SMALL CONTRACTOR AND SMALL CONTRACTOR MINORITY BUSINESS ENTERPRISES (SET-ASIDE)

March, 2001

NOTE: Certain of the requirements and procedures stated in this "Special Provision" are applicable prior to the execution of the Contract.

I. GENERAL

A. The Contractor shall cooperate with the Connecticut Department of Transportation (CONNDOT) in implementing the required contract obligations concerning "Small Contractor" and "Small Contractor Minority Business Enterprise" use on this Contract in accordance with Section 4a-60g of the Connecticut General Statutes as revised. References, throughout this "Special Provision", to "Small Contractors" are also implied references to "Small Contractor Minority Business Enterprises" as both relate to Section IIA of these provisions. The Contractor shall also cooperate with CONNDOT in reviewing the Contractor's activities relating to this provision. This "Special Provision" is in addition to all other equal opportunity employment requirements of this Contract.

B. For the purpose of this "Special Provision", the "Small Contractor(s)" and "Minority Business Enterprise(s)" named to satisfy the set-aside requirement must be certified by the Department of Administrative Services, Business Connections/ Set-Aside Unit [(860) 713-5236 www.das.state.ct.us/busopp.htm] as a "Small Contractor" and "Minority Business Enterprises" as defined by Section 4a-60g Subsections (1) and (3) of the Connecticut General Statutes as revised and is subject to approval by CONNDOT to do the work for which it is nominated pursuant to the criteria stipulated in Section IIC-3.

C. Contractors who allow work which they have designated for "Small Contractor" participation in the pre-award submission required under Section IIC to be performed by other than the approved "Small Contractor" organization and prior to concurrence by CONNDOT, will not be paid for the value of the work performed by organizations other than the "Small Contractor" designated.

D. If the Contractor is unable to achieve the specified contract goals for "Small Contractor" participation, the Contractor shall submit written documentation to CONNDOT's Manager of Construction Operations indicating his/her good faith efforts to satisfy goal requirements. Documentation is to include but not be limited to the following:

1. A detailed statement of the efforts made to select additional subcontract opportunities for work to be performed by each "Small Contractor" in order to increase the likelihood of achieving the stated goal.

2. A detailed statement, including documentation of the efforts made to contact and solicit contracts with each "Small Contractor", including the names, addresses, dates and telephone numbers of each "Small Contractor" contacted, and a description of the information provided to each "Small Contractor" regarding the scope of services and anticipated time schedule of items proposed to be subcontracted and the nature of response from firms contacted.

3. For each "Small Contractor" that placed a subcontract quotation which the Contractor considered not to be acceptable, provide a detailed statement of the reasons for this conclusion.

4. Documents to support contacts made with CONNDOT requesting assistance in satisfying the contract specified or adjusted "Small Contractor" dollar requirements.

5. Document other special efforts undertaken by the Contractor to meet the defined goal.

E. Failure of the Contractor to have at least the specified dollar amount of this contract performed by "Small Contractor" as required in Section IIA of this "Special Provision" will result in the reduction in contract payment to the Contractor by an amount equivalent to that determined by subtracting from the specific dollar amount required in Section IIA, the dollar payments for the work actually performed by each "Small Contractor". The deficiency in "Small Contractor" achievement, will therefore, be deducted from the final contract payment. However, in instances where the Contractor can adequately document or substantiate its good faith efforts made to meet the specified or adjusted dollar amount to the satisfaction of CONNDOT, no reduction in payments will be imposed.

F. All records must be retained for a period of three (3) years following completion of the contract and shall be available at reasonable times and places for inspection by authorized representatives of CONNDOT.

G. Nothing contained herein, is intended to relieve any contractor or subcontractor or material supplier or manufacturer from compliance with all applicable Federal and State legislation or provisions concerning equal employment opportunity, affirmative action, nondiscrimination and related subjects during the term of this Contract.

II. **SPECIFIC REQUIREMENTS**

In order to increase the participation of "Small Contractors", CONNDOT requires the following:

A. Not less than ____0[*]____ (%) percent of the **final** value of this Contract shall be subcontracted to and performed by, and/or supplied by, manufactured by and paid to "Small Contractors" and/or "Small Contractors Minority Business Enterprises".

If the above percentage is zero (0%) AND an asterisk (*) has been entered in the adjacent brackets [ ], this Contract is 100% solely set-aside for participation by "Small Contractors" and/or "Small Contractors Minority Business Enterprises".

B. The Contractor shall assure that each "Small Contractor" will have an equitable opportunity to compete under this "Special Provision", particularly by arranging solicitations, time for the preparation of Quotes, Scope of Work, and Delivery Schedules so as to facilitate the participation of each "Small Contractor".

C. The Contractor shall provide to CONNDOT's Manager of Contracts within Seven (7) days after the bid opening the following items:

1. An affidavit (Exhibit I) completed by each named "Small Contractor" subcontractor listing a description of the work and indicating the dollar amount of all contract(s) and/or subcontract(s) that have been awarded to him/her for the current State Fiscal Year (July 1 - June 30) does not exceed the Fiscal Year limit of $10,000,000.00.

2. A certification of work to be subcontracted (Exhibit II) signed by both the Contractor and the "Small Contractor" listing the work items and the dollar value of the items that the nominated "Small Contractor" is to perform on the project to achieve the minimum percentage indicated in Section IIA above.

3. A certification of past experience (Exhibit III) indicating the scope of work the nominated "Small Contractor" has performed on all projects, public and private, for the past two (2) years.

4. In instances where a change from the originally approved named "Small Contractor" (see Section IB) is proposed, the Contractor is required to submit, in a reasonable and expeditious manner, a revised submission, comprised of the documentation required in Section IIC, Paragraphs 1, 2

and 3 and Section E together with documentation to substantiate and justify the change, (i.e., documentation to provide a basis for the change) to CONNDOT's Manager of Construction Operations for its review and approval prior to the implementation of the change. The Contractor must demonstrate that the originally named "Small Contractor" is unable to perform in conformity to specifications, or unwilling to perform, or is in default of its contract, or is overextended on other jobs. The Contractor's ability to negotiate a more advantageous contract with another "Small Contractor" is not a valid basis for change. Documentation shall include a letter of release from the originally named "Small Contractor" indicating the reason(s) for the release.

D. After the Contractor signs the Contract, the Contractor will be required to meet with CONNDOT's Manager of Construction Operations or his/her designee to review the following:

1. What is expected with respect to the "Small Contractor" set aside requirements.

2. Failure to comply with and meet the requirement can and will result in monetary deductions from payment.

3. Each quarter after the start of the "Small Contractor" the Contractor shall submit a report to CONNDOT's Manager of Construction Operations indicating the work done by, and the dollars paid to each "Small Contractor" to date.

4. What is required when a request to sublet to a "Small Contractor" is submitted.

E. The Contractor shall submit to CONNDOT's Manager of Construction Operations all requests for subcontractor approvals on standard forms provided by the Department.

If the request for approval is for a "Small Contractor" subcontractor for the purpose of meeting the contract required "Small Contractor" percentage stipulated in Section IIA, a copy of the legal contract between the Contractor and the "Small Contractor" subcontractor must also be submitted at the same time. Any subsequent amendments or modifications of the contract between the Contractor and the "Small Contractor" subcontractor must also be submitted to CONNDOT's Manager of Construction Operations with an explanation of the change(s). The contract must show items of work to be performed, unit prices and, if a partial item, the work involved by both parties.

In addition, the following documents are to be attached:

(1) A statement explaining any method or arrangement for renting equipment. If rental is from a Contractor, a copy of Rental Agreement must be submitted.

(2) A statement addressing any special arrangements for manpower.

(3) A statement addressing who will purchase material.

F. Contractors subcontracting with a "Small Contractor" to perform work or services as required by this "Special Provision" shall not terminate such firms without advising CONNDOT, in writing, and providing adequate documentation to substantiate the reasons for termination if the designated "Small Contractor" firm has not started or completed the work or the services for which it has been contracted to perform.

G. Material Suppliers or Manufacturers

If the Contractor elects to utilize a "Small Contractor" supplier or manufacturer to satisfy a portion or all of the specified dollar requirements, the Contractor must provide the Department with:

1. An executed Affidavit Small Contractor (Set-Aside) Connecticut Department of Transportation Affidavit Supplier or Manufacturer (sample attached), and

2. Substantiation of payments made to the supplier or manufacturer for materials used on the project.

Brokers and packagers shall not be regarded as material Suppliers or manufacturer.

H. Non-Manufacturing or Non-Supplier "Small Contractor" Credit

Contractors may count towards its "Small Contractor" goals the following expenditures with "Small Contractor" firms that are not manufacturers or suppliers:

1. Reasonable fees or commissions charged for providing a bona fide service such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, material or supplies necessary for the performance of the contract provided that the fee or commission is determined by the Department of Transportation to be reasonable and consistent with fees customarily allowed for similar services.

2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the Department of Transportation to be reasonable and not excessive as compared with fees customarily allowed for similar services.

3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined by the Department of Transportation to be reasonable and not excessive as compared with fees customarily allowed for similar services.

III. **BROKERING**

For the purpose of this "Special Provision", a "Broker" is one who acts as an agent for others in negotiating contracts, purchases, sales, etc., in return for a fee or commission. Brokering of work by a "Small Contractor" is not allowed and is a contract violation.

IV. **PRE-AWARD WAIVERS:**

If the Contractor's submission of the "Small Contractor" listing, as required by Section IIC indicates that it is unable, by subcontracting to obtain commitments which at least equal the amount required by Section IIA, it may request, in writing, a waiver of up to 50% of the amount required by Section IIA. To obtain such a waiver, the Contractor must submit a completed "Application for Waiver of Small Contractor Minority Business Enterprise Goals" to CONNDOT's Manager of Contracts which must also contain the following documentation:

1. Information described in Section ID.

2. For each "Small Contractor" contacted but unavailable, a statement from each "Small Contractor" confirming its unavailability.

Upon receipt of the submission requesting a waiver, the CONNDOT's Manager of Contracts shall submit the documentation to the Director of the Office of Contract Compliance who shall review it for completeness. After completion of the Director of Contract Compliance's review, she/he should write a narrative of his/her findings of the application for a waiver, which is to include his/her recommendation. The Director of Contract Compliance shall submit the written narrative to the Chairperson of the DBE Screening Committee at least five (5) working days before the scheduled meeting. The Contractor shall be invited to attend the meeting and present his/her position. The DBE

Screening Committee shall render a decision on the waiver request within five (5) working days after the meeting. The DBE Screening Committee's decision shall be final. Waiver applications are available from the CONNDOT Manager of Contracts.

EXHIBIT I Mar. 01

SMALL CONTRACTOR/*MINORITY BUSINESS ENTERPRISE
(* Delete if not Applicable)
SET-ASIDE PROGRAM
(QUALIFICATION AFFIDAVIT)

PROJECT(s) _____
(INCLUDING TOWN & DESCRIPTION)

STATE OF _____CONNECTICUT_____

COUNTY OF_____

I_____,ACTING IN BEHALF
NAME OF PARTY SIGNING AFFIDAVIT
OF_____,DO HEREBY CERTIFY
PERSON FIRM OR ORGANIZATION
AND AFFIRM THAT THE INFORMATION SET FORTH BELOW IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE. AS OF THIS DATE_____THE LIST OF SMALL CONTRACTOR SET-ASIDE PROGRAM - CONTRACTS AND/OR SUBCONTRACTS AWARDED DURING THE CURRENT FISCAL YEAR (JULY 1 - JUNE 30) 20_____ IS AS FOLLOWS:

Col. 1 TOWN AND PROJECT NUMBER	Col. 2 STATE AGENCY WHICH AWARDED CONTRACT	Col. 3 CONTRACT AMOUNT AWARDED UNDER THIS PROGRAM	Col. 4 AMOUNT OF WORK SUBCONTRACTED FROM OTHER FIRMS UNDER THIS PROGRAM	Col. 5 TOTAL AMOUNT OF ALL WORK UNDER THIS PROGRAM Col. 3 Plus Col. 4
	TOTALS	$	$	$

_____
NAME OF PERSON, FIRM OR ORGANIZATION

(FIRM SEAL)

_____
SIGNATURE & TITLE OF OFFICIAL

SWORN TO AND SUBSCRIBED BEFORE ME BY_____

WHO IS PERSONALLY KNOWN TO ME, THIS_____DAY OF_____, 20_____

_____
(NOTARY PUBLIC)

MY COMMISSION EXPIRES_____SEAL

PLEASE NOTE THAT ALL THE WORK AWARDED OR SUBCONTRACTED TO YOUR FIRM UNDER THE SET-ASIDE PROGRAM IN A FISCAL YEAR (JULY 1-JUNE 30) INCLUDING THIS PROJECT, CANNOT BE MORE THAN $10,000,000.00

Mar.01

EXHIBIT II

DEPARTMENT OF TRANSPORTATION
CONTRACT DIVISION
2800 BERLIN TURNPIKE
NEWINGTON, CT 06111

CERTIFICATION OF WORK TO BE SUBCONTRACTED
NOMINATED SMALL CONTRACTOR/*MINORITY BUSINESS ENTERPRISE

* Delete if not applicable

PLEASE INCLUDE A COPY OF CERTIFICATION LETTER

CONTRACTOR_____

ADDRESS_____

TOWN_____PROJECT NO._____

DESCRIPTION OF PROJECT_____

_____

CONTRACT BID AMOUNT $_____

DATE_____

Listed below is the Nominated Small Contractor/Minority Business Enterprise for the above project and the requested data:

Name, Address & Tel No. of the Nominated Firm	ITEM(s)NUMBER(s) and Description of the Item(s) to be performed by and paid to the Subcontractor	Quantities (indicate if partial)	Prime's Bid Amount For Item	Dollar Amount Subcontracted	Small Business Set-Aside Dollar Requirement

Signed By _____
Small Contractor/*Minority Business Enterprise
(Subcontractor)

Signed By_____
Contractor

Title_____

EXHIBIT III

Mar.01

CERTIFICATION
PAST CONSTRUCTION EXPERIENCE

SMALL CONTRACTOR / * MINORITY BUSINESS ENTERPRISES

* Delete if not applicable

PLEASE LIST ALL CONSTRUCTION PROJECTS YOUR ORGANIZATION HAS WORKED ON IN THE PAST TWO FISCAL YEARS

PROJECT LOCATION NUMBER AND DESCRIPTION APPLICABLE	CONTRACT AMOUNT	IF WORK PERFORMED AS PRIME GIVE OWNERS NAME IF WORK PERFORMED AS SUBCONTRACTOR GIVE CONTRACTORS NAME	START DATE	ACTUAL OR ESTIMATED COMPLETION DATE	NAME AND PHONE OF OWNER OR PRIME CONTRACTOR AS

SIGNED BY: _____

SMALL BUSINESS CONTRACTOR
*MINORITY BUSINESS ENTERPRISES

D.O.T. PROJECT NO. _____

* Delete if not applicable

MARCH, 2001

SMALL CONTRACTOR/SMALL CONTRACTOR MINORITY BUSINESS ENTERPRISE (MBE) (SET-ASIDE) CONNECTICUT DEPARTMENT OF TRANSPORTATION AFFIDAVIT – SUPPLIER OR MANUFACTURER

This affidavit must be completed by the State Contractor's designated Small Contractor/ Small Contractor Minority Business Enterprise (MBE), notarized and attached to the contractor's request to utilize a Small Contractor/Small Contractor Minority Business Enterprise (MBE) supplier or manufacturer as a credit towards its Small Contractor/Small Contractor Minority Business Enterprise (MBE) contract requirement; failure to do so will result in not receiving credit towards the contract Small Contractor/Small Contractor Minority Business Enterprise (MBE) requirement.

State Project No. _____
Federal Aid Project No. _____
Description of Project _____

I, _____, acting in behalf of _____
(Name of person signing Affidavit) (Small Contractor/Small Contractor MBE contractor person,
_____ of which I am the_____ affirm that _____
firm, association or certify and corporation) (Title of Person) (Small
_____is a certified Small Contractor/Small
Contractor/Small Contractor MBE person, firm, association or corporation)
Contractor Minority Business Enterprise, as defined by Section 4a-60g of the Connecticut General Statutes, as revised.

I further certify and affirm that _____
(Small Contractor/Small Contractor MBE person, firm, association or corporation)
will assume the actual and contractual responsibility for the provision of the materials and/or supplies sought by _____. If a manufacturer, I produce goods from raw
(State Contractor)
materials or substantially alter them before resale, or if a supplier, I perform a commercially useful function in the supply process.

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

_____
(Name of Small Contractor/Small Contractor MBE person, firm, association or corporation)

_____
(Signature and Title of Official making the Affidavit)

Subscribed and sworn to before me, the _____ day of _____ 200____.

_____
Notary Public (Commissioner of the Superior Court)

My Commission Expires _____

CERTIFICATE OF CORPORATION

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

_____

(Signature of Person Certifying) (Date)

(Corporate Seal)