a=1096&q=249670>. This information will be required to be provided within 30 days after June 30th and December 31st until the expiration date of the Program Financing Plan and Budget, as may be amended from time to time.

ARTICLE 4 - DEFAULT

4.1 Instances of Default. The occurrence of any of the following events shall constitute a default under this Agreement (an "Instance of Default"):

(A) Breach of Agreement. If the Applicant fails to perform any act, duty, obligation or other agreement contained herein or in any other Program Document or fails to forebear from any unpermitted act, or if the Applicant abandons or terminates the Program, or takes such steps that such an abandonment or termination is imminent.

(B) Misrepresentation. If any representation or warranty made by the Applicant or caused to be made for the Applicant in any of the Program Documents prove at any time to be incorrect in any material respect.

(C) Unpaid Judgments. If a judgment or judgments for the payment of money shall be rendered against Applicant and any such judgment shall remain unpaid, unstayed on appeal, unbonded, undischarged or undismissed for a period of ninety (90) consecutive days.

(D) Receivership or Bankruptcy. If the Applicant shall: (i) apply for or consent to the appointment of a receiver, trustee or liquidator of all or a substantial part of any of its assets; (ii) be unable or admit in writing its inability to pay its debts as they mature; (iii) file or permit the filing of any petition or reorganization or the like under any insolvency or bankruptcy law, or the adjudication of it as a bankrupt, or make an assignment for the benefit of creditors or consent to any form of arrangement for the satisfaction, settlement or delay of debt or the appointment of a receiver for all or any part of its properties; or (iv) any action shall be taken by Applicant for the purpose of effecting any of the foregoing.

(E) Change in Business Structure. If the Applicant shall dissolve or liquidate, or be dissolved or liquidated, or cease to legally exist, or merge or consolidate, or be merged or consolidated with or into any corporation or other business entity without the written consent of the Commissioner.

(F) Condemnation or Seizure. If any Federal, state or local governmental instrumentality, body or agency shall condemn, seize or otherwise appropriate, or take custody or control of all or any substantial portion of the properties or assets of Applicant.

(G) Lack of Adequate Security. If the State, at any time and in good faith, deems itself to be insecure. For the purposes of this Agreement, the State shall be entitled to deem itself insecure when some event occurs, fails to occur or is threatened or some objective condition exists or is threatened which materially impairs the prospects of the Applicant's business, which significantly impairs the value of the Collateral to the State, or which materially affects the financial condition or business operations of Applicant or any Guarantor. Also included is the actual or threatened waste, removal, or demolition of, or material alteration to, any significant part of the Applicant's property.

(H) Cancellation of Insurance. Failure of the Applicant to keep in force all insurance required by this Agreement.

(I) Failure to Pay Debts. Failure of the Applicant or any Guarantor to pay its debts as such debts become due. Failure to pay when due and payable the principal of or interest on or any other amount owed with respect to any indebtedness for borrowed money upon which either the Applicant or any Guarantor is obligated to make payment, or the maturity of any such indebtedness shall have been accelerated in accordance with the provisions of any agreement or instrument providing for the creation of or concerning such indebtedness, or any event shall have occurred and be continuing after any applicable cure period which would permit any holder or holders of such indebtedness, any trustee or agency acting on behalf of such holder or holders or any other person so to accelerate such maturity.

(J) Violation of Terms in Other Program Documents. The occurrence of a default or violation under any of the Program Documents.

4.2 Events in Instances of Default.

(A) Notice of Default. If the Applicant defaults or shall commit or allow any breach of the Applicant's covenants, agreements and other obligations under this Agreement, material or otherwise, including, without limitation, an Instance of Default hereunder, the Commissioner shall notify the Applicant of the default in writing ("**Notice of Default**").

(B) Opportunity to Cure. Upon the occurrence of an Instance of Default, the Commissioner may determine that permitting an opportunity to cure a default could jeopardize the Program or security, or would not be in the best interests of the State. Under those circumstances, no opportunity to cure need be given and the Commissioner may seek other remedies. Without in any way limiting the preceding right to act without providing the opportunity to cure, the Commissioner may provide the Applicant thirty (30) days after the Notice of Default, or such longer period of time as the Commissioner may determine and set forth in writing, to cure or remedy the default or breach. Said cure or remedy will not be effective unless accepted, in writing, by the Commissioner.

(C) Remedies. Upon the occurrence of an Instance of Default, the State, acting by the Commissioner, shall have, to the full extent permitted by law, each and all of the following remedies in addition to those provided for in other portions of this Agreement:

(1) To suspend all further payments by the State to the Applicant until such default is cured to the satisfaction of the Commissioner;

(2) To proceed to enforce the performance or observance of any obligations, agreements, or covenants of the Applicant or any Guarantor in this Agreement or the Program Documents;

(3) To declare all of the Funding that is not subject to an existing surety commitment to be immediately due and payable and to bring any and all actions at law or in equity as may be necessary to enforce said obligation of repayment. In such Instances of Default, the Applicant hereby agrees to repay immediately all of the Funding that is not subject to an existing surety commitment and liquidated damages equal to five percent (5%) of the total amount of the Funding received. However, in the event that that Applicant is in default under the terms of section 2.10(G) hereinabove, such liquidated damages shall be equal to seven and one-half percent (7-1/2%) of the total amount of the Funding received;

(4) The right to a writ of mandamus, injunction or similar relief against the Applicant or any or all of the members of the Applicant's governing body, or against the officers, agents or representatives of the Applicant, as may be appropriate, because of such default or breach;

(5) The right to maintain any and all actions at law or suits in equity, including receivership or other proper proceedings, to cure or remedy any defaults or breaches of covenants under this Agreement;

(6) The Applicant agrees that all expenditures incurred by the State under the Project Documents are other than the principal, and the principal of this Agreement after maturity or acceleration or upon an event of default or after a judgment hereon, shall bear interest at the rate of fifteen percent (15%) per annum from the date of demand, acceleration, default or judgment as applicable;

(7) The State may collect costs associated with collection efforts as outlined in paragraph 2.9 of this Agreement.

ARTICLE 5 – MISCELLANEOUS PROVISIONS

5.1 Nonwaiver. If the State does not exercise, or delays in exercising, or exercises in part any of the State's rights and remedies set forth in this Agreement for the curing or remedying of any default or breach of covenant or condition, or any other right or remedy, in no event shall such non-exercise, delay or partial exercise be construed as a waiver of full action by the State or a waiver of any subsequent default or breach of covenant or condition. Nothing in this Agreement may be construed as a waiver or limitation by the Commissioner of the State's sovereign immunity.

5.2 Severance. If any court determines any provision or provisions of this Agreement to be invalid, the remainder of this Agreement shall not be thereby affected.

5.3 Agreement Date. This Agreement shall become effective as of the date of its approval by the Attorney General of the State of Connecticut or his designee.

5.4 Originals. This Agreement shall be executed in one (1) part, which shall be deemed the original.

5.5 Multiple Applicants. If there is more than one Applicant, the obligations hereunder and under the Program Documents shall be joint and several.

5.6. Notices. Any notice to the Applicant pursuant hereto or pursuant to any of the Project Documents may be served in person or by mail. Any such requirement shall be deemed met by any written notice personally served at the principal place of business of the Applicant, or at such other address as the Applicant shall notify the Commissioner, or mailed by depositing it in any post office station or letter box enclosed in a postage-paid envelope addressed to the Applicant at 15 Lewis Street, Hartford, CT 06106 or at such other address as provided above. Any notice to the State, Department, or Commissioner shall be addressed to the Commissioner at 505 Hudson Street, Hartford, CT 06106. Any notice served upon the State, Department, or Commissioner under this Agreement or any other Project Document shall be effective only upon receipt by the Commissioner.

5.7. Waivers by Applicant. The Applicant and all others who may become liable for all or any part of this obligation do hereby waive demand, presentment for payment, protest, notice of protest and notice of non-payment of this Agreement and do hereby consent to any number of renewals or extensions of the time of payment hereof and agree that any such renewals or extensions may be made without notice to any of said parties and without affecting their liability herein and further consent to the release of any part or parts or all of the security for the payment hereof and to the release of any party or parties liable hereon, all without affecting the liability of the other persons, firms or corporations liable for the payment of this Agreement.

5.8. Gender, Number and Captions. The use of a personal pronoun shall refer to all persons regardless of the proper grammatical term; the singular includes the plural; and, captions for sections are included only for reference and do not modify or effect the terms, conditions and provisions of any document, agreement or instrument.

5.9. Modification. This Agreement may not be modified or amended in any manner except in a written agreement executed by all of the parties hereto. In the event that the Applicant seeks modification in the form of consent or subordination to financing required by the Applicant in its normal course of business, the Applicant shall request such modification in writing to the Commissioner not less than thirty (30) days prior to the date such modification is required. The Applicant shall promptly reimburse the State for expenses, including reasonable attorneys' fees, incurred in negotiating and entering into such modification.

5.10. Provision of Other Documents. Upon the request of the Commissioner, the Applicant shall execute and deliver or cause to be executed and delivered such further documents and instruments and do such further acts and things as the Commissioner may request in order to effectuate more fully the purposes of this Program, to secure more fully the payment of the Funding in accordance with its terms, and to vest more completely in and assure to the Commissioner its rights under the Program Documents. Without limiting the generality of the foregoing, the Applicant will join with the Commissioner in executing such financing statements, agreements, notices or other documents or instruments as the Commissioner shall deem necessary or desirable to create, preserve, protect, maintain or enforce its rights and interests in and its liens on the property of the Applicant. The Applicant shall pay the cost of filing and recording, or re-filing and re-recording, such documents and instruments in all public offices in which such filing or recording, or re-filing or re-recording, is deemed by the Commissioner to be necessary or desirable.

5.11. Assignment. This Agreement and any of the documents related hereto and the rights, duties, or obligations thereunder may not be assigned by the Applicant without the written consent of the Commissioner. Any assignment made without the written consent of the Commissioner shall be void and of no force or effect.

5.12 Survival of Representations. For the purposes of this Agreement, the term "Applicant" shall mean and include any successor or assigns of Applicant including any representative of Applicant under the provisions of any state or Federal law governing bankruptcy, insolvency, receivership or reorganization. All warranties, representations and covenants made by the Applicant in this Agreement or in any of the Program Documents or in any certificate or instruments delivered to the State in connection with the Funding shall be considered to have been relied upon by the Commissioner and shall survive until the later of: (i) ten (10) years after receipt of the last installment of the Funding; (ii) the maturity date of the Loan; or (iii) repayment in full of the Funding. This Agreement and the other Program Documents shall be binding upon and inure to the benefit of the successors and assigns of each of the parties; provided, however, that nothing in this provision shall imply that the Applicant has the right or authority to assign its rights, duties or obligations hereunder or under any of the Program Documents without the written consent of the Commissioner.

5.13 Governing Documents. In the event of any conflict between this Agreement and any of the Program Documents, this Agreement shall be controlling.

5.14 Third Parties. This Agreement is between the State and the Applicant only and shall not be relied upon by any third party. Without limiting the foregoing, the State shall have no liability to any party whatsoever (including, without limitation, the Applicant, any Guarantor or anyone conducting business with any of the foregoing) in the event the State, for any reason at any time, determines not to advance the Funding or any portion thereof for any reason or otherwise exercises its rights under this Agreement or any other Program Documents.

5.15 Governing Laws. The laws of the State of Connecticut shall govern this Agreement and the Program Documents.

5.16 Jurisdiction. The Applicant agrees that the execution of the Agreement and the other Program Documents, and the performance of its obligations hereunder and thereunder, shall be deemed to have a Connecticut situs, and the Applicant shall be subject to the personal jurisdiction of the courts of the State of Connecticut with respect to any action the Commissioner, his successors or assigns may commence hereunder or thereunder. Accordingly, the Applicant hereby specifically and irrevocably consents to the jurisdiction of the courts of the State of Connecticut with respect to all matters concerning this Agreement or any of the other Program Documents or the enforcement thereof in any action initiated by the Commissioner or which the Commissioner voluntarily joins as a party.

5.17 Commercial Transaction and Waiver. THE APPLICANT AGREES THAT THE TRANSACTION OF WHICH THIS AGREEMENT IS A PART IS A COMMERCIAL TRANSACTION AND WAIVES ANY RIGHT TO NOTICE, PRIOR HEARING, AND ANY OTHER RIGHTS IT MAY HAVE UNDER CHAPTER 903a OF THE CONNECTICUT GENERAL STATUTES, AS MAY BE AMENDED, OR OTHER APPLICABLE LAW WITH RESPECT TO ANY REMEDY WHICH THE STATE MAY DESIRE TO USE, AND THE COMMISSIONER MAY INVOKE ANY PREJUDGMENT REMEDY AVAILABLE TO HIM, INCLUDING, BUT NOT LIMITED TO, GARNISHMENT, ATTACHMENT, FOREIGN ATTACHMENT AND REPLEVIN, WITH RESPECT TO ANY TANGIBLE OR INTANGIBLE PROPERTY (WHETHER REAL OR PERSONAL) OF THE APPLICANT TO ENFORCE THE PROVISIONS OF THE PROGRAM DOCUMENTS, WITHOUT GIVING THE APPLICANT ANY NOTICE OR OPPORTUNITY FOR A HEARING.

5.18 Jury Trial Waiver. THE APPLICANT HEREBY WAIVES TRIAL BY JURY IN ANY COURT IN ANY SUIT, ACTION OR PROCEEDING OR ANY MATTER ARISING IN CONNECTION WITH OR IN ANY WAY RELATED TO THE TRANSACTION OF WHICH THIS AGREEMENT IS A PART AND/OR THE ENFORCEMENT OF ANY OF ITS RIGHTS AND REMEDIES. THE APPLICANT ACKNOWLEDGES THAT IT MAKES THIS WAIVER KNOWINGLY, VOLUNTARILY AND ONLY AFTER CONSIDERATION OF THE RAMIFICATIONS OF THIS WAIVER WITH ITS ATTORNEY.

ARTICLE 6 - SPECIAL CONDITIONS

6.1 Eligible Participants. Only minority businesses, as further defined herein, located in Connecticut and working on contracts within the City of Hartford, New Haven, Bridgeport and New London are eligible to participate in this guarantee program. A minority business shall mean an owner who controls a 51% ownership interest of the business, as defined under Connecticut General Statutes section 4a-60g(a)(3) and is a member of a minority defined under Connecticut General Statutes section 32-9n, which includes the following: (1) Black Americans, including all persons having origins in any of the Black African racial groups not of Hispanic origin; (2) Hispanic Americans, including all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race; (3) all persons having origins in the Iberian Peninsula, including Portugal, regardless of race; (4) women; (5) Asian Pacific Americans and Pacific islanders; or (6) American Indians and persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification

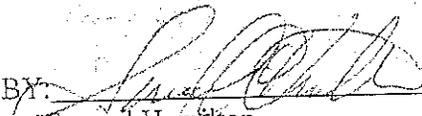
6.2. Final Report. The applicant will be required to submit a final report, as outlined in Exhibit B the Deliverables and Guidelines, to DECD sixty (60) days after the program end date which is determined by the most recently approved Project Financing Plan and Budget.

6.3. Funding Recovery During Program. If any Contractor or Subcontractor who is participating in the program defaults on its bond, and the Applicant is able to recover any funds, the amount that is recovered shall be deposited back into the Applicant's sub-account in the Tax Exempt Proceeds Funds, Inc. Any re-deposits shall be available for use to guarantee payment bonds of additional participating contractors and subcontractors.

At DECD's discretion, staff may be assigned to be a part of the screening process established by Applicant and the surety, as outlined under Exhibit B.

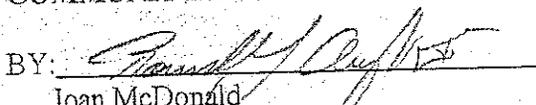
IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

HARTFORD ECONOMIC DEVELOPMENT CORPORATION

BY: 
Samuel Hamilton
Its Executive Director

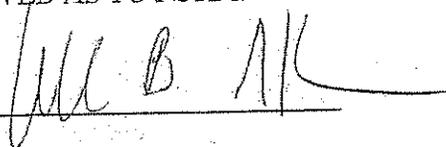
Date: 8/16/2010

STATE OF CONNECTICUT DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

BY: 
Joan McDonald
Its Commissioner

Date: 9.8.10

APPROVED AS TO FORM:



Associate Attorney General

Date 9/15/10

Exhibit A

OTHER WRITINGS

Exhibit B
DELIVERABLES AND GUIDELINES

PROGRAM OVERVIEW

The State of Connecticut Bond Commission (the "Commission") has approved (the "Cities") the funding of a Program designed to assist minority owned construction firms in obtaining Payment Bonds for Capital Construction Projects located in Hartford, New Haven, Bridgeport and New London. A \$1 million pool funded by the Commission was created to increase the ability of minority contractors, prequalified by HEDCO/Business Resource Center ("BRC") as the Program Administrator, to obtain Payment Bonds from participating surety companies.

PURPOSE OF THE BOND PROGRAM

In order for a contractor to bid and secure construction contracts on public works and other projects, the ability to secure bonds is critical. The Program has been funded in response to the inability of a large number of minority contractor firms to acquire bonding through the traditional underwriting and qualification process. As a result, many otherwise competent minority contractors are unable to pursue opportunities on projects located in their own locale. The Commission has established and funded the pool in order to reimburse participating surety companies who may incur losses on the Payment Bonds in the event of a contractor default.

The ability of prequalified minority owned contractors to secure Payment Bonds will enable these firms to successfully bid for contracts in greater numbers than presently exist. There is a recognized need to broaden the base by increasing the number of minority firms with the capacity to participate and obtain work on Construction projects. It is anticipated that the value of the awarded subcontracts will be in the range of \$50,000 to \$500,000 to meet DAS prequalifications.

It is recognized that other core business issues (ie; operations technical assistance, bid preparation, project management etc.) must be addressed to ensure the success and sustained growth of the minority contractor community. These areas of concern are being addressed through program efforts administered by a diverse group of providers, including the BRC and a diverse group of providers. In addition, the BRC will establish a funds management program designed to ensure that contract funds are properly disbursed to the participating contractors and their subcontractors and vendors. Not only will the funds management program serve to further protect pool funds from potential contractor defaults, as well as to provide the minority contractor community with protocols that will strengthen their core business practices.

PROGRAM OUTLINE

Program Parameters

Minority Contractor Eligibility Requirements

All of the tests to determine if certified by State/Cities as a Minority Contractor, evidence of capacity to perform and items determined by the Prequalification Process. Application Form provided in earlier submission.

- Identification and Selection of Specific Construction Projects.
- Subcontract Values/Limitations

Most of the contracts will be "carve outs" to meet the scope of work deemed likely to be within the Minority Contractor's capacity. The details will be worked with the Owner of the construction project,

Project Manager, Sub-Contractor, Surety Company and BRC. At DECD's discretion, staff may be assigned to be a part of the screening process established by HEDCO and the surety.

- Subcontract Duration

The duration will depend upon the scope of work specified by the Contract between General contractor/Construction Manager and monitored by BRC.

- Eligible scopes of work for bidding/excluded scopes of work (ie; asbestos abatement)

The Core group referenced above will be a part of the decision making team in this area and all concerned in developing a package that has the greatest chance for success.

- Availability of source documents/site access

The above group will make certain that it happens. The pre-bid conference from the Owner will set the tone for cooperation throughout the project.

- Types of bonds – Payment Bonds Only on Pre-Approved Formats – No performance bonds

The conditions under which surety will be provided agreed to by Travelers/General Contractor/Minority Construction Council and BRC.

Contractor Prequalification and Selection Process

- BRC to provide management and oversight for contractor. Prequalification and selection (see **Attachment 1 to Exhibit B**)
- Utilization of current 8A-CT screening and certification process as a Prequalification tool

A thorough review of contractors past performance, review of financial statements, work on hand, percentage of completion, percentage billed, credit history and current capacity to name the prime factors in the review.

- Program Specific surety underwriting protocols (ie; limited application/qualification process)

The financial and work capacity areas will be utilized. Travelers Surety Personnel will assist in the review of applicant pool prior to selection. They bring their years of training and experience in the industry to the table.

- Execution of Surety Company form indemnity agreements-corporate and personal indemnity obtained prior to bond issuance.

Bond Issuance

- Identification/selection of participating licensed agents and brokers
- The BRC will utilize DAS and Municipal certification agencies to determine status.

Project/Contract Management

- BRC shall provide ongoing project and contract support, training and oversight in addition to supervising the Program Specialist (person who monitors paperwork and interacts with contractor and Project Manager with regards to how the contract is being handled).

Contract Funds Disbursement and Management

- Funds control services shall be provided by the BRC.

The BRC will have control of the Proceeds earned by the Subcontractor, which will be maintained in separate checking accounts. The Fund Control Unit will pay all Vendors/Suppliers in accordance with the Contractor Award. The Sub-Contractor does not receive any proceeds until all bills are paid.

- Executed funds Control and Disbursement Agreement outlining roles and responsibilities will be between the BRC and the contractor.
- Establishment of a bank relationship and funds control accounts for the purpose of receiving and disbursing contract funds

Reich and Tang Tax Exempt Proceeds Account will only be accessed when a loss occurs.

- Dual signatures required for all check disbursements issued from bank account
- BRC shall maintain bank account monitoring and required bank reconciliations
- BRC shall conduct periodic review of construction progress to ensure integrity

BRC will attend weekly job meetings to review the construction progress and to monitor the performance of subcontractors where applicable.

Payment Bond Claims and Potential Surety Losses

- Handling of payment bond claims
- Establishment of reserves and payment of losses
- Reimbursement of losses through the Commission funding pool-Procedures (once a loss is identified Travelers does their due diligence they report numbers back to the BRC who reports back to DECD for payment).

This effort shall be done in consultation with the Surety Company/DECD/BRC. The Surety Company will provide benefit of experience while BRC will establish what portion of the fund will be needed to cover a loss and serve for that amount.

Ongoing Training and Support

- BRC shall monitor contractor progress and conducts group/one-on-one sessions as necessary

BRC Program Specialist (see Attachment 1 to Exhibit B) will attend job performance meetings as deemed necessary. Additional consultations/support provided to Sub-Contractors as needed.

The one-on-one sessions are with the BRC Program Specialist, Contractor Counselor and/or Financial Specialist depending upon the area of concern (job performance, scheduling, financial management).

- The BRC shall assist Program participants in efforts to access financing, if necessary, to manage cash flow needs during the contract period.

- The BRC shall refer to HEDCO primarily where a special fund has been put in place (\$500,000) to assist contractors in the BRC program.

Reporting

- Quarterly Reporting-The BRC shall provide to DECD quarterly reports. The reports should include, but not be limited to:
 - List of All Guarantees since programs inception;
 - Identification of Active Guarantees and contract value amounts;
 - Identification of Successfully Completed guarantees and contract value amounts;
 - Project Name;
 - Number of Losses in dollar amounts;
 - Balance of Guarantee program after all losses; and
 - Number of jobs created due to Guarantee
- Guarantee Claim Form-The Applicant shall be required to submit a Guarantee Claim Form with a Requisition for Payment in order to receive funds from DECD.
- Final Report – The BRC shall submit a final report, to include, but not limited to:
 - Program Outcomes
 - Program Impacts
 - Such statistical data/information required by the Commissioner to measure the performance of the program and the state's return on investment:

Attachment 1 to Exhibit B

Payment Bond Management Unit

Kim B. Hawkins

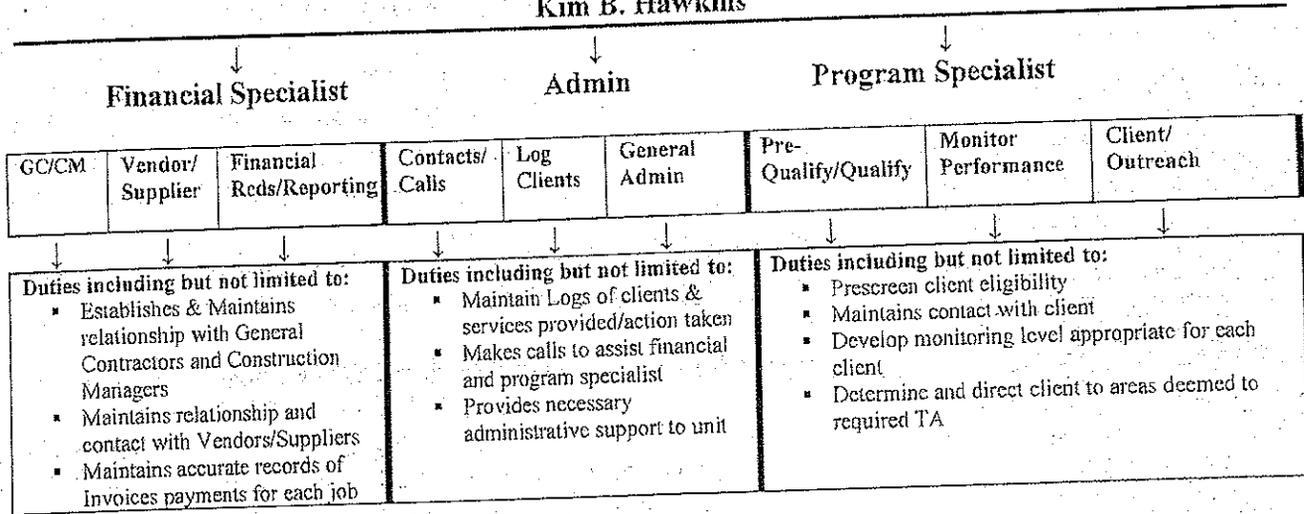


Exhibit C

INSURANCE REQUIREMENTS FOR NON-PROFIT AND FOR PROFIT ENTITIES

(A) Applicant shall procure and maintain for the duration of the approved Agreement the following types of insurance, in amounts no less than the stated limits, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder; provided however, that if this Program is (i) financial assistance of less than \$100,000, (ii) a planning grant, or (iii) a predevelopment loan, only items 1 and 2 as set forth herein shall apply:

- 1) Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include Premises and Operation, Independent Contractors, Product and Completed Operations and Contractual Liability. If a general aggregate is used, the general aggregate limit shall apply separately to the Agreement or the general aggregate limit shall be twice the occurrence limit.
- 2) Workers' Compensation and Employer's Liability: Statutory coverage in compliance with compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with a minimum limit of \$100,000 each accident, and \$500,000 Disease - Policy limit, \$100,000 each employee.
- 3) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of the contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of the contract then automobile coverage is not required.
- 4) Directors and Officers Liability: \$1,000,000 per occurrence limit of liability; provided, however, that Directors and Officers Liability insurance shall not be required for limited liability corporations or limited partnerships.
- 5) Comprehensive Crime Insurance: \$100,000 limit for each of the following coverages: Employee Dishonesty (Form O), Forgery/Alteration (Form B), and Money and Securities coverage for Theft, Burglary, Robbery, Disappearance and Destruction.
- 6) Builders Risk: (Construction Phase) With respect to any work involving the construction of real property during the construction project, if DECD is taking a collateral position in the property, the Applicant shall maintain Builder's Risk insurance providing coverage for the entire work at the project site. Coverage shall be on a Completed Value form basis in an amount equal to the projected value of the project. Applicant agrees to endorse the State of Connecticut as a Loss Payee.
- 7) Property Insurance: (Post Construction) If DECD is taking a collateral position in the property, the Applicant shall maintain insurance covering all risks of direct physical loss, damage or destruction to real and personal property and improvements and betterments (including flood insurance if property is within a duly designated Flood Hazard Area as shown on Flood Insurance Rate Maps (FIRM) set forth by the Federal Emergency Management Agency (FEMA)) at 100% of Replacement Value for such real and personal property, improvements and betterments or the maximum amount available

under the National Flood Insurance Program. The State of Connecticut shall be listed as a Loss Payee.

(B) Additional Insurance Provisions

1. The State of Connecticut Department of Economic and Community Development, its officials and employees shall be named as an Additional Insured on the Commercial General Liability policy. Additional Insured status is not required for items (A)2 through (A)7 above.
2. Described insurance shall be primary coverage and Applicant and Applicant's insurer shall have no right of subrogation recovery or subrogation against the State of Connecticut.
3. Applicant shall assume any and all deductibles in the described insurance policies.
4. Without limiting Applicant's obligation to procure and maintain insurance for the duration identified in (A) above, each insurance policy shall not be suspended, voided, cancelled or reduced except after thirty (30) days prior written notice by certified mail has been given to the State of Connecticut, with the exception that a ten (10) day prior written notice by certified mail for non-payment of premium is acceptable.
5. Each policy shall be issued by an Insurance Company licensed to do business by Connecticut Department of Insurance and having a Best Rating of A-, VII, or equivalent or as otherwise approved by DECD.

Exhibit D

SEEC FORM 11

NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF CAMPAIGN CONTRIBUTION AND SOLICITATION BAN

This notice is provided under the authority of Connecticut General Statutes 9-612(g)(2), as amended by P.A. 07-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined below):

Campaign Contribution and Solicitation Ban

No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

Duty to Inform

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

Penalties for Violations

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties--\$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of \$2000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties-Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or \$5000 in fines, or both.

Contract Consequences

Contributions made or solicited in violation of the above prohibitions may result, in the case of a state contractor, in the contract being voided.

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State will not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information and the entire text of P.A. 07-1 may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "State Contractor Contribution Ban."

Definitions:

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has managerial or discretionary responsibilities with respect to a state contract, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan or a loan to an individual for other than commercial purposes.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

Exhibit E

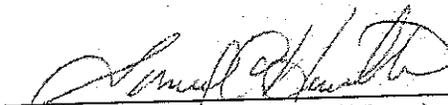
AUTHORIZATION FOR THE RELEASE OF APPLICANT INFORMATION

I, Samuel C. Hamilton agree that the Connecticut Department of Labor may disclose information pertaining to the Hartford Economic Development Corporation (the Applicant), such as employer name, address, and number of employees, by facility location, to the Connecticut Department of Economic and Community Development (DECD). This authorization pertains to the following locations and their related Unemployment Insurance Number (UI#). Attach additional sheets, if necessary:

<u>Company Name</u>	<u>Location</u>	<u>UI #</u>
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I further agree that DECD may, in turn, disclose such information to the Connecticut General Assembly and Auditors of Public Accounts as part of its reporting requirements pursuant to Connecticut General Statute 32-1m, as may be amended or modified. In addition, I understand that this information may be utilized for purposes of performing employment reviews and research related activities conducted by DECD.

I understand that this authorization may be revoked at any time, except to the extent that action has already been taken in reliance on it. However, I understand that revocation of this authorization may result in default under my financial assistance contract with DECD. This authorization will expire upon the Applicant fulfillment of its contractual obligations with DECD and DECD's fulfillment of its reporting requirements pursuant to Connecticut General Statute 32-1m, as may be amended or modified.



Samuel C. Hamilton (Printed Name)

Executive Director
Title



Signature

8/16/2010
Date