

**BOARD OF SELECTMEN REGULAR MEETING**  
**Monday, February 6, 2023**  
**4:00 pm**  
**Via Webex**  
**& In-Person in the**  
**First Floor Conference Room, Independence Hall**  
**725 Old Post Road**  
**Fairfield, CT 06824**

A recording of this meeting can be found here: <https://www.youtube.com/watch?v=HDf6zwPT5rM>.

**DRAFT MINUTES**

**MEMBERS PRESENT:** First Selectwoman Brenda L. Kupchick, Selectman Thomas Flynn, Selectwoman Nancy Lefkowitz

**OTHERS PRESENT:** Jeanine Pocoski, Sally Connolly, Engineering Manager Bill Hurley, Parks and Recreation Director Anthony Calabrese, Fairfield Public Schools' Executive Director of Operations Angelus Papageorge, Assistant Director DPW John Cottell, Fire Chief Denis McCarthy, Superintendent of Schools Mike Testani, Deputy Police Chief Keith Broderick, CFO Jared Schmitt, Attorney John Stafstrom, FairTV, WPCA Vice-Chair Joe D'Avanzo, and members of the public

1) **CALL TO ORDER**

First Selectwoman Kupchick called the meeting to order at 4:00 pm.

2) **PLEDGE OF ALLEGIANCE**

First Selectwoman Kupchick led the Pledge of Allegiance.

3) **MINUTES**

To consider and act upon the minutes of January 30, 2023

Selectwoman Lefkowitz made a motion to approve the minutes of 1/30/23 as written.

Selectman Flynn seconded the motion which carried 2-0-1 (Selectman Flynn abstained).

4) **APPOINTMENTS**

**Town Plan and Zoning Commission Alternate**

Jeanine Pocoski (D) 79 Lewis Drive, term 11/21-11/25

(to fill a vacancy left by Sarah Keitt (D) who was elected to St. Representative)

Selectwoman Lefkowitz made a motion to approve the appointment of Jeanine Pocoski to the Town Plan and Zoning commission as an alternate. Selectman Flynn seconded the motion.

Ms. Pocoski spoke briefly about her experiences and how being a Fairfield resident will help her service in a positive way. All Selectpersons thanked her for her service.

The motion carried unanimously.

5) **REAPPOINTMENT**

**Board of Health (Postponed from 1/30/23 BOS meeting)**

Sally E. Connolly (R) 682 Tunxis Hill Road, term 11/22-11/26

Selectwoman Lefkowitz made a motion to reappoint Sally Connolly to the Board of Health. Selectman Flynn seconded the motion.

This item was continued from the last BOS meeting on 1/30/23. At that time, there was a discussion regarding Ms. Connolly's reappointment as Selectwoman Lefkowitz was not in favor of the reappointment, but agreed to continue the discussion. Selectwoman Lefkowitz said her position had not changed. Selectman Flynn said he was not able to attend the last meeting and asked Selectwoman Lefkowitz to go over her reasons why she did not support this reappointment. The discussion between the Selectpersons and Ms. Connolly continued. There was also Public Comment by resident Jim Kuczo who supported Ms. Connolly's reappointment.

The motion carried 2-1-0 (Lefkowitz opposed).

- 6) NON-RECURRING CAPITAL – 20 YEARS (*requires Board of Finance and RTM approval*)  
To hear, consider and adopt a bond resolution entitled, "A resolution appropriating \$7,687,622 for the costs of certain non-recurring capital projects and authorizing the issuance of bonds to finance such appropriation".  
*See Full Resolution in Backup.*

Engineering:

- Guiderail Repairs Phase 2-\$210,000
- KHW Greens Farm Bridge Construction-\$432,600
- Design of Stratfield Road-\$325,000 (Urban Grant-no details yet)
- Design of Post Road and Jug Handle-\$175,000
- Round Hill and Reef Road sidewalks-\$611,298
- Lower Wharf/Fishing Pier, Southport-\$800,000

Engineering Manager Bill Hurley presented his list of items. He said the Greens Farm Bridge construction is still in the design phase so it will need to be transferred to next year. He said this project is shared with the Town of Westport. There was a discussion about taking this off the capital plan list and how it will affect bonding. The item will be left on for now and discussed after the presentations.

Fire Department:

- Pumper LSN 14-\$980,000

Fire Chief Denis McCarthy said this truck was ordered a year ago and estimated lead time is 24 months. He said the life of the vehicle is 25 years of service. He said the Fire Department is still able to use the retired vehicles in hazardous situations like weather events. He said the current vehicle is out of compliance as far as upgrades and safety equipment.

Parks and Recreation:

- HSR Driving Range Upgrades - \$275,000
- Post Tension Tennis Courts-Fairfield Woods - \$522,000
- Tunxis Hill Park Pickleball Courts (4 replaced, 2 new) - \$575,000

Parks and Recreation Director Anthony Calabrese went through his projects. Selectwoman Lefkowitz asked Mr. Calabrese how a project is determined to be operational or non-recurring capital. Mr. Calabrese said if an individual project is under \$100,000, it will be operational and if it is over that amount it goes to non-recurring.

Board of Education:

- N. Stratfield Elementary-Vestibule project-\$652,500
- Osborn Hill Elementary-Vestibule project-\$597,500
- FWMS-Vestibule project-\$769,500
- FWHS-Boiler Burner Replacement-\$343,862
- FWHS-Knapps Highway Tennis/Basketball Courts-\$418,362

Executive Director of Operations for Fairfield Public Schools Angelus Papageorge said some vestibules need to be remodeled. He said the funding is for design only and pricing is changing all the time. He is asking for funding now to try and lock in costs, but if the costs go over, he will need to come back to the Boards.

Selectman Flynn made an amendment to remove item 2.1, Exhibit A, from the resolution (\$432,600.00) and amend the resolution amount to \$7,255,022.00. Selectwoman Lefkowitz seconded the amendment which carried unanimously.

The item was opened for Public Comment:

- Jim O'Brien, 250 Sherwood Drive, Southport – He said reserving Pickleball courts is a challenge. Trumbull built 12 new courts and residents are going there.
- Betsy Hulme, 37 Pratt Street – She thanked Mr. Calabrese for his due diligence and keeping up with all the emails. She said Fairfield was one of the first towns to have Pickleball courts and now we need to keep up with other towns.
- Doug Goodman, 11 Aberdeen Way - He said he has a list of hundreds of residents who play this sport and the courts are embarrassing. He would like to feel confident that this will be approved.

First Selectwoman Kupchick thanked the public for attending and speaking. She also explained the process of approving the funds for these projects.

The main motion, as amended, carried unanimously.

7) **CHIEF FISCAL OFFICER (*requires Board of Finance and RTM approval*)**

To hear, consider and adopt a resolution appropriating \$760,000 for the costs related to uses of Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund. *See Full Resolution in Backup.*

Selectwoman Lefkowitz made a motion to approve Item 7. Selectman Flynn seconded the motion.

These are items that were taken off the non-recurring list and instead come from ARPA funding. There was a discussion about ARPA projects that had been canceled. There was a discussion about the use of unallocated ARPA funds.

Projects include:

- Police Department Headquarters Rehabilitation - \$350,000: The Police Department was built in 1976 and in the last 50 years the needs of the building have grown. This is a proposed three-year renovation plan for some of the heaviest impacted areas in the police department. This FY 23-24 request is for Phase 1 - the lobby renovation-addition of the Shift Commander's office, new carpeting throughout the building, and upgrading technology in the multipurpose classroom used for training, press conferences, and commissioner/town meetings. Deputy Chief Keith Broderick spoke about the former ECC space in the basement being turned into a gym for the officers.
- Fire Department Command Vehicle - \$150,000: In accordance with the apparatus replacement program, the department is requesting a replacement of Car 3, the Shift Commander's response vehicle. The current vehicle was purchased in 2019. Fire Chief McCarthy said the current vehicle will go into front line reserve and will serve for storm events and maintenance on primary vehicle. There was a discussion about the replacement policy to have vehicles last longer before replacing them.
- Fire Station Rehabilitation-\$50,000
- Fire Department Vehicle Replacement-\$60,000
- Sgt Murphy Playground Replacement-\$150,000

The motion carried unanimously.

8) **ENGINEERING MANAGER (*requires Board of Finance and RTM approval*)**

To hear, consider and adopt a bond resolution entitled, "A resolution appropriating \$6,250,000 for the costs associated with the inspection and construction phase of the East Trunk Wetlands Crossing Project, Authorizing a grant to reimburse \$750,000 of such appropriation and authorizing the issuance of bonds in an amount not to exceed \$5,500,000 to fund the balance of such appropriation."

*See Full Resolution in Backup.*

Selectwoman Lefkowitz made a motion to approve Item 8. Selectman Flynn seconded the motion.

CFO Jared Schmitt said this item went through the BOS in November. He said it is the same project and cost, but the proposed financing is different. He said the WPCA fund balance was going to be used to reduce the amount of borrowing of the Town, but now the \$5.5 million will be bonded and the WPCA will pay the debt service. Mr. Schmitt said this project was rejected by the BOF when last presented, but it will be presented again. He said the WPCA is an independent authority, but works in partnership with the Town. He said there are many studies being performed now, but the East Trunk Sewer project is crucial and needs to be done. Selectwoman Lefkowitz and Mr. Schmitt had a discussion about financing for this project and the BOF. Selectman Flynn said it is frustrating because many of the WPCA projects end up costing much more than the original estimates. He said he will approve this project because the need is valid, but he would like to know why the cost increased so dramatically. Engineering Manager Bill Hurley explained:

- The original estimate of \$2.4 million in December 2022 was prior to soil testing.
- A technical memo from the consulting engineer explained the increase.
- Support of excavation had to go deeper than originally thought.

- Added cradle and support beams due to soil conditions (\$217,000).
- Site access changed and the engineers are now recommending Ash Creek Blvd for access.
- Dewatering was going to take eight months, but now is estimated at 13-16 months due to specific environmental concerns and an environmental cap. (\$80,000).
- Wetland restoration - looking to continue operations. Will install temporary bypass line next to current line. (\$1 million).

Due to these items and more, Mr. Hurley said the cost increased by \$2.9 million. He said there will also need to be a full-time daily inspector and a project manager from the WPCA. The discussion continued. The full discussion can be accessed here: [BOS 2.6.23](#).

First Selectwoman Kupchick asked for Public Comment. WPCA Vice-Chairman Joe D'Avanzo, 1446 Jennings Road, said when the former DPW director and interim DPW director were removed, WPCA lost these advocates. First Selectwoman Kupchick said those individuals were arrested for allegedly participating in a public scandal. She agreed changes need to be made based on people who know WPCA well. Selectwoman Lefkowitz said the BOS liaison and the advocate would take ownership of the projects. First Selectwoman Kupchick said she will look into the reorganization of the WPCA department and will also look into an operational audit.

The motion carried unanimously.

Selectwoman Lefkowitz made a motion to waive the reading of Item 9. Selectman Flynn seconded the motion which carried unanimously.

9) **ENGINEERING MANAGER (*requires Board of Finance and RTM approval*)**

To hear, consider and adopt a supplemental resolution:

WHEREAS, the Town of Fairfield (the "Town") has adopted at the request of the Water Pollution Control Authority ("WPCA") a Resolution entitled "A resolution appropriating \$6,250,000 for costs associated with the inspection and construction phase of the East Trunk Wetlands Crossing Project, authorizing a grant to reimburse \$750,000 of such appropriation and authorizing the issuance of bonds in an amount not to exceed \$5,500,000 to fund the balance of such appropriation" (the "Resolution"); and

WHEREAS, the Resolution appropriates \$6,250,000 (the "Appropriation") for costs associated with the inspection and construction phases of the East Trunk Wetlands Crossing Project (the "Project"); and

WHEREAS, the Appropriation shall be funded by several sources including: 1) \$750,000 in grant funds from the State of Connecticut's Urban Act Grant Program (the "Grant"); and 2) \$5,500,000 in bonds issued by the Town (the "Bonds"); and

WHEREAS, the Resolution authorizes the Appropriation, the negotiation and acceptance of the terms of the Grant and authorizes the Bonds in an amount not to exceed \$5,500,000; and

WHEREAS, while the Town is liable for the debt service on the Bonds, for internal accounting purposes, it is appropriate that all costs of the Project including debt service on the Bonds be allocated to, and reimbursed to the Town by, the WPCA; and

WHEREAS, the WPCA has agreed to pay for the costs of the Project and the debt service on the Bonds authorized by the Resolution; and

NOW, THEREFORE, IT IS HEREBY:

RESOLVED,

- 1) That the debt service on the Bonds as such debt service becomes due shall be paid by the WPCA from its own funds and the obligation of the WPCA shall be set forth in a memorandum of understanding (the “MOU”) with the Town satisfactory to the First Selectwoman; and
- 2) That the First Selectwoman is hereby authorized to execute the MOU on behalf of the Town.

Selectwoman Lefkowitz made a motion to approve Item 9. Selectman Flynn seconded the motion which carried unanimously.

10) TAX COLLECTOR

To consider and act upon tax refunds as recommended by the Tax Collector in the amount of \$8,088.68

Selectwoman Lefkowitz made a motion to approve Item 10. Selectman Flynn seconded the motion which carried unanimously.

11) To hear, consider and act upon any other business which shall properly come before this meeting

First Selectwoman Kupchick said February kicked off Black History Month and hopes people will take the opportunity to go to the library to research and learn more. She also spoke of apps for children among other new things to promote knowledge.

First Selectwoman Kupchick also said there are two food drives being held this Saturday and Sunday – one is the yearly Souper Bowl Food Drive at Assumption Church with donations going to Operation Hope. She said there is another food drive being held at Sherman Green by current and former students of Fairfield Public Schools who are members of the Fairfield Equity Coalition. Donations will go to families in need in the Fairfield Public Schools. She said these are two great ways to do something good for our community.

Selectman Flynn noted Jackie Robinson, who his dad had worked for and regarded as a great humanitarian, lived in Stamford and did a lot of good for that community including helping kids with drug addictions among other things.

Selectwoman Lefkowitz wanted to let the public know that each Sunday, the Islamic Community Center feeds over 250 families in the area including Fairfield residents. She commended FWHS Head Principal Paul Cavanna for acting swiftly after an incident at the high school. She also wanted to thank the students who informed Mr. Cavanna of the incident and noted how their coming forward shows what our community could do.

12) Adjourn

Selectwoman Lefkowitz made a motion to adjourn the meeting at 7:11 pm. Selectman Flynn seconded the motion which carried unanimously.

Respectfully submitted,

Pru O'Brien  
Recording Secretary

**BOARD OF SELECTMEN REGULAR MEETING**  
**Monday, February 13, 2023**  
**4:00 pm**  
**Via Webex**  
**& In-Person in the**  
**First Floor Conference Room, Independence Hall**  
**725 Old Post Road**  
**Fairfield, CT 06824**

A recording of this meeting can be found here: [BOS Meeting 2.13.23](#).

**DRAFT MINUTES**

**MEMBERS PRESENT:** First Selectwoman Brenda L. Kupchick, Selectman Thomas Flynn, Selectwoman Nancy Lefkowitz

**OTHERS PRESENT:** Planning Director James Wendt, Assistant Planning Director Emmeline Harrigan, Engineering Manager Bill Hurley, CFO Jared Schmitt, Town Attorney James Baldwin, Attorney James Williams, FairTV, members of the public

- 1) **CALL TO ORDER**  
First Selectwoman Kupchick called the meeting to order at 4:00 pm.
- 2) **PLEDGE OF ALLEGIANCE**  
First Selectwoman Kupchick led the Pledge of Allegiance.
- 3) **RESIGNATION**  
Bicycle and Pedestrian Committee  
Steven R. Collins (R) 109 Blue Ridge Road, term 11/22-11/26  
(Resigned 02/10/23)

First Selectwoman Kupchick thanked Mr. Collins for serving the Town.

- 4) **PLANNING DIRECTOR**  
To hear a FEMA CRS progress report on action items outlined in the Regional Hazard Mitigation Plan

Assistant Planning Director Emmeline Harrigan said every year the Town has to meet requirements for the Community Rating System for flood insurance premium coverage for residents. She said this includes looking at ways to make the community more resilient and have less flooding. She said Town staff from multiple departments as well as the Town's Flood and Erosion Control Board (FECB) collaborated on the update of this report. She said the efforts result in a 10% discount for 1,794 policy holders which is a savings of approximately \$221,913. Ms. Harrigan said the Town has made progress on the following action items:

- Riverside Drive tide gate system; and
- Off-shore wave reduction studies, implementation of Downtown Green infrastructure projects, Rooster River water detention through ARPA; and
- Collaboration with CIRCA to reduce flooding at railroad underpasses; and
- Tide gage markings in the marina and beach area with 24-hour remote monitoring; and

- FECB & TPZ working with a Climate Corps intern from UCONN to better understand what is flood compliant or at risk for flood events.

The full Flood Plain Management Plan is included in the backup documents.

5) TOWN ATTORNEY (*requires RTM approval*)

To hear, consider and act upon amendments to the following cell tower leases:

- New Cingular Wireless PCS, LLC – 100 Reef Road - Cell Tower Lease
- DISH WIRELESS L.L.C. - 3965 Congress Street - Cell Tower Lease

Selectman Flynn made a motion to approve Item 5. Selectwoman Lefkowitz seconded the motion.

CFO Jared Schmitt said these are two separate agreements. He said a consultant was brought in to negotiate deals as the Town was getting requests to install new equipment on the roofs for the cell towers. He said Bench Strength Partners helped with two contracts. Mr. Schmitt said one is located at 100 Reef Road where AT&T will be adding new equipment and the contract will be for 2023-2046. He said rent to the Town will increase by \$20,000 a year. He said the total amount to the Town at the end of the term will be \$1,098,000. He said the renewals will be in increments of five years. Mr. Schmitt said leases are at market rate. He said the Fire Station at 3965 Congress Street had Sprint & T-Mobile, but since they merged, Sprint was taken off the lease. He said Dish Wireless took over the use of the equipment for a 15-year fixed lease and the term is for 2023-2035 for \$344,000.

The motion carried unanimously.

6) TAX COLLECTOR

To consider and act upon tax refunds as recommended by the Tax Collector in the amount of \$15,277.73

Selectman Flynn made a motion to approve Item 5. Selectwoman Lefkowitz seconded the motion which carried unanimously.

7) FIRST SELECTWOMAN

To hear, consider and act upon the following amended date for the Board of Selectmen's public budget hearings for Calendar Year 2023 at 10:00 am via Webex and In-Person in the First Floor Conference Room in Independence Hall, 725 Old Post Road, Fairfield, CT:

a) Board of Selectmen Public Budget Hearing Dates:

February	22 Wednesday	10:00 am (BOS Public Budget Hearing #1)
February	24 Friday	11:00 am (BOS Public Budget Hearing #2)

b) Board of Selectmen Final Budget Deliberations & Vote - Public Executive Session:

February	27 Monday	10:00 am
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Selectwoman Lefkowitz made a motion to amend the BOS budget meeting schedule as listed above. Selectman Flynn seconded the motion which carried unanimously.



- 8) To hear, consider and act upon any other business which shall properly come before this meeting
- First Selectwoman Kupchick said she had a conference call with FEMA and there will be a Town Hall Meeting with FEMA representation regarding the Notices of Violation for Penfield on Thursday, February 23, 2023. She said more information will be sent out as soon as a location and time has been confirmed.
  - First Selectwoman Kupchick gave an update on the status of the arbitration with the fire union.
  - Selectman Flynn thank Ken Dalling's wife and family for sharing him with the Town. There was a moment of silence for Mr. Dalling who recently passed away.
- 9) TOWN ATTORNEY  
Executive Session – Pending Litigation – Wenzel, William J. vs. Town of Fairfield with Town Attorney James Baldwin and Attorney James Williams
- Selectman Flynn made a motion to go into Executive Session at 4:36 pm. Selectwoman Lefkowitz seconded the motion which carried unanimously.
- Selectman Flynn made a motion to come out of Executive Session at 4:53 pm. Selectwoman Lefkowitz seconded the motion which carried unanimously.
- Selectman Flynn made a motion to approve the settlement per the recommendation of counsel. Selectwoman Lefkowitz seconded the motion which carried unanimously.
- 10) Adjourn  
Selectman Flynn made a motion to adjourn the meeting at 4:54 pm. Selectwoman Lefkowitz seconded the motion which carried unanimously.

Respectfully submitted,

Pru O'Brien  
Recording Secretary

**BOARD OF SELECTMEN  
PUBLIC BUDGET HEARING #1  
Wednesday, February 22, 2023  
10:00 am Via Webex And  
In-Person in 1<sup>st</sup> Floor Conference Room  
Independence Hall 725 Old Post Road  
Fairfield, CT**

**DRAFT MINUTES**

The Board of Selectmen held a Public Budget Hearing at 10:00 a.m. on Wednesday, February 22, 2023 in person in the First Floor Conference Room in Independence Hall, 725 Old Post Road, and via Webex in Fairfield, CT.

A recording of this meeting can be found here: [BOS Budget #1 - 2.22.2023.](#)

MEMBERS PRESENT: First Selectwoman Brenda L. Kupchick, Selectman Thomas Flynn, Selectwoman Nancy E. Lefkowitz

OTHERS PRESENT: Police Chief Robert Kalamaras, Deputy Police Chief Keith Broderick, Fire Chief Denis McCarthy, Deputy Fire Chief Kyran Dunn, Engineering Manager Bill Hurley, DPW Interim Director John Marsilio, Assistant DPW Director John Cottell, Town Clerk Betsy Browne, Conservation Director Tim Bishop, Human Resource Director Cathleen Simpson, Assistant HR Director/Risk Manager Peter Ritchey, Tax Collector Dave Kluczowski, Tax Assessor Ross Murray, Town Librarian Scott Jarzombek, Deputy Town Librarian Jan Fisher, CFO Jared Schmitt, Budget Director Frank Magneri, Chief Fixed Income Strategist Janney Advisors Guy Lebas, Financial Advisor Carolyn Frzob, FairTV, members of the public.

- 1) Call to Order  
First Selectwoman Kupchick called the meeting to order at 10:00 am.
- 2) Pledge of Allegiance  
First Selectwoman Kupchick led the Pledge of Allegiance.
- 3) First Selectwoman - Budget Summary Presentation  
First Selectwoman Kupchick thanked the Finance Department and Department Heads for all the help with the Budget. She also thanked all the Town Boards for all the work they do. She then presented her proposed FY 2024 Town Budget. The full presentation can be accessed by clicking the meeting recording above.
- 4) Budget Hearings – Town-Side  
Departments were asked to speak about the highlights in their proposed budgets.

Departments presenting information to the BOS:

4030-Police: Chief Robert Kalamaras, Deputy Chief Keith Broderick: Discussed Officers, Animal Control, ECC.

4010 Fire: Chief Denis McCarthy, Deputy Chief Kyran Dunn: Discussed Fire Personnel, Regional Fire Training Center

5070-Engineering: Engineering Manager Bill Hurley: Discussed Payroll, Industry Software, Communications

6070-Solid Waste & Recycling: DPW Interim Director John Marsilio, Assistant Director John Cottell: Discussed receipt checker, change in process for recycling, changes going forward.

Lunch Break 1:00 pm – 1:45 pm

5030-DPW Operations: DPW Interim Director John Marsilio, Assistant Director John Cottell Discussed department operations, payroll.

1030-Town Clerk: Betsy Browne: Discussed advertising, Conveyance, Recording Fees.

1230-Conservation: Conservation Director Tim Bishop: Discussed fees/Fee Structure, Dump Truck request, Personnel.

1330-Human Resources: HR Director Cathleen Simpson, Assistant HR Director/Risk Manager Peter Ritchey: Discussed FOIA, Department Personnel, Union Classifications.

3090-Tax Collector: Dave Kluczowski: Discussed Payroll, Postage.

3050-Tax Assessor: Ross Murray: Discussed Payroll, Software, Communications, Fees & Professional Services.

7010-Main Library & Fairfield Woods Library: Town Librarian Scott Jarzombek, Deputy Town Librarian Jan Fisher: Discussed P/T Payroll at both Libraries.

3010-Finance: CFO Jared Schmitt, Budget Director Frank Magneri: Discussed General Funds and cash, Investment properties and policies, and New Investment Advisory Firm-Janney Advisors-with Guy Lebas, Chief Income Strategist, and Financial Advisor Carolyn Frzob.

130-WPCA-Discussion about operational audit, revenue and department strategy going forward.

Every department presentation was opened up to questions and a discussion with the BOS. The meeting can be accessed in its entirety at: [BOS Budget #1 - 2.22.2023.](#)

5) Public Comment

There was no public comment.

First Selectwoman Kupchick reminded everyone that there will be an open house forum with FEMA regarding Penfield Pavilion tomorrow night, Thursday, February 23, 2023 at Fairfield Ludlowe High School.

6) Adjourn

Selectwoman Lefkowitz made a motion to adjourn the meeting at 4:46 pm. Selectman Flynn seconded the motion which carried unanimously.

Respectfully submitted,  
Pru O'Brien  
Recording Secretary

**BOARD OF SELECTMEN  
PUBLIC BUDGET HEARING #2  
Friday, February 24, 2023, 11:00 am  
Via Webex And  
In-Person in 1<sup>st</sup> Floor Conference Room  
Independence Hall, 725 Old Post Road, Fairfield, CT**

The Board of Selectmen held a Public Budget Hearing at 11:00 a.m. on Friday, February 24, 2023 in person in the First Floor Conference Room in Independence Hall, 725 Old Post Road, and via Webex in Fairfield, CT. A recording of this meeting can be found here: [BOS Budget #2 2.24.2023.](#)

**DRAFT MINUTES**

**MEMBERS PRESENT:** First Selectwoman Brenda L. Kupchick, Selectman Thomas Flynn, Selectwoman Nancy E. Lefkowitz

**OTHERS PRESENT:** Audubon Director Fairfield Region Amy Barnouw, Audubon Director of Development Joyce Leiz, Audubon Assistant Director Fairfield Region Trisha Lombardi-Kevalis, Parks and Recreation Director Anthony Calabrese, Fairfield Schools Superintendent Mike Testani, BOE Vice-Chair Nick Aysseh, BOE Secretary Carol Guernsey, CFO-FPS Courtney LeBorious, Executive Director of Special Education-FPS Rob Mancusi, Community and Economic Development Director Mark Barnhart, CFO Jared Schmitt, Budget Director Frank Magneri, FairTV, members of the public

- 1) Call to Order  
First Selectwoman Kupchick called the meeting to order at 11:00 am.
- 2) Pledge of Allegiance  
First Selectwoman Kupchick led the Pledge of Allegiance.
- 3) Budget Hearings – Town-Side  
2210-Audubon Society-page 99  
First Selectwoman Kupchick introduced three woman from the CT Audubon Society whom she had asked to attend the meeting. Representatives from the CT Audubon said they are requesting an extra \$45,000 in addition to the Town contribution of \$30,000 for a total of \$75,000. Audubon Director for the Fairfield Region, Amy Barnouw, explained the Audubon is starting a rehabilitation project to improve accessibility of pathways, signage and more in the Aviary. She said Audubon has many educational programs it offers to the Fairfield schools and have birds of prey in the Aviary. Ms. Barnouw stated this is a one-time request. The project and outside funding was discussed in detail.
- 4) Budget Hearings – BOE  
First Selectwoman Kupchick asked for the presenters to go over highlights of their proposed budgets.

Parks and Recreation Director Anthony Calabrese presented items from his budget:

7030-Penfield Pavilion Complex-pages 194-195: He said there's a decrease due to the closure of the Penfield Pavilion building, but he had an increase in the Jacky Durrell Pavilion due to increased events there. There was a discussion about part-time seasonal payroll and the addition of Burr Homestead.

7080-Parks: He said services were contracted through Greenway Property Services and irrigation repairs were needed. There was a discussion about bringing field maintenance back to the Parks Department.

7113-H. Smith Richardson page 214: He said there is a new vehicle for Course Superintendent, a Bedknife Grinder, which is a multi-seat shuttle cart. He said there is a slight increase in revenue due to rate increases.

There was a discussion about the Marina redesign project which is on hold.

The BOS paused for lunch.

8010-BOE – Superintendent Mike Testani, BOE Vice-Chair Nick Aysseh, CFO Courtney LeBorious, BOE Secretary Carol Guernsey, Director of Special Education Rob Mancusi:

Superintendent Testani presented his budget. The full presentation and discussion can be accessed here: [BOS Budget #2 2.24.2023](#).

1350-Community and Economic Development pages 91-92: Mark Barnhart said there's an addition of a line item for the newly formed Arts Commission. There were positive comments regarding forming this commission and a discussion followed.

- 5) Follow-up from 02/22/23 Hearing #1, If Necessary  
Selectwoman Lefkowitz made a motion to go into Executive Session at 1:47 pm. Selectman Flynn seconded the motion which carried unanimously.

Selectwoman Lefkowitz made a motion to come out of Executive Session at 2:05 pm. Selectman Flynn seconded the motion which carried unanimously.

No votes were taken.

3010-Finance - page 100-CFO Jared Schmitt: He said there was an increase in education and memberships and payroll increased due to union contracts being approved. There was a discussion about the increases. Mr. Schmitt also went over Revenue, Debt Service and Retiree Benefits.

- 6) Public Comment  
There was no public comment.

Selectwoman Lefkowitz went over some questions she had and a discussion followed which can be found on the recording link.

7) Adjourn

Selectwoman Lefkowitz made a motion to adjourn. Selectman Flynn seconded the motion which carried unanimously. The meeting adjourned at 2:33 pm.

Respectfully submitted,

Pru O'Brien  
Recording Secretary

**BOARD OF SELECTMEN  
PUBLIC EXECUTIVE SESSION  
BUDGET DELIBERATIONS AND VOTE  
(NO PUBLIC COMMENT)  
Monday, February 27, 2023, 10:00 am  
Via Webex  
And  
In-Person in 1<sup>st</sup> Floor Conference Room  
Independence Hall  
725 Old Post Road  
Fairfield, CT**

The Board of Selectmen held a Public Executive Budget Session at 10:00 a.m. on Monday, February 27, 2023, in person in the First Floor Conference Room in Independence Hall, 725 Old Post Road, and via Webex in Fairfield, CT.

A recording of this meeting can be found here: [BOS Budget #3 2.27.2023.](#)

**DRAFT MINUTES**

**MEMBERS PRESENT:** First Selectwoman Brenda L. Kupchick, Selectman Thomas Flynn, Selectwoman Nancy E. Lefkowitz

**OTHERS PRESENT:** Police Chief Robert Kalamaras, Deputy Police Chief Keith Broderick, Parks and Recreation Director Anthony Calabrese, Fairfield School Superintendent Mike Testani, BOE Chairwoman Jennifer Jacobsen, CFO Jared Schmitt, Budget Director Frank Magneri, FairTV, members of the public.

1) Call to Order

First Selectwoman Kupchick called the meeting to order at 10:00 am.

2) Pledge of Allegiance

First Selectwoman Kupchick led the Pledge of Allegiance.

3) Follow-Up From 02/24/23 Hearing #2, If Necessary

123- Emergency Communications Center (ECC)-Police-Chief Robert Kalamaras, Deputy Chief Keith Broderick: CFO Jared Schmitt said the ECC was split into two parts - actuals and projections. There was a question pertaining to revenue loss and other revenue sources. It was noted that there was a reduction in a State grant; New Canaan is joining later than was proposed; and Easton is not joining the ECC this Fiscal Year. Westport Police/Fire will be joining as of March 1, 2023. Mr. Schmitt said the Town General Fund contribution will be less due to ECC expenditures not being as high. He said there will be a \$259,000 savings in the General Fund budget, but a loss in the ECC budget. There was a very detailed discussion about the financials for this regional ECC. Chief Kalamaras said the Control Board for the ECC will consist of the four Chiefs from Fairfield/Westport Police/Fire. He said any operational decision will be brought up to the Control Board.

He said other towns that join the regional ECC will be clients and not have roles in decision making. He said there have been structural and reorganizational changes as this is the first regional ECC in the State.

Selectwoman Lefkowitz made a motion to put Item 5 before Item 4. Selectman Flynn seconded the motion which carried unanimously. (this is now Item 4 below).

4) PUBLIC EXECUTIVE BUDGET SESSION (*no public comment*) (*requires BOF and RTM approval*)

To consider and act upon proposed revenues and expenditures in the amount of \$326,373 for the Fairfield Regional Fire Training School for the Fiscal Year of July 1, 2023 through June 30, 2024

Selectwoman Lefkowitz made a motion to approve the proposed budget of \$326,373 for the Fairfield Regional Fire Training School for FY 23/24. Selectman Flynn seconded the motion.

126-Regional Fire School-Chief Denis McCarthy, Deputy Chief Kyran Dunn: Selectman Flynn started a conversation about financials and rates charged for facility use to be sure they are appropriate and Fairfield taxpayers are not paying more than necessary. The Chief and Deputy Chief continued the financial discussion.

There was no public comment.

First Selectwoman Kupchick commented that this is a Self-Supporting Budget and will be voted on outside of the Town Budget.

The motion carried unanimously.

Selectwoman Lefkowitz made a motion to move Item 6 before Item 5. Selectman Flynn seconded the motion which carried unanimously. (Item 6 is now Item 5 below).

5) PUBLIC EXECUTIVE BUDGET SESSION (*no public comment*) (*requires BOF and RTM approval*)

To consider and act upon proposed revenues and appropriations in the amount of \$3,250,301 for the Emergency Communications Center for the Fiscal Year of July 1, 2023 through June 30, 2024

Selectwoman Lefkowitz made a motion to approve the proposed budget of \$3,250,301 for the ECC for FY 23/24. Selectman Flynn seconded the motion.

Selectman Flynn said he wanted to revert back to an earlier discussion and that he would like to see the appointment of a Captain for the ECC by the Control Board. Mr. Flynn said he would also like to make the budget work so Fairfield taxpayers would pay less. First Selectwoman Kupchick said response time is faster and the ECC is providing high quality services to the community. This is also a Self-Supporting Budget.



The motion carried unanimously.

6) PUBLIC EXECUTIVE BUDGET SESSION (*no public comment*) (*requires BOF and RTM approval*)

To consider and act upon proposed revenues and expenditures in the amount of \$8,676,432 for the Water Pollution Control Authority for the Fiscal Year of July 1, 2023 through June 30, 2024

Selectwoman Lefkowitz made a motion to approve the proposed WPCA budget in the amount of \$8,676,432. Selectman Flynn seconded the motion.

Selectwoman Lefkowitz stated that the WPCA is calling a Special Meeting for this budget and some operational issues. She said the information coming out of that meeting could be helpful. Selectwoman Lefkowitz said she doesn't feel comfortable supporting this budget today and wanted to move this Item to the next BOS meeting. Selectman Flynn also said he will not vote until he hears from the WPCA. First Selectwoman Kupchick said the budget must be sent to the BOF by end of business day on March 1<sup>st</sup>. There was a discussion regarding the WPCA budget and the special meeting. The WPCA is self-supporting and is voted on separately from the Town budget. The BOS will schedule a Special Meeting to Tuesday 2.28.23 to vote on this item.

Selectman Flynn made a motion to delay the WPCA Budget vote to a date certain of 2/28/23 at 5:00 pm after the WPCA Board meets. Selectwoman Lefkowitz seconded the motion which carried unanimously.

7) PUBLIC EXECUTIVE BUDGET SESSION (*no public comment*) (*requires BOF and RTM approval*)

To consider and act upon proposed revenues and appropriations in the amount of \$354,506,469 for the General Fund for the Fiscal Year of July 1, 2023 through June 30, 2024

Parks and Recreation Director Anthony Calabrese presented a Penfield Pavilion budget if they were to keep the building open. Selectwoman Lefkowitz asked to keep the budget for the BOF and RTM to see.

Selectwoman Lefkowitz made an amendment to reinstate \$500,000 to the BOE budget. Selectman Flynn seconded the amendment for discussion purposes.

BOE Chairwoman Jennifer Jacobsen and Fairfield Schools Superintendent Mike Testani discussed their budget. They said there are still areas of volatility and unknowns. They said health insurance rates have not been set and won't be until almost May. They said fuel and electricity have decreased, but nothing is confirmed. The discussion continued and SPED situations were discussed. First Selectwoman Kupchick talked about the Town budget, reductions made and the impact those reductions will have on the Town. She said this Town is an economically diverse community and many people live paycheck to paycheck. She said she is keeping the budget down where she can to help with the tax burden.

The motion to reinstate \$500,000 to the BOE failed 1-2-0 (Lefkowitz in favor).

The discussion about the budget continued.

Selectman Flynn made an amendment to reduce Police Department overtime, 51050, by \$54,000. Selectwoman Lefkowitz seconded the amendment. First Selectwoman Kupchick said she did not support this amendment.

The amendment failed 1-2-0 (Flynn in favor).

Selectman Flynn made an amendment to increase Health Self Insurance 1320-52100 by \$265,045.00 to make it \$11,511,204. Selectwoman Lefkowitz seconded the amendment which carried unanimously.

Selectwoman Lefkowitz made a motion to amend the budget to increase 10030-58610 Debt Service by \$8,980 to make it \$192,708. Selectman Flynn seconded the amendment which carried unanimously.

Selectman Flynn made an amendment to increase the Tax Collection rate from 98.90% to 98.99% based on a discussion with the Tax Collector. Selectwoman Lefkowitz seconded the amendment which carried unanimously.

Selectwoman Lefkowitz made a motion to amend the Town budget to \$354,780,494 for the General Fund for Fiscal Year July 1, 2023- June 30, 2024. Selectman Flynn seconded the amendment which carried unanimously.

The main motion, as amended, carried unanimously.

8) Adjourn

Selectman Flynn made a motion to adjourn. Selectwoman Lefkowitz seconded the motion which carried unanimously. The meeting adjourned at 12:37 pm.

Respectfully submitted,

Pru O'Brien  
Recording Secretary

**BOARD OF SELECTMEN  
PUBLIC EXECUTIVE SESSION  
BUDGET DELIBERATIONS AND VOTE  
(NO PUBLIC COMMENT)  
Tuesday, February 28, 2023 5:00 pm  
Via Webex Only**

The Board of Selectmen held a Special Public Executive Budget Session/Budget Deliberations and Vote meeting at 5:00 pm on Tuesday, February 28, 2023 via Webex only.

A recording of this meeting can be found here: [BOS Special Public Exec Session 2.28.2023.](#)

**DRAFT MINUTES**

MEMBERS PRESENT: First Selectwoman Brenda L. Kupchick, Selectman Thomas Flynn, Selectwoman Nancy E. Lefkowitz

OTHERS PRESENT: WPCA Vice-Chair Joe D'Avanzo, Town Attorney James Baldwin, Budget Director Frank Magneri, CFO Jared Schmitt, FairTV

1) Call to Order

First Selectwoman Kupchick called the meeting to order at 5:05 pm.

2) Pledge of Allegiance

First Selectwoman Kupchick led the Pledge of Allegiance.

3) PUBLIC EXECUTIVE BUDGET SESSION (*no public comment*) (*requires BOF and RTM approval*) (*postponed from 02/27/23 BOS Public Executive Session/Budget Deliberations and Vote Mtg*)

To consider and act upon proposed revenues and expenditures in the amount of \$8,676,432 for the Water Pollution Control Authority for the Fiscal Year of July 1, 2023 through June 30, 2024

Selectwoman Lefkowitz made a motion to approve the WPCA budget in the amount of \$8,676,432 for Fiscal Year July 1, 2023- June 30, 2024. Selectman Flynn seconded the motion.

It was noted that the WPCA voted unanimously to approve the budget. Selectwoman Lefkowitz said she still has reservations approving this budget. Attorney Jim Baldwin said the investigation of the alleged misuse will not affect operations. Selectwoman Lefkowitz said she has a hard time believing organizational issues will not have an effect on operational issues. Selectman Flynn wanted to acknowledge the issues in the press over the weekend. It was stated that there will be an independent audit of operations and that the auditor has much experience in this area and will speak with the BOS regarding issues such as whether the WPCA is following best practices. Selectwoman Lefkowitz said the audit should be both financial and operational.

There was a discussion about some issues and whether or not they could approve the budget before the audit is finished. The audit would need to be complete before July 1, 2023 if they would need to make changes to the WPCA budget. The discussion continued.

Selectwoman Lefkowitz made an amendment to reduce the WPCA budget line 54310 Maintenance Repair Equipment and transfer \$375,000 to account 59500 Authorized Appropriations to bring that line to \$1,109,000. Selectman Flynn seconded the amendment which carried unanimously.

There was a discussion about issues with the broken digester.

The main motion, as amended, carried unanimously.

4) Adjourn

Selectwoman Lefkowitz made a motion to adjourn. Selectman Flynn seconded the motion which carried unanimously.

The meeting adjourned at 6:06 pm.

Respectfully submitted,

Pru O'Brien  
Recording Secretary

**BOARD OF SELECTMEN SPECIAL MEETING**

**Friday, March 3, 2023**

**3:20 pm**

**Via Webex Only**

**DRAFT MINUTES**

MEMBERS PRESENT: First Selectwoman Brenda L. Kupchick, Selectman Thomas Flynn,  
Selectwoman Nancy E. Lefkowitz

OTHERS PRESENT: Town Attorney James Baldwin

1) **CALL TO ORDER**

First Selectwoman called the meeting to order at 3:23 pm.

2) **PLEDGE OF ALLEGIANCE**

First Selectwoman Kupchick led the Pledge of Allegiance.

3) **TOWN ATTORNEY**

Private Executive Session - Discuss Status of Pending Personnel Matter

Selectwoman Lefkowitz made a motion to go into Executive Session at 3:25 pm. Selectman Flynn seconded the motion which carried unanimously.

Selectwoman Lefkowitz made a motion to come out of Executive Session at 4:17 pm. Selectman Flynn seconded the motion which carried unanimously.

No votes were taken.

4) **ADJOURN**

Selectman Flynn made a motion to adjourn. Selectwoman Lefkowitz seconded the motion which carried unanimously.

The meeting adjourned at 4:18 pm.

Respectfully submitted,

Pru O'Brien  
Recording Secretary

**BOARD OF SELECTMEN REGULAR MEETING**  
**Monday, March 6, 2023**  
**4:00 pm**  
**Via Webex & In-Person at**  
**BOE Conference Room 295 A/B**  
**501 King Hwy E. (across from Goodwill)**  
**Fairfield, CT 06825**

A recording of this meeting can be found here: [BOS Penfield Funding Meeting 3.6.23.](#)

**DRAFT MINUTES**

MEMBERS PRESENT: First Selectwoman Brenda L. Kupchick, Selectman Thomas Flynn, Selectwoman Nancy E. Lefkowitz

OTHERS PRESENT: CEO Tom Bremer, Planning Director James Wendt, Project Engineer Elias Ghazal, Attorney John Stafstrom, Town Attorney James Baldwin, CFO Jared Schmitt, Interim DPW Director John Marsilio, Parks and Recreation Director Anthony Calabrese, FairTV, members of the public

1) **CALL TO ORDER**

First Selectwoman Kupchick called the meeting to order at 4:00 pm.

2) **PLEDGE OF ALLEGIANCE**

First Selectman Kupchick led the Pledge of Allegiance.

First Selectwoman Kupchick then said, "It is with deep sadness the Town of Fairfield, CT shares the passing of retired Assistant Fire Chief Chris Tracy. Chris was the driving force behind the Fairfield Regional Fire School. Chris will always be remembered as a consummate gentleman and passionate about proper training for the department. Please keep Chris' family and the Fairfield Fire Department in your thoughts and prayers during this very sad time. Godspeed Chris."

First Selectwoman Kupchick asked for a moment of silence.

3) **FIRST SELECTWOMAN/CAO/ENGINEERING DEPARTMENT** *(requires Board of Finance and RTM approval)*

To hear, consider and adopt a bond resolution entitled, "A resolution appropriating \$3,000,000 FOR THE PENFIELD PAVILION FOUNDATION AND CONSTRUCTION PROJECT AND AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION."  
*See Full Resolution in Backup*

First Selectwoman Kupchick introduced the panel of Town personnel involved in the Penfield Pavilion project. She also introduced Attorney John Stafstrom as Bond Counsel regarding bonds that have been put aside to help pay for Fill Pile issues. First Selectwoman Kupchick went through a Powerpoint presentation that addressed questions as to the why and how the Town is in this situation and the why and how the Town will pay for it and what options are on the table. She said there are two scenarios at this point:

Option 1 – Maintain Building and remediate and fix foundations - FEMA Notice of Violation (NOV) - which comes to a total estimated cost of \$11.5 million.

Option 2 – Demolition the building and remediate and rebuild basic necessities which comes to a total estimated cost of \$8.5 million.

First Selectwoman Kupchick said FEMA will look at the Penfield building as two separate sections - the locker rooms and the main building. She said the main building needs to be fixed, but the locker rooms do not.

First Selectwoman Kupchick discussed the process that brought the Administration where it is now. She said there has been constant contact with FEMA for two years to try and downgrade the NOV without success and now a decision has to be made by March 31, 2023 so FEMA can see action is being taken to fix the situation. She said if the Town does not meet the deadline of March 31<sup>st</sup> and does nothing, FEMA can take other action that would negatively impact the Town. First Selectwoman Kupchick said almost 1800 residents are eligible for the 10% discount on their Flood Insurance and there is a strong possibility that FEMA will take away the eligibility of Town residents using the flood insurance discount now and then the Town would have to reapply for eligibility that could take years.

Selectman Flynn made a motion to adopt the resolution appropriating \$3 million for the Penfield Pavilion project. Selectwoman Lefkowitz seconded the motion.

Selectman Flynn made a motion to amend the original resolution to the new resolution that has been presented. Selectwoman Lefkowitz seconded the amendment. (See Full Resolution Below).

Selectwoman Lefkowitz said has many concerns regarding the resolution. First Selectwoman Kupchick said the Judge in the Fill Pile case said this is the worst case in the Town of Fairfield and the most complicated case in the State. Selectwoman Lefkowitz referred to the March 31<sup>st</sup> deadline and said she is not denying that it is a horrible situation, but feels the Administration should not rush into a decision.

There was discussion with Planning Director James Wendt, Project Engineer Eli Ghazal and the others on the panel regarding the NOV and the March 31<sup>st</sup> deadline. The comments were passionate for both options and regarding finances. The panel explained that they used local contractors to provide feedback on all costs in proposals. CEO Tom Bremer expressed his concern that there might be more fill under the building to be removed than is thought now. Selectwoman Lefkowitz reiterated her original suggestion to let the March 31<sup>st</sup> deadline pass and have the Town go into retrograde to buy time to make a decision. The others on the Town panel did not think that decision would be in the best interest of the Town as there were many residents who participate in the discount program who don't live near the beach and wouldn't want the Penfield situation to have an effect on their flood insurance. It was also mentioned that if FEMA moved the Town to suspension of the program it could have a catastrophic effect on the marketplace.

The First Selectwoman opened the meeting to public comment:

- Katie Lawrence – 6 Carlton Street
- Elizabeth Zezima – RTM – District 4 - 160 Fairfield Woods Road #22
- Ken Camarro – 345 Carroll Road
- Warren Lapa – 200 Lalley Boulevard
- Jim Bowen – 44 Fox Street
- Jill Vergara – RTM – District 7 - 271 Old Post Road
- Dick Dmochowski – Flood & Erosion Control Board member, 241 Colonial Drive
- Rick Grauer – 268 Rowland Road
- Karen McCormack – RTM – District 2 - 305 Winnepoge Drive
- Meghan McCloat – 2815 Redding Road
- Becky Bunnell – Flood & Erosion Control Board Chair - 2005 Fairfield Beach Road
- John Kuhn – RTM – District 7 - 125 Mayweed Road
- Ed Humiston – 25 Fox Street
- Alex Durrell – RTM – District 3 - 64 Woodcrest Road

Public comment closed at 6:56 pm. The public comments can be heard in their entirety by accessing the link here: [BOS Penfield Funding Meeting 3.6.23.](#)

There was a short break and the meeting resumed at 7:01 pm.

After comments and more of the same discussion from the BOS members the vote was taken.

The amended resolution:

**A RESOLUTION APPROPRIATING \$10,500,000 FOR COSTS RELATED TO CONSTRUCTION, REMEDIATION, AND ADDRESSING THE NOTICE OF VIOLATION AT PENFIELD PAVILION**

**WHEREAS**, contaminated fill from the (Julian) fill pile was illegally deposited beneath Penfield Pavilion during construction;

**WHEREAS**, by state and federal law, the Town of Fairfield, Connecticut (the “Town”) is required to remove the fill in accordance with DEEP & EPA standards under a Consent Order;

**WHEREAS**, FEMA has determined the Town installed horizontal grade beams at a height that is in violation of federal floodplain management regulations;

**WHEREAS**, under federal law, the Town is required to bring Penfield Pavilion into compliance with FEMA regulations;

**WHEREAS**, the Town has received Notices of Violation from federal and state agencies that must be addressed.

**WHEREAS**, if the Town does not take corrective action by the end of March regarding the Notice of Violation, the Town faces a myriad of negative consequences that will impact residents and the Town;

**WHEREAS**, Penfield Pavilion is an asset to the community enjoyed by residents year round



and cleaning the contaminated fill and lowering the grade beams is necessary to comply with all state and federal laws;

**WHEREAS**, the total costs for the remediation and construction at Penfield Pavilion, as well as, the cost to address the Notices of Violation is \$11,500,000 (the “Total Costs”); and

**WHEREAS**, the Town previously allocated and approved \$1,000,000 in American Rescue Plan Act funding to be applied towards the Total Costs; and

**WHEREAS**, the Town is holding funds (the “Funds”) in its Capital Non-Recurring Fill Pile Remediation Account (the “Account”) and desires to appropriate \$10,500,000 of the Funds to finance the balance of the Total Costs; and

**NOW, THEREFORE, BE IT RESOLVED:**

As recommended by the Board of Finance and the Board of Selectmen, the Town hereby appropriates the following sums from the Capital Non-Recurring Fill Pile Remediation Account for the following purposes:

\$4,000,000 related to remediation at Penfield Pavilion  
\$3,500,000 related to construction at Penfield Pavilion  
\$3,000,000 related to work to address the Notices of Violation

The motion to amend the original resolution carried unanimously.

The main motion, as amended, carried 2-1-0 (Lefkowitz opposed).

4. Adjourn

Selectwoman Lefkowitz made a motion to adjourn. Selectman Flynn seconded the motion which carried unanimously.

The meeting adjourned at 7:37 pm.

Respectfully submitted,

Pru O’Brien  
Recording Secretary

**From:** [Sarah Matthews](#)  
**To:** [TownClerk](#)  
**Cc:** [Carpenter, Jennifer](#)  
**Subject:** Resignation from BGAC  
**Date:** Wednesday, March 15, 2023 3:16:17 PM

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To Whomever It May Concern,

Please consider this my resignation from the Burr Gardens Advisory Committee.

I enjoyed being a part of the BGAC for over a year, but need to focus on my career and family, and do not have the bandwidth to properly help the committee at this time.

Thank you,  
Sarah

--

Sarah Matthews  
[sarah.h.matthews@gmail.com](mailto:sarah.h.matthews@gmail.com)  
415-350-4688

**From:** [null@town.fairfield.ct.us](mailto:null@town.fairfield.ct.us)  
**To:** [Board of Selectmen](#)  
**Subject:** New submission for form: Boards and Commissions Interest Form (ID #274)  
**Date:** Saturday, February 18, 2023 9:11:36 PM

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## Boards and Commissions Interest Form

Record #274 submitted from IP address 24.146.187.163 on 2/18/2023 9:12 PM

[View form](#)

<b>ID</b>	274
<b>First Name</b>	David
<b>Last Name</b>	Peck
<b>Street Address</b>	955 South Pine Creek Rd.
<b>Zip Code</b>	06824
<b>Email Address</b>	fpdcop100@aol.com
<b>Cell Phone</b>	203-650-6761
<b>Home Phone</b>	
<b>Work Phone</b>	
<b>Voter Registration Status</b>	Yes
<b>Political Party Affiliation</b>	Unaffiliated (No party affiliation)
<b>Board or Commission</b>	Bicycle and Pedestrian Committee
<b>Read the Boards Role</b>	Yes
<b>How You Learned About the Position</b>	Chief Kalamaras
<b>Who You Have Spoken To</b>	Department Head
<b>Explanation of Interest and Contribution</b>	I feel that as life long Fairfield resident and a former Fairfield Police Officer that my input on this committee would be helpful.
<b>Resume or Bio</b>	<a href="#">Resume DAVID JOHN PECK 11 28 22.doc</a>

Additional Comments	
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[Manage](#)

DAVID JOHN PECK  
955 South Pine Creek Road  
Fairfield, Connecticut 06824  
Home (203) 255-8640  
Cell (203) 650-6761  
Email: fpdcop100@aol.com

QUALIFICATIONS:

I have over 40 years of law enforcement experience working in both large and small municipal police departments from entry level Officer to Chief Executive Officer.

EDUCATION:

Graduate FBI LEEDS Program Session 57, Quantico, Virginia	2007
University of New Haven, West Haven, Connecticut Bachelor of Science in Police Administration	1998
Graduate of FBI National Academy, Session 181, Quantico, Virginia	1995
Graduate of Connecticut Police Academy, Class #169	1979
Housatonic Community College, Bridgeport, Connecticut Associate of Science in Law Enforcement	1979

WORK EXPERIENCE:

SHOW SECURITY	Infinity Music Hall Norfolk, CT	2021-Present
CT GUARD CARD INSTRUCTOR	Bridgeport Shooting Range Bridgeport, CT	2014-Present
LAW ENFORCEMENT COORDINATOR (Contract Position)	Housatonic Community College Bridgeport, CT	2014-2015
POLICE OFFICER	Town of Bridgewater, CT	2013-2020
SECURITY CONSULTANT	Vigilant Resources International New York, NY	2011-2017
CONSTABLE (Elected)	Town of Fairfield, CT	2011-2013
FAIRFIELD SENIOR CENTER DISPATCHER/DRIVER	Town of Fairfield, CT	2010-2013
FAIRFIELD POLICE DEPARTMENT	Town of Fairfield, CT	1978-2010
CHIEF OF POLICE		2006-2010

Executive officer of the Fairfield Police Department; having authority to direct and control the conduct of all 260 sworn and non-sworn members of the Police Department; keeping all records required by law and by the Police Commission and developing and managing a budget of approximately \$16.0 million.

Directed a team of 30 full-time and over 100 part-time professionals, including 1 Lieutenant and 2 Sergeants.

Oversaw key functional areas, including crash investigations, marine unit, dive team, motorcycle patrol, information technology, fleet maintenance for 50+ vehicles, communications center, marina and school crossing guards, parking tag collections, aviation unit, and animal control.

Maintained and controlled an operating budget of \$4.5 to \$5.0 million.

Hired and trained employees and provided input into collective bargaining.

Participated in disciplinary actions, including grievances and arbitrations.

Reviewed statistical data and trends and effectively planned human resource allocations.

Interfaced with various town departments to coordinate efforts and facilitation of problem resolution.

Worked closely with media contacts to project an image of competence, cooperation and caring.

Oversaw field incidents to ensure the proper securing of areas, evidence gathering, interviews/interrogations and related reports.

Directed a team of 70 Officers, 4 Lieutenants and 7 Sergeants, providing 7 day-24-hour patrols.

Scheduled and allocated staff based on statistical data.

Oversaw emergency response to incidents, including scene investigations, evidence collection, interviews and interrogations.

Coordinated training and scheduling with Training Officer.

Responded to internal and external complaints, including interrogations and final dispositions.

Key catalyst in the implementation of community policing.

Attended police commission meetings to discuss key issues, including statistical trends, budgets, resource allocations, and long-term plans.

Interfaced with town executives, elected officials and community leaders to build support for shared goals.

Planned, coordinated and scheduled training for Police Officers.

Developed progressive training scenarios to track and monitor officer development.

Conducted internal investigations concerning employee misconduct.

Ensured compliance with state mandates and interfaced with the Connecticut Police Academy.

CT POST Academy certified instructor

Senior CT POST Academy/NRA Firearms Instructor

Supervised a team of patrol officers.

Responded to various emergencies and incidents requiring supervisory oversight.

CT POST Academy/NRA Firearms Instructor

MOTORCYCLE OFFICER/ACCIDENT INVESTIGATOR

1979-1988

PART TIME ANIMAL CONTROL OFFICER/SPECIAL POLICE OFFICER

1978-1979

ASSOCIATIONS:

Member	FBI National Academy Associates
Member/Past President	Connecticut FBI National Academy Associates
Past Member	International Association of Chiefs of Police
Past Member	FBI LEEDA
Past Member	Connecticut Chiefs of Police Association
Past Member	New England Chiefs of Police Association
Member	University of New Haven Alumni Association
Associate Member	380 <sup>th</sup> Bomb Group Association

PERSONAL: Married to wife Lyn, with two children, Erin and Douglas, 5 grandchildren

PAST/PRESENT

VOLUNTEER ACTIVITIES:

Albert Schweitzer Institute Volunteer in Nicaragua  
Connecticut Special Olympics  
Partners International Foundation Board of Directors  
Humanitarian Projects in Leon, Nicaragua  
Soup Kitchen Volunteer Golden Hill Methodist Church  
Project Coordinator Granada, Nicaragua Police Leadership Partnership  
John Jay College, NYC Guest Lecturer  
Leir Foundation, Ridgefield, CT  
Housatonic Community College Alumni Advisory Council  
Housatonic Community College Guest Speaker  
The Family Justice Center  
Fairfield Senior Center Advisory Committee  
Safe and Sound-A Sandy Hook Initiative Advisor  
Housatonic Community College President Search Committee  
Mentor Bridgeport Military Academy

AWARDS:

Connecticut Police Academy Training Officer Award  
American Red Cross International Good Samaritan Award 2009  
Elks Club Citizen of the Year 2009  
Housatonic Community College Distinguished Alumni Hall of Fame 2010

OTHER:

Experienced Police Promotional Test Assessor  
State of Connecticut Licensed Security Officer  
State of Connecticut Certified Guard Card Instructor  
State of Connecticut Certified Armed Guard Card Instructor  
State of Connecticut Certified Bail Enforcement Officer Instructor  
BLS/AED/CPR Instructor  
State of Connecticut Certified Pistol Permit Instructor

References available upon request

Updated 11/28/22

**From:** [null@town.fairfield.ct.us](mailto:null@town.fairfield.ct.us)  
**To:** [Board of Selectmen](#)  
**Subject:** New submission for form: Boards and Commissions Interest Form (ID #282)  
**Date:** Monday, February 20, 2023 2:29:32 PM

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## Boards and Commissions Interest Form

Record #282 submitted from IP address 69.118.141.172 on 2/20/2023 2:29 PM

[View form](#)

<b>ID</b>	282
<b>First Name</b>	Anthony
<b>Last Name</b>	Wellman
<b>Street Address</b>	19 Mona Terrace
<b>Zip Code</b>	06824
<b>Email Address</b>	anwell@optonline.net
<b>Cell Phone</b>	203-685-1414
<b>Home Phone</b>	203-255-2947
<b>Work Phone</b>	
<b>Voter Registration Status</b>	Yes
<b>Political Party Affiliation</b>	Unaffiliated (No party affiliation)
<b>Board or Commission</b>	Bicycle and Pedestrian Committee
<b>Read the Boards Role</b>	Yes
<b>How You Learned About the Position</b>	Learned from a friend, Dave Peck.
<b>Who You Have</b>	Other Person(s)



<b>Spoken To</b>	
<b>Explanation of Interest and Contribution</b>	I am a longtime Fairfield resident as well as proponent of walking for health, enjoyment and its ecological benefits. I enjoy walks frequently in Fairfield and understand it is beneficial for a town's health and development to be pedestrian-and-bike-friendly. If my observations and thoughts may be of assistance to the Town of Fairfield I am glad to help.
<b>Resume or Bio</b>	<a href="#">Anthony Wellman Resume LCAEL 2021-09-09.PDF</a>
<b>Additional Comments</b>	

[Manage](#)

## **Anthony Wellman**

19 Mona Terrace Fairfield, CT 06824  
PH: (203) 255-2947 (land) (203) 685-1414 (cell)  
[anwell@optonline.net](mailto:anwell@optonline.net)

LinkedIn: <https://www.linkedin.com/in/anthonywellmantonywellman/>

### **Skills -**

Resourceful, multifaceted creative person. Skills include copywriting • audio/video production • print & broadcast advertising • Collateral materials • Web & Social Media Content • Public Relations/Press Releases • Photography • Videography • experienced voice-over announcer

### **Professional Summary-**

A veteran marketer, particularly resourceful at maximizing smaller budgets and leveraging opportunities. I was an integral part of the growth of the last company I worked for, helping it to grow from a single location to nine locations in as many States from the East Coast to Minnesota and employing 200 - 500 hundred people. **For details see my LinkedIn Page.**

### **Work Experience -**

#### **• Marketing & Communications Director, The Adventure Parks of Outdoor Ventures July 2012 - March 2020**

#2 marketing person. As a “one man advertising agency” I created a wide variety of marketing materials and campaigns, serving as a writer, producer, creative director, media buyer, photographer, videographer, public relations and social media person for as many as ten Adventure Park locations, operated by the Outdoor Venture Group LLC (Outdoor Ventures) in Connecticut, New York, Maryland, Massachusetts, Michigan, Minnesota, Tennessee and Virginia.

#### **• Communications Director, Fraunces Tavern Museum, New York 2009 - 2011**

Responsible for marketing the Museum’s exhibit: “Magna Carta - The Foundations of Freedom”. Working with a modest budget I was able to leverage exposure for this event via social media, on-site signage and extensive public and community relations activity which yielded substantial coverage in print, broadcast and online media. Attendance was superlative.

#### **• Writer/Producer/Creative Director, Anthony Wellman Productions (consulting) 1980 - Present**

A consultancy which began as a radio commercial production house and evolved into a creative services firm serving marketing communications, providing my creative services as writer, producer and creative director. (Consultancy put on hold when I joined Outdoor Ventures in 2012.)

Projects included: Radio Commercials, Non-Broadcast Audio, TV Commercials, Corporate Video, B2C Print Advertising, B2B Print Advertising, Press Releases, Brochures, Web Content, Original Songs/Jingles, Events/Meetings.

Clients included: American Express, IBM, AT&T, The American Museum of Natural History, JP Morgan Chase, Mercedes Benz, BASF Pharma, Ovaltine, DK Publishing, The Audio Book Club, Princeton Medical Center, Gracious Home, Habitat for Humanity, JobDig/LinkUp.com, Audio Book Club, etc.

### **Education**

Syracuse University, BS in Broadcast Journalism

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# Memorandum

**To:** Board of Selectmen

**From:** Mark Barnhart, Director of Community & Economic Development

**Date:** March 24, 2023

**Re:** Amendment to Agreement

I am requesting your favorable consideration of the attached agreement that reflects changes to ownership and the planned development project following the sale of the Fairfield Metro Center property this past July to Accurate Builders, doing business as May Fairfield CT, LLC.

You will recall that the Town, along with the Connecticut Department of Transportation and Blackrock Realty, LLC, were party to an agreement dated March 31, 2023 (the Tri-Party Agreement), to facilitate the development of the Fairfield Metro Center project. The Tri-Party Agreement provided that the Department and Town must consent to any assignment of interests or obligations to a third party.

In order to facilitate the transfer of the property to Accurate, the parties agreed to memorialize certain changes to the Tri-Party Agreement to reflect changes to the development project. The changes specifically pertain to the development of the so-called "Concourse Building" (formerly known as the commuter waiting area building) and the timeline to accomplish this work. For example, the Tri-Party Agreement in 2003 contemplated a concourse building of 30,000sf, whereas Accurate envisions a much larger building to accommodate both a hotel as well as office and retail uses. The Agreement also acknowledges that many of the obligations that were referenced in the original Tri-Party Agreement have been satisfied, including the transfer of the Parking Lot Land from the Town to the State of Connecticut following completion of the Fairfield Metro Center Train Station project.

I would welcome the opportunity to discuss this proposal and to respond to any questions the Board may have. Thank you again for your consideration.

## AMENDMENT TO AGREEMENT

**THIS AMENDMENT TO AGREEMENT** (the “Amendment”) is made as of Effective Date (as hereinafter defined) by and among the **STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION** (“Conn DOT”); the **TOWN OF FAIRFIELD**, a municipality within the County of Fairfield and State of Connecticut (the “Town”); and **MAY FAIRFIELD CT LLC**, a duly authorized and validly existing New Jersey limited liability company (“Developer”; together with Conn DOT and the Town, collectively the “Parties”).

### WITNESSETH:

**WHEREAS**, Conn DOT, the Town, and Developer, successor by assignment from Blackrock Realty, LLC (the “Original Developer”), are parties to that certain Fairfield Commerce Drive Train Station Agreement dated March 31, 2003 (the “Original Tri-Party Agreement”; as amended and supplemented by this Amendment, the “Tri-Party Agreement”); and

**WHEREAS**, capitalized terms used in this Amendment but not defined in this Amendment shall have the meanings ascribed to them in the Original Tri-Party Agreement; and

**WHEREAS**, various obligations of Conn DOT, the Town and the Original Developer under the Original Tri-Party Agreement have been satisfied, including but not limited to Original Developer’s conveyance of portions of the Site, Original Developer granting the CWA Land Lease for the Commuter Waiting Area Land, the construction of a public road (a/k/a Ash Creek Boulevard) on the Site and conveyance of same, the performance of certain remediation obligations, the construction of an ADA-compliant railroad station, the satisfaction of the various “pre-conditions” set forth in Article VI of the Original Tri-Party Agreement, and the granting of various temporary easements relating to the foregoing; and

**WHEREAS**, Developer seeks to develop the portions of the Site located to the south and west of Ash Creek Boulevard into a mixed-use project consisting of high-density multi-family residential buildings together with certain commercial and retail space, off-street parking, and other amenities (the “Commercial Development Project”) as originally planned by the Original Developer but which the Original Developer did not complete; and

**WHEREAS**, Developer also seeks to construct a mixed-use commercial building that is open to the public and connects to the train station on the Commuter Waiting Area Land (the “Concourse Building Project”), including the Train Depot, as further described herein; and

**WHEREAS**, 148 of the off-street parking spaces constructed as part of the Concourse Building Project shall be the parking spaces leased by Conn DOT pursuant to the CWA Land Lease; and

**WHEREAS**, the Commercial Development Project and the Concourse Building Project are intended to improve the quality of life in the Town and surrounding areas and promote the economic vitality of the State of Connecticut and the region; and

**WHEREAS**, Conn DOT and the Town desire the completion of the Commercial Development Project and the Concourse Building Project; and

**WHEREAS**, Conn DOT, pursuant to Section 13b-36 of the Connecticut General Statutes, has the authority to enter into this Amendment; and

**WHEREAS**, the Parties desire to restate and amend certain provisions of the Original Tri-Party Agreement to allow for the timely development of the Commercial Development Project and the Concourse Building Project.

**NOW, THEREFORE**, in consideration of the promises and the mutual obligations of the Parties and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties covenant and agree as follows:

**1. Effectiveness.** This Amendment shall become effective and bind all Parties upon the full execution and delivery of this Amendment by all Parties and Required Approvals (as hereinafter defined) (the “Effective Date”).

**2. Definitions.** As used in this Amendment, the following terms shall have the following respective meanings:

Business Day: Means a day of the week recognized by Conn DOT as a workday, exclusive of Saturdays, Sundays and any State or federal holiday.

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

Contractor Parties: A Contractor’s members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to Perform under the Contract in any capacity.

Records: All working papers and such other information and materials as may have been accumulated by the Contractor in performing under the Contract, including but not limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries, memoranda and correspondence, kept or stored in any form.

State: The State of Connecticut, including the Agency and any office, department, board, council, commission, institution or other agency or entity of the State.

Substantial Completion or Substantially Complete means that Concourse Building Project, Train Depot or another construction project contemplated herein is ready for occupancy and is capable of supporting its intended purpose and number of vehicles stipulated in this Amendment, exclusive of minor punchlist items.

**3. Concourse Building Project.** Developer shall construct the Concourse Building Project. Accordingly certain sections of the Original Tri-Party Agreement are amended as follows, to permit Developer to perform, as the original time periods for performance by Original Developer have lapsed:

- A. The term “Commuter Waiting Area” as used in the Original Tri-Party Agreement is hereby deleted and replaced with the “Concourse Building Project” as used in this Amendment. The Concourse Building Project includes the Train Depot.
- B. Section 3.1(b)(ii) of the Original Tri-Party Agreement is hereby deleted and replaced with: *“In the event the Concourse Building Project is not Substantially Complete within five (5) years from the date of the last Approval (the “Completion Date”) Developer obtains for the Concourse Building Project, Developer or its assignee shall, within sixty (60) days from the Completion Date, transfer to Conn DOT the Commuter Waiting Area Land and all improvements thereon, by limited warranty deed for \$1.00 dollar; provided, however, that if Developer posts a performance and payment bond prior to Completion Date guarantying the prompt construction and completion of the Concourse Building Project in a form and by a date, both reasonably acceptable to Conn DOT and the Town, Developer shall not be obligated to make such conveyance.”*
- C. The CWA Expiration Date, as set forth in Section 3.1(b)(iii), shall mean December 31, 2060.
- D. The phrase *“shall transfer to the Town the Commuter Waiting Area Land, and any improvements thereon, by limited warranty deed for \$1.00”* contained within Section 3.1(b)(iii) of the Original Tri-Party Agreement is hereby deleted and replaced with: *“shall transfer to Conn DOT the Commuter Waiting Area Land, and that portion of the Concourse Building Project consisting of the Train Depot only, by limited warranty deed for \$1.00.”*
- E. Sections 4.4(a)-(c) of the Original Tri-Party Agreement is hereby deleted in its entirety and replaced with the following:

**“4.4 The Developer Improvements.**

(a) *Subject to obtaining the Approvals (as hereafter defined), Developer, in accordance with the schedule annexed hereto as Exhibit A (the “Schedule”), shall construct and install the Concourse Building Project. Developer shall promptly seek and diligently pursue all required or appropriate approvals and permits from*

*Federal, State and local authorities in final and unappealable form (the “Approvals”), including but not limited to those outlined on Exhibit B annexed hereto, and shall follow required applicable or appropriate procedures in doing so.*

*(b) The Concourse Building Project, which shall consist of a mixed-use commercial building that may contain the improvements outlined on Exhibit C annexed hereto. The Concourse Building Project shall be constructed on the Surface Parking Area and shall connect to the train platform. The Concourse Building Project shall contain commercial and/or retail space and shall include parking areas sufficient to accommodate the 148 public parking spaces leased by Conn DOT pursuant to the CWA Land Lease. The Concourse Building Project shall also contain the Train Depot as outlined in Section 5.6.*

*(c) Developer shall design and construct the Concourse Building Project in compliance with Federal, State and local building codes and the Americans with Disabilities Act of 1990, including those legal requirements set forth on Exhibit D annexed hereto.”*

D. Section 5.4 of the Original Tri-Party Agreement is hereby deleted in its entirety and any references to Section 5.4, including the “Train Depot and Excess Environmental Expense Letter of Credit” in the Original Tri-Party Agreement are deleted in their entirety.

**4. Train Depot.** Section 5.6 of the of the Original Tri-Party Agreement is hereby deleted in its entirety and replaced with the following:

**“5.6 Train Depot.**

*(a) Specifications. A public train depot waiting area of at least two thousand (2000) square feet (the “Train Depot”) shall be constructed as part of the Concourse Building Project, unless Conn DOT provides written notice to Developer that a Train Depot is not required. The Train Depot shall be constructed simultaneously with the other elements of the Concourse Building Project, in accordance with the Schedule and the specifications set forth in Exhibit I of the Original Tri-Party Agreement. Approximately 500 square feet of the Train Depot shall be designated and designed for the use of Town police and emergency services.*

*(b) Lease. Upon Substantial Completion of the Train Depot, if constructed, Developer shall lease to Conn DOT the Train Depot for a period expiring simultaneously with the CWA Land Lease and in accordance with the terms and conditions of the CWA Land Lease. Pursuant to the CWA Land Lease, Conn DOT shall be permitted to sublease or other permit the Town to use the 500 square foot public safety area. To the extent required, upon Substantial Completion of the Train Depot the Parties shall enter into an amendment to the CWA Land Lease memorializing the terms set forth herein.”*

**5. CWA Land Lease.** During construction of the Concourse Building Project the last paragraph of Section 1 of the CWA Land Lease shall not apply, meaning Lessor shall not be obligated to make available to Lessee any temporary replacement parking spaces; provided,

however, that upon Substantial Completion of the Concourse Building Project, the last paragraph of Section 1 of the CWA Land Lease shall again apply in all respects and the Concourse Building Project shall include parking areas sufficient to accommodate the 148 public parking spaces leased by Conn DOT pursuant to the CWA Land Lease. Notwithstanding the foregoing, if during Developer's construction of the Concourse Building Project Conn DOT determines in its reasonable discretion that the off-street public parking serving the Train Station (on the Parking Land or otherwise) is insufficient to meet the current demand, Conn DOT may request that Developer use commercially reasonable efforts to provide, at Developer's cost and expense, temporary off-street parking areas in a location reasonably acceptable to Conn DOT to offset the temporary loss of the spaces under CWA Land Lease.

**6. Temporary and Permanent Easements.** Certain temporary and permanent easements have been granted pursuant to the Original Tri-Party Agreement. The granting of new temporary and/or permanent easements and/or the relocation or modification of certain existing easements may be required to accomplish the goals of the Tri-Party Agreement and the completion of the Concourse Building Project. The Parties shall utilize commercially reasonable, good faith efforts to enter into or modify such easements in connection with same, provided that none of the Parties shall be obligated to enter into or modify any such easements if it would have a material adverse effect on such party.

**7. Nondiscrimination.** Article VII entitled Nondiscrimination is hereby deleted in its entirety.

**8. Successors Bound.** Notwithstanding anything to the contrary contained in the Original Tri-Party Agreement, the consent of Conn DOT or the Town shall not be required in connection with the sale, leasing, or financing of all or any portion of the Commercial Development Project, i.e., those portions of the Site located to the south and west of Ash Creek Boulevard.

**9. Termination.** Upon completion of the Concourse Building Project, the Tri-Party Agreement shall terminate and expire, in which case none of the Parties shall have any further liabilities or obligations under the Tri-Party Agreement, except for those provisions that expressly survive the termination of the Tri-Party Agreement pursuant to its terms.

**10. State of Connecticut Required Provisions.** A new Exhibit D, entitled "State of Connecticut Required Provisions," as may be amended from time-to-time, attached hereto is made part of the Original Tri-Party Agreement. Developer shall comply with all the administrative requirements set forth in Exhibit D and the Town shall comply with Sections 1, 2, 5, 9, 13 and 14.

**11. Notices.** Section 8.6 of the Original Tri-Party Agreement is hereby deleted in its entirety and replaced with the following:

8.6 Notice. Any notice, communication, request or reply made by either party to the other must be made in writing and shall be effectively given if addressed to the party to be notified and deposited with the US Postal Service using certified or registered mail, postage prepaid with return receipt requested, or shipped by a recognized overnight delivery service, or delivered in person or sent by facsimile transmittal (with transmission



confirmation). A notice shall be effective, unless otherwise stated in this Agreement, (a) three (3) Business Days after it is deposited with the US Postal Service, (b) one (1) Business Day after being sent by recognized overnight delivery service, (c) upon delivery if delivered in person with written receipt confirmation, and (d) the date of receipt of a facsimile transmission confirmed by telephonic acknowledgment or the first Business Day thereafter if transmitted other than on a Business Day or after 5:00 p.m. Connecticut time. For purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

To Conn DOT: Connecticut Department of Transportation  
2800 Berlin Turnpike  
PO Box 317546  
Newington, CT 06131-7546  
Attn: Commissioner  
Facsimile: (860) 594-3008

With a copy to: Amy Ravitz, Esq.  
Agency Legal Director  
Department of Transportation  
2800 Berlin Turnpike  
Newington, Connecticut 06111  
Facsimile: (860) 594-3000

To Town: Town of Fairfield  
Independence Hall  
725 Old Post Road  
Fairfield, CT 06430  
Attn: First Selectman

With a copy to: Town of Fairfield  
Independence Hall  
725 Old Post Road  
Fairfield, CT 06430  
Attn: Town Attorney

To Developer: May Fairfield CT LLC  
c/o Accurate Builders LLC  
32 Cross St, Suite 301  
Lakewood, NJ 08701  
Attn: David Cahn; Jack Klugmann

With a copy to: Gibbons P.C.  
One Gateway Center  
Newark, NJ 07102  
Attn: Andrew J. Camelotto, Esq.

With a copy to: Carmody Torrance Sandak & Hennessey LLP  
1055 Washington Blvd., 4th Floor  
Stamford, CT 06901  
Attn: Lisa L. Feinberg, Esq.

Each party shall have the right to change the place or person to which notices shall be sent by delivering a notice to the other party in the manner provided above in this Section.

**12. Required Governmental Approvals.** This Amendment shall only become effective and bind Conn DOT on the date when all of the following have occurred (the “Required Approvals”):

- (a) approval by the State Properties Review Board; and
- (b) approval of this Amendment as to form, and, as applicable, as to substance, by the Attorney General of the State of Connecticut.

Conn DOT shall use reasonable efforts to obtain such approvals. Developer and the Town shall cooperate with Conn DOT in its efforts to obtain all such approvals, including by providing Conn DOT with any data, documents or information that Conn DOT may reasonably determine to be necessary in obtaining said approvals and meeting with any State representatives, as requested by Conn DOT.

**13. Remainder of Agreement.** Except as modified by this Amendment, the Original Tri-Party Agreement remains in full force and effect. The Original Tri-Party Agreement, as amended by this Amendment, constitutes the Tri-Party Agreement. In the event that any provisions of this Amendment conflict with any provisions of the Original Tri-Party Agreement, this Amendment shall control.

**14. Miscellaneous.** This Amendment may be executed in any number of counterparts, each of which shall constitute an original but all of which, taken together, shall constitute but one and the same instrument. This Amendment may be executed and legally delivered by signing (including electronic signature) and sending a pdf counterpart via email to the other party or its legal counsel, without the necessity of exchanging originally executed counterparts. If the signature of any party is not an original, but is a digital, mechanical or electronic reproduction (such as, but not limited to, a photocopy, e-mail, PDF, Adobe image, JPEG, or electronic

signature), then such digital, mechanical or electronic reproduction shall be as enforceable, valid and binding as, and the legal equivalent to, an authentic and traditional ink-on-paper original wet signature penned manually by its signatory.

[Signature page follows]

**IN WITNESS WHEREOF**, the Parties have executed this Amendment as of the date written on the first page of this Amendment.

**STATE OF CONNNECTICUT**  
**DEPARTMENT OF TRANSPORATION**  
**Garrett T. Eucalitto, Commissioner**

By: \_\_\_\_\_  
Name:  
Title:  
Date:

**TOWN OF FAIRFIELD**, a Municipal  
Corporation under the laws of the State of  
Connecticut

By: \_\_\_\_\_  
Name:  
Title:  
Date:

**MAY FAIRFIELD CT, LLC**

By: \_\_\_\_\_  
Name: Yaakov Klugmann  
Title: Member  
Date:

Approved:  
STATE PROPERTIES REVIEW BOARD

By: \_\_\_\_\_

Name:

Title:

Date:

Approved as to form:  
ATTORNEY GENERAL, STATE OF CONNECTICUT

By: \_\_\_\_\_

Name: Jeffrey Zeman

Title: Assistant Attorney General

Date:

## EXHIBIT A

### Schedule for Concourse Building Project

<b>Filing for Building Permits:</b>	Within six (6) months of obtaining all Approvals (other than Building Permits)
<b>Commencement of Construction:</b>	Within one (1) year of obtaining Building Permits
<b>Substantial Completion:</b>	Within five (5) years of obtaining Building Permits
<b>Completion of Construction:</b>	As soon as practicable after Substantial Completion

EXHIBIT B

Approvals Required for Concourse Building Project

<b>Application</b>	<b>Reviewing Agency</b>
Inland Wetlands Application	Fairfield Conservation Commission
Coastal Site Plan Modification	Fairfield Town Plan & Zoning Commission
Special Permit Modification	Fairfield Town Plan & Zoning Commission
Sanitary Sewer Usage	Fairfield Water Pollution Control Authority
OSTA AD Revision	Office of the State Traffic Administration

## EXHIBIT C

### Description of Concourse Building Project (Concept Plan Attached)

A mixed-use commercial building that may consist of two (2) floors of 285 off-street parking spaces with an approximately eight (8) story building above it that may consist of the Train Depot, office space, hotel lobby and other amenities, and eight (8) on-site parking spaces on the ground floor, +/- 41,000 square feet of commercial office space on the second and third floor, +/- 52,000 square feet of hotel space above the commercial office/retail space, and +/- 3,000 square feet of restaurant/bar space with complimentary rooftop space.



## EXHIBIT D

### State of Connecticut Required Provisions

For the purposes of this document, references to “contract” or “Contract” mean this Agreement, and references to “contractor” or “Contractor” mean Developer or Town as applicable, and references to “Contractor Parties” mean Developer Parties or Town Parties as applicable.

**1. Audit Clause. Audit Requirements.** For purposes of this paragraph, the word "contractor" shall be deemed to mean "nonstate entity," as that term is defined in Section 4-230 of the Connecticut General Statutes. The contractor shall provide for an annual financial audit acceptable to CTDOT for any expenditure of state-awarded funds made by the contractor. Such audit shall include management letters and audit recommendations. The State Auditors of Public Accounts shall have access to all records and accounts for the fiscal year(s) in which the award was made. The contractor will comply with federal and state single audit standards as applicable.

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

**3. Disclosure of Records.** This Contract may be subject to the provisions of section 1-218 of the Connecticut General Statutes. In accordance with this statute, each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (b) indicate that such records and files are subject to FOIA and may be disclosed by the public agency pursuant to FOIA. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with FOIA. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the Connecticut General Statutes.

**4. Access to Contract and State Data.** The Contractor shall provide to CTDOT access to any data, as defined in Conn. Gen Stat. Sec. 4e-1, concerning the Contract and CTDOT that are in the possession or control of the Contractor upon demand and shall provide the data to CTDOT in a format prescribed by CTDOT and the State Auditors of Public Accounts at no additional cost.

**5. Forum and Choice of Law.** The parties deem the Contract to have been made in the City of Hartford, State of Connecticut. It is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by Federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only, and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

**6. Termination for Convenience. Intentionally omitted.**

**7. Tangible Personal Property. – Intentionally omitted. – Not Applicable.**

**8. Indemnification. – Intentionally omitted.**

**9. Sovereign Immunity.** Nothing in the Contract shall be construed as a modification, compromise, or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have, or will have with respect to all matters arising out of the Contract. To the extent that this section conflicts with any other section, this section shall govern.

**10. Summary of State Ethics Laws.** Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes (a) the State has provided to the Contractor the summary of State ethics laws developed by the State Ethics Commission pursuant to section 1-81b of the Connecticut General Statutes, which summary is incorporated by reference into and made a part of this Contract as if the summary had been fully set forth in this Contract; (b) the Contractor represents that the chief executive officer or authorized signatory of the Contract and all key employees of such officer or signatory have read and understood the summary and agree to comply with the provisions of state ethics law; (c) prior to entering into a contract with any subcontractors or consultants, the Contractor shall provide the summary to all subcontractors and consultants and each such contract entered into with a subcontractor or consultant on or after July 1, 2021, shall include a representation that each subcontractor or consultant and the key employees of such subcontractor or consultant have read and understood the summary and agree to comply with the provisions of state ethics law; (d) failure to include such representations in such contracts with subcontractors or consultants shall be cause for termination of the Contract; and (e) each contract with such contractor, subcontractor or consultant shall incorporate such summary by reference as a part of the contract terms.

**11. Audit and Inspection of Plants, Places of Business and Records.**

- (a) The State and its agents, including, but not limited to, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract.
- (b) The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
- (c) The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours' notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
- (d) The Contractor shall pay for all costs and expenses of any audit or inspection which reveals information that, in the sole determination of the State, is sufficient to constitute a breach by the Contractor under this Contract. The Contractor shall remit full payment to the State for such audit or inspection no later than 30 days after receiving an invoice from the State. If the State does not receive payment within such time, the State may setoff the amount from any moneys which the State would otherwise be obligated to pay the Contractor in accordance with this Contract's setoff provision.
- (e) The Contractor shall keep and preserve or cause to be kept and preserved all of its and Contractor Parties' Records until three (3) years after the latter of (i) final payment under this Agreement, or (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason. The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.
- (f) The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- (g) The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.

**12. Campaign Contribution Restriction.** For all State contracts, defined in Conn. Gen. Stat. §9-612 as 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.

### **13. Protection of Confidential Information.**

For the purposes of this Section 13, the following definitions apply:

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

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

- (a) Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Confidential Information Breach any and all Confidential Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.
- (b) Each Contractor or Contractor Party shall develop, implement and maintain a comprehensive data - security program for the protection of Confidential Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Confidential Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of CTDOT or State concerning the confidentiality of Confidential Information. Such data-security program shall include, but not be limited to, the following:
  - (1) A security policy for employees related to the storage, access and transportation of data containing Confidential Information;
  - (2) Reasonable restrictions on access to records containing Confidential Information, including access to any locked storage where such records are kept;

- (3) A process for reviewing policies and security measures at least annually;
  - (4) Creating secure access controls to Confidential Information, including but not limited to passwords; and
  - (5) Encrypting of Confidential Information that is stored on laptops, portable devices or being transmitted electronically.
- (c) The Contractor and Contractor Parties shall notify CTDOT and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Confidential Information which Contractor or Contractor Parties have come to possess or control has been subject to a Confidential Information Breach. If a Confidential Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, CTDOT and the Connecticut Office of the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Confidential Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Confidential Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from CTDOT, any State of Connecticut entity or any affected individuals.
- (d) The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Confidential Information in the same manner as provided for in this Section.
- (e) Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate (as defined in 45 C.F.R. § 160.103) of CTDOT.

#### **14. Executive Orders and Other Enactments**

- (a) All references in this Contract to any Federal, State, or local law, statute, public or special act, executive order, ordinance, regulation or code (collectively, "Enactments") shall mean Enactments that apply to the Contract at any time during its term, or that may be made applicable to the Contract during its term. This Contract shall always be read and interpreted in accordance with the latest applicable wording and requirements of the Enactments. Unless otherwise provided by Enactments, the Contractor is not relieved of its obligation to perform under this Contract if it chooses to contest the

applicability of the Enactments or the Client Agency's authority to require compliance with the Enactments.

- (b) This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of this Contract as if they had been fully set forth in it.
- (c) This Contract may be subject to (1) Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services; and (2) Executive Order No. 61 of Governor Dannel P. Malloy promulgated December 13, 2017 concerning the Policy for the Management of State Information Technology Projects, as issued by the Office of Policy and Management, Policy ID IT-SDLC-17-04. If any of the Executive Orders referenced in this subsection is applicable, it is deemed to be incorporated into and made a part of this Contract as if fully set forth in it.

## **15. Nondiscrimination.**

(a) For purposes of this Section, the following terms are defined as follows:

- i. "Commission" means the Commission on Human Rights and Opportunities;
- ii. "Contract" and "contract" include any extension or modification of the Contract or contract;
- iii. "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
- iv. "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose;
- v. "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
- vi. "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;
- vii. "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced;
- viii. "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;
- ix. "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: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
  - x. "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.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, unless the contract is a municipal public works contract or quasi-public agency project contract, (2) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in C.G.S. § 1-267, (3) the federal government, (4) a foreign government, or (5) an agency of a subdivision, state or government described in the immediately preceding enumerated items (1), (2), (3), or (4).

- (b) (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 race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, 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; and the Contractor further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, status as a veteran, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved; (2) 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; (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the 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; (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant

order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and (5) 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 as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.

- (c) 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.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The 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 Connecticut General Statutes §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.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g) (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 the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) 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; (3) the Contractor agrees to comply



with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and (4) 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 Connecticut General Statutes § 46a-56.

- (h) The Contractor shall include the provisions of the foregoing paragraph 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 Connecticut General Statutes § 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.
- (i) Pursuant to subsection (c) of section 4a-60 and subsection (b) of section 4a-60a of the Connecticut General Statutes, the Contractor, for itself and its authorized signatory of this Contract, affirms that it understands the obligations of this section and that it will maintain a policy for the duration of the Contract to assure that the Contract will be performed in compliance with the nondiscrimination requirements of such sections. The Contractor and its authorized signatory of this Contract demonstrate their understanding of this obligation by (A) having provided an affirmative response in the required online bid or response to a proposal question which asks if the contractor understands its obligations under such sections, (B) signing this Contract, or (C) initialing this nondiscrimination affirmation in the following box:



**16. Health Insurance Portability and Accountability Act. Intentionally Omitted – Not Applicable.**

**17. Iran Investment Energy Certification.**

- (a) Pursuant to section 4-252a of the Connecticut General Statutes, the Contractor certifies that it has not made a direct investment of twenty million dollars or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, and has not increased or renewed such investment on or after said date.

(b) If the Contractor makes a good faith effort to determine whether it has made an investment described in subsection (a) of this section then the Contractor shall not be deemed to be in breach of the Contract or in violation of this section. A "good faith effort" for purposes of this subsection includes a determination that the Contractor is not on the list of persons who engage in certain investment activities in Iran created by the Department of General Services of the State of California pursuant to Division 2, Chapter 2.7 of the California Public Contract Code. Nothing in this subsection shall be construed to impair the ability of the State agency or quasi-public agency to pursue a breach of contract action for any violation of the provisions of the Contract.

**18. Consulting Agreements Representation.** Pursuant to section 4a-81 of the Connecticut General Statutes, the person signing this Contract on behalf of the Contractor represents, to their best knowledge and belief and subject to the penalty of false statement as provided in section 53a-157b of the Connecticut General Statutes, that the Contractor has not entered into any consulting agreements in connection with this Contract, except for the agreements listed below or in an attachment to this Contract. "Consulting agreement" means any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of (A) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the State, (B) contacting, whether in writing or orally, any executive, judicial, or administrative office of the State, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information, or (C) any other similar activity related to such contracts. "Consulting agreement" does not include any agreements entered into with a consultant who is registered under the provisions of chapter 10 of the Connecticut General Statutes as of the date such contract is executed in accordance with the provisions of section 4a-81 of the Connecticut General Statutes.

\_\_\_\_\_  
Consultant's Name and Title

\_\_\_\_\_  
Name of Firm (if applicable)

\_\_\_\_\_  
Start Date

\_\_\_\_\_  
End Date

\_\_\_\_\_  
Cost

The basic terms of the consulting agreement are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description of Services Provided: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Is the consultant a former State employee or former public official? ☐ YES ☐ NO

If YES: \_\_\_\_\_

\_\_\_\_\_  
Name of Former State Agency

\_\_\_\_\_  
Termination Date of Employment

**19. Large State Contract Representation for Contractor.** Pursuant to section 4-252 of the Connecticut General Statutes and Acting Governor Susan Bysiewicz Executive Order No. 21-2, promulgated July 1, 2021, the Contractor, for itself and on behalf of all of its principals or key personnel who submitted a bid or proposal, represents:

(1) That no gifts were made by (A) the Contractor, (B) any principals and key personnel of the Contractor, who participate substantially in preparing bids, proposals or negotiating State contracts, or (C) any agent of the Contractor or principals and key personnel, who participates substantially in preparing bids, proposals or negotiating State contracts, to (i) any public official or State employee of the State agency or quasi- public agency soliciting bids or proposals for State contracts, who participates substantially in the preparation of bid solicitations or requests for proposals for State contracts or the negotiation or award of State contracts, or (ii) any public official or State employee of any other State agency, who has supervisory or appointing authority over such State agency or quasi-public agency;

(2) That no such principals and key personnel of the Contractor, or agent of the Contractor or of such principals and key personnel, knows of any action by the Contractor to circumvent such prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the Contractor to provide a gift to any such public official or State employee; and

(3) That the Contractor is submitting bids or proposals without fraud or collusion with any person.

**20. Large State Contract Representation for Official or Employee of State Agency.** Pursuant to section 4-252 of the Connecticut General Statutes and Acting Governor Susan Bysiewicz Executive Order No. 21-2, promulgated July 1, 2021, the State agency official or employee represents that the selection of the person, firm or corporation was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

**AGREEMENT**

This Agreement is entered into this 31<sup>st</sup> day of March, 2003 by and among the STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION, pursuant to Connecticut General Statutes Section 13b-36, as amended (the "Conn DOT"); the TOWN OF FAIRFIELD, a municipality within the County of Fairfield and State of Connecticut (the "Town"); and BLACKROCK REALTY, LLC, a Connecticut limited liability company (the "Developer").

**WITNESSETH:**

WHEREAS, Conn DOT desires to provide an additional railroad station in the Town serving the New Haven rail line; and

WHEREAS, Conn DOT has established Project Number 301-0060 and has identified funds (the "Conn DOT Funds"), to cause high level railroad boarding platforms and a grade separated crossing of the New Haven rail line to be constructed along with certain ancillary improvements; and

WHEREAS, the Town, after detailed study and discussion, believes that providing significant additional commuter rail parking in the downtown area of Fairfield would not be desirable; and

WHEREAS, Developer is the owner of approximately thirty-five and one-half (35.5) acres in the Town, along the New Haven rail line, all as more particularly described in Exhibit A (the "Site"); and

WHEREAS, the Developer intends to convey a portion of the Site to be used to construct the Public Project (as described below) (this portion of the Site is referred to as the "Public Project Area" and is described in Exhibit B); and

WHEREAS, the Town expects that the development of the Site from its present abandoned industrial use to a commercially active property will result in an increased tax base for the Town; and

WHEREAS, the remediation of existing industrial pollution in the Public Project Area is intended to result in a significant improvement to the environment; and

WHEREAS, in order to include a railroad station within the Public Project Area, it will be necessary to construct 1,500 automobile parking spaces primarily serving rail line commuters, certain roadway and intersection improvements identified in Exhibit C-2, railroad platforms, a grade separated crossing of the New Haven rail line, a passenger waiting room, a train station depot and other public commuter waiting

area improvements, all as more specifically detailed in Exhibit C (collectively the "Public Project"); and

WHEREAS, in order to facilitate the construction of the Public Project, the Developer is willing to sell to the Town a portion of the Public Project Area and to lease to the Town an additional portion of the Public Project Area upon which the Town will construct said automobile parking spaces, to donate to Conn DOT a portion of the Public Project Area upon which Conn DOT will construct a railroad station and the Developer will construct a commuter waiting area, including a train depot, for use as commercial and retail space; and

WHEREAS, the Developer intends to construct a road through the Public Project Area and to donate this road to the Town; and

WHEREAS, the Developer seeks to develop the remainder of the Site into approximately 930,000 square feet of commercial, office, hotel and supporting retail space (the "Commercial Development Project") and, in connection therewith, seeks the cooperation and assistance of the Town, and

WHEREAS, in connection with the development of the Public Project Area, Conn DOT is willing to grant an easement to the Town for the purpose of constructing a portion of the 1500 commuter parking spaces on property owned by Conn DOT adjacent to the location of the station platform on the eastbound side of the tracks; and

WHEREAS, Conn DOT has agreed to designate the station, to be constructed as part of the Public Project, the ADA-compliant station for the Town; and

WHEREAS, Conn DOT is willing to convey to the Town a parcel of land comprising all parking spaces on the south side of the railroad tracks at the Fairfield Center Train Station in Fairfield (the "South Side Land"); and

WHEREAS, it is expected that the development of the Public Project would facilitate reverse commuting, lead to a more efficient use of rail facilities and result in economic benefit to the State of Connecticut (the "State") and its communities; and

WHEREAS, the Town and the Developer have entered in to a Memorandum of Understanding on May 9, 2002 (the "Memorandum of Understanding") under which they set forth the basic structure of a mutually advantageous arrangement to facilitate the development and construction of the Public Project and the Commercial Development Project (hereinafter collectively the "Project"), and

WHEREAS, the parties wish to memorialize the agreements reached as a result of those discussions.

NOW, THEREFORE, In consideration of the promises and the mutual obligations of the parties and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties covenant and agree as follows:

## **ARTICLE I SCOPE OF AGREEMENT; EFFECTIVE DATE**

1.1 Public, Private Participation: This Agreement sets forth the corresponding rights, privileges, duties and liabilities of the parties with respect to the development, the funding and construction of the Public Project and the Commercial Development Project.

1.2 Not a Joint Venture: This Agreement shall not be construed as creating a joint venture, agency or partnership relationship.

1.3 Effective Date: This Agreement shall become effective and bind all parties hereto when duly executed thereby upon the last of all of the following to occur: (a) receipt by the Town of the approval of this Agreement by (i) the Town of Fairfield Board of Selectmen ("BOS"), (ii) Board of Finance ("BOF"), (iii) Town Plan and Zoning Commission ("TPZ"), for planning purposes only and (iv) Representative Town Meeting ("RTM") and (b) approval by the State Properties Review Board and (c) approval as to form by the Attorney General of the State of Connecticut. The date of receipt of all of the foregoing approvals is hereinafter referred to as the "Effective Date." In the event the Effective Date has not occurred within six (6) months from the date this Agreement is executed by the last to sign of the parties hereto as determined by the date of acknowledgement of the signature, any party may terminate the Agreement by providing the other parties with thirty (30) days notice.

## **ARTICLE II THE PROJECT**

2.1 Development of the Public Project: The Developer, the Town and the Conn DOT shall develop the Public Project pursuant to the terms of this Agreement. Within 30 days after the Effective Date, the parties shall jointly develop a schedule for the timely performance of each party's obligations undertaken with respect to the Public Project (the "Schedule").

2.2 Development of the Commercial Development Project: The Developer intends to develop the Commercial Development Project as approximately 930,000 square feet of commercial, office, hotel and supporting retail space. The Developer

hereby covenants and agrees that the Commercial Development Project shall not include a casino, gaming facility, movie theatre, or any single-occupant store where goods are primarily sold at retail that contains more than 30,000 square feet of interior floor space.

### **ARTICLE III CONVEYANCE OF REAL PROPERTY AND EASEMENTS IN CONNECTION WITH THE PROJECT**

3.1 Surface Parking Area. The Town shall construct Surface Parking (as defined in Exhibit C-2) spaces primarily for rail commuters at Commerce Drive Station on the parcels of land described in subsections (a)(Parking Land), (b)(Commuter Waiting Area Land) and (c)(Conn DOT Land) of this Section 3.1. The parcels on which the Surface Parking spaces are constructed, hereinafter referred to as the "Surface Parking Area," and the design of the Surface Parking spaces are more fully described in Exhibit D hereto. The parties agree that the Surface Parking Area shall be deemed to be sufficient to accommodate 1500 Surface Parking spaces when designed as shown in Exhibit D. In the event the Surface Parking Area is unable to accommodate 1500 Surface Parking spaces the Town shall provide alternate plans and take such necessary steps to design, construct and complete an area that will provide for a total of 1500 Surface Parking spaces. Such additional parking shall be comparable, subject to Conn DOT's approval, in design, location and functionality to the Surface Parking Area, provided however, that if the design of the Commuter Waiting Area (as defined in Section 4.4 (b) below) is the direct cause of there being less than 148 Surface Parking spaces being accommodated on the Commuter Waiting Area Land (the number currently shown on Exhibit D), then Developer shall provide alternate plans and take such necessary steps to design, construct and complete an area on its portion of the Site that, subject to the reasonable approval of Conn DOT, will provide for any missing Surface Parking spaces on the Commuter Waiting Area Land. This latter requirement shall not apply if the Surface Parking Area, in total, is sufficient to accommodate 1500 Surface Parking spaces notwithstanding the design of the Commuter Waiting Area.

(a) Parking Land. The Developer shall convey by limited warranty deed, without any representations or warranties as to condition, approximately 8.83 acres of land comprising a portion of the Site (the "Parking Land") to the Town for a purchase price of \$3,750,000 (the "Purchase Price"). The approximate location on the Site and acreage of the Parking Land is shown on the Public Project Area site plan in Exhibit B. Prior to the conveyance of the Parking Land, the Developer shall obtain a subdivision for the Parking Land and provide a legal description. The Developer shall convey the Parking Land to the Town in "as is" condition after removal of the existing structures as required by Section 5.3. Upon completion of construction of the Surface Parking, the Town shall convey the Parking Land by quitclaim deed to Conn DOT in accordance with Section 4.3 (b) of this Agreement. Except as otherwise provided for in this

Agreement, the Town shall not assign, sell, convey transfer or otherwise encumber or retain for itself, the Parking Land or any part thereof, including air rights and other appurtenances.

(b) Commuter Waiting Area Land .

(i) Simultaneously with the conveyance of the Parking Land, the Developer shall lease to the Town for a period commencing upon the date of conveyance of the Parking Land and expiring on December 31<sup>st</sup> of the 99th year after the train station opens to the public the land located below the Commuter Waiting Area (as defined in Section 4.4(b), below) (the "Commuter Waiting Area Land") being approximately 1.49 acres, as shown on the Public Project Area site plan in Exhibit B (the "CWA Land Lease"). The CWA Land Lease shall provide for the use of the surface of the Commuter Waiting Area Land for commuter parking. The rent for the Commuter Waiting Area Land shall be \$99 for the full term of the CWA Land Lease payable at the time the lease is signed. The Town shall be responsible for all costs and expenses associated with the construction of the Surface Parking on the Commuter Waiting Area Land. Immediately after completion of construction of the Surface Parking, the Town shall give a non-recourse assignment of the CWA Land Lease to Conn DOT for the remainder of the lease term. Upon such assignment, Conn DOT shall be responsible for the maintenance and operation of the Surface Parking. The Developer shall have the right, as further described in Section 4.4(b), to construct the Commuter Waiting Area above the Commuter Waiting Area Land, provided that if such construction occurs once the Surface Parking is being utilized by commuters, Developer shall provide temporary parking spaces on its portion of the Site for any Surface Parking spaces that are disturbed during the construction of the Commuter Waiting Area. The design and location of such temporary parking spaces shall be subject to Conn DOT's approval and shall be comparable in design, location and functionality to the Surface Parking Area. In the event the Town is conveyed the Commuter Waiting Area Land pursuant to either Section 3.1(b)(iii) or (iv) below, the Town shall extend the term of the CWA Land Lease for an additional period of ninety-nine (99) years. The additional terms of the CWA Land Lease are contained in the form of lease attached hereto as Exhibit E.

(ii) In the event the Developer elects not to construct the Commuter Waiting Area (other than the Train Depot) within five (5) years from the date of the opening of the train station to the public, Developer or any of its assignee(s) shall, within sixty (60) days from such date, transfer to Conn DOT the Commuter Waiting Area Land, and any improvements thereon, by limited warranty deed for \$1.00 dollar.

(iii) (A) In the event the Developer elects to construct the Commuter Waiting Area, then, on December 31<sup>st</sup> of the 49<sup>th</sup> year after the year that the train station opens to the public (which date shall be referred to as the "CWA Expiration Date"), Developer, subject to its right to extend the CWA Expiration Date pursuant to Section 3.1(b) (iii) (B) below, shall transfer to the Town the Commuter Waiting Area Land,



and any improvements thereon, by limited warranty deed for \$1.00. Within ten (10) days after the date the train station opens to the public, the parties shall prepare an agreement memorializing the CWA Expiration Date.

(B) Developer shall have the right to extend the CWA Expiration Date up to five (5) times, for periods of ten (10) years each (each successive period being a "CWA Option Period" and collectively referred to as the "CWA Options"), by providing the Town written notice at least nine (9) months prior to the CWA Expiration Date or the expiration date of the CWA Option Period, as applicable. In the event Developer elects to extend the CWA Expiration Date, Developer shall pay the Town a fee (the "CWA Extension Fee") determined as follows:

The CWA Extension Fee for each CWA Option Period shall be an amount payable annually on the first day of each CWA Option Period and each anniversary thereof equal to the Fair Market Rental Value (as defined below) as of twelve (12) months prior to the beginning of each CWA Option Period, as determined by agreement of Developer and Town not less than twelve (12) months prior to the beginning of each CWA Option Period.

Fair Market Rental Value means an amount equal to the fair market value of the Commuter Waiting Area Land considered as vacant and unimproved and encumbered by the CWA Land Lease multiplied by the Rent Adjustment Multiplier.

Rent Adjustment Multiplier shall mean the then-current yield on ten-year Treasury bonds at the close of business on the date that is twelve (12) months prior to the beginning of each CWA Option Period.

In the event the parties cannot agree on the fair market value of the Commuter Waiting Area Land, each party shall hire their own appraiser who will then jointly choose a third one. The fair market value shall be the value as agreed upon by two of the three appraisers.

(iv) In the event the Developer elects to construct the Commuter Waiting Area and then fails to exercise any of the CWA Options, Developer or any of its assignee(s) shall, within sixty (60) days from such date, transfer to the Town the Commuter Waiting Area Land, and any improvements thereon, by limited warranty deed for \$1.00 dollar.

(c) Conn DOT Land. Conn DOT will grant to the Town a temporary easement to construct Surface Parking spaces on the Conn DOT owned land, located on the eastbound side of the train tracks, that runs adjacent to the Parking Land and Commuter Waiting Area Land, as shown on the Public Project Area site plan in Exhibit B ("Conn DOT Land").

3.2 Station Land: Simultaneously with the conveyance of the Parking Land to the Town, the Developer shall convey by limited warranty deed, without any representations and warranties as to condition, a portion of the Site (the "Station Land") to Conn DOT for a purchase price of \$1.00. The approximate location on the Site and acreage of the Station Land is shown on the Public Project Area site plan in Exhibit B. Prior to the conveyance of the Station Land, the Developer shall obtain a subdivision for the Station Land and provide a legal description. The Station Land shall be contiguous to the Surface Parking Area and adjacent to the railroad tracks and shall be sufficient for the construction of train platforms for the loading and unloading of railroad passengers and bridge abutments. The Station Land shall be conveyed in "as is" condition.

3.3 The Road. The Developer shall donate the land underlying the Road (as defined on Exhibit C-3) (the "Road Land") to the Town after completion of its construction in accordance with Section 4.4(d) hereof and the specifications set forth in Exhibit C-3.

3.4 The South Side Land. Simultaneously with the conveyance of the Parking Land to Conn DOT, Conn DOT shall convey by quitclaim deed all land owned by Conn DOT on which there are parking spaces comprising the South Side Land to the Town for \$1. Prior to conveyance, the exact location and acreage of the South Side Land shall be specified and surveyed by the Conn DOT.

3.5 Encumbrances. The deeds to the Parking Land, the Station Land and the Road Land shall be free and clear of all encumbrances except for those specified herein and those set forth on Exhibit F annexed hereto and such other utility easements and other similar types of easements that are required to develop the Public Project and that do not render title unmarketable and do not interfere with the intended uses thereof by the Town or Conn DOT, as the case may be, and shall contain provisions with respect to restrictions on transfers and environmental use restrictions substantially similar to those set forth on Exhibit F annexed hereto. In addition, the South Side Land shall be free of all encumbrances except for utility easements.

3.6 Remediation Measures. The Developer shall have Completed, as defined below, the Remediation measures required by Section 5.1(a) on the Road Land prior to the delivery of title, as contemplated by this Article III. As used in this Agreement "Complete" in relation to obligations for environmental remediation shall mean the containment, removal, mitigation, or abatement of pollution, a potential source of pollution, or a substance which poses a risk to human health or the environment. The Road Land and the Site in general will be remediated in a manner consistent with the requirements of the Connecticut Remediation Standard Regulation (Section 22a-133k-1 through 22a-133k-3 of the Regulations of Connecticut State Agencies) taking into account that the use of the Site will be used for industrial/commercial activity as defined in the aforementioned regulation and that the

groundwater classification is GB. "Complete" shall not include groundwater monitoring described in Section 22a-133k-3(g) of the Regulations of Connecticut State Agencies ("RCSA") or the operation and/or maintenance of a system installed to contain, remove, mitigate or abate pollution, a potential source of pollution, or a substance which poses a risk to human health or the environment.

3.7 Plan of Land Conveyed or Leased. The Parking Land, Station Land, Commuter Waiting Area Land, and Road Land is more fully described on the Plan of the Public Project Area, Exhibit B annexed hereto. The South Side Land is more fully described on Exhibit G annexed hereto.

3.8 Closing of Land Conveyances. The closing of the sale of the Parking Land and the conveyance of the Station Land and the South Side Land and execution of the CWA Land Lease shall occur within ninety (90) days following the last to occur of (i) satisfaction of the preconditions set forth in Sections 6.1, 6.2, 6.3 and 6.4; and (ii) completion of demolition required pursuant to Section 5.3. The closing of the conveyance of the Road Land shall be completed within ninety (90) days following completion of the construction of the Road.

3.9 Easements. Pursuant to the Schedule, each party hereto shall execute and deliver to the other parties, as the case may be, one or more easements for the following purposes:

- (i) temporary easements from the Developer to:
  - (a) Conn DOT for design and construction of the Bridge and station platforms;
  - (b) The Town for environmental remediation, design and construction of the Surface Parking Area on the Parking Land and the Commuter Waiting Area Land; and
- (ii) temporary easements from Conn DOT to the Town for environmental remediation, design and construction of the Surface Parking Area on the Conn DOT Land; and
- (iii) temporary easements from Conn DOT and the Town to the Developer for environmental remediation, design and construction of the Road, the Commercial Development Area and the Commuter Waiting Area to the extent access is required to the Parking Land and Station Land; and
- (iv) permanent easements in substantially the same form as set forth on Exhibit H annexed hereto assuring permanent access to and from the Station Land, the Commuter Waiting Area Land, the Parking Land the Conn DOT Land, and the Road Land, and such other land on the Site or

Public Project Area as is reasonably necessary or appropriate to enjoy the intended use of the foregoing so long as such access does not interfere with the operation of the land with respect to which the easement applies.

3.10 Soil Removal and Reuse on Site. The parties acknowledge that in order to achieve the proper grading on their respective portions of the Site, it may be advantageous to place soil from one area of the Site to another area of the Site. As such, the parties agree to cooperate with each other and to allow such relocations of soil, provided that no party shall be required to incur any additional costs or to expose itself or their development to any additional liability as a result of such cooperation.

#### **ARTICLE IV THE PUBLIC PROJECT**

4.1 The Public Project: The Public Project shall consist of those roadways, waiting rooms, surface parking lots, railroad platforms, bridges and other infrastructure items described in Exhibit C and further delineated in Exhibit C-1 as "Conn DOT Improvements," in Exhibit C-2 as "Town Improvements," and in Exhibit C-3 as "Developer Improvements."

4.2 The Conn DOT Improvements; Conveyance of the Bridge:

(a) Conn DOT, in accordance with the Schedule, agrees to cause the construction and installation of the Conn DOT Improvements consisting of those items designated as such in Exhibit C-1 utilizing the Conn DOT Funds. To the extent legally permissible, if the Conn DOT funds are insufficient to cover all of the costs and expenses of the Conn DOT Improvements, Conn DOT shall do and perform all things that are necessary or appropriate to secure any and all additional funding that may be required to ensure completion of the Conn DOT Improvements without interruption to construction or installation as set forth in the Schedule. If a portion of the Conn DOT Funds remains after completion of the Conn DOT Improvements, Conn DOT shall not be obligated to make them available to pay for other portions of the Project. Conn DOT agrees to promptly seek and diligently pursue all required or appropriate approvals and permits from Federal, State and local authorities and shall follow all required, applicable or appropriate procedures in doing so.

(b) Upon completion of the construction of the Bridge (as such term is defined in Exhibit C-1) to the reasonable satisfaction of the Town, Conn DOT shall convey by quitclaim deed the Bridge to the Town for \$1.00.

4.3 The Town Improvements; Conveyance of Parking Land;  
Operation of Surface Parking:

(a) The Town, in accordance with the Schedule, shall cause the construction and installation of the Town Improvements consisting of all of those items set forth in Exhibit C-2 all at its sole cost and expense. The Town will, upon the Effective Date, proceed to authorize the issuance of Six Million Dollars (\$6,000,000) of its general obligation bonds to fund in part its obligations under this Section 4.3 and under Sections 3.1, 5.1 and 5.3 of this Agreement (the "Town Funds"). Additionally, the Town shall proceed to obtain up to Four Million Dollars (\$4,000,000) of federal grants to fund in part its obligations under this Section 4.3 and under Sections 3.1, 5.1 and 5.3 of this Agreement (the "Federal Funds"). The Town shall do and perform all acts and things that are necessary or appropriate to secure any and all funding that may be required to ensure the completion of the Town Improvements set forth in Exhibit C-2 without interruption of the Schedule of construction or installation. To the extent legally permissible, if a portion of the Town Funds remains after completion of the Town Improvements, they shall be made available for the remediation of the balance of the Public Project Area. The Town shall promptly seek and diligently pursue all required or appropriate approvals and permits from Federal, State and local authorities and shall follow all required, applicable or appropriate procedures in doing so.

(b) The Town shall complete the construction and installation of the Town Improvements to the Surface Parking Area to the reasonable satisfaction of Conn DOT in accordance with the Schedule. Conn DOT shall operate or cause others on its behalf to operate the Surface Parking (as such term is defined on Exhibit C-2) for rail line commuters and shall cause the Surface Parking at all times to be available for and dedicated primarily to the use of rail line commuters. Conn DOT shall have exclusive control of the operation, maintenance and supervision of the Surface Parking, including, without limitation, the exclusive right to collect, use and determine the nature and amount of fees to charge to those using Surface Parking. Conn DOT may install any revenue collection system it chooses, in its sole discretion. Conn DOT shall pay all costs for the acquisition, installation and maintenance of such revenue collection system. To the extent that there is any revenue earned from the Surface Parking each year, Conn DOT shall pay to the Town the first \$300,000 of revenue, net of all operating and maintenance costs and expenses for the Surface Parking Area and its improvements. If net revenues exceed \$300,000, then Conn DOT may, in its sole discretion, pay the Town some or all of such additional net income. Conn DOT's obligation to pay the \$300,000 shall terminate on the earlier to occur of (i) 20 years commencing on the date commuters begin using the Surface Parking and (ii) the time that the sum of the payments to the Town reach \$6 million.

#### 4.4 The Developer Improvements:

(a) The Developer, in accordance with the Schedule, shall construct and install the Developer Improvements, consisting of those items designated as such in Exhibit C-3. The Developer agrees to promptly seek and diligently pursue all required or appropriate approvals and permits from Federal, State and local authorities and shall follow required applicable or appropriate procedures in doing so.

(b) The Developer, in accordance with the Schedule, intends to construct a commuter waiting area building (the "Commuter Waiting Area") not to exceed Thirty Thousand (30,000) square feet (not including any parking area), provided that if the Developer elects under Section 5.6 of this Agreement not to build the Train Depot, as defined below, as part of the Commuter Waiting Area, the commuter waiting area building shall not exceed Twenty-eight thousand (28,000) square feet, nor two (2) stories in height, above the Commuter Waiting Area Land. The Commuter Waiting Area shall connect to the train platform and the Surface Parking Area. If the Train Depot is not part of the Commuter Waiting Area, then the Commuter Waiting Area shall also connect to the Train Depot. The Commuter Waiting Area shall contain commercial and/or retail space and shall include parking areas in front and below to serve the Commuter Waiting Area. The parking area below the building shall be on an above ground deck constructed so as to allow commuter surface parking on the Commuter Waiting Area Land below. If the Developer so elects under Section 5.6 of this Agreement, Two Thousand (2,000) square feet shall be added to the Commuter Waiting Area to be constructed by the Developer as a public train depot waiting area, of which approximately 500 square feet shall be designated and designed for Town police and emergency services (this 2,000 square foot area is hereinafter referred to as the "Train Depot") pursuant to the specifications more fully set forth on Exhibit I annexed hereto.

It is understood that Developer's decision on whether to construct the Commuter Waiting Area shall be in its sole discretion but shall be made in a timely manner pursuant to the Schedule. Developer's right to construct the Commuter Waiting Area Building shall expire five (5) years from the date of the opening of the train station to the public

(c) The Developer shall design and construct all Commuter Waiting Area facilities in compliance with Federal, State and local building codes and the Americans with Disabilities Act of 1990, and in a manner so as to be an amenity for public use.

(d) The Developer shall construct the Road to meet Town standards for the construction of Town-owned Roads and to be sufficient to accommodate traffic from the Project and ancillary traffic and emergency service needs as determined by the State Traffic Commission ("STC"). The parties agree that the Town and Conn DOT shall

propose an engineering solution for the Road to the STC which minimizes the impact upon the Site and adjoining properties and which is reasonably acceptable to the Developer.

## ARTICLE V ADDITIONAL COVENANTS

### 5.1 Environmental Remediation:

(a) On January 31, 2001, an Environmental Condition Assessment Form ("ECAF") was submitted to the State Department of Environmental Protection ("DEP"). The ECAF was submitted along with a Form III pursuant to the transfer of the Site to the Developer. The ECAF provided a summary of the known environmental condition of the parcel. On April 30, 2001, the DEP responded to the Form III and ECAF with a determination that a licensed environmental professional ("LEP") could verify the investigation and remediation of the Site. The Developer retained Loureiro Engineering Associates, Inc. (LEA) of Plainville, Connecticut to act as the LEP during the investigation and remediation of the Site. All parties to this Agreement have mutually agreed that LEA shall serve as the LEP of record for the investigation and remediation of the Site. The LEP shall be responsible to each party that is required to engage in environmental remediation and shall be paid by each responsible party for the work that is done for that party. In the event of a dispute over how much is owed to the LEP by each party, the LEP and the parties will submit such dispute to non-binding arbitration.

Prior to initiation of environmental remediation, the Developer will prepare or have prepared a Remedial Action Plan ("RAP"), which shall have been reviewed and approved by the Town and Conn DOT. The RAP will be a written report which: 1) evaluates the alternatives for remedial actions to abate pollution in accordance with the Remediation Standard Regulations (Regulations of Connecticut State Agencies ("RCSA"), Sections 22a-133k-1 to k-3); 2) proposes a preferred alternative with supporting justification therefore; 3) states in detail the most expeditious schedule for performing the preferred alternative; 4) states in detail the party responsible for implementing each element of the preferred alternative, inclusive of monitoring and maintenance as described hereinafter; 5) identifies any permits required under sections 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368 or 22a-430 of the Connecticut General Statute that would be required to implement the preferred alternative; 6) contains a monitoring plan describing activities to determine the degree to which the preferred alternative has been effective, including a schedule for implementing the monitoring plan; 7) contains a maintenance plan describing the activities to ensure that the integrity of any remedial system installed is maintained, including a schedule for implementing the maintenance plan.

For the purposes of this Agreement, the term licensed environmental professional means a person who is qualified by reason of his knowledge, as specified in subsection (e) of this Section 22a-133v of the Connecticut General Statutes, to engage in activities associated with the investigation and remediation of pollution and sources of pollution including the rendering or offering to render to clients professional services in connection with the investigation and remediation of pollution and sources of pollution.

(b) The Town shall be responsible for all environmental remediation on the Surface Parking Area of conditions existing as of the date of:

- (i) the conveyance of the Parking Land to the Town with respect to the Parking Land;
- (ii) the CWA Land Lease with respect to the Commuter Waiting Area Land associated with the construction of the Surface Parking only; and
- (iii) the temporary easement for construction with respect to the Conn DOT Land.

Remediation measures required by the RAP shall be completed in accordance therewith and to the satisfaction of the LEP with respect to the Surface Parking Area, including complying with all of the requirements of the DEP and any wetland remediation required by the existing regulations of the Town Conservation Commission (the "CC"). The Town shall pay for the first One Million Dollars (\$1,000,000) of costs incurred in such remediation. The Developer shall share on a 50-50% basis with the Town any and all costs of environmental remediation and wetland remediation incurred with respect to the Surface Parking Area (exclusive of the Conn DOT Land) above \$1,000,000 ("Excess Remediation Expense"); provided, however, that the Developer will be reimbursed for its pro-rata share of such costs, if any, at the Developer's option, from (a) eligible Connecticut Development Authority ("CDA") funds described in Section 5.2 below, or (b) future property tax abatements and/or revenue credits, to the extent permitted by law, generated from the Commercial Development Project constructed by the Developer on the Site paid at the times and in the amounts comparable to those required to reimburse CDA for a Brownfield Grant until the sum expended by the Developer has been reimbursed, provided that if insufficient tax revenue is generated to repay the CDA loan or, alternatively, the property tax abatements or revenue credits are not sufficient to reimburse the Developer, the Town shall have no obligation to the Developer for any such insufficient amounts.

The Developer and not the Town shall be responsible for environmental remediation of any new condition caused by or resulting from the demolition and removal of structures by the Developer pursuant to Section 5.3 hereof.



(c) The Developer shall be responsible for all environmental remediation on the Road Land and the balance of the Site, including all remediation requirements of the DEP, and any wetland remediation required by the CC, all in accordance with the terms and conditions of the RAP.

(d) The Developer shall be responsible for all environmental remediation on the Commuter Waiting Area Land associated with its construction of the Commuter Waiting Area building while the Town shall be responsible for all environmental remediation on the Commuter Waiting Area Land associated with its construction of the Surface Parking

5.2 "Brownfield" Grant. The Town agrees to join the Developer in making application for a CDA "Brownfield" grant or loan in an amount sufficient to cover the cost of construction by the Developer of the Road to the Conn DOT Bridge and other possible remediation costs or, if a grant for the full amount of such costs is not available, for as much of such costs as CDA is willing to make a grant or loan (the "Brownfield Grant"). The Developer shall apply to CDA for the Brownfield grant or loan within 60 days after the Effective Date. The debt service with respect to the Brownfield Grant shall be paid from future property tax revenue generated from the Commercial Development Project constructed by the Developer on the Site under the requirements imposed by CDA. In the event the Developer does not receive the Brownfield Grant, then Developer shall be reimbursed for the cost of construction of the Road from future property tax abatements and/or revenue credits, to the extent permitted by law, commencing on the date the Road is conveyed to the Town, from the Commercial Development Project constructed by the Developer on the Site paid at the times and in the amounts comparable to those required to reimburse CDA for a Brownfield Grant. If insufficient tax revenue is generated to repay the CDA loan or, alternatively, the property tax abatements or revenue credits are not sufficient to reimburse the Developer, the Town shall have no obligation to the Developer for any such insufficient amounts.

5.3 Demolition and Removal of Structures: Prior to the closing of the sale of the Parking Land to the Town, Developer shall completely demolish and remove all structures in or on the Parking Land to the extent necessary to construct the Surface Parking spaces. Expenses incurred by the Developer in connection with this demolition and removal shall be reimbursed by the Town in cash up to \$650,000, upon presentation by Developer to the Town of itemized invoices; provided, however, that the Town shall only reimburse these expenses prior to the closing of the sale of the Parking Land upon the establishment by the Developer of a letter of credit, in form and content satisfactory to the Town, in the amount of Six Hundred Fifty Thousand Dollars (\$650,000) in favor of the Town, which may be drawn upon by the Town up to the amount of all reimbursed expenses paid by the Town if the Developer fails to convey the Parking Land in accordance with the terms of this Agreement for any reason. The Developer shall be responsible for the environmental remediation of any condition

which was not existing prior to the demolition and removal of structures on the Parking Land and which was caused by or resulted from such demolition and removal only. This obligation shall survive the term of this Agreement. Notwithstanding anything to the contrary contained herein, Developer shall not be responsible for any engineered controls which may be necessary on the Parking Land as a result of the removal of structures that previously capped this Land.

5.4 Train Depot and Excess Remediation Expense Letter of Credit: The Developer shall establish a letter of credit in the amount of Five Hundred Thousand Dollars (\$500,000) in favor of the Town in form and content satisfactory to the Town (the "Train Depot and Excess Remediation Expense Letter of Credit"). In the event the Developer fails to construct the Train Depot in compliance with the provisions of Section 5.6 and Exhibit I annexed hereto, or fails to obtain a certificate of occupancy for the Train Depot, within 3 years from the date the Parking Land is conveyed or by such date as shall have been otherwise specified in the Schedule, the Town shall construct or cause the construction of the Train Depot in accordance with the specifications contained in Exhibit I. The Town may draw upon the Train Depot and Excess Remediation Expense Letter of Credit to reimburse itself for the cost of constructing, or completing the construction of, or obtaining a certificate of occupancy with respect to, the Train Depot. In addition, if the Developer constructs the Train Depot, but fails to pay its portion of the Excess Remediation Expense the Town may draw upon the Train Depot and Excess Remediation Expense Letter of Credit up to the amount necessary to reimburse itself for the Developer's portion of Excess Remediation Expense.

5.5 Right of First Refusal: In the deed from the Developer to the Town for the Parking Land, the Developer shall reserve to itself a right of first refusal on the Parking Land for any private type of development or air rights sought to be purchased from, used by or otherwise acquired from, the Town or any successor in interest to the Town in the future (the "Right of First Refusal"). The Right of First Refusal shall provide that the Town shall notify the Developer of its intent to use the Parking Land for a private type of development or of any offer to purchase development or air rights on the Parking Land (which notice shall include a copy of such offer) and the Developer shall have ninety (90) days to notify the Town of its exercise of its Right of First Refusal. If the Developer fails to give timely notice of its exercise of its Right of First Refusal, such right shall expire, provided however, in the event the Town fails to proceed with the offer as provided in its notice to Developer, the Right of First Refusal shall not expire. In the event the Developer exercises the Right of First Refusal, the cost to the Developer for the purchased rights shall be the lesser of: (i) the amount that the Town has been offered for such development and/or air rights by a bona fide third party or (ii) the amounts expended by the Town for the development of the Parking Land prorated over the portion being sold, which amount shall be comprised of: the cost of acquisition by the Town of the Parking Land plus the cost of any improvements made to such land by the Town, including but not limited to the Surface Parking.

Notwithstanding anything contained in this Section 5.5, the Right of First Refusal shall not be applicable to prevent a conveyance by the Town to the State or Conn DOT so long as the State or Conn DOT utilizes the Parking Land for any public purposes (as opposed to a commercial development type of use). Any conveyance to the State or Conn DOT shall also reference the Right of First Refusal reserved by the Developer.

#### 5.6 Train Depot.

(a) Specifications. The parties agree that a public train depot waiting area of at least two thousand (2000) square feet (the "Train Depot") shall be constructed on the Public Project Area pursuant to the specifications more fully set forth on Exhibit I annexed hereto. Approximately 500 square feet of the Train Depot shall be designated and designed for the use of Town police and emergency services. The Train Depot shall be constructed simultaneously with other elements of the train station, in accordance with the Schedule, to be completed at the time the station is open for commuter service.

(b) Construction. (i) By Developer. The Train Depot shall be constructed by the Developer, unless the Developer gives timely notice under the Schedule to Conn DOT and the Town that it does not intend to construct the Train Depot. The Train Depot may be a part of the Commuter Waiting Area if Developer gives notice that it will build the Commuter Waiting Area at the time required by the Schedule for the commencement of construction of the Train Depot. If the Developer constructs the Train Depot, the Developer and any successor to the Developer shall own the Train Depot and shall execute a lease with Conn DOT for the Train Depot (the "Train Depot Lease") in which the Developer shall provide for all of the necessary or appropriate maintenance and utilities for the Train Depot in accordance with and following the same standards as is the usual custom for other similar facilities. The Train Depot Lease shall be for a term of 99 years with \$1.00 of minimum annual rent. The Train Depot Lease shall provide for the reimbursement to the Developer of all operating expenses associated with maintaining the Train Depot and shall further provide that if the Developer fails to so provide and the failure is not cured within thirty (30) days after the Developer receives written notice of the failure from Conn DOT, then Conn DOT shall immediately undertake such responsibility. Conn DOT shall permit the Town to use the 500 square foot public safety area for Town police and emergency services.

(ii) By the Town. If the Developer notifies Conn DOT and the Town by the date specified on the Schedule that it does not intend to build the Train Depot, then the Town shall build the Train Depot on a portion of the Commuter Waiting Area Land closest to the station platform, as provided in the CWA Land Lease. The Developer shall turn over to the Town any plans and specifications it has drawn up in accordance with Exhibit I at the time of giving its notice. The Town may use such plans

and drawings to the extent useful in building the Train Depot and shall draw upon the Train Depot and Excess Remediation Expense Letter of Credit pursuant to Section 5.4, above, for the purpose of reimbursing itself for constructing the Train Depot. If the Town constructs the Train Depot, the Town will sell it to Conn DOT for \$1.00, reserving only the right to use the 500 square foot public safety area for Town police and emergency services.

(c) Effect of Failure by the Developer to give Timely Notice. It is understood that Developer's decision on whether to construct the Train Depot shall be in its sole discretion but shall be made in a timely manner pursuant to the Schedule. In the event Developer elects not to construct the Train Depot, the only liability of the Developer shall be the forfeiture of the Train Depot and Excess Remediation Expense Letter of Credit. Time being of the essence in completing all elements of the Public Project simultaneously, failure of the Developer to give timely notice that it does not intend to construct the Train Depot shall be deemed to be notice that the Developer does not intend to construct the Train Depot.

5.7 Approvals. The Town shall use its best efforts to seek the requisite approvals of the BOS, BOF, RTM, and TPZ (for planning purposes only) enumerated in Section 6.1(c) hereof within seventy-five (75) days after execution of this Agreement. Thereafter, the Town, the Developer and Conn DOT will use their respective best efforts to seek the requisite approval of the CC pursuant to Section 6.1(d) and (e). The Developer shall support all required Town and Conn DOT applications for approval on those parts of the Public Project Area to be owned by the Town or Conn DOT as contemplated hereby. Approvals as used in this Agreement shall mean final approval. Final approval shall be deemed to be received when all appeal periods have expired and/or any appeals taken have been resolved. It is understood that the parties intend to file joint applications, where applicable, for necessary local approvals of the Project. The parties agree to cooperate with each other in the approval process.

5.8 Eminent Domain. The parties agree that no eminent domain proceedings shall be required for the Public Project, except as property is required for traffic needs and in connection with Conn DOT or Town roadway and bridge improvements contemplated by the Conn DOT Improvements and the Town Improvements described in Exhibit C.

5.9 Maintenance of Road. The Town shall own and maintain the Road as a Town road after completion of construction in accordance with the specifications set forth on Exhibit C-3.

5.10 Maintenance of Bridge. After conveyance by Conn DOT, the Town shall own and maintain the Bridge and stairs which maintenance shall include periodic painting, striping and snow removal and, if the Town or the Fairfield Parking Authority (the "Parking Authority") is operating the Surface Parking, then the Town shall also maintain the elevators; provided, however, that Conn DOT shall be responsible for all necessary structural repairs to, or replacement of, the Bridge.

5.11 Parking Permits. Conn DOT will offer permits to park on the Surface Parking Area in the following order of priority: first, to individuals who are existing permit holders at the Fairfield Center Station and Southport Station; and second, to individuals on the waiting list for parking permits at the Fairfield Center Station and Southport Station. Once this order of priority is satisfied, then and only then, will permits be offered to other individuals, including those in the preceding two classes who waived the privilege to obtain a Surface Parking Area permit, on a first come – first served basis. No individual shall be allowed to have a parking permit at more than one railroad station in the Town. Conn DOT agrees that the Parking Authority may provide advice with respect to permit procedures on the Surface Parking Area.

5.12 South Side Land. All revenue generated from parking on the South Side Land shall belong to the Town, except that if any portion of the South Side Land is used for rail commuter parking at any time the Town and Conn DOT shall share equally only the net revenues generated from such rail commuter parking. The Town shall remit such share of net revenues, if any, from the immediately preceding fiscal quarter to Conn DOT no later than thirty (30) days after the end of each of the Town's fiscal quarters.

5.13 Fairfield Center and Southport Train Station Improvements. The Town shall cause the Parking Authority, using funds from the Reinvestment Fund established under paragraph 3 of the lease between Conn DOT and the Parking Authority dated June 1, 1998 (the "Railroad Stations Lease"), to complete all necessary and appropriate repairs and improvements to the Fairfield Center and Southport Stations and station parking areas no later than December 31, 2004, all in accordance with the agreement between the Town and Conn DOT with respect to the Town's responsibilities for such improvements contained in Exhibit J. In the event that the Parking Authority defaults in its obligation to make the improvements listed in Exhibit J, Conn DOT shall give the Town written notice of such default and the Town shall become the Lessee as provided in Section 20 of the Railroad Stations Lease.

5.14 Railroad Stations Lease.

The Town and Conn DOT agree that the Railroad Stations Lease shall remain in full force and effect until the expiration of the current lease term on May 31, 2008. Prior to the expiration of the current lease term, the Town or the Parking Authority and Conn DOT will enter into an agreement that will be applicable from June 1, 2008

with respect to the Fairfield Center Station and the Southport Station containing the following provisions:

- (a) the Parking Authority or the Town shall act as manager of the parking areas at both stations both for Town-owned and Conn DOT-owned portions of the parking area;
- (b) each station shall be managed in all respects consistent with the standards established for the parking on the Surface Parking Area, including but not limited to implementing identical fee structures; and
- (c) revenue received by the Parking Authority from parking and commercial leases at each station, (net of all maintenance, repair and other operating expenses of the Parking Authority directly related to the Fairfield Center Station and Southport Station only) will be shared equally by the Town, and Conn DOT.

5.15 Service to Fairfield Center and Southport Stations: It is the goal of Conn DOT to increase the total number of automobile parking spaces along the New Haven rail line in a manner consistent with existing patterns of commuter usage. Accordingly, Conn DOT will maintain service to the downtown Fairfield and Southport stations for as long as there is train service to the Commerce Drive Station.

5.16 Designation of Commerce Drive Station as ADA Compliant Station; Multi-level Parking. Conn DOT shall designate the Commerce Drive Station as the ADA-compliant train station for the Town. In the event that Conn DOT determines that additional rail commuter parking is needed in the Town after the Effective Date and that such need can be met only with a multi-level parking structure, such structure shall be located at the Commerce Drive Station if feasible. The decision as to the feasibility of doing so shall be in Conn DOT's sole discretion. Conn DOT shall use its best efforts to meet the requirements of any regulatory agency which may impose conditions on building a multi-level structure at Commerce Drive Station.

5.17 Limitation on Use of the Surface Parking Area. Conn DOT shall use the Surface Parking Area primarily for rail commuter parking and shall not permit, or give any operator of the Surface Parking Area authority to permit, any use of the Surface Parking Area for a purpose that is incompatible with the public or commercial use of the Site.

## **ARTICLE VI PRECONDITIONS AND TERMINATION**

6.1 Preconditions to Obligations. The obligations of the Town, the Developer and the Conn DOT to actually make the land conveyances contemplated by this Agreement, and to actually construct, or cause the construction of, their respective

improvements as described in Exhibit C (but not their respective obligations to design or undertake other preconstruction activities) are preconditioned upon the following:

(a) The Developer shall have obtained an amendment to the zoning regulations and zoning map substantially in the form of Exhibit K annexed hereto creating a new zoning classification for the remainder of the Site not contemplated to be conveyed pursuant to Article III hereof that will allow density, height, stories, coverage and other necessary requirements for the construction of the Commercial Development Project; and

(b) TPZ shall have determined that the Site qualifies as a Transportation/Commercial park pursuant to the provisions of the proposed amendment described in 6.1 (a) above; and

(c) Town shall have obtained all requisite approvals of the Agreement and the Public Project by the BOS, the BOF, the TPZ (for planning purposes only) and the RTM; and

(d) The Town shall have obtained the requisite approval of the Public Project by the CC acting as the Town's inland wetlands agency; and

(e) The Developer shall have obtained the requisite approval of the Commercial Development Project by the CC acting as inland wetlands agency; and

(f) The Commissioner of the Department of Environmental Protection shall have determined in writing, that a proposal submitted pursuant to Section 22a-133k-2(f)(2)(B) of the RCSA to use an engineered control is acceptable for the Site; and

(g) All specific conditions in 6.2, 6.3 and 6.4 shall have been performed by the respective parties; and

(h) The parties shall certify that their respective representations and warranties contained in 8.12, 8.13 and 8.14 remain true and correct as of the date of closing the land conveyances.

**6.2 Preconditions to Certain Conn DOT Obligations:** In addition to the preconditions set forth in Section 6.1, the obligations of Conn DOT to actually construct, or cause the construction of, the Conn DOT Improvements (but not Conn DOT's obligation to design or undertake other pre-construction activities) under this Agreement are preconditioned upon and shall be valid and binding against Conn DOT when the following additional preconditions are met:

(a) Conn DOT shall have obtained all required or appropriate approvals and permits from Federal, State (other than Conn DOT) and local authorities with respect to

the Conn DOT Improvements, including but not limited to the CEPA and NEPA documents; and

(b) The RAP shall have been completed by the LEP and a copy provided to Conn DOT; and

(c) The Developer shall have posted one or more performance bonds or letters of credit in such amounts as are necessary to secure implementation of the portion of the RAP which relates to the completion of the Developer Improvements.

**6.3 Preconditions to Certain Town Obligations:** In addition to the preconditions set forth in Section 6.1 and 6.4, the obligations of the Town to actually construct, or cause the construction of, the Town Improvements (but not the Town's obligation to design or undertake other pre-construction activities, including, without limitation, the obtaining of "right of ways") under this Agreement are preconditioned upon and shall be valid and binding against the Town when the following additional preconditions are met:

(a) The Town shall have received all required or appropriate approvals and permits from Federal, State and local authorities with respect to the Town Improvements;

(b) The Developer shall have posted the Train Depot and Excess Environmental Expense Letter of Credit referred to in Section 5.4; and

(c) The Developer shall have completed the demolition and removal, and any resulting environmental remediation, of structures on the Parking Land pursuant to Section 5.3 hereof and the remediation of the Commuter Waiting Area Land to the extent it is required to under Section 5.1(d).

**6.4 Preconditions to Certain Developer Obligations:** In addition to the preconditions set forth in Section 6.1, the obligations of the Developer to construct, or cause the construction of, the Developer Improvements (but not the Developer's obligation to design or undertake other pre-construction activities) under this Agreement are preconditioned upon and shall be valid and binding against the Developer when the following additional preconditions are met:

(a) The Town shall have executed such documents satisfactory to Developer in order to grant Developer the Right of First Refusal referred to in Section 5.5; and

(b) Developer shall have obtained all other required or appropriate approvals and permits from Federal, State and local authorities with respect to the Developer Improvements; and



(c) Developer shall have received the Brownfield Grant within six months after making its application.

6.5 Termination by Conn DOT or the Town: In the event the Developer fails to satisfy the preconditions applicable to the Developer which are contained in Sections 6.1, 6.2 and 6.3 and 6.4 above within nine (9) months from the Effective Date of this Agreement, Conn DOT or Town may give Developer written notice of such failure. In the event the Developer fails to diligently pursue the satisfaction of the preconditions applicable to the Developer which are contained in Sections 6.1, 6.2 and 6.3 and 6.4 for a period of ninety (90) days after receipt of such notice, Conn DOT or Town, as the case may be, may at its sole option, terminate this Agreement. Further, if any proceeding is instituted against Developer seeking to adjudicate Developer as bankrupt or insolvent, and such proceeding is not dismissed within one hundred fifty (150) days of such filing, or if Developer declares itself bankrupt or files for bankruptcy protection, or if Developer makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the insolvency of Developer, or if Developer files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up or composition or readjustment of debts, then Conn DOT or Town may terminate this Agreement. Such termination shall be effective seven (7) days after giving written notice of such termination to Developer unless a greater period of time is provided in the notice.

6.6 Termination By Developer: In the event the Town and/or the Conn DOT fail to satisfy their respective preconditions in Sections 6.1, 6.2, 6.3 and 6.4 above within nine (9) months from the Effective Date of this Agreement, the Developer may give the Town and the Conn DOT written notice of such failure. In the event the Town or the Conn DOT, as the case may be, fails to diligently pursue the satisfaction of such preconditions for a period of ninety (90) days after receipt of such notice from the Developer, the Developer may at its sole option terminate this Agreement. Such termination shall be effective seven (7) days after giving written notice of such termination to the Town and the Conn DOT unless a greater period of time is provided in the notice.

6.7 Termination by any Party due to Appeals. In the event that any person other than the Developer, the Town or Conn DOT takes an appeal from any governmental approval required to be obtained by any party under this Agreement, and such appeal has not been finally settled or determined within twenty-four (24) months after the date such appeal is taken, any party to this Agreement may terminate this Agreement. Such termination shall be effective seven (7) days after giving written notice of such termination to the other parties unless a greater period of time is provided in the notice.

6.8 Effect of Termination: Upon termination of this Agreement, all rights, duties and obligations hereunder shall be null and void, so that no party shall have any

further rights, duties or obligations to any other, except as otherwise expressly provided herein.

## ARTICLE VII NONDISCRIMINATION

7.1 Defined Terms: References in this Article VII to "contract" shall mean this Agreement and references to "contractor" shall mean the Developer.

7.2 Executive Order No. Three: This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 and, as such, this contract may be canceled, terminated or suspended by the State Labor Commission (the "Commission") for violation of or noncompliance with said Executive Order No. Three, or any State or Federal law concerning nondiscrimination, notwithstanding that the State Labor Commissioner is not a party to this contract. The parties to this contract, 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 contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion.

The contractor agrees, as part of the 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 he will not discriminate in his employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

7.3 Executive Order No. Sixteen: This contract is subject to Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999 regarding a policy of prevention of violence in the workplace.

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

performance in regard to listing all employment openings with the Connecticut State Employment Service.

7.5 Nondiscrimination and Affirmative Action Provision:

(a) This section is inserted in this contract in connection with subsection (a) of Section 4a-60a of the General Statutes of Connecticut, as revised.

(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; (2) 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 the this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) 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; (4) 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 this provisions of this section and Section 46a-56. The contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The 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; 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.

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

This section is inserted in this contract in connection with subsection (a) of Section 4a-60 of the General Statutes of Connecticut, as revised.

(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 race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such 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 ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) 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; (3) 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; (4) the contractor agrees to comply with each provision of this section and Sections 46-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Sections 46a-56, 46a-68e and 46a-68f; (5) 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 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 he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

For 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: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of 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.

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.

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

The contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The 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; provided, if such a 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.

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

## **ARTICLE VIII GENERAL PROVISIONS**

8.1 Severability: If any term or provision of this Agreement or its application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforced to the fullest extent possible by law.

8.2 Construction: The laws of the State of Connecticut shall govern the validity, performance and enforcement of this Agreement without reference to conflict of laws provisions.

8.3 Force Majeure: Notwithstanding any other provision of this Agreement, each of Conn DOT, the Town and the Developer shall be excused from performing any obligation according to the Schedule if any delay in the performance of any obligation is prevented, delayed or otherwise hindered by acts of God; fire; earthquake; flood explosion; actions of the elements; war; riots; mob violence; inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market; failure of transportation; strikes; lockouts; actions of labor unions; court orders; laws, regulations or orders of governmental or military authorities; or denial of, refusal to grant, substantial and unwarranted delay in granting or appeals of any permit, approval or action of any public or quasi-public authority, official agency or subdivision thereof and any litigation related thereto.

8.4 Captions: The headings of the several sections and subsections are for convenience only and do not define, limit or construe the contents of such sections and subsections.

8.5 Successors Bound: Once the Developer has satisfied its obligations under this Agreement (i) to satisfy the preconditions in Section 6.1 and 6.4; (ii) to convey all interests in real property as contemplated by Article III; and (iii) to complete the Developer Improvements in accordance with Section 4.4 and Exhibit C-3, the rights of the Developer hereunder shall be assignable by the Developer without the consent of Conn DOT or the Town as long as the assignee thereof commits itself in writing to be bound by the same covenants and obligations by which the Developer is bound hereunder. Prior to its satisfaction of such conditions, the Developer cannot assign, and does not have the power to assign, directly or indirectly, its interest in this Agreement or the Site or Project without Conn DOT's and the Town's prior written consent. In addition, prior to the satisfaction of such conditions, no controlling interest in the Developer may be sold, issued or transferred, directly or indirectly, nor may the Developer change more than one (1/2) half of its principals, without Conn DOT's and the Town's prior written consent, which shall not be unreasonably withheld.

8.6 Notice: All notices, demands, requests, consents, approvals or other communications (for the purpose of this section collectively called "Notices") required or permitted to be given or which are given with respect to this Agreement shall be in writing and shall be sent by first class U.S. Mail, postage prepaid, by hand delivery or by recognized, overnight express delivery service, addressed as follows:

To Conn DOT:

Connecticut Department of Transportation  
2800 Berlin Turnpike  
PO Box 317546  
Newington, CT 06131-7546

Attention: Harry Harris  
Bureau of Public Transportation

To the Town:

Town of Fairfield  
Independence Hall  
725 Old Post Road  
Fairfield, CT 06430  
Attention: Kenneth A. Flatto  
First Selectman

With a copy to:

Shipman & Goodwin LLP  
One Landmark Square  
Stamford, CT 06103-2819  
Attention: Michael L. Widland, Esq.

And

Richard H. Saxl, Esq.  
Town Attorney  
Town of Fairfield  
PO Box 5042  
Westport, CT 06881

To the Developer:

Blackrock Realty, LLC  
422 Summer Street  
Stamford, CT 06901  
Attention: Kurt Wittek

Blackrock Realty, LLC  
1000 Huyler Street  
Teterboro, NJ 07608  
Attention: Aaron Stauber

With a copy to:

Updike, Kelly & Spellacy, P.C.  
One State Street  
Hartford, CT 06103  
Attention: Robert J. Martino, Esq.

And

Tierney Zullo Flaherty & Murphy PC  
134 East Avenue  
P.O. Box 2028  
Norwalk, CT 06852-2028  
Attention: Frank N. Zullo, Esq.

8.7 Counterpart: This Agreement may be signed in counterpart copies, all of which, taken together, shall constitute but one and the same document.

8.8 Survival: All obligations of the parties contained in Section 8.10 hereof shall survive this Agreement and any other agreement or action, including, without limitation, any consent decree, order or other agreement between the parties and the government of the United States or any Agency.

8.9 Sovereign Immunity: The parties acknowledge and agree that nothing in this Agreement shall be construed as a waiver by Conn DOT or the Town of any rights or defenses of sovereign or governmental immunity, respectively, which they may have had, now have or will have with respect to all matters arising out of this Agreement.

8.10 Environmental Indemnity:

(a) Definitions:

“Agency” means and Federal, State, municipal, or other governmental authorities having jurisdiction with respect to the Site.

“Applicable Laws” means any Federal, State or municipal laws, codes, regulations, ordinances, rules, or rulings, including any Environmental laws and any judicial or administrative interpretations, orders or decrees with respect to such laws.

“Environmental Laws” means any Federal, State or municipal statute, law, ordinance, code, rule, regulation, order, or decree regulating or imposing liability or standards of conduct concerning the protection of human health and the environment, including, without limitation, the Federal Comprehensive Environmental Response,



Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act, 42 U.S.C. Sec. 9601, et seq. ("CERCLA"), the Federal Oil Pollution Act of 1990, 33 U.S.C. Sec. 2701, et seq., the Federal Toxic Substance Control Act, 15 U.S.C. Sec. 2601, et seq., the Federal Hazardous Material Transportation Act, 49 U.S.C. Sec. 1801, et seq., the Federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. Sec. 1251, et seq., the Rivers and Harbors Appropriation Acts of 1899, 33 U.S.C. Sec. 401, et seq. and all rules and regulations of the United States Environmental Protection Agency ("EPA"), or any other Agency having jurisdiction over environmental or health and safety matters, as amended.

"Hazardous Substances" means any hazardous or toxic substance, compound, material, mixture, pollutant, contaminant, or waste which is now or later becomes identified or listed or regulated as a hazardous or toxic substance under present or future Environmental Laws or that is otherwise regulated or prohibited or subject to investigation or remediation under present or future Environmental Laws because of its hazardous or toxic properties, including, without limitation, (i) any substance that is a "hazardous substance" under CERCLA, (ii) any hazardous waste identified in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sec. 6901, et seq., (iii) any hazardous or regulated waste identified by regulations promulgated by the Connecticut Department of Environmental Protection, and (iv) a petroleum product or by-product for which there are remediation standards adopted pursuant to Section 22a-133k or for which such remediation standards have a process for calculating the numeric criteria of such substance.

"Environmental Condition" means the presence or alleged presence of any Hazardous Substance on, in, under, above, or migrating from or onto any portion of the Site or any surrounding areas, prior to or as of the date of transfer of that portion of the Site to Conn DOT or the Town (as applicable) regardless of whether disclosed and whether or not known or discoverable as of the date of this Agreement. The foregoing shall be deemed an Environmental Condition regardless of whether or not any Agency has taken any action in connection with such Environmental Condition. Further, the foregoing shall be deemed to be an Environmental Condition even if the condition becomes an Environmental Condition as a result of a change in Environmental Laws that becomes effective after the date of this Agreement.

(b) Environmental Laws and Indemnification. Developer shall protect, indemnify, defend, and hold harmless Conn DOT and the Town (as applicable), their officers, their employees, and their agents from and against any and all loss, damage, cost, charge, lien, debt, fine, penalty, injunctive relief, claim, damage, expense, suit, order, judgment, adjudication, liability, or injury to person, property or natural resources, including reasonable costs and attorneys' fees, resulting from the failure of the Developer to meet its obligations under the terms of this Agreement that may at any time be imposed upon, incurred by, or asserted or awarded against Conn DOT or the

Town that may arise directly or indirectly from or out of or in connection with an Environmental Condition, but excluding any and all loss, damage, cost, charge, lien, debt, fine, penalty, injunctive liability, or injury to person, property or natural resources to the extent same may arise directly or indirectly from or out of or in connection with acts or omissions of Conn DOT or the Town (as applicable), their officers, their employees, their agents, their contractors or their tenants.

8.11 Further Assurances: The parties shall provide such information, execute and deliver any instruments and documents and take such other actions as may be necessary or reasonably requested by the other parties which are not inconsistent with the provision of this Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement.

8.12 Representations and Warranties of the Developer: The Developer hereby represents and warrants to the Town and to Conn DOT, which representations and warranties and other representations and warranties of the Developer contained in this Agreement shall survive the execution and delivery of this Agreement as follows:

(a) The Developer (i) is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Connecticut, and (ii) has all requisite power and authority and all necessary licenses and permits to own and carry on its business as now being conducted and as presently proposed to be conducted.

(b) To the best of the Developer's information and belief, there are no actions, suits, proceedings, inquiries or investigations pending, or to the best knowledge of the Developer, threatened against or affecting the Developer or any member of the Developer, nor any of their current managers or principal officers in any forum which involve the possibility of materially and adversely affecting the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement or the ability of the Developer to perform its obligations under this Agreement.

(c) The execution and delivery by the Developer of this Agreement and the compliance by the Developer with all of the provisions hereof (i) are within the authority and powers of the Developer, (ii) to the best knowledge of the Developer, will not conflict with or result in any breach of any of the provisions of, or constitute a default under, any agreement, articles of organization, operating agreement or other instrument to which the Developer is a party or by which it may be bound, or any license, judgment, decree, law, statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Developer or any of its activities or properties, and (iii) have been duly authorized by all necessary action on the part of the Developer.

(d) No event of default has occurred and no condition exists with respect to the Developer that would constitute a default under this Agreement or which, with the lapse of time or with the giving of notice or both, would become an event of default under this Agreement.

(e) The Developer is the owner in fee simple of the Site.

(f) The Developer will comply with all applicable State and Federal laws and regulations and municipal ordinances in satisfying its obligations to the Conn DOT and the Town under and pursuant to this Agreement.

(g) The Developer or any member of the Developer or any of their current managers or principal officers is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State entity.

(h) The Developer or any member of the Developer or any of their current managers or principal officers has not, within the three (3) years preceding this Agreement, been convicted of, or had a civil judgment rendered against it or any of its current managers or principal officers for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) transaction or contract. This includes, but is not limited to, violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(i) Neither the Developer nor any member of the Developer, nor any of its current managers or principal officers is presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with commission of any of the offenses enumerated above.

(j) The Developer or the members of the Developer or any of its current managers or principal officers has not within the three (3) years preceding this Agreement had one or more public transactions (Federal, state or local) terminated for cause or default.

(k) The Developer has not employed or retained any company, firm or person, other than a bona fide employee working solely for the Developer, to solicit or secure this Agreement and that it has not paid or agreed to pay any company, firm or person, other than a bona fide employee working solely for the Developer, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement or any assignments made in accordance with the terms of this Agreement. For breach or violation of this

provision, the State or the Town shall have the right to terminate this Agreement and any assignments made in accordance with its terms without liability.

(l) The Developer has paid all workers' compensation second injury fund assessments concerning all previous work done in Connecticut.

(m) The Developer has a record of compliance with OSHA regulations without any unabated, willful or serious violations.

(n) The Developer owes no unemployment compensation contributions.

(o) The Developer is not delinquent in the payment of any taxes owed, nor has it filed a sales tax security bond, and it has, if and as applicable, filed for motor carrier road tax stickers and has paid all outstanding road taxes.

(p) All of the Developer's vehicles have current registrations and, unless such vehicles are no longer in service, the Developer shall not allow any such registration lapse.

(q) The Developer is not in default under any mortgage on the Site.

(r) The Developer is not delinquent in the payment of any real or personal property taxes or sewer use payments owed to the Town.

Developer will obtain an opinion of counsel, dealing with items (a) and (c) in form and substance reasonably satisfactory to the Town and Conn DOT.

**8.13 Representations and Warranties of the Town:** Assuming appropriate authorization from BOS, BOF, TPZ, RTM, and CC following the execution of this Agreement, the Town hereby represents and warrants to the Developer and to Conn DOT, which representations and warranties and other representations and warranties of the Town contained in this Agreement shall survive the execution and delivery of this Agreement, as follows:

(a) To the best of the Town's information and belief, there are no actions, suits, proceedings, inquiries or investigations pending, or to the best knowledge of the Town, threatened against or affecting the Town in any forum which involve the possibility of materially and adversely affecting the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement or the ability of the Town to perform its obligations under this Agreement.

(b) The execution and delivery by the Town of this Agreement and the compliance by the Town with all of the provisions hereof (i) are within the authority

and powers of the Town, (ii) to the best knowledge of the Town, will not conflict with or result in any breach of any of the provisions of, or constitute a default under, any agreement or instrument to which the Town is a party or by which it may be bound, or any license, judgment, decree, law, statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Town or any of its activities or properties, and (iii) have been duly authorized by all necessary action on the part of the Town.

(c) No event of default has occurred and no condition exists with respect to the Town that would constitute default under this Agreement or which, with the lapse of time or with the giving of notice or both, would become an event of default under this Agreement.

8.14 Representations of Conn DOT: Conn DOT hereby represents to the Developer and to the Town, which representations and other representations of Conn DOT contained in this Agreement shall survive the execution and delivery of this Agreement, as follows:

(a) To the best of Conn DOT's information and belief, there are no actions, suits, proceedings, inquiries or investigations pending, or to the best knowledge of Conn DOT, threatened against or affecting Conn DOT in any forum which involve the possibility of materially and adversely affecting the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement or the ability of Conn DOT to perform its obligations under this Agreement.

(b) The execution and delivery by Conn DOT of this Agreement and the compliance by Conn DOT with all of the provisions hereof (i) are within the authority and powers of Conn DOT, (ii) to the best knowledge of Conn DOT, will not conflict with or result in any breach of any of the provisions of, or constitute a default under, any agreement or instrument to which Conn DOT is a party or by which it may be bound, or any license, judgment, decree, law, statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over Conn DOT or any of its activities or properties, and (iii) have been duly authorized by all necessary action on the part of Conn DOT.

(c) No event of default has occurred and no condition exists with respect to Conn DOT that would constitute default under this Agreement or which, with the lapse of time or with the giving of notice or both, would become an event of default under this Agreement.

8.15 Entire Agreement; Amendment: This Agreement is the entire agreement among and between Conn DOT, the Town and the Developer and supersedes all prior negotiations, representations or agreements between or among them regarding the

Project. This Agreement may be amended only by means of a written instrument signed by all parties. The parties shall at all times cooperate and act reasonably and in good faith in implementing this Agreement and the transactions contemplated hereby.

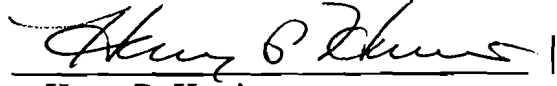
8.16 Attorneys' Fees: If any party is required to assert a claim under this Agreement against a party under this Agreement, or defend a claim asserted by another party under this Agreement, each party shall bear its own costs incurred in asserting or defending said action.

8.17 All Required Provisions Incorporated. All provisions under all applicable laws, rules, regulations and ordinances are incorporated by reference as if fully set forth here.


8.18 Successors. This Agreement extends to, binds and inures to the benefit not only of the parties hereto, but to their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION  
James F. Byrnes, Jr., Commissioner

By:   
Harry P. Harris  
Bureau Chief  
Bureau of Public Transportation


TOWN OF FAIRFIELD  
A Municipal Corporation under the laws of  
the State of Connecticut

By:   
Kenneth A. Flatto  
Its First Selectman

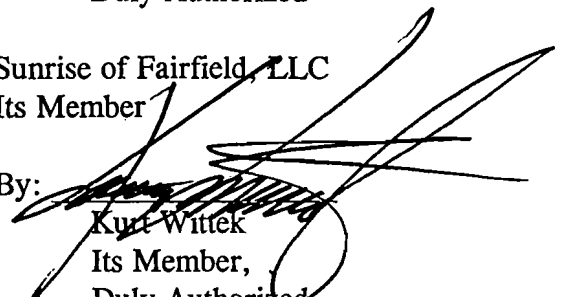
BLACKROCK REALTY, LLC

By: Greenwich Place Associates, LLC  
Its Sole Member

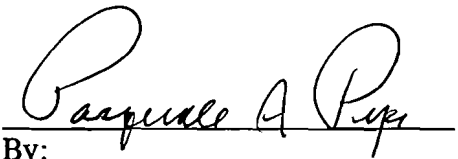
By: Shelton Investors, LLC,  
Its Member

By:   
Aaron Stauber  
Its Member,  
Duly Authorized

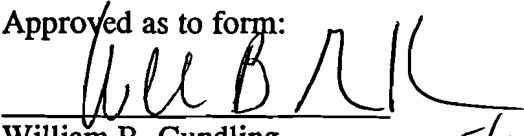
By: Sunrise of Fairfield, LLC  
Its Member

By:   
Kurt Wittek  
Its Member,  
Duly Authorized

Approved:  
STATE PROPERTIES REVIEW  
BOARD

  
By: Pasquale A. Pepe  
Its: **PASQUALE A. PEPE**  
Date signed: **CHAIRMAN** 4/12/03

Approved as to form:

  
William B. Gundling  
Associate Attorney General 5/1/03

STATE OF CONNECTICUT) ) SS.  
COUNTY OF )

On this the 20 day of MARCH, 2003, before me, the undersigned officer, personally appeared Harry P. Harris, known to me (or satisfactorily proven) to be the Bureau Chief, Bureau of Public Transportation of the State of Connecticut Department of Transportation, whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes and consideration therein expressed in the capacity as therein provided as his free act and deed of said Department.

In Witness Whereof I hereunto set my hand.

Brenda Dwyer  
Commissioner of the Superior Court



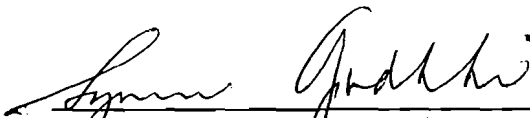
STATE OF CONNECTICUT)

) SS:

COUNTY OF FAIRFIELD )

On this the 14<sup>th</sup> day of March, 2003, before me the undersigned officer, personally appeared Kenneth A. Flatto, known to me (or satisfactorily proven) to be the First Selectman of the Town of Fairfield, a municipal corporation, whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes and consideration therein expressed in the capacity as therein provided as his free act and deed of the Town.

In Witness Whereof I hereunto set my hand.

  
Notary Public/My Commission Expires: 11/30/04  
Commissioner of the Superior Court

SUZANNE GODLESKI  
NOTARY PUBLIC  
My Commission Expires Nov. 30, 2004

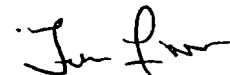
New Jersey  
STATE OF ~~CONNECTICUT~~)

) SS:

Bergen  
COUNTY OF ~~FAIRFIELD~~ )

On this the 14<sup>th</sup> day of March, 2003, before me the undersigned officer, personally appeared Aaron Stauber, known to me (or satisfactorily proven) to be a Member of Shelton Investors, LLC, a Member of Greenwich Place Associates, LLC, sole Member of Blackrock Realty, LLC, all Connecticut limited liability companies, whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes and consideration therein expressed in the capacity as therein provided as his free act and deed and that of each of the limited liability companies.

In Witness Whereof I hereunto set my hand.

  
Notary Public/My Commission Expires:  
Commissioner of the Superior Court

TERENCE F. WEISS  
NOTARY PUBLIC, State of New Jersey  
No. 21-76819  
Qualified in Bergen County 5  
Commission Expires April 10, 2004

*California*  
STATE OF ~~CONNECTICUT~~  
)  
COUNTY OF ~~FAIRFIELD~~  
*Contra Costa*

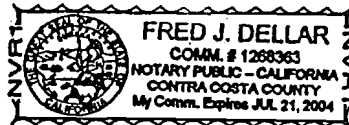
SS:

On this the 18<sup>th</sup> day of May, 2003, before me the undersigned officer, personally appeared Kurt Wittek, known to me (or satisfactorily proven) to be the sole Member of Sunrise of Fairfield, LLC, a Member of Greenwich Place Associates, LLC, sole Member of Blackrock Realty, LLC, all Connecticut limited liability companies, whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes and consideration therein expressed in the capacity as therein provided as his free act and deed and that of each of the companies.

In Witness Whereof I hereunto set my hand.

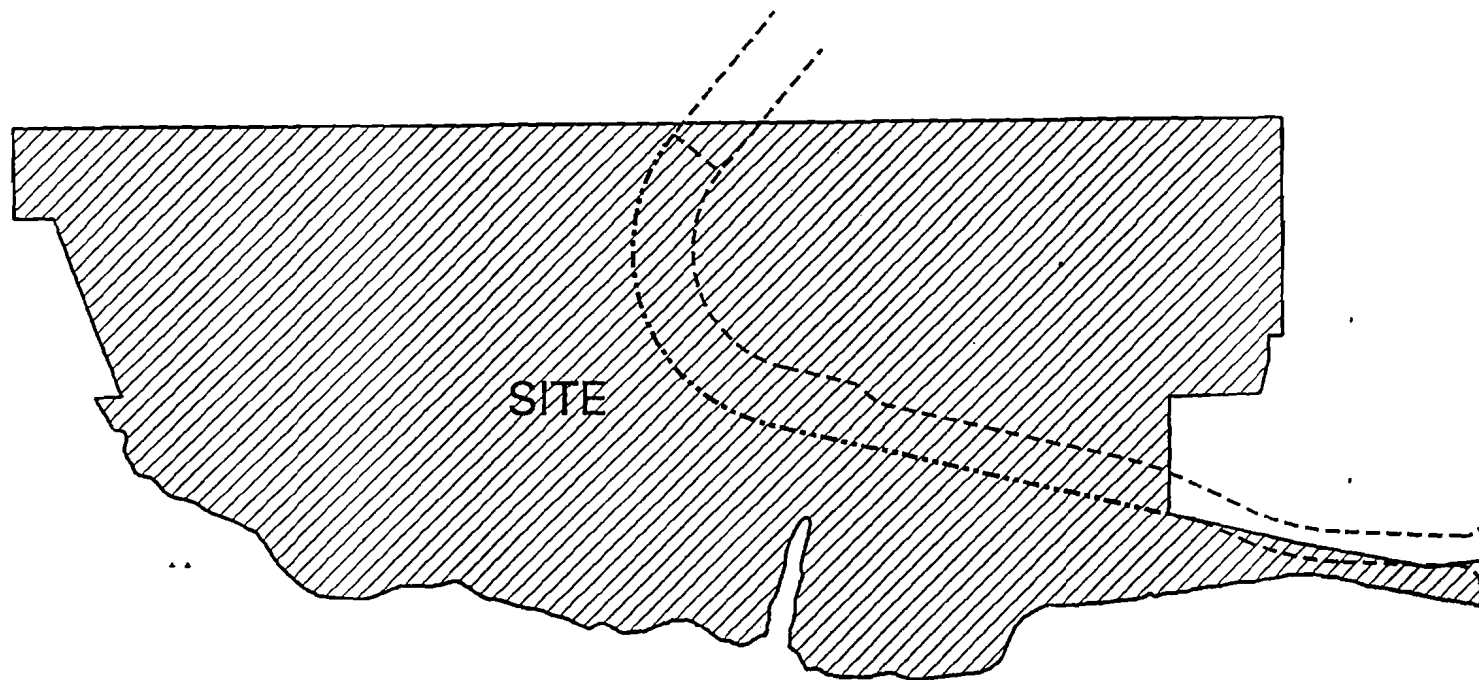
*Fred J. Dellar*

Notary Public/My Commission Expires: *21 5/04*  
Commissioner of the Superior Court

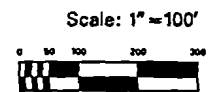


## LIST OF EXHIBITS

Exhibit A	Plan of the Site
Exhibit B	Plan of the Public Project Area
Exhibit C	Public Project C-1 – Conn DOT Improvements C-2 – Town Improvements C-3 – Developer Improvements
Exhibit D	Design of the Surface Parking Area
Exhibit E	Form of CWA Land Lease
Exhibit F	Encumbrances
F-1	Permitted Encumbrances
F-2	Restrictions on Transfer and Environmental Use Restriction
Exhibit G	Plan of South Side Land
Exhibit H	Form of Permanent Easement
Exhibit I	Train Depot Specifications
Exhibit J	Fairfield Center and Southport Station Improvements
Exhibit K	Amendment to Zoning Regulations and Map for balance of the Site

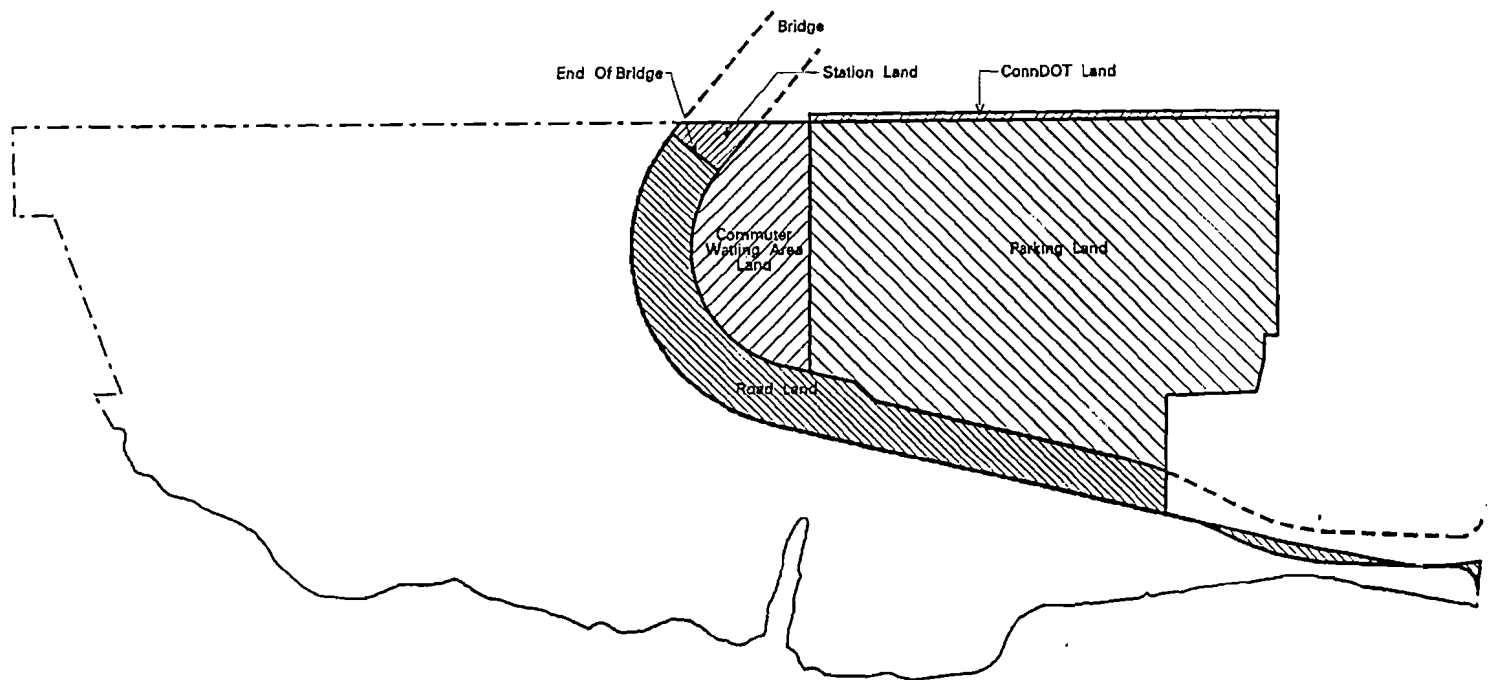


Final Bridge and Road alignment  
and exit to Black Rock Turnpike  
subject to engineering feasibility  
and governmental approvals

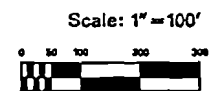


**Blackrock Park**  
Fairfield, CT

Exhibit A  
"The Site"



Final Bridge and Road alignment  
and exit to Black Rock Turnpike  
subject to engineering feasibility  
and governmental approvals



# Blackrock Park

Fairfield, CT

Exhibit B  
"Public Project Area"

**Exhibit C-1**  
**Conn DOT Improvements**

1. Construction of the following improvements:

- A. A vehicular and pedestrian bridge adequate to handle the traffic generated by the Project over rail lines at Frank Street and Timko Street (the "Bridge").
- B.. Train platforms on both sides of rail lines (including, canopies, signage, and platform amenities).
- C. Stairways and elevators to the Bridge.
- D Utility relocation (including United Illuminating transmission towers and Metro North catenaries) which cannot interfere with the Project .
- E. Roadway Improvements associated with the above, including the following:
  - O(i) Roadway from Kings Highway East to the Bridge.
  - (ii) Kiss n' Ride roadway work.

- 2. Design work associated with the above.
- 3. Right of ways associated with the above.

## Exhibit C-2

### **Town of Fairfield Improvements**

1. Construction of 1,500 commuter surface automobile parking spaces with a width of at least 8.5 feet each at grade, and properly paved, striped and lighted (the "Surface Parking").
2. The intersection improvements required for the Project by TPZ and the State Traffic Commission including those listed below:
  - (A) **Kings Highway East (#2) @ Frank Street/Black Rock Park Drive**
    - ◆ Install actuated traffic control signal
    - ◆ Add one exclusive left turn lane to Kings Highway East (#2) WB
  - (B) **Black Rock Turnpike @ Fairfield Cinema/Black Rock Park Drive**
    - ◆ Install actuated traffic control signal
  - (C) **Kings Highway East (#2) @ Grasmere Avenue**
    - ◆ Install actuated traffic control signal
    - ◆ Add one exclusive left-turn lane to Grasmere Avenue SB
  - (D) **Kings Highway East #2 @ Commerce Drive\***
    - ◆ Install actuated traffic control signal
    - ◆ Add one exclusive left-turn lane to Kings Highway East (#2) WB
  - (E) **Kings Highway Cutoff (U.S. Route 1) @ Kings Highway East (#2)**
    - ◆ Install actuated traffic control signal
    - ◆ Add one exclusive left/right-turn lane to Kings Highway East (#2)
  - (F) **Kings Highway (U.S. Route 1) EB @ I-95 NB Off-Ramp/Black Rock Turnpike SB Merge**
    - ◆ Add lane to Black Rock Turnpike SB approach
  - (G) **Kings Highway East WB @ Northbound Rotary/Black Rock Turnpike NB**
    - ◆ Install actuated traffic control signal
  - (H) **Kings Highway East (U.S. Route 1) WB/Stephen's Lane @ Black Rock Turnpike SB**
    - ◆ Install actuated traffic control signal
    - ◆ Add one exclusive right-turn lane to Black Rock Turnpike SB
    - ◆ Widen Stephen's Lane WB between Black Rock Turnpike and the I-95 SB On-Ramp to provide two full-width lanes
    - ◆ Add one through lane to Rotary WB approach to intersection

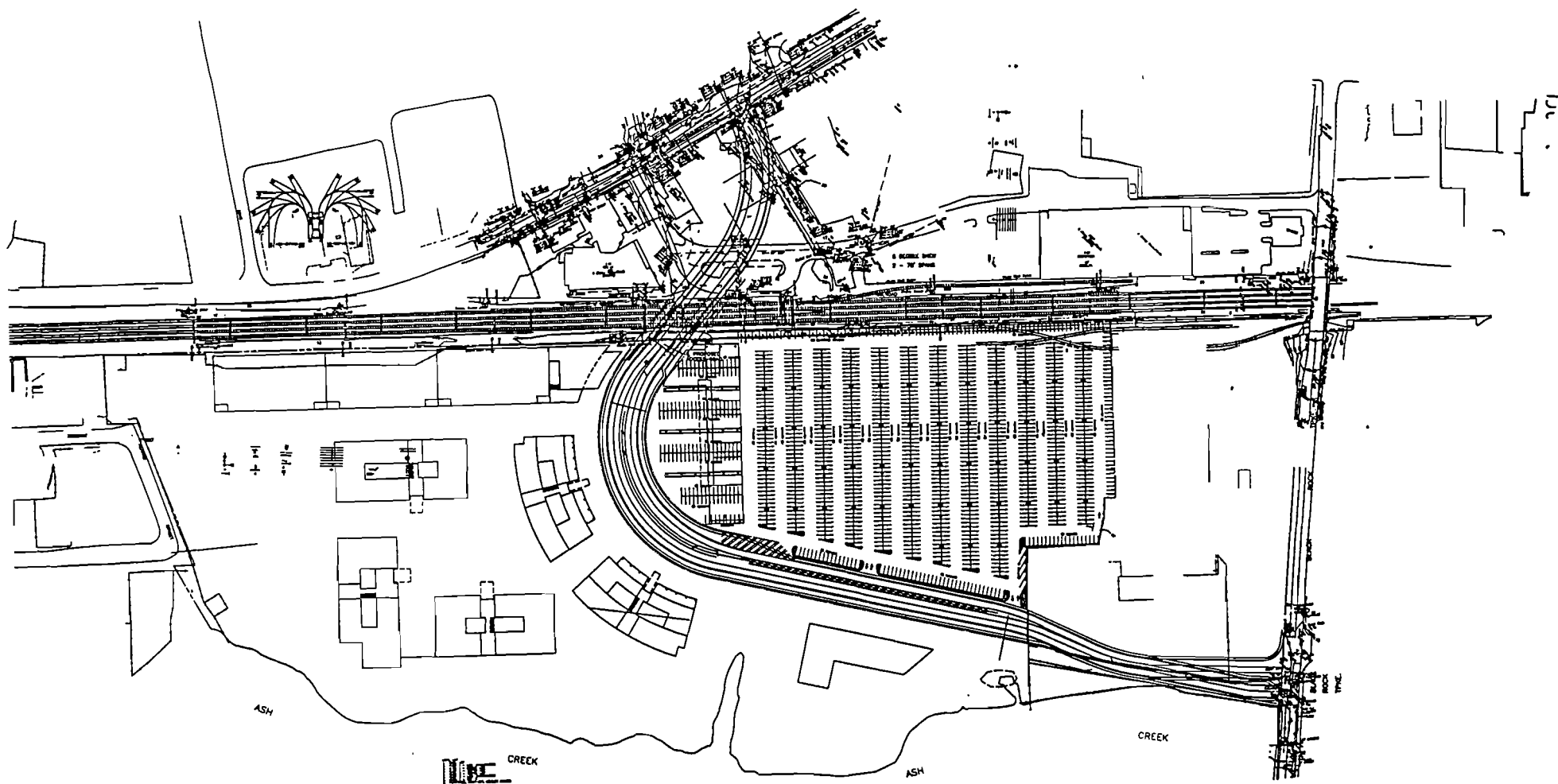
- (I) **Kings Highway East (U.S. Route 1) @ Chambers Street**
  - ◆ Revise actuated traffic control signal
  - ◆ Add one exclusive right-turn lane to Chambers Street NB
- (J) **Chambers Street @ Johnson Drive**
  - ◆ Install actuated traffic control signal
- (K) **Commerce Drive @ Chambers Street\***
  - ◆ Revise actuated traffic control signal
- (L) **Black Rock Turnpike @ Commerce Drive\***
  - ◆ Revise actuated traffic control signal
  - ◆ Revise lane arrangement on Black Rock Turnpike NB
- (M) **Fairfield Avenue (Route 130) and Brewster Street, Bridgeport**
  - ◆ Minor traffic signal timing modifications
- 3. Design work associated with the above improvements.
- 4. Right of ways associated with the above improvements and with the Road (as defined in Exhibit C-3).
- 5. Remediation of existing conditions on the Parking Land pursuant to Section 5.1 (a) and on the Commuter Waiting Area Land to the extent required pursuant to Section 5.1(d).

•      \*additional improvements planned to intersection as part of Commerce Drive project (State project #50-188)



**Exhibit C-3**  
**Developer Improvements**

1. Demolition and Removal pursuant to Section 5.3.
2. Divided access road approved by the STC through the Public Project Area, with turning lanes at appropriate driveways and intersections, from the Bridge to Black Rock Turnpike (the "Road") pursuant to Section 4.4(d). Note: Right of Way may be required, but any such right of way shall be acquired by the Town at its sole expense..
3. Remediation with respect to the Road Land pursuant to Section 5.1(b) and the Commuter Waiting Area Land to the extent required pursuant to Section 5.1(d) .
4. Construction of the Commuter Waiting Area
5. Construction of the Train Depot
6. Design work associated with the above.
7. Posting Train Depot and Excess Remediation Expense Letter of Credit pursuant to Section 5.4.
8. Posting all other letters of credit or performance bonds required by the Agreement.



Final Bridge and Road alignment  
and exit to Black Rock Turnpike  
subject to engineering feasibility  
and governmental approvals

## EXHIBIT D

Design of the Surface Parking  
Area

## **Exhibit E**

### **Form of CWA Land Lease**

#### **CWA LAND LEASE AGREEMENT**

This CWA Land Lease Agreement (this "Lease") is made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ by and between BLACKROCK REALTY, LLC, a Connecticut limited liability company ("Lessor") and the TOWN OF FAIRFIELD, a municipality within the County of Fairfield and State of Connecticut ("Lessee").

#### **WITNESSETH:**

WHEREAS, by an Agreement dated \_\_\_\_\_, 200\_\_, by and among Lessor, Lessee and the State of Connecticut, Department of Transportation (the "Development Agreement"), the parties thereto have set forth their agreement and understanding with respect to the development of the Project as defined therein; and

WHEREAS, pursuant to the terms of Section 3.3 of the Development Agreement, Lessor is to lease to Lessee, for a period, commencing on the date of conveyance of the Parking Land, as defined in the Development Agreement and expiring on December 31<sup>st</sup> of the 99th year after the train station opens to the public, the Commuter Waiting Area Land (as defined in the Development Agreement) and Lessee is to assign the Lease on a non-recourse basis to the State of Connecticut, Department of Transportation ("Conn DOT"); and

WHEREAS, Lessor and Lessee intend that this Lease set forth the terms and conditions of the leasing of the Commuter Waiting Area Land as described in the Development Agreement.

#### **PROVISIONS OF AGREEMENT:**

In consideration of the Development Agreement and the promises hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

##### **Section 1. Leased Premises.**

Lessor, in consideration of the rents and covenants hereinafter mentioned, does hereby demise and lease unto Lessee the surface of the real estate described on Exhibit "A" attached hereto and made a part hereof, together with the surface improvements hereafter to be constructed by Lessee thereon (collectively the "Premises" or "Leased Premises") for the use by Lessee as a commuter parking lot containing approximately 148 surface parking spaces and, if the Lessor elects not to build the Train Depot, as defined in the Development Agreement, a Train Depot of approximately 2000 square feet built in accordance with the specifications contained in Exhibit I to the Development Agreement. Prior to the Commencement Date (as hereinafter defined), Lessor shall have its real property subdivided so that the Leased Premises constitutes a separate

parcel of ground substantially as shown on Exhibit A attached hereto and made a part hereof.

Notwithstanding the Lessor's leasing of the surface of the real property described on Exhibit "A" to Lessee for the parking of vehicles as set forth herein, the Lessor and its successors and assigns, subject to the terms of such other easements or agreements as may have been or may be executed by and among the Lessor, the Lessee and Conn DOT shall continue to exclusively have and retain any and all other rights, easements and appurtenances over, under, on, through and across the Leased Premises, including, but not limited to, the sole and exclusive right to develop, improve, modify and use all or any part of the real property described on Exhibit "A", along with all air rights over and subsurface rights under said real property, for the development, construction, operation, repair, replacement and use of the Commuter Waiting Area (as defined in the Development Agreement), provided that, if the Lessor elects not to construct the Train Depot as defined in the Development Agreement, a portion of said real property nearest to the station platform shall be made available to the Lessee for construction of the Train Depot, including all footers, pilings, supports, ramps, racks, scaffolds, staging areas and other components of and aids to the construction or operation of such Train Depot, and any other improvements with respect to the Project (as defined in the Development Agreement), and to erect, install, repair, modify, maintain, replace and use in connection with the construction and operation of the Commuter Waiting Area and/or the Project (as defined in the Development Agreement) and any other improvements, all footers, pilings, supports, ramps, racks, scaffolds, staging areas and other components of and aids to the construction or operation of such Commuter Waiting Area, Project and/or other improvements; to construct, maintain, connect, install, use, repair and replace pipes, ducts, conduits, facilities and wires for all utilities and for the drainage, discharge and storage of surface water over, under, on and through the real property described on Exhibit "A" for the use and benefit of any portion of the Commuter Waiting Area and/or the Project or other improvements (provided that such installation and use of pipes, ducts, conduits, facilities and wires are to be in locations which will not, upon completion of installation thereof, render unusable any of Lessee's surface parking or the intended use of the Premises); to construct, install, repair, maintain, replace and use any steps, escalators, elevators and other means of pedestrian or vehicular access for ingress and egress from the Lessee's surface parking area to the Commuter Waiting Area and other improvements thereon; to make any and all repairs, replacements, restoration, reconstruction, modifications, additions, subtractions and alterations to or for the benefit of the Commuter Waiting Area, the Project and any other improvements; to construct, install, repair, maintain, replace and use all roadways, ramps, sidewalks and driveways to access the Commuter Waiting Area, any parking areas and other improvements on, over or under the real property; and to change the level or grade of the real property, to build thereon and to construct, install, maintain, repair, replace and use any deck, elevated or underground parking facilities for the Commuter Waiting Area or the Project (provided that in the event that such additional parking areas constructed by Lessor, upon completion of installation thereof, permanently render unusable all or a significant portion of the Lessee's surface parking area of the Premises, then Lessor shall have the right to require the patrons previously using Lessee's surface parking area to thereafter use designated areas of Lessor's parking facilities as constructed on the land described on Exhibit "A" for those spaces rendered unusable).

If Lessor's construction, repair, restoration, maintenance, replacement, addition, subtraction, alteration or modification of the buildings, utilities or improvements located

on, above or below the surface of the real property described on Exhibit "A" occurs while the surface parking lot located on the Leased Premises is actually being utilized for parking by Lessee and such work by Lessor renders temporarily unusable any of the surface parking area of the Leased Premises, Lessor shall make available to Lessee, at no Additional Rent cost, a number of temporary replacement parking spaces in the Project (as defined in the Development Agreement) equal to the number of surface parking spaces rendered unusable as a result of such work. Lessee acknowledges that the footers, pilings and other supports for the Commuter Waiting Area, parking facilities and/or other improvements will cause the loss of certain areas on the surface of the Leased Premises for placement of parking spaces and that no replacement or substitute parking spaces will be required or provided by Lessor with respect to parking spaces lost as a result thereof, as long as there is sufficient space for 148 parking spaces, but if there is not sufficient space, Lessor shall be required to replace such lost parking spaces unless such parking spaces can be replaced within the remainder of the Surface Parking Area, as defined in the Development Agreement.

**Section 2. Term.** The duration of this Lease shall be for a period commencing on the date of conveyance of the Parking Land and expiring on December 31<sup>st</sup> of the 99<sup>th</sup> year after the train station opens to the public, subject to the respective rights of Conn DOT and the Lessee under the terms of the Development Agreement to have the Leased Premises transferred to them, commencing upon the "Commencement Date" which date shall be upon the fulfillment of the conditions precedent set forth in Sections 6.1, 6.2, 6.3 and 6.4 of the Development Agreement. Lessor and Lessee shall confirm the Commencement Date in writing within thirty (30) days of the fulfillment of the conditions precedent. In the event that this Lease commences on a day other than the first day of the month, Lessee shall reimburse Lessor for the Additional Rent (as hereinafter defined) based on the partial month occupied.

**Section 3. Rent.**

A. Base Rent. Lessee shall not be obligated to pay to Lessor any base rent ("Base Rent") for the Premises.

B. Additional Rent. Lessee shall be solely responsible for, and shall pay, all costs, expenses, and obligations of every kind and nature whatsoever arising from or relating to the Leased Premises and its use and operation by Lessee, which may arise or become due during the Term of this Lease, and that Lessee shall pay to Lessor, after receiving appropriate bills or invoices, throughout the Term, all taxes, charges, assessments, costs, impositions and expenses of any kind arising from, concerning, or relating to the Leased Premises in connection with the Lessee's use or occupancy thereof ("Additional Rent"). Without in any manner limiting the foregoing, Lessee shall pay to Lessor, as items of Additional Rent for said Leased Premises, the following costs and expenses:

(i) During the Term of the Lease, Lessee shall pay all Taxes concerning or relating to the land comprising the Leased Premises and the Lessee's use and operation thereof. The term "Taxes" shall mean all taxes and assessments, general and special, ordinary and extraordinary, which shall or may, during the Term be assessed, levied, charged or imposed upon the Leased Premises or improvements thereon or the possession, operation, management, maintenance, alteration, use or occupancy by Lessee of the Leased Premises, or are levied or imposed upon Lessee's equipment,

fixtures and other personal property located in or about the Leased Premises, or on or against the cost of any improvements made in or to the Leased Premises by or for Lessee, regardless of whether title to the improvements is in Lessee or Lessor, including without limitation any gross receipts tax or excise tax. Lessor shall provide Lessee with copies of the various tax bills, and Lessee shall pay all such Taxes not later than the date on which such Taxes are due (and Lessee shall concurrently provide Lessor with proof of payment of such Taxes). In the event any Taxes or other impositions may be payable in installments, Lessee shall have the right to pay the same as such installments fall due. It is the understanding of the parties hereto that during the Lease Term the Leased Premises will be assessed and taxed as a public parking lot leased by an exempt entity required to pay rent of one dollar a year or less. Lessor shall pay all Taxes due arising from or relating to the Commuter Waiting Area building and other improvements constructed or installed by Lessor.

For any fraction of a tax year at the beginning or end of the Term, Lessee's obligation shall be prorated as of the commencement or end of the Lease Term. For any such fraction of a tax year at the beginning of said Term, Lessee agrees to reimburse Lessor for its portion of such Taxes within thirty (30) days after presentation to Lessee of receipted copies of the bills covering the same. For any such fraction of a tax year at the end of the Term, or any extension thereof, Lessor agrees to reimburse Lessee for Lessor's portion of such Taxes within thirty (30) days after presentation to Lessor of receipted copies of the bills. Lessor shall make reasonable efforts to have the Premises taxed as a separate subdivided tax parcel, and for the land and building component of the Taxes to be separated such that Lessee pays the Taxes relating to or imposed upon the land value of the Leased Premises and any improvements constructed by Lessee, and Lessor pays the Taxes relating to or imposed upon the Commuter Waiting Area and any other improvements constructed by Lessor. Lessor will timely forward to Lessee copies of all tax notices for the Leased Premises, including the initial tax assessment and all tax notices, wherein an increase is made to the real estate tax assessment of the Leased Premises such that Lessee is able to timely contest any re-assessment. Lessor shall use reasonable efforts to have the surface area of Leased Premises as used for parking assessed and taxed as a separate parcel from other property owned by Lessor.

Lessee shall have the right, at its own cost and expense, to initiate and prosecute any proceedings permitted by law for the purpose of obtaining an abatement of or otherwise contesting the validity or amount of Taxes assessed to or levied upon the Leased Premises and, if required by law, Lessee may take such action in the name of Lessor who shall cooperate with Lessee to such extent as Lessee may reasonably require, including, without limitation, the execution of documents. Lessor shall have the right to initiate and prosecute any proceedings permitted by law for the purpose of obtaining an abatement or otherwise contesting the validity or amount of Taxes assessed to or levied upon the Leased Premises if such proceeding shall in whole or in part pertain or relate to any period of time prior to or subsequent to the expiration or termination of this Lease.

(ii) Lessee shall promptly pay all utility bills, and all other charges and assessments against the Leased Premises, ordinary or extraordinary, including electricity, gas, rubbish removal, telephone, sanitary or storm sewer charges or assessments, and water rents. Lessee shall contract directly with all utility and service providers for the Premises and Lessee shall timely pay such providers directly for all utility services. Lessor shall under no circumstances be liable to Lessee in damages or

otherwise for any interruption in service of any utilities and services, and the same shall not constitute an eviction (constructive or otherwise) of Lessee. Lessee shall make arrangements directly with a rubbish and waste disposal company for waste removal services in and to the Premises as may be desired by Lessee or required by law. Lessee shall pay the entire cost of such rubbish and waste removal service directly to the provider of such service.

(iii) Lessee shall pay for and obtain all permits, licenses and approvals necessary for the occupancy, use, construction, improvement and/or maintenance of the surface parking area of the Premises.

To the extent that any and all Taxes, or lienable utilities, permits, fees, assessments and the like, as set forth hereinabove and as required to be paid by Lessee are not paid, and the same become charges and/or liens or claims against the fee interest underlying the Premises or liens or claims against the leasehold estate created hereunder, then in such event Lessor shall have the right to pay (but shall not be obligated to pay), satisfy and discharge any such obligations of Lessee and Lessee shall remain liable to and be obligated to repay Lessor the amount so advanced, together with interest thereon at the Prime Rate as published from time to time in the Wall Street Journal, or if it ceases to be published, the New York Times, plus two percent (2%) per annum, and payable as Additional Rent due hereunder under the same terms and conditions as set forth hereinabove.

#### **Section 4. Lessee's Work.**

A. Lessee's Work. Lessee shall cause to be prepared, at Lessee's sole cost and expense, and submitted to Lessor for Lessor's prior written approval (which approval shall not be unreasonably withheld or delayed), all necessary plans, drawings and specifications (the "Drawings and Specifications") describing the work to be performed by Lessee for the construction of a surface parking lot and all other improvements to be constructed by Lessee on the Leased Premises for use by Lessee; such Drawings and Specifications to be consistent with the items described in the site plan attached as Exhibit "B" hereto. The Drawings and Specifications, as approved in writing by Lessor, are herein collectively called the "Lessee's Plans". Lessor shall review the Lessee's Plans after the submission to Lessor of all of the drawings and specifications necessary to provide a complete set of Lessee's Plans to Lessor, and Lessor shall provide its approval or reasonable rejection of such Lessee's Plans. In the event that Lessor rejects all or any portion of the Lessee's Plans, Lessee shall cause such Lessee's Plans to be revised per the Lessor's reasonable comments and Lessee shall resubmit such Lessee's Plans to Lessor. The work described in the Lessee's Plans and all other work and improvements to be constructed by Lessee to or for the benefit of the Leased Premises, is herein collectively called "Lessee's Work" and shall be performed by Lessee or its contractors at Lessee's sole cost and expense. Lessee shall not commence Lessee's Work until Lessor has approved the Lessee's Plans in writing. Upon Lessor's approval of the Lessee's Plans, Lessee shall commence Lessee's Work and shall diligently proceed, to complete such work and make all improvements to and install in the Leased Premises all fixtures and other equipment which may be necessary or proper in the operation of Lessee's surface parking lot on the Leased Premises and thereafter to open and operate the surface parking lot. All risk of loss in and to the parking areas, lighting (including bases, poles, fixtures and bulbs), fixtures, gates, booths and any other improvements constructed by Lessee on the Leased Premises

shall remain with Lessee, and all damages thereto shall be promptly repaired and restored by Lessee. All of Lessee's contractors constructing or installing Lessee's Work shall maintain in effect comprehensive general liability insurance in scope and amounts acceptable to Lessor, and shall name Lessor as an additional insured. Lessee shall provide Lessor with written evidence of all contractors' insurance prior to the commencement of Lessee's Work.

Lessee's Work shall be performed and completed by Lessee and its contractors in a good and workmanlike manner and in accordance with all applicable permits, authorizations, laws, ordinances, orders, regulations and requirements of all governmental authorities having jurisdiction over the same. Lessee shall cause Lessee's Work to be constructed and installed in accordance with the Lessee's Plans; provided, however, that Lessee may make substitutions of materials or components of Lessee's Work of equivalent grade and quality and make modifications to Lessee's Work and/or to the Lessee's Plans to the extent reasonably necessary to comply with the terms and provisions of applicable governmental laws, ordinances, rules, regulations and with utility company requirements. Lessor's consent shall not be required for substitution of materials which are of equivalent grade and quality; provided, that Lessee shall provide Lessor with prior written notice of such substitution of materials (including the original specified material and the proposed substitution material of equivalent grade and quality), and Lessor shall have a period of ten (10) days after receipt of such notice to object on the basis that such materials are not of equivalent grade and quality. Upon termination of this Lease, all of Lessee's Work shall remain on the Premises.

#### **Section 5. Use of the Leased Premises.**

Use. Lessee shall use the Leased Premises only for the operation of a surface parking lot primarily for the parking of approximately 148 passenger motor vehicles by commuters using the Train Depot and Train Station (as defined in the Development Agreement), and for no other use or purpose, except construction and use of the Train Depot if Lessor elects not to construct it, without Lessor's prior written consent.

#### **Section 6. Reserved.**

#### **Section 7. Additional Obligations.** Lessee shall:

A. Be responsible for bringing water, electricity, gas, sewer and any other utility lines required by Lessee from the property line to any booth or other structure constructed by Lessee on the Leased Premises. Lessee shall promptly pay for all utility costs in connection with the operation of the Leased Premises. Any structures, improvements, lighting and fixtures installed or used by Lessee at the Leased Premises shall be separately metered, at Lessee's sole cost and expense for all utilities, and Lessee will be directly billed by all utilities. Lessee shall be solely responsible for and shall pay for all utilities and rubbish removal with respect to the Leased Premises.

B. Not cause or permit any person on the Leased Premises to destroy, deface, damage, impair or remove any part of the Leased Premises or the facilities, lighting, booths, equipment or appurtenances thereto.

C. Not cause or permit liens of any kind (whether for materials, wages, labor or services) to be placed against the Leased Premises in connection with any work done



by or for Lessee. If any such liens are filed, with or without Lessee's knowledge, Lessee shall immediately, at Lessee's sole cost and expense, take whatever action is necessary to cause such liens to be satisfied and discharged. Lessee shall obtain and file appropriate lien waivers prior to the commencement of any work in the Leased Premises.

D. Not permit any violation to issue and remain uncorrected from the appropriate regulatory agencies having jurisdiction thereover with regard to the operation of the Leased Premises.

E. Not intentionally cause or take any action which would create any work stoppage, picketing, labor disruption or dispute, or any other interference with the business or operations of Lessor or any tenant or occupant of the Commuter Waiting Area building or other portions of the Project, or with the rights or privileges of any customer or other person lawfully in or upon said Commuter Waiting Area building or other portions of the Project.

### **Section 8. Maintenance and Repairs.**

A. Lessee's Maintenance and Repair Obligations. At its sole cost and expense, Lessee shall at all times maintain all improvements installed by or for Lessee on the Leased Premises in a neat, clean and in good order and first class condition and repair, including all but not limited to all paved surfaces, sidewalks, curbs, gates, booths, lighting (including bases, poles, fixtures and bulbs), equipment, landscaping, and all fixtures, appliances and facilities installed by or for Lessee, and Lessee shall be responsible for all replacement of and/or repairs thereof. Lessee shall keep and maintain the sidewalks and the parking lot on the Leased Premises in good condition and free and clear of all snow, ice, and debris. Lessee shall regularly police and clean the Leased Premises, and Lessee shall maintain, at its sole cost and expense, a facility for the disposal of trash on the Premises. Lessee shall place, maintain, and regularly empty trashcans and receptacles in the parking lot of the Leased Premises. All maintenance, repairs and replacements by Lessee shall be made in a first-class, workmanlike manner. Lessee shall maintain adequate security personnel and equipment with respect to the Leased Premises. Lessor shall not be responsible to keep or maintain or repair or replace any of the improvements, lighting (including bases, poles, fixtures and bulbs), fixtures or equipment constructed or installed by or on behalf of Lessee on the Leased Premises, and Lessor shall be responsible for the maintenance and repair only of items or improvements constructed or placed upon the Leased premises by or on behalf of Lessor.

B. Failure by Lessee. In the event that Lessee fails to maintain the Leased Premises in good order, condition and repair, Lessor shall give written notice to Lessee to perform the work that is reasonably required to remedy the situation. If Lessee fails to commence such work within ten (10) days following the receipt of notice and fails to diligently prosecute the same to completion, Lessor shall have the right (but shall not be obligated or required) to enter the Leased Premises and to perform such work at the expense of Lessee, and such expenses shall be immediately due and payable as Additional Rent hereunder.

C. Emergency Repairs. Notwithstanding the provisions of Section 8.B., whenever emergency repairs are required to preserve the Leased Premises or the safety of persons or property and Lessee fails promptly to effect such repairs, Lessor may undertake such repairs without prior notice to Lessee as soon as reasonably and practically possible. Lessor shall give

Lessee notice of such emergency repairs promptly after completing them, and the cost of such emergency repairs will be borne by Lessee and shall be immediately due and payable as Additional Rent hereunder.

D. Disclaimer of Liability. Lessor shall not be responsible or liable for any maintenance or repair to the Leased Premises. This Lease shall not be affected and there will be no diminution or abatement of Rent or other payments and no constructive eviction shall be claimed or allowed because of the interruption or curtailment of any services or utilities in or to the Leased Premises.

#### **Section 9. Alterations; Additions; Signs.**

A. Except for Lessee's Work, Lessee shall not make any structural alterations, additions or changes in the Leased Premises without the prior written approval of Lessor, which approval shall not be unreasonably withheld or delayed.

All of Lessee's Work, and all additional work performed by Lessee pursuant to this Section 9, shall be carried on at Lessee's cost and in a first-class, workmanlike manner in accordance with all standards or other requirements, as contemplated in the Development Agreement and in compliance with all applicable governmental laws, orders, regulations, ordinances and permits. Such work shall be carried on by responsible contractors who will, prior to commencement of work, submit satisfactory proof of insurance coverage, satisfactory to Lessor in its reasonable discretion, naming Lessor as an additional insured.

B. Following completion of Lessee's Work, and any further alterations, additions or improvements by Lessee, Lessee shall furnish Lessor with current plans and specifications reflecting such alterations, additions and improvements, or, in the alternative, with a certification from Lessee and its general contractor that the improvements to the Leased Premises have been constructed substantially in accordance with the final approved Lessee's Plans.

C. Lessee expressly acknowledges and agrees that Lessor does not make and has made no representations or warranties of any kind with regard to the availability of exterior signs for the Leased Premises. With respect to any signs, Lessee shall provide Lessor with written notice as to the type, lighting, design, location and structure of any signs, all of which shall be subject to Lessor's prior written approval, which approval shall not be unreasonably withheld or delayed. Lessor hereby consents to and approves the type and location of Lessee's exterior signage as shown on Exhibit "C" attached hereto and made a part hereof. Lessee further expressly covenants and agrees that any and all exterior signs, if approved in writing by Lessor, shall be erected and properly maintained by Lessee at Lessee's sole cost and expense, and shall comply with all applicable local, state and federal laws, ordinances and regulations.

**Section 10. Condition of Premises.** Lessor does not make any representation or warranty, express or implied, of any kind or nature with respect to the Leased Premises or the condition thereof, and Lessee hereby accepts the Leased Premises in its current, "as is" condition.

#### **Section 11. Indemnity.**

The Lessor shall not be responsible for indemnifying or holding the Lessee harmless from any liability arising due to the negligent acts or omissions, or willful misconduct, of the Lessee, or any other person or entity acting under the direct control or supervision of the Lessee."

#### **Section 12. Environmental Compliance.**

A. Lessee shall be responsible, at its sole cost and expense, for the environmental remediation of all conditions existing at the time of the leasing of the Leased Premises to Lessee hereunder and as further provided for in the Development Agreement. Lessee shall be responsible, at its sole cost and expense, for compliance with all applicable laws, rules, regulations, and ordinances with respect to the Lessee's construction and use of the land as a surface parking facility.

B. Lessor shall be responsible, at its sole cost and expense, for any environmental remediation if Lessor disturbs the environmental remediation previously performed by Lessee or if Lessor creates an environmental condition in connection with its construction of the Commuter Waiting Area or other improvements and as further provided for in Section 5.1(d) of the Development Agreement. Lessor shall be responsible, at its sole cost and expense, for compliance with all applicable laws, rules, regulations, and ordinances with respect to the Lessor's construction and use of the land as the Commuter Waiting Area and related improvements.

#### **Section 13. Casualty.**

If the Leased Premises (or any part thereof) shall be damaged or destroyed by fire or other casualty, Lessee shall as soon as reasonably practicable commence to repair and/or rebuild the same to the condition which existed prior to such fire or other casualty, with reasonable diligence.

#### **Section 14. Assignment; Subletting.**

A. Lessor hereby grants its consent to Lessee's assignment of this Lease to the State of Connecticut, Department of Transportation ("Conn DOT"). Any assignment to Conn DOT, as described in this Section, shall be made without recourse to Assignee except as to any acts or events having taken place prior to such assignment. To the extent permitted by law, Conn DOT shall be responsible for it acts as assignee under the Lease. Without the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed, Lessee shall not assign or encumber this Lease, or sublet or rent the Leased Premises or any part thereof, nor transfer possession or occupancy thereof to any other person, entity, corporation, partnership or association, whether expressly or by operation of law; nor shall any assignment hereof be effected by operation of law or otherwise without such consent. Any such consent, if given by Lessor, shall not serve as a waiver of the need for written consent in all future cases.

Any subletting or assignment hereunder, other than to Conn DOT, shall not release or discharge Lessee of or from any liability, whether past, present or future, under this Lease. The subtenant or subtenants or assignee shall agree to comply with and be bound by all of the terms, covenants, conditions, provisions and agreements of

this Lease, and Lessee shall deliver to Lessor promptly after execution an executed copy of each such sublease or assignment of compliance by each such subtenant or assignee.

**Section 15. Reserved.**

**Section 16. Lessee's Default.**

A. Events of Default. Any one or more of the following shall constitute an "Event of Default" under this Lease:

(1) Failure by Lessee to pay any installment of Additional Rent or any other sum provided for under this Lease when due where such failure continues for a period of ten (10) days after written notice from Lessor; provided, however, that Lessor shall not be required to give written notice more than three times in any twelve month period.

(2) Failure by Lessee to perform or observe any other covenant or condition contained in this Lease which failure shall continue for a period of thirty (30) days after delivery of written notice of such failure by Lessor to Lessee; provided, however, that if Lessee's obligation is of such nature that more than thirty (30) days is required for its performance, then Lessee shall not be deemed to be in default hereunder if Lessee shall commence such performance within said thirty (30) day period and shall thereafter proceed diligently to prosecute the same to completion.

(3) Failure by Lessee to pay or reimburse any of Lessor's expenses required to be paid or reimbursed by Lessee pursuant to this Lease after receiving written notice of such failure from Lessor and failing to cure such default by the making of payment within thirty (30) days after the date of receipt of such notice.

**Section 18. Quiet Enjoyment.** Lessor represents and warrants that it is lawfully empowered to enter into this Lease and that, so long as Lessee shall perform all of Lessee's covenants and obligations hereunder, Lessee shall have and enjoy quiet and peaceable possession of the Leased Premises without hindrance by Lessor or other claiming by, through or under Lessor.

**Section 19. Subordination; Assurances.** This Lease shall be subject and subordinate to the lien of all present or future mortgages that affect the Leased Premises and to all renewals, modifications, replacements and extensions thereof. This clause shall be self-operative, but, in any event, Lessee hereby agrees to execute, within fifteen (15) days after request, and deliver any certificate or other assurances that Lessor may request in furtherance hereof; provided, however, that, in the event of foreclosure of any such mortgage or modification, Lessee shall attorn to the purchaser in foreclosure or whoever shall be named in any deed in lieu of foreclosure and shall recognize such purchaser as Lessor under this Lease; and provided, further, that, so long as Lessee is not in default hereunder, this Lease shall remain in full force and effect. If so requested by Lessee, Lessor shall obtain from its lender a Subordination, Non-Disturbance and

Attornment Agreement in such lender's customary form (that such lender will be willing to sign), and shall deliver such SNDA Agreement to Lessee for review and signature. Lessee may contact lender's counsel regarding any requested changes to such Agreement, and any modifications thereto as requested by Lessee shall be subject to the lender's reasonable discretion. Lessor's obligations with respect to such lender's form SNDA Agreement (that such lender will be willing to sign) shall be limited to the obtaining and delivering of the same to Lessee. Lessee shall, upon request of Lessor or its mortgagee, sign and deliver a certificate or other documents as may be requested in order to confirm the terms and status of this Lease and Lessee's tenancy. Lessor reserves the right to sever the ownership or title to various sections of the Project and/or to place separate mortgages on various sections of the Project.

**Section 20. Waiver of Non-Performance.** Failure of either party to exercise any of its rights hereunder upon any defective performance or non-performance by the other party of any condition, covenant or provision herein contained shall not be construed as a waiver thereof, nor shall any waiver of such defective performance or non-performance of any such condition, covenant or provision by such party be construed as a waiver of the rights of that party as to any subsequent defective performance or non-performance by the other party hereunder.

**Section 21. Entire Contract.** This Lease constitutes the entire leasing contract between the parties hereto with respect to the Leased Premises and there are no understandings, promises, representations or warranties, oral or written, relating to this Lease that exist or bind any of the parties hereto, their respective successors or assigns, except as set forth herein. No amendment, change or addition to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by both parties.

**Section 22. Applicable Law.** It is mutually understood and agreed that this Lease shall be interpreted in accordance with the laws of the State of Connecticut, without regard to principles of conflict of laws.

**Section 23. Severability.** If any particular term, covenant or provision of this Lease shall be determined to be invalid and unenforceable, the same shall not affect the remaining provisions of this Lease, which shall nevertheless remain in full force and effect.

**Section 24. Waiver and Release of Claims.** Lessor and Lessor's agents, consultants, representatives, partners, servants and employees shall not be liable for, and Lessee hereby releases and relieves Lessor, its agents, consultants, representatives, partners, servants and employees from all liability in connection with, any and all loss of life, personal injury, damage to or loss of property, or loss or interruption of business occurring to Lessee, its agents, consultants, representatives, servants, employees, invitees, licensees, visitors, or any other person, firm, corporation or entity, in or about or arising out of, in or upon the Leased Premises, provided that such loss was not occasioned by the negligent acts or omissions of Lessor.

**Section 25. Exoneration.** It is covenanted and agreed that no personal liability or responsibility is assumed by nor shall any such liability or responsibility at any time be asserted or enforceable against Lessor or any member, partner or affiliate of Lessor, parent corporation, or any officer, director, member, or shareholder thereof, or

the successors or assigns of the foregoing, on account of any covenant, undertaking or agreement in this Lease contained, all such personal liability and responsibility, if any, being expressly waived and released.

**Section 26. Unavoidable Delay.** If either party hereto shall be delayed or hindered in or prevented from performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure material, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under this Lease, the period for performance of any such act shall be extended for a period equivalent to the period of such delay.

**Section 27. Reserved.**

**Section 28. Memorandum of Lease.** Lessee or Lessor may record a Memorandum of this Lease outlining the length of the Term and any other terms of this Lease and being in form and substance acceptable to each party in its reasonable discretion.

**Section 29. Reserved.**

**Section 30. Authority.** Each individual executing this Lease on behalf of Lessee represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of Lessee in accordance with the governing instruments of Lessee and that this Lease is binding upon Lessee in accordance with its terms.

**Section 31. Compliance With Laws and Ordinances.** Lessee agrees that it will, at its sole cost and expense, promptly fulfill and comply with all applicable laws, ordinances, regulations and requirements of the city, county, state and federal governments and any and all departments thereof having jurisdiction over the Leased Premises and/or Lessee's use or operation thereof.

**Section 32. Waiver of Trial by Jury.** It is mutually agreed by and between Lessor and Lessee that the respective parties hereto shall and they hereby do waive trial by jury (unless such waiver would preclude a right to counterclaim) in any action, proceeding or counterclaim brought by either of the parties hereto against the other (except for personal injury or property damages) on any matters whatsoever arising out of or in any way connected with this Lease. Nothing in this section 32 shall constitute, be construed or be deemed a waiver of the sovereign immunity of the State of Connecticut.

**Section 33. Notices.** All notices, requests, demands and other communications required or permitted under this Lease (each, a "Notice") shall be in writing, signed by or on behalf of the party giving Notice and shall be deemed to have been given as follows: (a) if personally delivered: on the date of actual delivery to Lessor or to Lessee or any person in charge of Lessee's office in the Leased Premises; or (b) if mailed or delivered by overnight courier: on the date upon which any Notice shall have been received as shown by certified or registered return (or overnight delivery company) receipts. The following addresses shall be used for the foregoing purposes:

To Conn DOT:

Connecticut Department of Transportation  
2800 Berlin Turnpike  
PO Box 317546  
Newington, CT 06131-7546  
Attention: Director, Bureau of Public Transportation

To the Town:

Town of Fairfield  
Independence Hall  
725 Old Post Road  
Fairfield, CT 06430  
Attention: First Selectman

With a copy to:

Shipman & Goodwin LLP  
One Landmark Square  
Stamford, CT 06103-2819  
Attention: Michael L. Widland, Esq.

And

Richard H. Saxl, Esq.  
Town Attorney  
Town of Fairfield  
PO Box 5042  
Westport, CT 06881

To the Lessor:

Blackrock Realty, LLC  
422 Summer Street  
Stamford, CT 06901  
Attention: Kurt Wittek

Blackrock Realty, LLC  
1000 Huyler Street  
Teterboro, NJ 07608  
Attention: Aaron Stauber

With a copy to:

Updike, Kelly & Spellacy, P.C.  
One State Street  
Hartford, CT 06103  
Attention: Robert J. Martino, Esq.

And

Tierney Zullo Flaherty & Murphy PC  
134 East Avenue  
P.O. Box 2028  
Norwalk, CT 06852-2028  
Attention: Frank N. Zullo, Esq.

provided, however, that either party hereto may change its address for such purposes from time to time by giving written Notice of such changed address to the other party.

If Notice is given by certified or registered mail and the same is returned by the U.S. Postal Service marked "Refused" or "Unclaimed", service shall be deemed to have been given on the first business day following the date of mailing the same. Lessor shall be under no duty to post the Leased Premises except as otherwise specifically provided herein.

**Section 34. Headings.** The Headings in this Lease are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Lease or any provision hereof.

**Section 35. Binding Effect**

A. Binding upon Lessor. This Lease shall not be binding upon Lessor unless and until the same shall have been signed by Lessor and delivered to Lessee by Lessor.

B. Binding upon All Parties and Others. After this Lease shall have been fully signed by all parties and delivered by Lessor to Lessee, the same shall be binding upon the said parties and upon their respective heirs, executors, administrators, successors and assigns.

C. Notwithstanding any other provision of this Lease, no provision of this Lease shall constitute, be construed or be deemed to be a waiver of the sovereign immunity of the State of Connecticut.

WITNESS the due execution of this Lease by duly qualified and authorized representatives of each party, in duplicate originals, as of the day and year first above written.

WITNESS:

LESSOR: BLACKROCK REALTY, LLC

\_\_\_\_\_

By:

\_\_\_\_\_

Name:

\_\_\_\_\_

Title: \_\_\_\_\_

WITNESS:

LESSEE: TOWN OF FAIRFIELD



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By:  
Name:  
Title:

#### ATTACHMENTS

EXHIBIT A	LEGAL DESCRIPTION OF LEASED PREMISES
EXHIBIT B	DESCRIPTION OF LESSEE'S WORK
EXHIBIT C	APPROVED SIGNAGE

**Exhibit F-1**  
**Permitted Encumbrances**

1. Any and all provisions of any municipal ordinance or regulation and any federal state or local public or private laws affecting the property, including any zoning rules or regulations governing the property.
2. Any and all provisions of any inland wetland or coastal wetlands statutes, ordinances, rules or regulations.
3. Any riparian rights of others in Ash Creek adjoining or passing through the property.
4. Taxes to the Town of Fairfield on the Lists of October 1, 2001 and October 1, 2002, which the Grantee assumes and agrees to pay.
5. Any and all assessments for any municipal improvements which may, on or after the date of this instrument, be levied against or become a lien on the property.
6. A perpetual easement and right of way granted by The Bullard Company to The United Illuminating Company dated July 22, 1958 recorded in Volume 380 page 467 of the Fairfield Land Records.
7. An easement granted by The Bullard Company to the Town of Fairfield for sanitary sewer purposes, which easement is dated September 29, 1958 recorded in Volume 385 Page 245 of the Fairfield Land Records.
8. A perpetual easement and right of way granted by The Bullard Company to The United Illuminating Company by instrument dated February 9, 1965 recorded in Volume 480 Page 232 of the Fairfield Land Records. The land affected by the easement is recorded in Volume 380 Page 467 and referred to above is a part of the the land affected by this easement.
9. A notice of variance of the Fairfield Zoning Regulations recorded in Volume 721 Page 1163 of the Fairfield Land Records.
10. Easements granted by White Consolidated Industries, Inc. to Michael Schinella, et al d/b/a In-Vest II, by an instrument dated May 23, 1984 and recorded in Volume 723 Page 942 of the Fairfield Land Records.
11. State of facts shown on a certain survey entitled "Map of Showing Land to be Conveyed to Best Cast, Inc., Fairfield, Conn.," dated December 28, 1984, made by The Huntington Company, Engineers and Surveyors, Fairfield, Conn. and filed on the Fairfield Land Records as Map No. 5242.

12. Such state of facts or conditions which an accurate survey or an inspection of the property might disclose.
13. Encroachments of stoops, areas, roof cornices, window trims, vent pipes, cellar doors, steps, column bases, flue pipes, signs, piers, lintels, windowsills, fire escapes, ledges, fences, coping, retaining walls and yard walls, if any, upon any street or highway or adjoining property.
14. A license from Best Cast, Inc. to Dimension Enterprises International, Inc. to White Consolidated Industries, Inc. dated April 1, 1985 and recorded in Volume 740 Page 663 of the Fairfield Land Records.
15. Effect, if any of a license from Best Cast, Inc. to Edward S. Reiner and Schrier Bros. Inc. dated April 1, 1985, as noted in Volume 774 Page 311 of the Fairfield Land Records.
16. Notice from the Town of Fairfield Conservation Commission recorded in Volume 714 Page 568 of the Fairfield Land Records.
17. Order from the State of Connecticut Department of Environmental Protection (No. HM-632) dated August 25, 1989 and recorded September 5, 1989 in Volume 926 Page 257 of the Fairfield Land Records. See Certificate of Compliance dated January 3, 1995 and recorded May 2, 1995 in Volume 1478 Page 94 of the Fairfield Land Records.

**Exhibit F-2**  
**Restrictions on Transfer and**  
**Environmental Use Restrictions**

**FORM OF ENVIRONMENTAL LAND USE RESTRICTION**

Form Of Environmental Land Use Restriction For Commissioner's Approval

Appendix 1 to

Section 22a-133q-1 of the Regulations of Connecticut State Agencies

Form of Environmental Land Use Restriction for Commissioner's Approval

+-----+  
|Instructions: Any environmental land use restriction |  
|pursuant to R.C.S.A. section 22a-133q-1 shall be in |  
|the following form. The appropriate information shall|  
|be inserted in the blanks shown, and the appropriate |  
|language shall be selected from the choices shown in |  
|brackets, or if none of the choices addresses the |  
|specific circumstance, substitute language shall be |  
|inserted. |  
+-----+

**DECLARATION OF ENVIRONMENTAL LAND USE RESTRICTION  
AND GRANT OF EASEMENT**

This Declaration of environmental land use restriction and Grant of Easement is made this day of , 1995, between ("the Grantor") and the Commissioner of Environmental Protection of the State of Connecticut ("the Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of certain real property (the "Property") known as [Address/Location located in the Town of in County] [designated as Lot , Block on the tax map of the Town of in County], more particularly described on Exhibit A which is attached hereto and made a part hereof; and

WHEREAS, the Grantee has determined that the environmental land use restriction set forth below is consistent with regulations adopted by him pursuant to Section 22a-133k of the Connecticut General Statutes; and

WHEREAS, the Grantee has determined that this environmental land use restriction will effectively protect public health and the environment from the hazards of pollution; and

WHEREAS, the Grantee's written approval of this Environmental land use restriction is contained in the document attached hereto as Exhibit B (the "Decision Document") which is made a part hereof; and

WHEREAS, the property or portion thereof identified in the class A-2 survey ("the Subject Area") which survey is attached hereto as Exhibit C which is made a part hereof, contains pollutants and

WHEREAS, to prevent exposure to or migration of such pollutants and to abate hazards to human health and the environment, and in accordance with the Decision Document, the Grantor desires to impose certain restrictions upon the use, occupancy, and activities of and at the Subject Area, and to grant this environmental land use restriction to the Grantee on the terms and conditions set forth below; and

WHEREAS, Grantor intends that such restrictions shall run with the land and be binding upon and enforceable against Grantor and Grantor's successors and assigns;  
NOW, THEREFORE, Grantor agrees as follows:

1. Purpose. In accordance with the Decision Document, the purpose of this Environmental land use restriction is to assure [that the Subject Area is not used for residential activities], [that ground water at the Subject Area is not utilized for drinking purposes], [that humans are not exposed to soils at the Subject Area polluted with substances in concentrations exceeding the direct exposure criteria established in R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive], [that water does not infiltrate soils at the Subject Area polluted with substances in concentrations exceeding the pollutant mobility criteria established in R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive] [that buildings are not constructed over soils or ground water at the Subject Area polluted with substances in concentrations exceeding the volatilization criteria established in R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive], [that the engineered control described in Exhibit D attached hereto is not disturbed and is properly maintained to prevent human exposure to soils at the Subject Area polluted with substances in concentrations exceeding the direct exposure criteria established in R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive, and/or that water does not infiltrate soils at the Subject Area polluted with substances in concentrations exceeding the pollutant mobility criteria established in R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive.]

2. Restrictions Applicable to the Subject Area: In furtherance of the purposes of this environmental land use restriction, Grantor shall assure that use, occupancy, and activity of and at the Subject Area are restricted as follows:

[A. Use. No residential use of the Subject Area shall be permitted.

B. Ground water. Ground water at the Subject Area shall not be used for drinking or other domestic purposes.

C. Disturbances. Soil at the Subject Area shall not be disturbed in any manner, including without limitation,

D. Construction. No building shall be constructed on the Subject Area.]

3. Except as provided in Paragraph 4 below, no action shall be taken, allowed, suffered, or omitted if such action or omission is reasonably likely to:

i. Create a risk of migration of pollutants or a potential hazard to human health or the environment; or

ii. Result in a disturbance of the structural integrity of any engineering controls designed or utilized at the Property to contain pollutants or limit human exposure to pollutants.

4. Emergencies. In the event of an emergency which presents a significant risk to human health or the environment, the application of Paragraph 3 above may be suspended, provided such risk cannot be abated without suspending such Paragraph and the Grantor:

i. Immediately notifies the Grantee of the emergency;

ii. Limits both the extent and duration of the suspension to the minimum reasonably necessary to adequately respond to the emergency;

iii. Implements all measures necessary to limit actual and potential present and future risk to human health and the environment resulting from such suspension; and

iv. Implements a plan approved in writing by the Grantee, on a schedule approved by the Grantee, to ensure that the Subject Area is remediated in accordance with R.C.S.A.

sections 22a-133k-1 through 22a-133k-3, inclusive, or restored to its condition prior to such emergency.

5. Release of Restriction; Alterations of Subject Area. Grantor shall not make, or allow or suffer to be made, any alteration of any kind in, to, or about any portion of any of the Subject Area inconsistent with this Environmental land use restriction unless the Grantor has first recorded the Grantee's written approval of such alteration upon the land records of [name of municipality where Subject Area is located]. The Grantee shall not approve any such alteration and shall not release the Property from the provisions of this environmental land use restriction unless the Grantor demonstrates to the Grantee's satisfaction that Grantor has remediated the Subject Area in accordance with R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive.

6. Grant of Easement to the Grantee. Grantor hereby grants and conveys to the Grantee, his agents, contractors, and employees, and to any person performing pollution remediation activities under the direction thereof, a non-exclusive easement (the "Easement") over the Subject Area and over such other parts of the Property as are necessary for access to the Subject Area or for carrying out any actions to abate a threat to human health or the environment associated with the Subject Area. Pursuant to this Easement, the Grantee, his agents, contractors, and employees, and any person performing pollution remediation activities under the direction thereof, may enter upon and inspect the Property and perform such investigations and actions as the Grantee deems necessary for any one or more of the following purposes:

- i. Ensuring that use, occupancy, and activities of and at the Property are consistent with this environmental land use restriction;
- ii. Ensuring that any remediation implemented complies with R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive;
- iii. Performing any additional investigations or remediation necessary to protect human health and the environment;
- [iv. Ensuring the structural integrity of any engineering controls described in this Environmental land use restriction and Grant of Easement and their continuing effectiveness in containing pollutants and limiting human exposure to pollutants.]

7. Notice and Time of Entry onto Property. Entry onto the Property by the Grantee pursuant to this Easement shall be upon reasonable notice and at reasonable times, provided that entry shall not be subject to these limitations if the Grantee determines that immediate entry is necessary to protect human health or the environment.

8. Notice to Lessees and Other Holders of Interests in the Property. Grantor, or any future holder of any interest in the property, shall cause any lease, grant, or other transfer of any interest in the Property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this environmental land use restriction and Grant of Easement. The failure to include such provision shall not affect the validity or applicability to the Property of this environmental land use restriction and Grant of Easement.

9. Persons Entitled to Enforce Restrictions. The restrictions in this environmental land use restriction on use, occupancy, and activity of and at the Property shall be enforceable in accordance with section 22a-133p of the General Statutes.

10. Severability and Termination. If any court of competent jurisdiction determines that any provision of this environmental land use restriction or Grant of Easement is invalid or unenforceable, such provision shall be deemed to have been modified automatically to

conform to the requirements for validity and enforceability as determined by such court. In the event that the provision invalidated is of such nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect. Further, in either case, the Grantor shall submit a copy of this restriction and of the judgement of the Court to the Grantee in accordance with R.C.S.A. section 22a-133q-1(1). This environmental land use restriction shall be terminated if the Grantee provides notification pursuant to R.C.S.A. section 22a-133q-1(1).

11. Binding Effect. All of the terms, covenants and conditions of this environmental land use restriction and grant of easement shall run with the land and shall be binding on the Grantor, the Grantor's successors and assigns, and each owner and any other party entitled to possession or use of the Property during such period of ownership or possession.

12. Terms Used Herein. The definitions of terms used herein shall be the same as the definitions contained in sections 22a-133k-1 and 22a-133o-1 of the Regulations of Connecticut State Agencies as such sections existed on the date of execution of this environmental land use restriction..

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(Amended, effective January 30, 1996)

**Exhibit G**  
**Land Conveyed to Town – South Side Land**



TOWN OF FAIRFIELD

PROJECT 300-001

FAIRFIELD RAILROAD STATION  
AND PARKING FACILITIES

DISTRICT III SURVEY  
SCALE 1" = 50'

JUNE, 1994

FILE: FFRADA.DGN

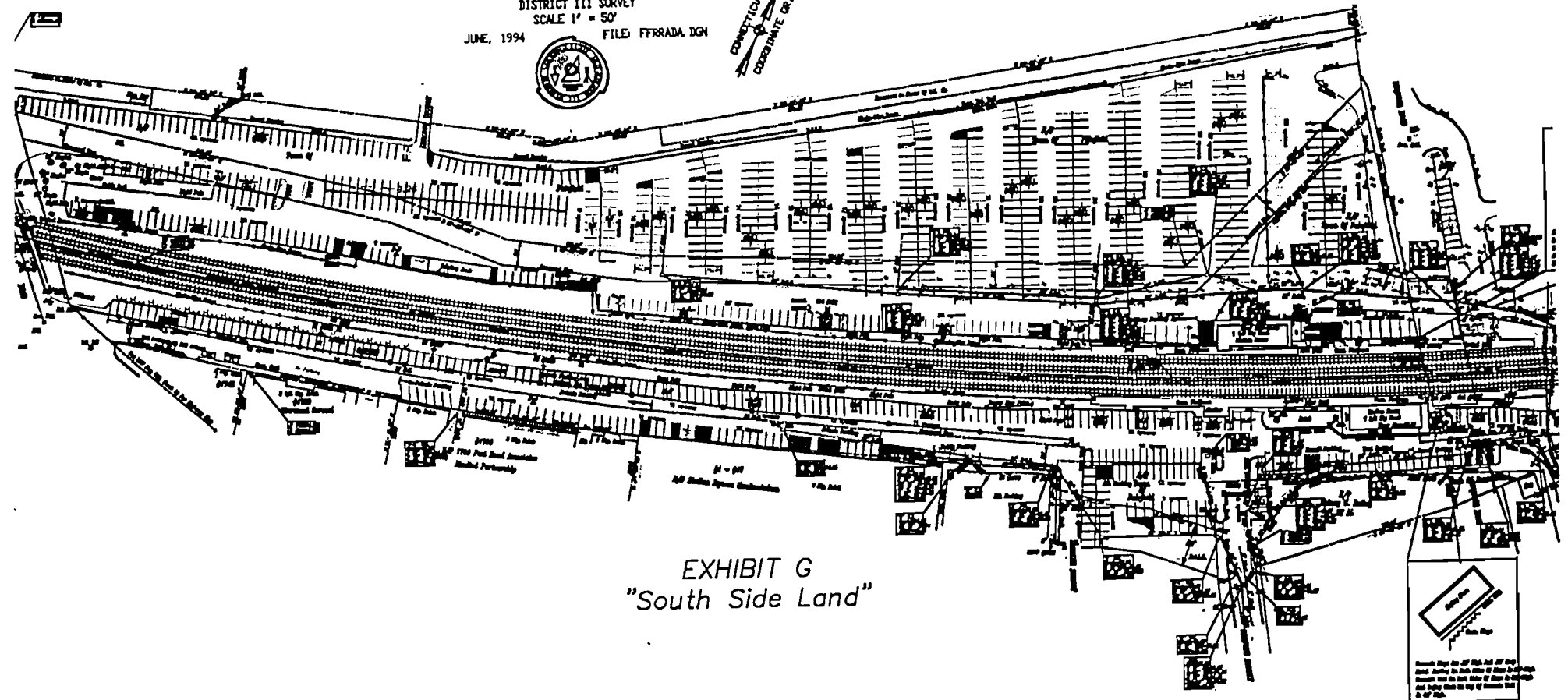


EXHIBIT G  
"South Side Land"

**Exhibit H**  
**Form of Permanent Easement**  
**EASEMENT AGREEMENT**  
**Rights of Passage and Other Rights With Respect Thereto**

This Easement Agreement (the "Agreement") made as of this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ by and among the STATE OF CONNECTICUT, DEPARTMENT OF TRANSPORTATION, pursuant to Connecticut General Statutes Section 13b-36, as amended (the "Conn DOT"); the TOWN OF FAIRFIELD, a municipality within the County of Fairfield and State of Connecticut (the "Town"); and BLACKROCK REALTY, LLC, a Connecticut limited liability company (the "Developer") (sometimes individually referred to herein as a "party" and collectively as the "parties").

**R E C I T A L S**

WHEREAS, by an Agreement dated December 23, 2002, by and among Conn DOT, the Town and the Developer (the "Development Agreement"), the parties have set forth their agreement and understanding with respect to the development of the Project as defined therein, a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, pursuant to the terms of Section 3.10(iv) of the Development Agreement, each party agreed to deliver to the other party a permanent easement to and from the Station Land, the Commuter Waiting Area Land, the Parking Land, Road Land and Conn DOT Land, and such other land on the Site or Public Project Area, as such terms are defined in the Development Agreement, assuring permanent access as is reasonably necessary or appropriate to enjoy the intended use of the foregoing so long as such access does not unreasonably interfere with the operation of the land with respect to which the easement applies.

NOW THEREFORE, for One Dollar (\$1.00) and for the purposes and consideration of the mutual covenants herein contained, Conn DOT, Town and Developer agree as follows:

1. Recitals. The foregoing recitals are incorporated herein as though set forth at length. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Development Agreement.

2. Travel Easements. \_\_\_\_\_ ("Grantor") hereby grants to \_\_\_\_\_ ("Grantee"), including Grantee's agents employees, representatives and invitees, an easement for pedestrian traffic over the property in the area shown as "Travel Easement" which area is more particularly described in Exhibit B attached hereto and by this reference incorporated herein.

3. Limitations/Restrictions on Travel Easements. Grantee agrees that the Travel Easements are for the benefit of the [insert area that it benefits, i.e., "Surface Parking Area"] and shall not be used for the benefit of any other property, whether or not such other property is owned now or in the future by the Grantee.

4. Duration. The Travel Easements shall be perpetual.

5. Non-Exclusive Use. The Travel Easements granted pursuant to Paragraph 2 hereof shall be nonexclusive, and the Grantor may make use of the portion of the Site as is subject to the Travel Easements; provided, however, that no structures or physical improvements shall be constructed on the portion of the Site subject to the Travel Easements, except for roadways, landscaping, sidewalks, utility lines, lighting or other structure or uses which would not materially interfere with the use of the Travel Easements or which are approved by the Grantee. Grantor shall have the right, during the term of this Agreement, to relocate all or a portion of the Travel Easements in connection with any redevelopment or redesign of the Site provided that comparable access is provided to Grantee. The fact that the travel distance is increased shall not result in a determination that access is not comparable, provided that such access is not unreasonable or unsafe. Grantor shall have the right, if and when the Travel Easement is relocated, to record a notice of such fact on the Fairfield Land Records and from and after the date of recording of such notice, all of Grantee's interest in the original Travel Easement as described in Exhibit B, as applicable, shall terminate and the terms and revisions hereof shall apply to the Travel Easement as relocated. This provision is hereby declared by Grantor and Grantee to be self-operative and no further instrument shall be required to effectuate the terms hereof. Grantee shall, however, upon the request of Grantor, execute and deliver to Grantor within ten (10) business days of such request, in recordable form, any and all documents, certificates and/or instruments that may be reasonably necessary to confirm or evidence the foregoing.

6. Notice: All notices, demands, requests, consents, approvals or other communications (for the purpose of this section collectively called "Notices") required or permitted to be given or which are given with respect to this Agreement shall be in writing and shall be sent by first class U.S. Mail, postage prepaid, by hand delivery or by recognized, overnight express delivery service to the following parties or their respective successors or assigns, addressed as follows:

To Conn DOT:

Connecticut Department of Transportation  
2800 Berlin Turnpike  
PO Box 317546  
Newington, CT 06131-7546  
Attention:

Director  
Bureau of Public Transportation

To the Town:

Town of Fairfield  
Independence Hall  
725 Old Post Road  
Fairfield, CT 06430  
Attention:

First Selectman

With a copy to:

Shipman & Goodwin LLP  
One Landmark Square  
Stamford, CT 06103-2819  
Attention: Michael L. Widland, Esq.

And

Richard H. Saxl, Esq.  
Town Attorney  
Town of Fairfield  
PO Box 5042  
Westport, CT 06881

To the Developer:

Blackrock Realty, LLC  
422 Summer Street  
Stamford, CT 06901  
Attention: Kurt Wittek

Blackrock Realty, LLC  
1000 Huyler Street  
Teterboro, NJ 07608  
Attention: Aaron Stauber

With a copy to:

Updike, Kelly & Spellacy, P.C.  
One State Street  
Hartford, CT 06103  
Attention: Robert J. Martino, Esq.

And

Tierney Zullo Flaherty & Murphy PC  
134 East Avenue  
P.O. Box 2028  
Norwalk, CT 06852-2028  
Attention: Frank N. Zullo, Esq.

7. Entire Agreement. This Agreement and the exhibits hereto contain the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this Agreement shall be of no force and effect except in a subsequent modification in writing signed by the parties to be charged or executed in accordance with Paragraphs 5 and 8 hereof.

8. Amendments. Except as provided herein, this Agreement may only be amended in writing by an amendment hereto executed and recorded by Grantor and Grantee. Following any transfer of all or any portion of the Site, the transferees in interest shall be parties to any such amendments.

9. Attorneys' Fees. If any controversy, claim or dispute relating to this Agreement or the breach thereof arises, each party shall be responsible for its own expenses..

10. Remedies. Grantee specifically agrees to look solely to Grantor's interest in the Travel Easement for the recovery of any judgement from Grantor; it being agreed that Grantor, or if Grantor is a partnership, its partners, whether general or limited, or if Grantor is a corporation, its directors, officers and shareholders, or if Grantor is a limited liability company, its members and managers, shall not be personally liable for any judgment.

11. Benefit. This Travel Easement is not intended to grant rights to the public in general. The Travel Easements and the obligations, rights, benefits and conditions contained herein are covenants running with the land for the benefit and burden, as the case may be, of Grantor and Grantee and each owner or lessee now or hereafter of all or any part of the Site, and each lender making loans secured by mortgages, deeds of trust or other security interest on all or any portion of the Site, including sublessees, agents, employees, invitees, and guests of each of the foregoing.

12. Binding Effect. This instrument shall bind and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto.

13. Counterparts. This Agreement may be executed in counterparts, each of which shall be considered as an original.

14. Sovereign Immunity. Notwithstanding any other provision in this

agreement, no provision shall constitute, be construed or be deemed to be a waiver of the sovereign immunity of the State of Connecticut.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

STATE OF CONNECTICUT  
DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
James F. Byrnes  
Its Commissioner

TOWN OF FAIRFIELD  
A Municipal Corporation under the laws of  
the State of Connecticut

By: \_\_\_\_\_  
Kenneth A. Flatto  
Its First Selectman

BLACKROCK REALTY, LLC

By: Greenwich Place Associates, LLC  
Its Sole Member

By: Shelton Investors, LLC  
Its Member

By: \_\_\_\_\_  
Aaron Stauber  
Its Member,  
Duly Authorized

By: Sunrise of Fairfield, LLC  
Its Member

By: \_\_\_\_\_  
Kurt Wittek  
Its Member,  
Duly Authorized

By:  
Its:  
Date signed:

**William B. Gundling**  
Associate Attorney General

On this the \_\_\_\_ day of \_\_\_\_\_, 2002, before me, the undersigned officer, personally appeared James F. Byrnes, known to me (or satisfactorily proven) to be the Commissioner of the State of Connecticut, Department of Transportation, whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes and consideration therein expressed in the capacity as therein provided as his free act and deed of said Department.

Commissioner of the Superior Court



STATE OF CONNECTICUT)  
 )  
COUNTY OF FAIRFIELD ) ss:

On this the \_\_\_\_ day of \_\_\_\_\_, 2002, before me the undersigned officer, personally appeared Kenneth A. Flatto, known to me (or satisfactorily proven) to be the First Selectman of the Town of Fairfield, a municipal corporation, whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes and consideration therein expressed in the capacity as therein provided as his free act and deed of the Town.

In Witness Whereof I hereunto set my hand.

\_\_\_\_\_  
Notary Public/My Commission Expires:  
Commissioner of the Superior Court

STATE OF CONNECTICUT)  
 )  
COUNTY OF FAIRFIELD ) ss:

On this the \_\_\_\_ day of \_\_\_\_\_, 2002, before me the undersigned officer, personally appeared Aaron Stauber, known to me (or satisfactorily proven) to be a Member of Shelton Investors, LLC, a Member of Greenwich Place Associates, LLC, sole Member of Blackrock Realty, LLC, all Connecticut limited liability companies, whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes and consideration therein expressed in the capacity as therein provided as his free act and deed and that of each of the limited liability companies.

In Witness Whereof I hereunto set my hand.

\_\_\_\_\_  
Notary Public/My Commission Expires:  
Commissioner of the Superior Court

STATE OF CONNECTICUT) )  
COUNTY OF FAIRFIELD )

On this the \_\_\_\_ day of \_\_\_\_\_, 2002, before me the undersigned officer, personally appeared Kurt Wittek, known to me (or satisfactorily proven) to be the sole Member of Sunrise of Fairfield, LLC, a Member of Greenwich Place Associates, LLC, sole Member of Blackrock Realty, LLC, all Connecticut limited liability companies, whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes and consideration therein expressed in the capacity as therein provided as his free act and deed and that of each of the companies.

In Witness Whereof I hereunto set my hand.

**Notary Public/My Commission Expires:**  
**Commissioner of the Superior Court**

## **Exhibit I**

### **Train Depot Specifications**

The 2,000 square feet of the commuter waiting area designated for the Train Depot shall be further subdivided as follows:

- Waiting area 1,260 sq. ft.
- Ticket office 240 sq. ft.
- Police/emergency services area 500 sq. ft. (specifications to be provided by Town)

The Train Depot shall be constructed in compliance with the MTA Metro-North Railroad Station Standards and Guidelines Revision 4, dated August 2002, (the Metro-North Standards), which are incorporated herein by reference as if fully set forth herein.

Particular attention shall be given to the following sections:

- Chapter 3 : Station Buildings
- Chapter 4: Signage, Information and Communication Systems
- Chapter 8: Electrical Power Supply Requirements
- Appendix 5: Connecticut D.O.T. Station Amenities

The Train Depot may be located within a larger facility which will be part of the overall development of the Site. It is therefore understood that the Developer shall have the sole right to provide the specific architectural design of the Train Depot so that it fits in with the overall design of the entire project. Developer shall use its best efforts to satisfy the intent of the Metro-North Standards, while maintaining the discretion it needs to appropriately design the Train Depot.

Whereas the Metro-North Standards reference the New York State Uniform Fire Protection and Building Code (NYSUFP&BC), the Train Depot shall be designed in accordance with the Connecticut State Building and Fire Safety Codes and the Metro-North Standards shall be read and interpreted as if it referenced the Connecticut State Building and Fire Safety Codes instead of the NYSUFP&BC.

The Train Depot shall be designated as a Key Station, as defined in the Americans with Disabilities Act. Further, the Developer shall construct the Train Depot in full compliance with the United States Architectural and Transportation Barriers Compliance Board's Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities and Transportation Facilities, as set forth in 36 CFR Part 1191.

All design and associated documents relative to the Train Depot shall be submitted for review and approval to the Conn DOT as soon as they are 30%, 60% 90% and 100% complete.

All furniture and equipment required to operate the Train Depot, including but not limited to, signage, security, information and communication systems, Conn DOT Station Amenities, ticketing machines shall be provided by Conn DOT at Conn DOT's sole cost

and expense. Accommodations shall be provided for conduits required for such equipment.

**Exhibit J**  
**Fairfield Center and Southport Station Improvements**

**FAIRFIELD CENTER (TK #3 & #4 Side Buildings) & SOUTHPORT (TK #3 Side)**

A General Contractor will be solicited to provide construction management and necessary trade services to perform the following at each of the station buildings noted above:

- Investigate and repair any structural defects (floor/ceiling joists, roof rafters & decking and partition walls etc.).
- Install and/or upgrade fire alarm/control systems.
- Upgrade restrooms to meet ADA standards.
- Improve and modernize HVAC system.
- Roofing shingle and gutter replacement.
- Upgrade electrical system (including lighting).
- Upgrade interior flooring throughout.
- Exterior & interior painting/staining. (Walls, ceilings, clapboards sashes etc.)
- Repointing, replacement and upgrading of all deteriorated masonry surfaces.

**Other items:**

- Platform lighting upgrades (including underside of canopy structures)

Note: Fairfield Center platform lighting was recently upgraded to Office of Rail standards with the exception of those luminaires under the canopies.

- Repaving of deteriorated asphalt surfaces and various curbing throughout the parking facilities.

## **Exhibit K**

### **Proposed Amendments to Zoning Regulations For Site**

#### **21.0 Regulations for Designed Industrial District**

##### **21.16 TRANSPORTATION/COMMERCIAL PARK**

###### **21.16.1 Purpose and Intent**

The purpose of a Transportation/Commercial Park within the Designed Industrial District is to permit the development of business and professional offices, hotels, retail stores and other permitted uses, as set forth in Section 21.16.3 hereinafter, adjacent to a railroad passenger station or platforms, which will promote the public welfare by lessening congestion on the highways, promoting reverse commuting and providing employment opportunities; all contributing to the economic vitality of the Town of Fairfield while providing for harmonious and appropriate development of those areas located within the Transportation/Commercial Park. Incentives are provided to encourage the integration of larger tracts and to reduce the number of access ways to public streets thereby creating an attractive and integrated development plan.

The Transportation/Commercial Park is designed to be applicable to areas suitable for commercial development with sufficient provision for on site parking and necessary utility service and where the surrounding roadways are of such character as to be able to support such utilization of the property so as to insure that provision shall be made for entering and leaving the property without creating undue hazard to traffic or congestion.

###### **21.16.2 Special Permit Uses**

If a parcel or parcels of land has been determined to qualify as a Transportation/Commercial Park pursuant to the provisions of Section 21.16.6 hereinafter, and the owner of such parcel or parcels determines to pursue development of the parcel or parcels as a Transportation/Commercial Park subject to the provisions of this Section 21.16, the use of land, buildings and other structures within said Transportation/Commercial Park shall be solely for the purposes set forth in Section 21.16.3. A Special Permit under Section 25.0 of the Zoning Regulations shall be required for any new construction, reconstruction, exterior alteration or addition for a use permitted by Section 21.16.3. Change from one permitted use to another permitted use not involving new construction, reconstruction, exterior alteration or addition shall require an application to the Commission for a Certificate of Zoning Compliance under Section 2.22 of the Zoning Regulations subject to the standards of Section 25.7.

###### **21.16.3 Permitted Uses in a Transportation/Commercial Park**

###### **21.16.3.1 Buildings, uses and facilities of the Town**

21.16.3.2 Railroad rights of way and passenger stations including customary accessory services therein, but not including switching, freight yards, or storage sitings.

21.16.3.3 Business and professional offices

21.16.3.4 Financial institutions

21.16.3.5 Medical and dental clinics

21.16.3.6 Hotels

21.16.3.7 Indoor recreational facilities

21.16.3.8 Retail service stores for cleaning and pressing laundry,  
including dry cleaning

21.16.3.9 Bakeries, catering establishments and confectionery stores

21.16.3.10 Restaurants and food service (including non-table service  
restaurants and catering

21.16.3.11 Restaurants and other food service establishments where

customers are served only when seated at tables or counters and at least three-quarters of the customer seats are located within an enclosed building. Such uses may include food take-out service incidental to the primary permitted use, but shall not include establishments where customers are served in motor vehicles.

21.16.3.12 Buildings, uses and facilities of the State of Connecticut, Federal Government or other governmental agencies, which buildings shall not include institutions of a correctional nature or for the insane

21.16.3.13 Off-street parking facilities

21.16.3.14 Barber shops and beauty parlors

21.16.3.15 Package stores for the sale, and establishments for the service, of alcoholic liquors, beer, ale or wine

21.16.3.16 Stores and other structures where goods are sold or service is rendered primarily at retail

21.16.3.17 Day nurseries

21.16.3.18 Laboratories for scientific, medical, engineering, literary, antiquarian, commercial and experimental basis research and testing

21.16.3.19 Research and development laboratories

#### 21.16.4 Prohibited Uses

Reference is hereby made to Section 2.4 of the Zoning Regulations for the general principal applicable to prohibited uses. Notwithstanding said provisions, the following uses are explicitly prohibited in a Transportation/Commercial Park:

21.16.4.1 Indoor theaters and assembly halls (not including conference centers and/or banquet halls utilized in conjunction with hotels or business and professional offices)

21.16.4.2 Single occupant retail stores exceeding 30,000 sq. ft. of interior floor space where goods are sold primarily at retail.

#### 21.16.5 Lot Area and Characteristics

21.16.5.1 Property qualifying as a Transportation/Commercial Park shall consist of a parcel or qualifying parcels of land having a minimum of ten (10) acres in area adjacent to a railroad passenger station or platform facilities and to be utilized for uses as permitted in Section 21.16.3 having or proposing more than one (1) building (whether or not the buildings are connected by atrium or other type of common area), designed to be operated in a unified manner with common accessory facilities such as private interior roadways and open space for use by occupants and invitees within the Park. For purposes of this section adjacent shall be defined to mean that any portion of said parcel or parcels is located within 300 linear feet of a railroad passenger station or platform facilities.

21.16.5.2 Once an area has qualified as a Transportation/Commercial Park having a minimum area of ten (10) acres, nothing in these Regulations shall prohibit nor shall the qualification of the parcel as a Transportation/Commercial Park be affected by the subdivision of said parcel into individual lots of less than ten (10) acres for purposes of conveyance and/or financing of construction on said lots.

21.16.5.3 Notwithstanding the subdivision of lots within a Transportation/Commercial Park as referenced in Section 21.16.5.2, coverage and bulk compliance pursuant to Section 21.16.10.3

shall be determined based upon the area of the entire parcel qualified as a Transportation/Commercial Park as if such subdivision had not occurred.

**21.16.6 Determination That A Parcel Qualifies As a Transportation/Commercial Park – Application Procedure**

A written application for determination that a parcel qualifies as a Transportation/Commercial Park within the Designed Industrial District shall be submitted to the Commission accompanied by the following:

**21.16.6.1**

A written statement describing the proposed use, the area of the site, the assessor's map and parcel number, name and address of the applicant and owner;

**21.16.6.2**

A conceptual site plan, which means a plan drawing or drawings prepared by a professional engineer, surveyor, or landscape architect licensed to practice in the State of Connecticut, drawn to scale of not less than sixty (60) feet to the inch showing the conceptual plan of development within the Transportation/Commercial Park including contemplated buildings, structures, streets, driveways and off street parking spaces;

**21.16.6.3**

Said conceptual site plan shall include a zone legend providing data pertaining to the contemplated buildings and structures including height, lot coverage, total floor area and parking.

**21.16.6.4**

Town Plan & Zoning Commission may, in its discretion hold a public hearing on a request for determination that a parcel qualifies as a Transportation/Commercial Park within the Designed Industrial District.

**21.16.6.5**

An application for determination that a parcel and its proposed use qualifies as a Transportation/Commercial Park shall be approved if the same meets the requirements of Section 21.16.5 hereinabove.

**21.16.7 Off Street Parking and Loading**

For any permitted use of the premises, off street parking and loading shall be provided in accordance with Section 28.0 of the Zoning Regulations.

**21.16.8 Signs**

Signs shall conform to the requirements of Section 29.0 of the Zoning Regulations.

**21.16.9 Landscaping**

All portions of the Transportation/Commercial Park not used for buildings and other structures or for paved driveways, sidewalks or off street parking and loading area shall either be suitably landscaped or left in its natural state. The area required for a minimum setback from any Residence District or Designed Residence boundary line, or use permitted in these zones, shall be provided with a buffer consisting of fences, walls or embankments in combination with other landscaping in such a manner as to screen the use from view to a height of five (5) feet at such boundary line or shall be provided with evergreen shrubs and/or trees. The Commission may adjust the aforesaid landscaping requirements to particular circumstances of lot lines, topography, soil conditions and site design while preserving the purpose and intent of such requirements.



#### 21.16.10 Access, Height, Lot Coverage, Floor Area and Setbacks

21.16.10.1 Access – each lot shall have frontage on or unobstructed easement of access or private right of way to a public street equal to width of at least thirty (30) feet. For purposes of this section 21.16.10, a Private Right of Way is defined as an interior private passage way within a Transportation/Commercial Park designed for motor vehicle ingress and egress and circulation within the Park, provided that such a Private Right of Way has a minimum paved width of twenty-four (24) feet.

21.16.10.2 Height – within a Transportation/Commercial Park and notwithstanding the provisions of Section 31.2.16 of the Zoning Regulations, the height of a building or other structure shall be measured from the average top of curb elevation of either the nearest public street or the nearest Private Right of Way averaged over the portion of the public street or Private Right of Way that directly adjoins a building's primary front or entrance as determined by the owner, to the average level between the highest interior ceiling and the top of the parapet of the building. For purposes of this section, the average top of the curb elevation as above referenced shall be determined by measuring such elevation at vertical distances between two fixed points every two feet.

21.16.10.2.1 - no building or structure shall exceed seventy (70) feet in height.

#### 21.16.10.3 – Coverage and Bulk

##### 21.16.10.3.1 Lot Coverage

The aggregate lot coverage of all buildings and structures shall not exceed seventy-five (75%) percent of the total area of the entire parcel, including open space, qualifies as a Transportation/Commercial Park.

##### 21.16.10.3.2 Total Floor Area

The total floor area of all buildings and structures shall not exceed one hundred fifty (150%) percent of the total area of the entire parcel, including open space, qualifying as a Transportation/Commercial Park. Within the Transportation/Commercial Park calculation of total floor area in accordance with this section shall not include square footage used for structured parking.

#### 21.16.10.4 Setbacks

21.16.10.4.1 No building or structure shall be closer than ten (10) feet from any public street line or Private Right of Way which abuts it provided, however, that within a Transportation/Commercial Park unenclosed surface parking shall be allowed within such setback.

##### 21.16.10.4.2– Side Property Line Setback and Rear Property Line Setback

Zero provided, however that if a building and/or structure are not attached, the minimum setback between buildings or other structures shall be ten (10) feet.

##### 21.16.10.4.3 - Adjacent Residence District Boundary

Setback shall be ten (10) feet or the same as that of the adjacent Residence District setback requirement , whichever is greater.

21.16.11 Public Water, Public Sanitary Sewers

All property located within a Transportation/Commercial Park must be serviced by public water and public sanitary sewer.

21.16.12 Open Space

21.16.12.1 Within a Transportation/Commercial Park provision shall be made for the dedication of not less than ten (10) percent of the total area of the Transportation/Commercial Park as open space to be so designated by the establishment of a conservation easement over said portion of the property so dedicated precluding active development within the bounds of said easement area. Said open space designation and conservation easement shall not prohibit the establishment of greenbelts, hiking trails and other amenities for passive recreation within said area.

21.16.12.2 The area designated as open space pursuant to the provisions of this section 21.16.12 may be included within total area of the Transportation/Commercial Park for purposes of compliance with lot coverage requirement pursuant to Section 21.16.10.3.1 and total floor area requirement pursuant to Section 21.16.10.3.2.

28.0 Regulations for Off Street Parking and Loading (amendments)

28.4 Parking Space

One (1) parking space shall not be less than nine (9) feet by eighteen (18) feet with such shape, vertical clearance, access and slope as to accommodate one automobile. Notwithstanding the above, a parking space to be utilized in conjunction with a railroad passenger station shall be not less than 8.5 feet by 18 feet.

28.6.6 Other Businesses and Professional Offices and Post Offices

One (1) for each two hundred fifty (250) square feet of gross floor area in a building or portion thereof as determined by the exterior dimensions of the building, except for parking areas or basement and cellar areas used for maintenance equipment or storage. Notwithstanding the above, within a Transportation/Commercial Park established pursuant to the provisions of Section 21.16 such use shall require one (1) for each three hundred (300) square feet of gross floor area as defined herein. Such parking in a Park may either be located within an individual lot or on a different lot likewise located within the Park.

**REFUNDS SUBMITTED FOR APPROVAL**  
**3/27/2023**

<u>Name</u>	<u>List No.</u>	<u>Tax</u>	<u>Interest</u>	<u>DMV</u>	<u>Bill</u>	<u>Reason</u>
<b><u>2021 MOTOR VEHICLE</u></b>						
BENNETT JANE P	2021 03 53058	\$21.46				OVERPAID DUE TO ADJUSTMENT
ENTERPRISE FM TRUST	2021 03 62391	\$584.52				OVERPAID DUE TO ADJUSTMENT
HONDA LEASE TRUST	2021 03 69498	\$410.26				OVERPAID DUE TO ADJUSTMENT
HYUNDAI LEASE TITLING TRUST	2021 03 70170	\$142.60				OVERPAID DUE TO ADJUSTMENT
HYUNDAI LEASE TITLING TRUST	2021 03 70211	\$264.56				OVERPAID DUE TO ADJUSTMENT
HYUNDAI LEASE TITLING TRUST	2021 03 70220	\$535.72				OVERPAID DUE TO ADJUSTMENT
HYUNDAI LEASE TITLING TRUST	2021 03 70245	\$373.56				OVERPAID DUE TO ADJUSTMENT
OSCAR STEPHANIE D	2021 03 81990	\$237.05				OVERPAID DUE TO ADJUSTMENT
REYES MYRNA M	2021 03 85064	\$531.53				OVERPAID DUE TO ADJUSTMENT
TOYOTA LEASE TRUST	2021 03 91505	\$49.80				OVERPAID DUE TO ADJUSTMENT
TOYOTA LEASE TRUST	2021 03 91522	\$172.56				OVERPAID DUE TO ADJUSTMENT
TOYOTA LEASE TRUST	2021 03 91774	\$155.26				OVERPAID DUE TO ADJUSTMENT
ACAR LEASING LTD	2021 04 80106	\$160.91				OVERPAID DUE TO ADJUSTMENT
DAIMLER TRUST	2021 04 81569	\$198.55				OVERPAID DUE TO ADJUSTMENT
POLLACK MILLIE D	2021 04 85865	\$451.34				OVERPAID DUE TO ADJUSTMENT
PORSCHE LEASING LTD	2021 04 85898	\$286.97				OVERPAID DUE TO ADJUSTMENT
STEFFEN ERIKA I	2021 04 86900	\$388.82				OVERPAID IN ERROR
TOYOTA LEASE TRUST	2021 04 87408	\$546.71				OVERPAID DUE TO ADJUSTMENT
<b>TOTAL</b>		<b><u>\$5,512.18</u></b>				
<b><u>2021 SEWER USE</u></b>						
SANTICCIOLI STACEY D	2021 08 03935	\$209.52				OVERPAID IN ERROR
DIXON KEITH R	2021 08 18168	\$250.05				OVERPAID IN ERROR
<b>TOTAL</b>		<b><u>\$459.57</u></b>				
<b><u>2020 REAL ESTATE</u></b>						
CROITER MICHAEL E	2020 01 03548	\$597.58				OVERPAID IN ERROR
3482 POST ROAD LLD	2020 01 04380	\$8,361.78				OVERPAID IN ERROR
ATKINS THOMAS C & JENSEN	2020 01 04698	\$1,199.73				OVERPAID IN ERROR
WADELTON JEANNE B	2020 01 05214	\$2,024.11				OVERPAID IN ERROR
HAMMER LESLIE V	2020 01 08261	\$3,930.18				OVERPAID IN ERROR
WILSON KERRY & DANIEL	2020 01 14477	\$9,260.28				OVERPAID IN ERROR
NOMOTO ON	2020 01 16577	\$2,071.32				OVERPAID IN ERROR
THOMAS DALE J & BARBARA A	2020 01 17980	\$3,785.03				PROPERTY SOLD-NOT RESPONSIBLE
ADLER ELLIOT & JENNIFER	2020 01 22718	\$280.52				OVERPAID IN ERROR
<b>TOTAL</b>		<b><u>\$31,510.53</u></b>				
<b><u>2020 MOTOR VEHICLE</u></b>						
ALMEIDA JOSEPH G	2020 03 51135	\$33.60				OVERPAID DUE TO ADJUSTMENT
COMFORT HEATHER L	2020 03 57754	\$36.00				OVERPAID DUE TO ADJUSTMENT
CROARKIN THOMAS J	2020 03 58424	\$37.00				OVERPAID IN ERROR
GIARDINA ANTHONY VQ	2020 03 65541	\$126.00	\$	4.73		OVERPAID DUE TO ADJUSTMENT
HARVEY BENJAMIN S	2020 03 67364	\$163.64	\$	7.36		OVERPAID DUE TO ADJUSTMENT
HERNANDEZ MARK A	2020 03 67859	\$140.22				OVERPAID DUE TO ADJUSTMENT
HOMA WANDA S	2020 03 68305	\$13.36				OVERPAID IN ERROR
INSTALLATION COMPANY INC THE	2020 03 69987	\$71.69				OVERPAID DUE TO ADJUSTMENT
KOLBUSZ FRANCES C	2020 03 72873	\$10.10				OVERPAID IN ERROR
LACAVALLA CARL P	2020 03 73489	\$7.72				OVERPAID DUE TO ADJUSTMENT
LACAVALLA CARL P	2020 03 73491	\$100.76				OVERPAID DUE TO ADJUSTMENT
LACAVALLA CARL P	2020 03 73492	\$3.40				OVERPAID DUE TO ADJUSTMENT
MAYA HOWARD V	2020 03 76597	\$81.38				OVERPAID IN ERROR
RUSH MICHAEL E	2020 03 85586	\$15.05				OVERPAID DUE TO ADJUSTMENT

SALAZAR-VILLA DIEGO A	2020 03 85938	\$79.32	OVERPAID DUE TO ADJUSTMENT
SAWYER JOHN A	2020 03 86322	\$17.40	OVERPAID DUE TO ADJUSTMENT
TRINH ANH	2020 03 91434	\$10.04	OVERPAID DUE TO ADJUSTMENT
VICTORIA JESSICA	2020 03 93110	\$13.63	OVERPAID IN ERROR
<b>TOTAL</b>		<b>\$960.31 \$ 12.09</b>	

#### **2020 PERSONAL PROPERTY**

PINPOINT FITNESS LLC	2020 02 35480	\$38.38	OVERPAID IN ERROR
<b>TOTAL</b>		<b>\$38.38</b>	

#### **2020 SEWER USE**

KENNEY CHRISTOPHER J	2020 08 01605	\$25.02	OVERPAID IN ERROR
SANTICCIOLI STACEY D	2020 08 03935	\$150.00	OVERPAID IN ERROR
DWYER TIMOTHY R	2020 08 04359	\$152.76	OVERPAID IN ERROR
THOMAS MONA A & JORDAN	2020 08 05145	\$226.32	OVERPAID IN ERROR
BROADHURST LOUISE FORD	2020 08 06005	\$354.24	OVERPAID IN ERROR
HACHEY DEBORAH	2020 08 06332	\$150.00	OVERPAID IN ERROR
WILSON WILLIAM G JR	2020 08 06697	\$154.86	OVERPAID IN ERROR
MACKNO JOHN M FAMILY TR	2020 08 11127	\$176.64	OVERPAID IN ERROR
MACKNO BEVERLY A	2020 08 11132	\$563.04	OVERPAID IN ERROR
MEEHAN MAREN & THOMAS	2020 08 11354	\$150.00	OVERPAID IN ERROR
KAPLAN TANYA L	2020 08 13269	\$150.00	OVERPAID IN ERROR
CARGILL SAMUEL W	2020 08 14950	\$342.24	OVERPAID IN ERROR
DEMARIA STEPHEN J & FRANCESCA	2020 08 17396	\$287.04	OVERPAID IN ERROR
BEILES JANE	2020 08 17588	\$253.92	OVERPAID IN ERROR
BEAVER CHRISTOPHER	2020 08 18310	\$150.00	OVERPAID IN ERROR
MCVICAR KATHRYN A	2020 08 20292	\$12.96	OVERPAID IN ERROR
41 RIVER LANE LLC	2020 08 21047	\$79.39	OVERPAID IN ERROR
<b>TOTAL</b>		<b>\$3,378.43</b>	

#### **2019 REAL ESTATE**

ATKINS THOMAS C & JENSEN	2019 01 04698	\$37.95	OVERPAID IN ERROR
LOVEGREN DOUGLAS S	2019 01 10913	\$1,829.36	OVERPAID IN ERROR
UZCATEGUI KARL & ROHINI	2019 01 15667	\$1,225.04	OVERPAID IN ERROR
<b>TOTAL</b>		<b>\$3,092.35</b>	

#### **2019 MOTOR VEHICLE**

BELKIN STEVEN C	2019 03 53036	\$289.07	OVERPAID IN ERROR
PELLEGRINO ALAN A	2019 03 83555	\$54.22	OVERPAID DUE TO ADJUSTMENT
PURYEAR BRENDA R	2019 03 84979	\$20.98	OVERPAID DUE TO ADJUSTMENT
STRANGE DEBORAH L	2019 03 90495	\$29.07	OVERPAID DUE TO ADJUSTMENT
THOMAS ROSALINA M	2019 03 91639	\$16.76	OVERPAID DUE TO ADJUSTMENT
TOBIN MICHAEL F	2019 03 91850	\$28.67	OVERPAID DUE TO ADJUSTMENT
<b>TOTAL</b>		<b>\$438.77</b>	

#### **2019 PERSONAL PROPERTY**

BLUEPOINT DESIGN LLC	2019 02 35633	\$43.00	OVERPAID IN ERROR
<b>TOTAL</b>		<b>\$43.00</b>	

#### **2019 SEWER USE**

CROSS LISA	2019 08 17346	\$160.12	OVERPAID IN ERROR
TOPOLSKI JOSEPH F JR	2019 08 18156	\$169.68	OVERPAID IN ERROR
<b>TOTAL</b>		<b>\$329.80</b>	

TOTAL TAX	\$45,763.32
TOTAL INTEREST	\$12.09
<u>GRAND TOTAL</u>	<u>\$45,775.41</u>