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RESOLUTION # 3-2015

A RESOLUTION AUTHORIZING THE CHAIRMAN OF THE DAUPHIN COUNTY BOARD OF COMMISSIONERS TO EXECUTE A TRANSPORTATION ALTERNATIVES PROGRAM FEDERAL-AID REIMBURSEMENT AGREEMENT

WHEREAS, Dauphin County is entering into a Transportation Alternatives Program Federal-Aid Reimbursement Agreement with the Commonwealth of Pennsylvania through the Commonwealth's Department of Transportation; and

WHEREAS, a resolution is required under the Federal-Aid Reimbursement Agreement to name the individuals to sign the agreement and attest to the agreement.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF DAUPHIN COUNTY, PENNSYLVANIA THAT:

> Commissioner Jeff Haste is authorized to sign the Transportation Alternatives Program Federal-Aid Reimbursement Agreement on behalf of Dauphin County and that Chad Saylor as Chief Clerk and Chief of Staff is authorized to attest to the Federal-Aid Reimbursement Agreement.

ADOPTED AND RESOLVED, by the Board of Commissioners of Dauphin County, Pennsylvania, in lawful session duly assembled on the 14th day of January, 2015.

ATTEST:

Chad Saylor
Chief Clerk/Chief of Staff

(Seal)

DAUPHIN COUNTY
BOARD OF COMMISSIONERS

Jeff Haste, Chairman

Mike Pries, Vice Chairman

George P. Hartwick, III

George P. Hartwick, III, Secretary

EFFECTIVE DATE_____ AGREEMENT NO. 08A357
(*DEPARTMENT will insert*) FEDERAL ID NO. 23-6003043
SAP VENDOR NO. 139086
COUNTY Dauphin RELATED LP-ECMS AGREEMENT NO. ___
MUNICIPALITY City of Harrisburg, Susquehanna Township
MPMS NO. 102757

TRANSPORTATION ALTERNATIVES PROGRAM FEDERAL-AID REIMBURSEMENT AGREEMENT (POLITICAL SUBDIVISIONS AND OTHER GOVERNMENTAL ENTITIES)

THIS AGREEMENT is made and entered into by and between the Commonwealth of Pennsylvania, acting through the Department of Transportation ("DEPARTMENT"),

a n d

Dauphin County, a political subdivision duly and properly formed under the laws of the Commonwealth of Pennsylvania, acting through its proper officials ("SPONSOR").

W I T N E S S E T H:

WHEREAS, pursuant to 23 U.S.C. Section 213(a), added by the Moving Ahead for Progress in the 21st Century Act (MAP-21), P.L. 112-141, 126 Stat. 405, approved July 6, 2012, the Congress of the United States has reserved a portion of the federal-aid highway funds apportioned to a state under 23 U.S.C. Section 104(b), to carry out a Transportation Alternatives Program

("TAP"), to be funded from the Highway Account of the Highway Trust Fund; and,

WHEREAS, projects and activities eligible for funding under TAP consist of "transportation alternatives" as defined in 23 U.S.C. Section 101(a)(29) and other projects and activities identified in 23 U.S.C. Section 213(b); and,

WHEREAS, the entities eligible to participate in the TAP as project sponsors are defined in 23 U.S.C. Section 213(c)(4)(B) and consist entirely of governmental entities; and,

WHEREAS, nonprofit entities are not eligible to be direct recipients of TAP funds; but they may partner with any eligible entity on an eligible TAP project, if state or local requirements allow; and,

WHEREAS, the DEPARTMENT will receive federal funding from the United States Department of Transportation, Federal Highway Administration ("FHWA") to be spent statewide on TAP projects and activities, in accordance with 23 U.S.C. Sections 101(a)(29) and 213; and,

WHEREAS, federal funding will reimburse a portion of the costs of projects approved by the DEPARTMENT for participation in the TAP, the balance of the funding being provided by the project sponsors; and,

WHEREAS, the DEPARTMENT, following review of the SPONSOR's application by the appropriate planning organization, has confirmed the selection of its project, more fully described

below in Paragraph 2 ("Project"), for participation in the TAP; and,

WHEREAS, the SPONSOR has signified its willingness to participate in the TAP and proceed with the Project, in accordance with the terms, conditions and provisions set forth below.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual promises set forth below, the parties, with the intention of being legally bound, agree to the following:

1. RECITALS

The foregoing recitals are incorporated by reference as a material part of this Agreement.

2. GENERAL PROVISIONS

(a) The SPONSOR, subject to reimbursement or other payment procedures as provided in this Agreement, shall participate in the design and construction of the improvements constituting the Project at the following location in accordance with plans, policies, procedures and specifications prepared and/or approved by the DEPARTMENT and the FHWA, where applicable:

Type of Improvement	***Location***
Extend Greenbelt from SR 39 to Fort Hunter	Harrisburg City, Susquehanna Township

(b) Only work begun on the Project after full execution of this Agreement shall be eligible for reimbursement under the terms of this Agreement, subject, furthermore, to any required approvals by the FHWA regarding federal-aid participation, as provided below in Paragraph 22.

3. DESIGN

(a) The SPONSOR, with its own forces or by contract, shall design the proposed Project. If the DEPARTMENT is reimbursing design activities for this Project, the estimated costs and reimbursement percentages are detailed in Exhibit "A" attached to and made part of this Agreement.

The design shall be in accordance with plans, policies, procedures, criteria and specifications prepared or approved by the DEPARTMENT and the FHWA, including, but not limited to, the provisions of the current DEPARTMENT Design Manual; the DEPARTMENT Bureau of Design Specifications for Consultant Agreements, Form No. 442, Division I; and the DEPARTMENT Specifications, Publication 408 Specifications (current edition), its amendments and supplements (collectively, "Publication 408 Specifications").

(b) The SPONSOR shall secure all necessary approvals, permits and licenses from all other governmental agencies as may be required to complete the Project. This obligation shall include the responsibility for the preparation or revision of environmental impact statements, environmental assessments, categorical exclusions, environmental reports or other documents required by law and/or environmental litigation; and the defense of environmental litigation resulting from the planning, design

and/or construction of the Project. At the DEPARTMENT's request, the SPONSOR shall furnish to the DEPARTMENT, prior to advertising and letting the Project, evidence of the approvals, permits, licenses and approved environmental documents.

4. UTILITY CONSIDERATIONS

The SPONSOR shall furnish Project plans to utilities known to have facilities within the Project limits and to all other utilities discovered within the Project limits.

(a) The SPONSOR shall arrange for any necessary relocation or adjustment for all utility facilities and notify each utility company to relocate any affected facilities to accommodate the construction of the Project. The SPONSOR, with the DEPARTMENT's guidance, shall make these arrangements in accordance with FHWA requirements and/or DEPARTMENT requirements. If any affected utility claims that the SPONSOR is responsible for reimbursing the affected utility for its relocation costs under state or local laws in existence as of the effective date of this Agreement, the SPONSOR shall furnish the DEPARTMENT with a detailed cost estimate prepared by the utility and documentation justifying the SPONSOR's legal obligation to reimburse the utility for utility relocation costs actually incurred by the utility. The DEPARTMENT, after review and approval of the cost estimates and documentation, shall draft the necessary reimbursement agreement to be entered into between the SPONSOR and the utility. The DEPARTMENT shall submit the reimbursement agreement to the SPONSOR for execution by the parties.

(b) If the SPONSOR owns or operates the existing utility facilities, the SPONSOR shall request the DEPARTMENT to include such costs in this Agreement or prepare a supplement to this Agreement to address the costs associated with the relocation of these facilities. The supplemental agreement will acknowledge that the utility facilities are located in the right-of-way and that the relocation costs are Project-eligible costs.

(c) Prior to advertising the Project for letting, the SPONSOR, on forms provided by the DEPARTMENT, shall furnish a utility clearance certification attesting that all arrangements have been made for the relocation of all known facilities affected by the Project in accordance with DEPARTMENT Design Manual Part V. The statement shall be supported by a description of the written arrangements made with the utilities for the relocation of facilities in a manner that will not impede Project construction.

(d) The SPONSOR in conjunction with the DEPARTMENT agrees that all utility facilities transferred to or remaining at a location within the right-of-way of a federally-aided highway shall be accommodated in accordance with the provisions of the Federal Regulations, 23 CFR Part 645, the Federal-Aid Policy Guide, Chapter I, Subchapter G, Part 645, Subpart B, *Accommodation of Utilities,* and all amendments thereto.

(e) If the DEPARTMENT is reimbursing utility relocation activities for this Project, the estimated costs and reimbursement percentages are detailed in Exhibit "A," unless they are to be addressed subsequently through either a letter of

amendment or a letter of adjustment, as provided below in Paragraph 13.

(f) If the SPONSOR exercises its option under Paragraph 14 of this Agreement and abandons the Project after any utility has been authorized to proceed with its relocation work, the SPONSOR, at its sole cost and expense, hereby agrees to reimburse the utility for its actual and related indirect costs and expense of work actually completed at the time of notification of the abandonment, plus any additional expenses incurred by the utility in restoring its system to normal operating conditions.

5. RAILROAD CONSIDERATIONS

The SPONSOR shall furnish Project plans to railroads known to have facilities within the Project limits.

(a) The SPONSOR shall coordinate with the railroad(s) to determine railroad design criteria, arrange for protective services as needed and determine levels of insurance which will be required for the completion of the Project.

(b) The SPONSOR shall coordinate with the railroad(s) to ensure that DEPARTMENT forms D-4279 and D-4279A are completed by the railroad(s) and returned to the DEPARTMENT.

(c) The SPONSOR shall include all railroad special provisions, including, but not limited to, insurance requirements, right-of-entry requirements and private crossing requirements, in the Project bid package.

(d) If there are railroad costs that are Project eligible, they shall be addressed through either a letter of amendment or a letter of adjustment, as provided below in Paragraph 13.

(e) The DEPARTMENT, after review and approval of the cost estimates and documentation, shall draft the necessary reimbursement agreement to be entered into between the SPONSOR and the railroad and will forward the agreement to the SPONSOR for execution. A copy of the executed agreement shall be returned to the DEPARTMENT.

6. APPLICATION TO PENNSYLVANIA PUBLIC UTILITY COMMISSION

The SPONSOR, as necessary, shall make such applications to the Pennsylvania Public Utility Commission ("Commission") as are required for the construction and completion of the Project and shall present this Agreement into evidence before the Commission with the request that the Commission allocate costs for said Project in accordance with this Agreement. If the Commission, by order, allocates costs to the DEPARTMENT as a result of such application, the SPONSOR agrees to reimburse the DEPARTMENT in full for the costs allocated to the DEPARTMENT.

7. CONTRACT DEVELOPMENT

(a) The SPONSOR shall, by contract or with its own forces, be responsible for preparation of all plans, specifications and estimates ("P.S.&E.") for the Project. The DEPARTMENT's list of the essential documents to be prepared by the SPONSOR, entitled "Plans, Specifications, Estimates and Bid

Proposal Package," is attached to and made part of this Agreement as Exhibit "B." All work shall be in conformance with applicable state and federal laws and requirements, including, but not limited to, those outlined in the Federal-Aid Policy Guide, Chapter I, Subchapter G and the most current version of the *Stewardship and Oversight Agreement* between the DEPARTMENT and the FHWA. The *Stewardship and Oversight Agreement* is contained in DEPARTMENT Publication 10X and is accessible online at ftp://ftp.dot.state.pa.us/public/Bureaus/design/PUB10/PUB10X/Pub 10X Cover.pdf.

(b) All bid documents shall require that the contractor be prequalified by the DEPARTMENT, unless the DEPARTMENT, in writing, waives prequalification.

(c) Upon completion of all required bid documents, the SPONSOR shall submit them to the DEPARTMENT for review and approval. The DEPARTMENT, subject to reimbursement by the SPONSOR for its costs, shall be responsible for letting and award of the contract for construction of the Project, as provided below in Paragraph 10, and, after satisfaction of the conditions set forth in subparagraph (d) below, shall populate the Engineering and Construction Management System (ECMS) with all required bid documents (except for those limited instances where the SPONSOR has requested and received the DEPARTMENT's approval to conduct a paper let instead of having the Project administered through ECMS, in which case DEPARTMENT policies and procedures for projects not administered in ECMS shall apply).

(d) The DEPARTMENT shall advertise for bids through ECMS upon:

(i) FHWA authorization of the Project;

(ii) Approval of a right-of-way certification (if applicable);

(iii) Approval of a utility clearance certification;

(iv) Completion of P.S.&E. review; and

(v) Satisfactory resolution of any comments.

(e) The DEPARTMENT must review and approve any addenda to the approved bid documents prior to their issuance to prospective bidders. Issuance of addenda shall occur no later than three (3) calendar days before the proposed bid opening.

8. OCCUPANCY RIGHTS

(a) The SPONSOR shall ensure that it has the right to occupy the area of the Project for purposes of constructing and maintaining the Project and that the public has a right to enter and use the area of the Project for a sufficient time after completion of construction to justify the expenditure of public funds on the Project. This right of occupancy by the SPONSOR and continued use by the public may be shown by deed of fee simple or easement; by right-of-way, lease or license agreement; or by any other means found acceptable to the DEPARTMENT.

(b) Upon request from the DEPARTMENT, the SPONSOR shall provide information necessary to document the right to occupy the area of the Project for construction, maintenance and

use. The SPONSOR shall also supply any additional information as deemed necessary by the DEPARTMENT for this purpose. This may include the creation of a plan showing all property acquired by the SPONSOR's predecessors in title, including a designation of the nature of the predecessors' interests (i.e., whether in fee or easement) and a notation of where the instruments conveying those interests are located. The Project will not advance to the final design phase until the DEPARTMENT is satisfied that the SPONSOR has proven appropriate interest in all affected property.

9. RIGHT-OF-WAY ACQUISITION

(a) The SPONSOR shall ensure that all additional right-of-way necessary to construct this Project shall be acquired in accordance with all applicable federal and state laws, policies and procedures, as detailed in the DEPARTMENT LPA Brochure: A Guide for Local Public Agency Acquisition of Right-of-Way, Publication No. 98.

(b) The SPONSOR shall acquire all necessary right-of-way by gift, agreement, dedication, purchase and/or condemnation. The amount of right-of-way required for the Project shall be shown on a plan, which shall be prepared in accordance with policies, procedures, criteria and specifications prepared or approved by the DEPARTMENT and the FHWA, including, but not limited to, the provisions of the current DEPARTMENT Design Manual.

(c) The SPONSOR, subject to possible reimbursement from the FHWA, shall be responsible for all negotiations, defense of all claims and initial payment of all property damages or right-of-way costs resulting from any acquisition

and/or condemnation. The SPONSOR shall strictly comply with all applicable right-of-way acquisition procedures set forth in the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; the current DEPARTMENT Right-of-Way Manual and its amendments; and the Federal-Aid Policy Guide. Acquisition costs shall include, but shall not be limited to, payment of claims of affected property owners; photographic, appraisal and engineering services; title reports; counsel fees; expert witness fees required for the adjudication of all property damage claims; transcripts of testimony before the board of view; and all record costs, including printing costs, in case of appeal to an appellate court.

(d) If the DEPARTMENT is reimbursing right-of-way acquisition activities for this Project, the estimated costs and reimbursement percentages are detailed in Exhibit "A," unless they are to be addressed subsequently through either a letter of amendment or a letter of adjustment, as provided below in Paragraph 13.

(e) The SPONSOR agrees that any real property acquired with funds provided under this Agreement shall be managed in accordance with the property management requirements provided in 23 C.F.R. Part 710, Subpart D. Any use of the property for purposes other than that for which the funds were provided must be consistent with the continuation of the original use. If the original use of the real property is converted by sale or lease to another use inconsistent with the original use, the provisions of Paragraph 16 below apply.

10. LETTING AND AWARD

(a) Except as provided in subparagraph (c) below, relating to paper lets, the DEPARTMENT shall advertise for bids, open bids and with the concurrence of the SPONSOR (which will indicate its concurrence electronically) award the construction contract in the name of the SPONSOR, all in accordance with DEPARTMENT Publication No. 526, *ECMS Municipal/Sponsor Guidance*. The SPONSOR shall enter into and execute the contract with the successful bidder electronically through ECMS. Following coordination with the SPONSOR, the DEPARTMENT shall issue the notice to proceed through ECMS to the contractor.

(b) If the SPONSOR has not already executed a Business Partner Agreement and registered with the DEPARTMENT as a business partner in order to access the DEPARTMENT's Engineering and Construction Management System ("ECMS"), the SPONSOR must execute a Business Partner Agreement with the DEPARTMENT in order to obtain such access prior to the Project's being advertised.

(c) In those limited instances where the SPONSOR has requested and received from the DEPARTMENT approval to conduct a paper let instead of having the Project administered through ECMS, letting and award shall be in accordance with DEPARTMENT policies and procedures applicable to projects not administered in ECMS.

11. INSPECTION

(a) The SPONSOR, with its own forces or by contract, shall provide staff to inspect and supervise all construction work in accordance with the approved plans and specifications, including, but not limited to, the Publication 408 Specifications, and to assure that all work is in accordance

with the Federal-Aid Policy Guide, Chapter I, Subchapter G, Part 635, *Construction and Maintenance*.

(b) Allowable construction engineering costs may include such work items as inspection, certification and test of materials and surveys in accordance with the Federal-Aid Policy Guide, Chapter I, Subchapter B, Part 140, *Reimbursement*, and 23 C.F.R. § 1.11. Such costs are eligible for federal participation only to the extent that they are directly attributable and properly allocable to the Project

12. REIMBURSEMENT

(a) Subject to the terms set forth in this Agreement and in conformance with the policies adopted by the DEPARTMENT, the DEPARTMENT, from funds allocated for this purpose by the FHWA, to the extent that such funds are first made available by the FHWA to the DEPARTMENT, shall make payment to the SPONSOR in one of the following manners:

(i) Where the SPONSOR assumes financial responsibility for the cost of all preconstruction activities, using funds, in-kind contributions or both, as specified below, the DEPARTMENT shall reimburse one hundred percent (100%) of the allowable construction costs of the Project.

(ii) Where the SPONSOR is to receive reimbursement during all phases of the Project, the DEPARTMENT shall reimburse the SPONSOR for up to eighty percent (80%) of the total allowable costs of the Project, whether or not it involves construction.

The SPONSOR shall be responsible for the remainder of the total Project costs.

Exhibit "A" sets forth the activities or phases being reimbursed, the estimated costs and the reimbursement percentages. Any future changes to the estimated costs and reimbursement percentages shall be addressed through a letter of amendment or a letter of adjustment, as provided below in Paragraph 13.

(b) The SPONSOR, by executing this Agreement, certifies (1) that it has on hand, or will obtain over the life of the Project, sufficient funds to meet all of its obligations under the terms of this Agreement, to the extent that they are not satisfied by in-kind contributions as described below in subparagraph (c), and (2) that it, and not the DEPARTMENT, shall provide all funds needed to pay any costs incurred in excess of those costs eligible for federal-aid participation and shall bear all such excess costs. The SPONSOR shall be solely responsible for one hundred percent (100%) of this portion of the total Project costs. The SPONSOR may use any combination of funds from its own budget and/or outside sources, whether public or private.

(c) The SPONSOR may satisfy all or part of its share of the total Project costs through in-kind participation in the form of real property, materials or services that it contributes itself or that are contributed by third parties. Such real property, materials and services shall be valued at their fair market value in accordance with 23 U.S.C. Section 323, as amended, and the policies, procedures, criteria and specifications of the FHWA and the DEPARTMENT and must meet the eligibility requirements of the Project. The SPONSOR shall maintain and, if requested, make available to the FHWA and the

DEPARTMENT records establishing how the value placed on contributed real property, materials and services was derived. Any such in-kind participation shall count toward the SPONSOR's share of Project costs only if any such in-kind participation occurs after full execution of this Agreement and any required FHWA approvals.

The contributions must occur after the FHWA's approval of the Project and before approval of the final voucher. Any contributions and their estimated value are shown on Exhibit "A."

(d) The SPONSOR, for the purpose of reimbursement, shall submit to the DEPARTMENT on a monthly basis, through the DEPARTMENT's local Engineering District Office, certified periodic (maximum of two (2) per month) invoices for:

(i) Allowable costs for work performed by the SPONSOR's forces on the Project.

(ii) Work performed on the Project by the SPONSOR's contractors(s) or consultant(s).

(iii) Allowable costs incurred in the acquisition of right-of-way and utility relocations, if applicable.

The DEPARTMENT shall submit these certified invoices to the FHWA for payment. As FHWA funds are made available, the DEPARTMENT shall reimburse the SPONSOR for the proportionate share of the approved charges.

(e) The MUNICIPALITY is obligated to submit to the DEPARTMENT invoices from its consultant(s) and contractor(s) as it receives them, in accordance with the periodic schedule set forth above in subparagraph (d), to assure prompt payment of the consultant(s) and contractor(s) for work performed to date.

(f) The SPONSOR shall pay the federal and the SPONSOR shares to its consultant(s) or contractor(s) within ten (10) calendar days of the date on the DEPARTMENT's check. The SPONSOR shall, as part of its record-keeping obligation, maintain records of receipt and payment of such funds. Failure to comply with this subparagraph or the requirements of subparagraph (e) relating to submission of invoices shall constitute a default, and the DEPARTMENT shall have the right to change payment procedures unilaterally to a reimbursement basis. If the SPONSOR is a political subdivision, the DEPARTMENT shall have the additional right to invoke Paragraph 18, relating to withholding of liquid fuels funds.

(g) If the DEPARTMENT changes payment procedures unilaterally to a reimbursement basis, as provided in subparagraph (f), the following procedures shall apply:

(i) The SPONSOR shall submit to the DEPARTMENT, on a monthly basis, through the DEPARTMENT's local Engineering District Office, certified periodic (maximum of two (2) per month) invoices for reimbursement.

(ii) The SPONSOR shall include with the invoices verification of payment of the consultant(s) or contractor(s) by means of a copy of the cancelled check or a certified letter from the

consultant(s) or contractor(s) acknowledging payment.

(iii) After reviewing the verification concerning payment of the consultant(s) or contractor(s) and material certifications and determining them to be satisfactory, the Engineering District Office shall approve the invoices for payment.

(iv) Upon approval of the invoices, the Engineering District Office shall forward to the Office of the Comptroller a cover letter containing the agreement number, federal project number, federal percentage, and invoice amount, together with a copy of the payment estimate.

(v) The DEPARTMENT shall submit these certified invoices to the FHWA for payment of the federal share. As FHWA funds are made available, the DEPARTMENT shall reimburse the SPONSOR for the proportionate share of the approved charges.

(h) The SPONSOR shall be responsible for all costs incurred in excess of those eligible for federal-aid participation, including, but not limited to, any and all costs relating to or resulting from changes to the approved plans and/or specifications, time delays and extensions of time or termination of construction work, interest for late payments or for money borrowed to finance the Project (inasmuch as interest paid by the SPONSOR is not federally reimbursable), unforeseen right-of-way and other property damages and costs resulting from the acquisition and/or condemnation of lands for the Project and/or for the construction of the improvements, unforeseen

utility relocation costs, unforeseen costs for environmental litigation and reports, and all other unforeseen costs and expenses not included in the estimates of design, utility relocation, construction and right-of-way acquisition costs, but which are directly related to or caused by the planning, design, and/or construction of the Project. This provision shall not preclude the SPONSOR from modifying the scope of the Project, with the approval of the DEPARTMENT, in the event that the costs exceed the available funds.

(i) If those costs incurred by the DEPARTMENT, including, but not limited to, costs relating to administrative and oversight activities, appear on Exhibit "A" as being reimbursable from federal funds as eligible Project costs, the DEPARTMENT shall charge such costs directly to the Project automatically through the federal-aid billing system; and the FHWA will reimburse these costs directly to the DEPARTMENT. If a portion of these costs appears on Exhibit "A" as the responsibility of the SPONSOR in accordance with subparagraph (b) above, the DEPARTMENT shall invoice the SPONSOR on a monthly basis. Failure by the SPONSOR to reimburse the DEPARTMENT within thirty (30) days of receipt of the DEPARTMENT's invoice shall cause the SPONSOR to be in default of payment. In the event of such default, the DEPARTMENT may, in its sole discretion, consider the Project to be abandoned by the SPONSOR, whereupon the SPONSOR shall be obligated to reimburse all FHWA and DEPARTMENT funds in accordance with Paragraph 15.

(j) The DEPARTMENT shall not reimburse any additional or extra work done or materials furnished, not specifically provided for in the approved plans and specifications, unless the DEPARTMENT has first approved such additional or extra work or materials in writing. Any such work done or materials

furnished without such written approval first being given shall be at the SPONSOR's own risk, cost and expense.

(k) The MUNICIPALITY shall submit its final invoices for payment or reimbursement, as the case may be, of the items set forth in subparagraph (a) to the DEPARTMENT within one (1) year of the acceptance of the Project. If the MUNICIPALITY fails to submit its final invoices within this one- (1-) year period, it may forfeit all remaining federal financial participation in the Project.

13. SUPPLEMENTS AND AMENDMENTS

(a) If the cost for any phase of the Project listed in Exhibit "A" is blank, necessitating the subsequent provision of funding over the life of the Project, or the cost of any phase increases, causing the total estimated cost of the Project to increases, the parties must execute a letter of amendment that will include a revised Exhibit "A." The DEPARTMENT cannot pay or reimburse the SPONSOR for the additional costs until the parties execute the letter of amendment. Adequate federal funds must be available before the parties execute the letter of amendment. The letter of amendment is not effective until duly authorized representatives of the SPONSOR, the DEPARTMENT, the Office of Chief Counsel and the Office of the Comptroller sign and date the letter of amendment. A sample letter of amendment is attached as Exhibit "N" and made a part of this Agreement.

(b) If the DEPARTMENT determines that the cost for any phase listed on Exhibit "A" should be redistributed, and the redistribution does not result in an increase or decrease in total Project costs or any increase in costs to the

MUNICIPALITY, the DEPARTMENT will redistribute such costs by sending the MUNICIPALITY notification by means of a letter of adjustment that will include a revised Exhibit "A". The DEPARTMENT cannot pay or reimburse the MUNICIPALITY for the costs of these phases until the Office of Comptroller Operations signs and dates the letter of adjustment. The MUNICIPALITY's signature is not required for the letter of adjustment to be effective. A sample letter of adjustment is attached as Exhibit "O" and made part of this Agreement.

(c) If there are changes to any Standard Provisions that need to be addressed at the time of a letter amendment, as described in subparagraph (a), the parties can incorporate those revised and/or updated Standard Provisions by noting the incorporation and attachment of such Standard Provisions to such letter amendment. For the purposes of this subparagraph, Standard Provisions consist of those provisions or clauses required to be included in Commonwealth agreements pursuant to federal or state law or Commonwealth Management Directives, including, but not limited to: Americans with Disabilities Act, Right-to-Know Law, Contractor Integrity, Contractor Responsibility, Offset, Federal Nondiscrimination, Commonwealth Nondiscrimination, Disadvantaged Business Enterprise Regulatory Compliance Requirements, Disadvantaged Business Enterprise Assurance, Lobbying, Federal Funding Accountability and Transparency Act, and Federal Audit Clause. Changes that would otherwise require only a letter adjustment as detailed in subparagraph (b) will need a letter amendment as detailed in subparagraph (a) if one of these Standard Provisions described herein needs updating.

(d) If the SPONSOR proceeds to construction before funds are made available, either through this Agreement, a letter of amendment or letter of adjustment has been signed by the appropriate parties, retroactive payment or reimbursement of federal funds will not be permitted unless the federal Form 4232, authorizing federal funds for latter phases of the Project, was in place prior to performance of any work.

(e) All other changes to the terms and conditions of this Agreement must be in the form of a fully executed supplemental agreement signed by all the same entities that executed the original Agreement.

14. RECORDS AND AUDIT REQUIREMENTS

(a) The SPONSOR shall maintain, and it shall require its consultants and contractors to maintain, all books, documents, papers, records, supporting cost proposals, accounting records, employees' time cards, payroll records and other evidence pertaining to costs incurred in the Project and shall make such materials available at all reasonable times during the contract period and for three (3) years from the date of submission of the final voucher to FHWA, for inspection and/or audit by the DEPARTMENT, the FHWA or any other authorized representatives of the state or federal government; and copies shall be furnished, if requested. Time records for personnel performing any work shall account for direct labor performed on the Project as well as the time of any personnel included in the computation of overhead costs. In addition, a complete record of time shall be kept for personnel assigned part-time to the Project. A record of time limited to only their work on this Project will not be acceptable.

(b) As specified by the Federal Office of Management and Budget, the SPONSOR agrees to satisfy the audit requirements contained in the Single Audit Act of 1984, as amended, 31 U.S.C. Section 7501 et seq., and, for this purpose, to comply with the Audit Clause to Be Used in Agreements with Entities Receiving Federal Awards from the Commonwealth, attached to and made part of this Agreement as Exhibit "C." As used in the Audit Clause, the term "Subrecipient" means the SPONSOR.

15. ABANDONMENT OR POSTPONEMENT OF PROJECT

In the event that the SPONSOR abandons or indefinitely postpones the Project, it may terminate this Agreement by sending the DEPARTMENT a thirty- (30-) day written notice of termination, with the understanding that, since the FHWA will not participate in any costs of a Project that is not completed and since the DEPARTMENT must be reimbursed for all costs incurred by it for the Project, the SPONSOR must reimburse the DEPARTMENT accordingly. Furthermore, the DEPARTMENT itself may consider the Project to be abandoned because of lack of activity on the Project by the SPONSOR or failure to pay its contractor(s) or consultant(s). In either case, the SPONSOR shall reimburse the DEPARTMENT, within thirty (30) days of receipt of a statement from the DEPARTMENT, in an amount equal to the sum of (i) all FHWA funds received by the SPONSOR for return to the FHWA, (ii) all FHWA funds paid to the DEPARTMENT for work performed under this Agreement for return to the FHWA and (iii) all costs incurred by the DEPARTMENT under this Agreement prior to receipt of notice of termination that have not been reimbursed by the FHWA or the SPONSOR.

16. USEFUL LIFE

The parties agree that the estimated useful life of the completed Project improvements is twenty (20) years and that the federal funding provided under this Agreement shall be amortized over the estimated useful life of the Project improvements in equal amounts annually. If in the opinion of the DEPARTMENT the original use of the real property is converted by sale or otherwise to another use inconsistent with the original use for which the federal funding is being provided, the SPONSOR shall take one of the following actions:

(i) Replace the project improvements, without financial participation from the DEPARTMENT or FHWA, with an equivalent group of improvements, as determined and approved by the DEPARTMENT and the FHWA, or

(ii) Repay the DEPARTMENT the unamortized amount of federal funding provided under this Agreement. The amount to be repaid shall be calculated by taking the total amount of federal funding received by the SPONSOR pursuant to this Agreement and any supplements; dividing the amount by the estimated useful life of the Project improvements; and then multiplying the result by the number of years of estimated useful life remaining on the Project at the time of the sale or other conversion of the property.

17. MAINTENANCE AND OPERATION OF IMPROVEMENTS

IN AREAS WHERE PROJECT IMPROVEMENTS ARE *NOT* WITHIN LOCAL OR STATE RIGHT-OF-WAY

(a) The SPONSOR shall operate and maintain, at its sole cost and expense, all of the completed Project improvements financed under this Agreement that fall within its jurisdiction. The SPONSOR shall, by contract or with its own forces, perform the maintenance described in Exhibit "P" attached to and made part of this Agreement, to insure an acceptable level of physical integrity and operation consistent with original design standards. The SPONSOR certifies that it shall make available sufficient funds to provide the maintenance described in this exhibit. This provision shall not preclude the SPONSOR from making arrangements with other governmental bodies or instrumentalities or private parties for sharing the maintenance responsibilities. However, the SPONSOR shall retain primary responsibility pursuant to this subparagraph.

(b) Failure by the SPONSOR to fulfill its maintenance responsibilities may result in the loss of future state and federal funds.

(c) The SPONSOR shall have the right to transfer ownership and maintenance responsibilities for the improvements constructed pursuant to this Agreement, subject to prior approval by the DEPARTMENT. The DEPARTMENT shall determine the appropriate written documentation required to approve and authorize the transfer of ownership and maintenance responsibilities. The DEPARTMENT shall not unreasonably withhold its approval.

(d) The preceding requirements and authorizations shall not prevent the SPONSOR from imposing responsibility for maintenance of the improvements constructed pursuant to this Agreement on the abutting property owners in accordance with

duly enacted ordinances or regulations, as amended or supplemented from time to time. The SPONSOR shall diligently and strictly enforce its ordinances or regulations with reference to the affected property owners.

IN AREAS WHERE PROJECT IMPROVEMENTS ARE IN SPONSOR'S ROAD OR RIGHT-OF-WAY

(a) The SPONSOR, at its sole cost and expense, shall operate and maintain all of the completed improvements financed under this Agreement that fall under its jurisdiction. The SPONSOR certifies that it shall make available sufficient funds to provide for the described maintenance program. Exhibit "Q," attached to and made a part of this Agreement, lists the minimum requirements that the SPONSOR must satisfy regarding the traffic engineering services to be provided as part of this maintenance program.

(b) The DEPARTMENT, in concurrence with the FHWA, when applicable, shall determine the existence of acceptable methods of operation and maintenance. These operation and maintenance services shall include, but not be limited to, the following:

(i) Periodic inspections;

(ii) Functional review of traffic operations;

(iii) Appropriate preventative maintenance, which shall include cleaning, lubrication and refurbishing of all electrical equipment;

(iv) A systematic record-keeping system; and

(v) A means to handle the notification and implementation of emergency repairs.

(c) The existence of functioning maintenance and operation services shall not exempt the SPONSOR from complying with the provisions of the Vehicle Code (75 Pa. C.S. § 101 *et seq.)*, as amended, pertaining to traffic control devices, or with applicable provisions of the State Highway Law (36 P.S. § 670-101 *et seq.*), as amended.

(d) The SPONSOR and the DEPARTMENT agree that each party shall administer, enforce and maintain any statutes, regulations or ordinances within its jurisdiction necessary for the operation of the improvements. The parties further agree that the enforcement obligations relating to the regulations are governed by the statutes of the Commonwealth of Pennsylvania, and more particularly by those statutes relating to municipalities; the Vehicle Code, as amended; and the State Highway Law, as amended; as well as those ordinances, rules and regulations issued by appropriate governmental agencies in implementation of these statutes.

(e) The SPONSOR acknowledges that the traffic controls and parking regulations necessary to be maintained on these improvements are shown on Exhibit "R," attached to and made a part of this Agreement

(f) The SPONSOR acknowledges that the DEPARTMENT may disqualify the SPONSOR from future federal-aid or state participation on SPONSOR-maintained projects if the SPONSOR fails to:

(i) Provide for the proper maintenance and operation of the completed improvements; or

(ii) Maintain and enforce compliance with any statutes, regulations or ordinances under its jurisdiction necessary for the operation of the improvements.

(g) The SPONSOR agrees that the DEPARTMENT shall withhold federal-aid or state funds, or both, until one or both of the following (as applicable) have taken place:

(i) The SPONSOR has corrected the operation and maintenance services.

(ii) The SPONSOR has brought traffic operations on the improvements, including enforcement of statutes, regulations or ordinances, up to a level satisfactory to the DEPARTMENT.

(h) This Agreement is without prejudice to the right of the SPONSOR to receive reimbursement for maintenance costs from any railroad or party other than the DEPARTMENT, if so ordered by the PUC, where a rail-highway crossing is under the jurisdiction of the PUC.

(i) The preceding requirements shall not prevent the SPONSOR from imposing responsibility for maintenance of the improvements constructed pursuant to this Agreement on the abutting property owners in accordance with duly enacted ordinances or regulations, as amended or supplemented from time to time. The SPONSOR shall diligently and strictly enforce its

ordinances or regulations with reference to the affected property owners.

IN AREAS WHERE PROJECT IMPROVEMENTS ARE IN DEPARTMENT'S RIGHT-OF-WAY

(a) The DEPARTMENT, as the entity exercising authority and jurisdiction over the roads upon which the Project is being constructed, shall operate and maintain all of the completed improvements financed with federal-aid funds as part of the state highway system, consistent with the requirements of the Vehicle Code, State Highway Law of 1945, and Commonwealth regulations. If there is any signalization, it shall be maintained and operated by the SPONSOR, pursuant to a traffic signal permit issued by the DEPARTMENT to the SPONSOR.

(b) The preceding requirements shall not prevent the SPONSOR from imposing responsibility for maintenance of improvements constructed pursuant to this Agreement within DEPARTMENT right-of-way on the abutting property owners, if duly enacted municipal ordinances or regulation make abutting property owners responsible for maintenance of the type of improvement. The SPONSOR shall diligently and strictly enforce its ordinances or regulations with reference to the affected property owners.

18. SAVE HARMLESS

(a) The SPONSOR shall indemnify, save harmless and (if requested) defend the Commonwealth of Pennsylvania, the DEPARTMENT, the FHWA and all of their officers, agents and employees from all suits, actions or claims of any character, name or description, including, but not limited to, those in

eminent domain or otherwise relating to title to real property, brought for or on account of any injuries or damages received or sustained by any person, persons or property, arising out of, resulting from or connected with the planning, development, design, acquisition, construction, completion, occupancy, use, operation and/or maintenance of the Project or the improvements that it comprises, and/or any other activities relating to the Project or the improvements that it comprises, by the SPONSOR and/or the SPONSOR's consultant(s) and/or contractor(s) and their officers, agents and employees, whether the same be due to defective title, defective materials, defective workmanship, neglect in safeguarding the work, or by or on account of any act, omission, neglect or misconduct of the SPONSOR and/or the SPONSOR's consultant(s) and/or contractor(s), their officers, agents and employees, during the performance of the work or thereafter, or to any other cause whatever.

(b) This Agreement shall not be construed for the benefit of any person or political subdivision not a party to this Agreement, nor shall this Agreement be construed to authorize any person or political subdivision not a party to this Agreement to maintain a lawsuit on or under this Agreement.

19. WITHHOLDING OF LIQUID FUELS FUNDS (POLITICAL SUBDIVISIONS ONLY)

If the SPONSOR is a political subdivision and if it fails to perform any of the terms, conditions or provisions of the Agreement, including, but not limited to, any default of payment for a period of thirty (30) days, the SPONSOR authorizes the DEPARTMENT to withhold so much of the SPONSOR's Liquid Fuels Tax Fund allocation as may be necessary to complete the Project

or reimburse the DEPARTMENT in full for all costs due hereunder; and the SPONSOR does hereby and herewith authorize the DEPARTMENT to withhold such amount and to apply such funds, or portion thereof, to remedy such default.

20. REQUIRED CONTRACT PROVISIONS

The parties agree, and the SPONSOR shall also provide in its contracts for the Project, that all design, plans, specifications, estimates of costs, construction, utility relocation work, right-of-way acquisition procedures, acceptance of the work and procedures in general shall, at all times, conform to all applicable federal and state laws, rules, regulations, orders and approvals, including specifically the procedures and requirements relating to labor standards, equal employment opportunity, nondiscrimination, anti-solicitation, information, auditing and reporting provisions. The SPONSOR shall comply, and shall cause its consultant(s) and contractor(s) to comply, with the conditions set forth in the Federal Nondiscrimination Clauses, which are incorporated into this Agreement by reference as though physically attached to and made part of this Agreement as Exhibit "D."

21. DISADVANTAGED BUSINESS ENTERPRISE REGULATORY COMPLIANCE REQUIREMENTS

The SPONSOR shall take the following steps, where applicable, in order to comply with the Disadvantaged Business Enterprise ("DBE") requirements of federal transportation legislation and regulations adopted pursuant thereto:

(a) For federally-assisted transportation-related projects, the DEPARTMENT may establish a percentage participation goal. The SPONSOR shall work with the

DEPARTMENT's District Transportation Enhancements Coordinator concerning the necessity of establishing a goal for this Project. If a DBE goal is not applicable, the SPONSOR shall comply with the "Disadvantaged Business Enterprise and Small Business Concern Involvement" provision, attached to and made part of this Agreement as Exhibit "E." If a goal is established, this goal must be attained by the SPONSOR's contractor or, in the alternative, a showing of good faith effort must be made. Determination of good faith effort shall be made by the SPONSOR and is subject to the concurrence of the DEPARTMENT. The SPONSOR shall comply with the following provisions, as applicable:

(i) If the Project requires prequalification, the SPONSOR shall comply with "Designated Special Provision 7" of the Publication 408 Specifications, (current edition), accessible online at ftp://ftp.dot.state.pa.us/public/bureaus/design/pub408/Pub%20408%202011%20IE/DSP7-final.pdf.

(ii) If the Project is prequalification exempt, the SPONSOR shall comply with the "Disadvantaged Business Enterprise Requirements—Prequalification Exempt," attached to and made part of this Agreement as Exhibit "F."

(iii) If the Project includes a design component, the SPONSOR shall comply with the "DBE Special Requirements—Engineering," attached to and made part of this Agreement as Exhibit "G."

(b) Only firms that are certified as DBE's by the Pennsylvania DBE Unified Certification Program (PA UCP) as of

the date of the bid opening may be used on the Project. The PA UCP maintains a Directory of certified DBE's classified according to the North American Industrial Classification System (NAICS Codes) and this Directory is accessible online at: www.paucp.com. Use of any other certification directory for this Project is prohibited.

22. REQUIRED DISADVANTAGED BUSINESS ENTERPRISE ASSURANCE PROVISION

(a) The SPONSOR shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement. The SPONSOR shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of United States Department of Transportation-assisted contracts. Failure by the SPONSOR to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the DEPARTMENT deems appropriate.

(b) The SPONSOR must include the assurance contained in subparagraph (a) in each contract into which it enters to carry out the Project.

23. FHWA APPROVAL

The parties fully understand and agree that their respective obligations under this Agreement shall be made contingent upon the approvals, prior to commencement of work, of the Project's eligibility for participation in federal funds to the extent of the proportionate share, detailed in Exhibit "A"; and, if the FHWA does not give such approval, neither of the

parties shall be further obligated by the terms of this Agreement.

24. TERMINATION

Because this Agreement is to be funded either partially or completely by federal funds, the DEPARTMENT may terminate it if federal funds are not provided to the DEPARTMENT for the purposes stated in the Agreement. The DEPARTMENT shall effect any such termination by delivery to the SPONSOR of a notice of termination specifying the reason for termination and its effective date. The DEPARTMENT shall compensate the SPONSOR for work performed or services provided in accordance with the terms of this Agreement prior to the date of the notice of termination or such other date as the notice of termination shall specify.

25. RESOLUTIONS AND ORDINANCES

The SPONSOR shall enact and/or adopt such ordinances and/or resolutions as may be necessary to accomplish the purposes of this Agreement.

26. SUCCESSORS AND ASSIGNS

All covenants and obligations of the parties under this Agreement shall bind their successors and assigns, whether or not expressly assumed by such successors and assigns.

27. OFFSET PROVISION

The SPONSOR agrees that the Commonwealth of Pennsylvania (Commonwealth) may set off the amount of any state

tax liability or other obligation of the SPONSOR or its subsidiaries to the Commonwealth against any payments due the SPONSOR under any contract with the Commonwealth.

28. CONTRACTOR INTEGRITY PROVISIONS

The SPONSOR shall comply with the Commonwealth Contractor Integrity Provisions, attached to and made part of this Agreement as Exhibit "H."

29. AMERICANS WITH DISABILITIES ACT PROVISIONS

The SPONSOR shall comply with the Commonwealth Provisions Concerning the Americans with Disabilities Act, attached to and made part of this Agreement as Exhibit "I."

30. CONTRACTOR RESPONSIBILITY PROVISIONS

The SPONSOR shall comply with the Commonwealth Contractor Responsibility Provisions, attached to and made part of this Agreement as Exhibit "J."

31. ANTI-LOBBYING REQUIREMENT

Public Law 101-121, Section 319, 31 U.S. Code Section 1352, prohibits the recipient or any lower tier subrecipients of a federal contract, grant, loan or cooperative agreement from expending federal funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the awarding of any federal contract, the making of any federal grant or loan or the entering into of any cooperative agreement. The SPONSOR agrees to comply with the Lobbying Certification Form attached to, and made part of, this

Agreement as Exhibit "K," which an authorized official of the SPONSOR has executed.

32. RIGHT-TO-KNOW LAW

The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101–3104, applies to this Agreement. Therefore, this Agreement is subject to, and the SPONSOR shall comply with, the clause entitled Contract Provisions - Right to Know Law, attached to and made part of this Agreement as Exhibit "L" and. As used in this exhibit, the term "Contractor" refers to the SPONSOR.

33. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006

As a subrecipient of federal funding, the SPONSOR shall provide to the Commonwealth the information specified in Exhibit "M," Federal Funding Accountability and Transparency Act of 2006—Grantee Information, attached to and made part of this Agreement, to ensure that the Commonwealth meets the reporting requirements imposed on it by the Federal Funding Accountability and Transparency Act of 2006. As used in this exhibit, the term "Grantee" refers to the SPONSOR.

34. AUTOMATED CLEARING HOUSE REQUIREMENTS

Because the DEPARTMENT will be making payments under this Agreement through the Automated Clearing House ("ACH") Network, the SPONSOR shall comply with the following provisions governing payments through ACH if it has not done so already:

(a) The Department will make payments pursuant to this Agreement through ACH. Within 10 days of the execution

date of this Agreement, the SPONSOR must submit or must have already submitted its ACH information on a ACH enrollment form (obtained at www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf) and electronic addenda information, if desired, to the Commonwealth's Payable Service Center, Vendor Data Management Unit at 717-214-0140 (FAX) or by mail to the Office of Comptroller Operations, Bureau of Payable Services, Payable Service Center, Vendor Data Management Unit, 555 Walnut Street - 9th Floor, Harrisburg, PA 17101.

(b) The SPONSOR must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth's ACH remittance advice to enable the SPONSOR to properly apply the DEPARTMENT's payment to the respective invoice or program.

(c) It is the responsibility of the SPONSOR to ensure that the ACH information contained in the Commonwealth's Central Vendor Master File is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

35. COMPLETION OF WORK

The SPONSOR shall complete the work under this Agreement no later than five (5) years from the date shown on Page 1.

36. EFFECTIVE DATE OF AGREEMENT

This Agreement and the authorizations granted in it shall be effective only after full execution and approval by all necessary Commonwealth officials as required by law. Following full execution, the DEPARTMENT will insert the effective date at the top of Page 1. The authorizations granted by this Agreement shall be further contingent upon written approval of the FHWA, if necessary.

[Remainder of page left blank intentionally]

IN WITNESS WHEREOF, the parties have executed this Agreement the date first above written.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY_____
District Executive
DATE

ATTEST:

Dauphin County *
(Name of SPONSOR)

BY _____ 1/14/15
Signature DATE

Chief Clerk
Title

(SEAL)

BY _____ 1/14/15
Signature Date

Chairman
Title

DO NOT WRITE BELOW THIS LINE--FOR COMMONWEALTH USE ONLY

APPROVED AS TO LEGALITY

AND FORM

BY_____
for Chief Counsel Date

FUNDS COMMITMENT DOCUMENT NO.

CERTIFIED FUNDS AVAILABLE
UNDER SAP NO. _____
SAP COST CENTER_____
GL ACCOUNT_____
AMOUNT_____

Preapproved Form:
BY_____
OGC No. 18-FA-66.0 for Comptroller Operations
Date
Approved OAG 09/30/13

*** Unless the individuals signing this Agreement on behalf of the SPONSOR are authorized to do so by statute or regulation, the SPONSOR's resolution authorizing execution and attestation must accompany this Agreement; please indicate the signers' titles in the blanks provided and date all signatures.**

execution and attestation must accompany this Agreement; please indicate the signers' titles in the blanks provided and date all signatures.

Agreement No. 08A357 is split 100 %, expenditure amount of $1,493,000 , for federal funds and 0%, expenditure amount of $0.00, for state funds. The related federal assistance program name and number is Highway Planning and Construction (Highway Bill); 20.205. The state program name and SAP fund is N/A; N/A. This paragraph does not affect the costs to the SPONSOR.

Pennsylvania's Transportation Alternatives Program

Agreement No: 08A357
MPMS No: 102757
County: Dauphin
Sponsor: Dauphin County
Municipalities: City of Harrisburg, Susquehanna Township
Project Name: Greenbelt Trail Extension to Fort Hunter

Derivation of Projects Costs (Select One)

_X_ **100% Federal Aid Contribution for all project phases**

Federal-Aid Contribution: [$*1,493,000*] for All Project Phases

____ **80% Maximum Federal Aid/20% Minimum Sponsor Dollars**

Federal-Aid Contribution: [*Enter Amount*]

Sponsor Match: [*Enter Amount*]

Reimbursable Activity	Federal	State	Sponsor	Other	Subtotal
Preliminary Engineering & Environmental Studies	$0	$0	$0	$0	$0
Final Design	$0	$0	$0	$0	$0
Right-of-Way	$0	$0	$0	$0	$0
Utilities	$0	$0	$0	$0	$0
Construction & Inspection	$1,493,000	$0	$0	$0	$1,493,000
Subtotal	$1,493,000	$0	$0	$0	$1,493,000
Total Project Cost					**$1,493,000**

PLANS, SPECIFICATIONS, ESTIMATES AND BID PROPOSAL PACKAGE

A. Plans and Estimates

Title Sheet Mylar or Vellum (for signatures)
All Original Plan Sheets
Engineer's Estimate (D-407)
Federal Estimate
Trainee Calculation

B. Bid Proposal and Specifications (to prospective bidders)
Standard Proposal/Contract Documents

Signatures with certifications or anticollusion affidavits
Bid items with work class codes

C. Special Provisions

Pre-Bid Conference
Award of Contract
Anticipated Notice to Proceed Date
Minority Business Enterprise Program
Equal Employment Opportunity Reporting Requirements
Affirmative Action Requirements Equal Employment Opportunity
Sworn Affidavit
Utilities
Specifications
General Contract Conditions
Public Works

D. Attachments

D-476—Distribution of Contract Time
Notice
Prevailing Minimum Wage, if applicable
PR-47 (only required for projects over $500,000)
F.A.R.—C.A. Required Contract Provisions Federal-Aid Construction Contracts
Notice to Prospective Federal-Aid Construction Contractor
Special Supplement—Anti-Pollution Measures

AUDIT CLAUSE TO BE USED IN AGREEMENTS WITH SUBRECIPIENTS RECEIVING FEDERAL AWARDS FROM THE COMMONWEALTH

SINGLE AUDIT REPORT REQUIREMENTS.

The [NAME OF SUBRECIPIENT] must comply with all federal and state audit requirements including: *The Single Audit Act Amendments of 1996*; *Office of Management and Budget, Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, (OMB Circular A-133) as amended*; and any other applicable law or regulation, and any amendment to such other applicable law or regulation which may be enacted or promulgated by the federal government.

If the [NAME OF SUBRECIPIENT] is a local government or non-profit organization and expends total federal awards of $500,000 or more during its fiscal year, received either directly from the federal government or indirectly from a recipient of federal funds, the [NAME OF SUBRECIPIENT] is required to have an audit made in accordance with the provisions of *OMB Circular A-133*.

If the [NAME OF SUBRECIPIENT] is a local government or non-profit organization and *expends total federal awards of* $500,000 or more during its fiscal year **under one federal program**, received either directly from the federal government or indirectly from a recipient of federal funds, the [NAME OF SUBRECIPIENT] can submit a program-specific audit in lieu of a single audit in accordance with the provisions of *OMB Circular A-133*.

If the [NAME OF SUBRECIPIENT] expends total federal awards of less than $500,000 during its fiscal year, it is exempt from these audit requirements, but is required to maintain auditable records of federal awards and any state funds which supplement such awards, and to provide access to such records by federal and state agencies or their designees.

If the [NAME OF SUBRECIPIENT] is a for-profit entity, it is not subject to the auditing and reporting requirements of *OMB Circular A-133*. However, the pass-through commonwealth agency is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract and post-award audits. The post-award audits may be in the form of a financial audit in accordance with *Government Auditing Standards*, a single audit report or program-specific audit report in accordance with *OMB Circular A-133*. However, these post-award audits must be submitted directly to the affected commonwealth agency that provided the funding. Only single audit reports for local governmental and non-profit subrecipients are electronically submitted to the Office of the Budget, Office of Comptroller Operations, Bureau of Audits.

COMPONENTS OF THE SINGLE AUDIT REPORTING PACKAGE.

The [County of Dauphin] must submit an electronic copy of the audit report package to the commonwealth, which shall include:

1. Auditor's reports

a. Independent auditor's report on the financial statements, which expresses an opinion on whether the financial statements are presented fairly in all material respects in conformity with the stated accounting principles.

b. Independent auditor's report on the supplementary Schedule of Expenditures of Federal Awards (SEFA), which expresses an opinion on whether the SEFA is presented fairly in all material respects in relation to the financial statements taken as a whole. This report can be issued separately or combined with the independent auditor's report on the financial statements.

c. Report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with *Government Auditing Standards*.

d. Report on compliance for each major program and report on internal control over compliance.

e. Schedule of findings and questioned costs.

2. Financial statements and notes to the financial statements

3. SEFA and notes to the SEFA

a. All single audit reporting packages must contain a SEFA prepared by the subrecipient, not the subrecipient's auditor. In accordance with
§____.310(b) of *OMB Circular A-133*, all SEFAs, at a minimum, shall:

(1) List individual federal programs by federal agency. For federal programs included in a cluster of programs, list individual programs within a cluster of programs. For research and development (R&D), the total federal awards expended shall be shown either by individual award or by federal agency and major subdivision within the federal agency;

(2) For federal awards received as a subrecipient, include the name of the pass-through entity and the identifying number assigned by the pass- through entity;

(3) Provide the total federal awards expended for each individual federal program and the CFDA number or other identifying number when the CFDA information is not available;

(4) Include notes that describe the significant accounting policies used in preparing the SEFA;

(5) For federal awards received as a pass-through entity, identify, to the extent practical, the total amount provided to subrecipients from each federal program;

(6) Include, in either the SEFA or a note to the SEFA, the value of federal awards expended in the form of noncash assistance, the amount of insurance in effect during the year, and loans or loan guarantees outstanding at year end.

b. In addition to the requirements of *OMB Circular A-133*, single audit reporting packages containing federal funding passed through a commonwealth agency must include the following components in the SEFA as required by the pass through agency:

(1) A breakdown of federal funds passed through the commonwealth, by federal grantor, CFDA number, CFDA name and state program name (if different from CFDA name), state program year, and state contract number (if applicable);

(2) Contract period beginning and ending dates for federal funds passed through each commonwealth agency, by contract;

(3) Program or award amount for each commonwealth agency, by contract;

(4) Total received during the year for each commonwealth agency, by contract;

(5) Accrued or deferred revenue at the beginning of the year for each commonwealth agency, by contract;

(6) Revenue recognized during the year for each commonwealth agency, by contract;

(7) Accrued or deferred revenue at the end of the year for each commonwealth agency, by contract.

4. Schedule of Findings and Questioned Costs

5. Summary schedule of prior audit findings

6. Corrective action plan (if applicable)

7. Data collection form

8. Management letter (if applicable)

In instances where a federal program-specific audit guide is available, the audit report package for a program-specific audit may be different and should be prepared in accordance with the appropriate audit guide, *Government Auditing Standards*, and *OMB Circular A-133*.

SUBMISSION OF THE AUDIT REPORT

The Office of the Budget, Office of Comptroller Operations, Bureau of Audits accepts **only** electronic submissions of single audit/program-specific audit reporting packages. Instructions and information regarding submission of the single audit/program-specific audit reporting package are available to the public on Single Audit Submissions page of the Office of the Budget website (http://www.budget.state.pa.us).

AUDIT OVERSIGHT PROVISIONS.

The [County of Dauphin] is responsible for obtaining the necessary audit and securing the services of a certified public accountant or independent governmental auditor.

The commonwealth reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial or performance nature, if deemed necessary by commonwealth or federal agencies. Any such additional audit work will rely on work already performed by the [County of Dauphin]'s auditor and the costs for any additional work performed by the federal or state agencies will be borne by those agencies at no additional expense to the [NAME OF SUBRECIPIENT].

Audit documentation and audit reports must be retained by the [County of Dauphin's auditor for a minimum of five years from the date of issuance of the audit report, unless the County of Dauphin]'s auditor is notified in writing by the commonwealth, the cognizant federal agency for audit, or the oversight federal agency for audit to extend the retention period. Audit documentation will be made available upon request to authorized representatives of the commonwealth, the cognizant federal agency for audit, the oversight federal agency for audit, the federal funding agency, or the Government Accountability Office.

FEDERAL NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY CLAUSES (All Federal Aid Contracts)* (1-76)

1. **Selection of Labor:** During the performance of this contract, the contractor shall not discriminate against labor from any other State, possession or territory of the United States.

2. **Employment Practices:** During the performance of this contract, the contractor agrees as follows:

   a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by the State highway department setting forth the provisions of this nondiscrimination clause.

   b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

   c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway department advising the said labor union or workers' representative of the contractors commitments under section 2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

   d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.

   e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

   f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

   g. The contractor will include the provisions of Section 2 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Federal Highway Administration, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

3. **Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment:** During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

a. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations) which are herein incorporated by reference and made a part of this contract.

b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in the Regulations.

c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontract or supplier shall be notified by the contract of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex or national origin.

d. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State highway department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

   (1) withholding of payments to the contractor under the contract until the contractor complies, and/or
   (2) cancellation, termination or suspension of the contract, in whole or in part.

f. Incorporation of Provisions: The contractor shall include the provisions of this paragraph 3 in every subcontract, including procurements of materials and leases of equipment, unless except by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the State highway department or the Federal Highway Administration my direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State highway department or enter into such litigation to protect the interest of the State, and , in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Wherever hereinabove the word "contractor" is used, it shall also include the word engineer, consultant, researcher, or other entity (governmental, corporate, or otherwise), its successors and assigns as may be appropriate.

*Not to be used if otherwise included in Construction or Appalachian Contract Provisions.

January 29, 2001

Disadvantaged Business Enterprise & Small Business Concern Involvement

The Commonwealth of Pennsylvania is committed to providing opportunities for Disadvantaged Business Enterprises and small business concerns to compete for work. Small business concerns are those entities seeking to participate in Commonwealth contracts that meet the definition of a small business concern set forth in Section 3 of the Small Business Act and Small Business regulations implementing it at 13 C.F.R. Part 21. Contractors are encouraged to involve Disadvantaged Business Enterprises and small business concerns in the required work and to submit documentation of any such involvement in the proposal/project.

Prequalification Exempt

1. POLICY

A. The Pennsylvania Department of Transportation (PennDOT) does not discriminate on the basis of race, color, national origin or sex. It is the policy of PennDOT and the United States Department of Transportation that Disadvantaged Business Enterprises (DBEs) be given the opportunity to participate in the performance of contracts financed, in whole or in part, with federal funds.

B. The requirement of 49 CFR 26 apply to this contract.

C. Only DBE firms certified by PennDOT count toward the DBE Goal.

2. DEFINITIONS

A. Disadvantaged Business Enterprise or DBE means a for-profit small business concern:

1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

B. Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in § 26.65(b).

C. Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

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

D. DBE Goal means the amount of DBE participation stated by PennDOT in the proposal. This DBE Goal is stated in terms of total project cost and is based on the project's potential for subcontracted work and the availability of DBEs to perform such subcontract work.

E. Certified DBE means those firms certified by PennDOT's Bureau of Equal Opportunity. Refer to PennDOT's Disadvantaged Business Enterprise Directory. For information regarding DBE Certification, please see our web site at www.dot.state.pa.us or contact the Bureau's DBE Division at 1-800-468-4201 or (717) 787-5891.

3. FAILURE TO COMPLY WITH DBE REQUIREMENTS

A. Failure of a bidder to meet the DBE Goal and failure to provide a verifiable "good faith effort" in a response to the proposal will result in rejection of the bid. Furthermore, if PennDOT does not approve the "good faith effort," the bid will be rejected.

B. Failure by a prime contractor and subcontractors to carry out the DBE requirements constitutes a breach of contract and may result in termination of the contract or action as appropriate.

C. Upon completion of the project, PennDOT will review the actual DBE expenditures to determine compliance with the DBE Goal. If the DBE Goal is not met, written explanation from the contractor will be reviewed by PennDOT. If the shortfall in meeting the DBE Goal is determined to be unjustified and unwarranted, PennDOT may impose sanction as appropriate.

D. Failure to comply with any DBE requirements may result in termination of the contract, being barred from bidding on PennDOT contracts for up to three years, or any other remedy, as PennDOT deems appropriate.

4. PROCEDURES

A. In response to the proposal, the bidder must make a "good faith effort" to subcontract a portion of the project work to a certified DBEs. This portion should be equal to or greater than the DBE Goal stated in the proposal. Efforts to subcontract work include but are not limited to:

1) Efforts made to solicit through all reasonable and available means (e.g. use of the DBE Directory, attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must provide written notification, at least 15 calendar days prior to the bid due date, to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
2) Efforts made to select portions of the work to be performed by DBEs in order to increase the likelihood that the DBE Goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
3) Efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
4) Efforts made to negotiate in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the

available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE Goal, as long as such costs are reasonable. Also, the ability or desire of a bidder to perform the work of a contract with its own work force does not relieve the bidder of the responsibility to make good faith efforts. Bidders are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

5) Failure to accept DBE as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the DBE Goal.
6) Efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
7) Efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
8) Efforts to effectively use the Department's DBE Supportive Services Contractors, services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

B. The bidder is prohibited from requiring any DBE to agree not to provide subcontracted effort to other bidders

C. The bidder must submit Form(s) EO-380 meeting the DBE Goal, indicating the name of the DBE(s), contact person, phone number, PennDOT DBE Certification Number, expiration date, and a narrative description of the service to be provided by the DBE(s)

D. with the bid. Failure to submit Form EO-380 with the bid will result in the rejection of the bid.

E. If a DBE cannot be located or if the percent of bid allocated to the DBE(s) is less than the DBE Goal, the bidder must provide a "good faith effort" in as mentioned Section 4-A, with the bid. Failure to submit the "good faith effort," if required, will result in the rejection of the bid. The "good faith effort" must explain and document the effort made by the bidder to obtain DBE participation. Documentation must be verifiable and must include:

1) The names, addresses and phone numbers of DBEs, DBE assistance agencies and general circulation media who were contacted, the dates of initial contact and the follow-up efforts made by the prime contractor;
2) A description of the information provided to the DBE, DBE assistance agency or general circulation media to define the work to be performed;
3) Documentation of the reasons why any DBE contacted would not agree to participate.

F. If the low bid contains a "good faith effort" because the low bidder failed to meet the established DBE Goal, PennDOT will review the "good faith effort" provided. If the "good faith effort" is deemed to be satisfactory, the "good faith effort" will be approved. In such a case the contractor shall continue a "good faith effort" throughout the life of the contract to increase the DBE participation to meet the contract DBE Goal. If PennDOT cannot accept the "good faith effort" submitted by the low bidder, the bid will be considered non-responsive and PennDOT will notify the low bidder that the bid is rejected.

G. Any low bid that does not meet the DBE Goal and does not provide a "good faith effort" which identified DBEs, DBE referral/assistance agencies and others, who were contacted, will be rejected without review. Use of a DBE certified by others and not by PennDOT, use of a DBE whose certification has expired or cannot be confirmed by PennDOT's Bureau of Equal Opportunity, or statements that the DBE Goal will be met after a contractor is awarded a contract are unacceptable and will result in rejection of bid.

H. The prime contractor shall include the Disadvantaged Business Enterprise Requirements in all subcontracts. Subcontractors must conform to the intent of these requirements.

I. If it becomes necessary to replace a DBE subcontractor during the contract, make a "good faith effort" to re-contract the same or other work with another certified DBE firm. Such an effort must include:

1) Alert PennDOT immediately and document the problem in writing;
2) Contact available DBE referral sources and individual qualified DBEs in an effort to re-contract work to fulfill the DBE Goal stated in the proposal; and
3) Provide PennDOT with a revised form(s) EO-380 and additional "good faith effort" information if the original DBE Goal is not met, by the close of business of the 7th calendar day of PennDOT's receipt of written notice of the need to replace a DBE.

J. Inform PennDOT, in writing, of any situation in which payments are not made to the DBE Subcontractor as required by the subcontract.

K. Keep records necessary for compliance with DBE utilization obligations by indicating:

1) The number of DBE and non-DBE subcontractors and the type of work, materials or services performed in the project;
2) Efforts to secure DBE firms and individual whenever a subcontractor is contemplated during a contact;
3) Documentation of all communication to obtain the services of DBEs on a project;
4) The amounts paid to DBEs by invoice period.

L. Upon completion of a DBE's work, the prime contractor must submit a certification of the actual amount paid to the DBE. If the actual amount paid is less than the amount of

the subcontract, an explanation is required and subject to the review and action of PennDOT.

5. COUNTING DBE PARTICIPATION

A. If the contractor submitting the bid and serving as prime contractor is a certified DBE, count the dollar amount of the work to be performed by the DBE toward the DBE Goal.

B. If the materials or supplies are purchased from a DBE supplier performing as regular dealer, count 60 percent of the cost of the materials or supplies toward DBE Goal. A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

C. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE Goal. A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

D. Count toward the DBE Goal 100% of expenditures of DBE services including professional, technical consultant or managerial services. Count fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract.

E. Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks its owns, insures, and operates using drivers it employs.

4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

5) The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.

6) For purposes of this paragraph (E), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

F. Any services to be performed by a DBE are required to be project related. The use of DBEs is in addition to all other equal opportunity requirements of the contract.

DBE Special Requirements—Engineering

The engineer shall attain the Disadvantaged Business Enterprise goal that applies to the total cost of the agreement and all supplements thereto, or in the alternative a showing of good faith effort by the engineer shall be made. Documentation of good faith effort shall be made by the engineer and subject to the concurrence of the Department.

The following is a list of types of actions that should be considered as part of the engineer's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The engineer must solicit this interest within sufficient time to allow the

DBEs to respond to the solicitation. The engineer must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

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

(2) A engineer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a engineer's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime to perform the work of a contract with its own organization does not relieve the engineer of the responsibility to make good faith efforts. Primes are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The firm's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the firm's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or firm.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

June 17, 2010

(Revised March 4, 2011)

CONTRACTOR INTEGRITY PROVISIONS

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth procurement process.

In furtherance of this policy, Contractor agrees to the following:

1. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting with the Commonwealth.

2. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.

3. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the *Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; and the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.*, or to breach any other state or federal law or regulation.

4. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.

5. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.* or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.

6. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.

7. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.

8. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.

9. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104*, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:

a. Approved in writing by the Commonwealth prior to its disclosure; or

b. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or

c. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or

d. Necessary for purposes of Contractor's internal assessment and review; or

e. Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or

f. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain: or

g. Otherwise required by law.

10. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

a. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

b. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:

(1) obtaining;

(2) attempting to obtain; or

(3) performing a public contract or subcontract.

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

c. Violation of federal or state antitrust statutes.

d. Violation of any federal or state law regulating campaign contributions.

e. Violation of any federal or state environmental law.

f. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.

g. Violation of the *Act of June 2, 1915 (P.L.736, No. 338)*, known as the *Workers' Compensation Act,* 77 P.S. 1 *et seq*.

h. Violation of any federal or state law prohibiting discrimination in employment.

i. Debarment by any agency or department of the federal government or by any other state.

j. Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

11. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by *Section 1641* of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

a. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars ($1,000) by any individual during the preceding year; or

b. Any employee or members of his immediate family whose political contribution exceeded one thousand dollars ($1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

12. Contractor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and must be reported.

13. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or Commonwealth Inspector General in writing.

14. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract.

15. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.

16. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

17. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph 17.

a. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through a act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.

b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.

c. "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.

d. "Financial interest" means:

(1) Ownership of more than a five percent interest in any business; or

(2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

e. "Gratuity" means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor's Code of Conduct, Executive Order 1980-18*, the *4 Pa. Code §7.153(b)*, shall apply.

f. "Immediate family" means a spouse and any unemancipated child.

g. "Non-bid basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

h. "Political contribution" means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

PROVISIONS CONCERNING *THE AMERICANS WITH DISABILITIES ACT*

During the term of this contract, the Contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq.*, The Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract. As a condition of accepting and executing this contract, the Contractor agrees to comply with the "*General Prohibitions Against Discrimination," 28 C.F.R. § 35.130*, and all other regulations promulgated under *Title II* of *The Americans With Disabilities Act* which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

2. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of paragraph 1.

October 25, 2010

Contractor Responsibility Provisions

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

1. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.

2. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

4. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

5. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

6. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at **http://www.dgs.state.pa.us/** or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138

July 3, 2003

LOBBYING CERTIFICATION FORM

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure of Lobbying Activities, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under *Section 1352, Title 31, U. S. Code.* Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than **$100,000** for such failure.

SIGNATURE: _____

TITLE: Chairman

DATE: 1/14/15

Contract Provisions – Right to Know Law

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.

b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:

1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and

2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006 – GRANTEE INFORMATION

1. Registration and Identification Information

Grantee must maintain current registration in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded pursuant to this agreement. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.

Grantee must provide its assigned DUNS number, and DUNS + 4 number if applicable, to the Commonwealth along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides this information.

2. Primary Location

Grantee must provide to the Commonwealth the primary location of performance under the award, including the city, State, and zip+4. If performance is to occur in multiple locations, then Grantee must list the location where the most amount of the grant award is to be expended pursuant to this grant agreement.

Grantee must provide this information to the Commonwealth along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides this information.

3. Compensation of Officers

Grantee must provide to the Commonwealth the names and total compensation of the five most highly compensated officers of the entity **if**--
(i) the entity in the preceding fiscal year received—
(I) 80 percent or more of its annual gross revenues in Federal awards; and
(II) $25,000,000 or more in annual gross revenues from Federal awards: and

(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchanges Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.
If the Grantee does not meet the conditions listed above, then it must specifically affirm to the Commonwealth that the requirements of this clause are inapplicable to the Grantee.
Grantee must provide information responding to this question along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides such information responding to this question.

SAMPLE LETTER OF AMENDMENT

Date

Sponsor Name
ATTN: Contact
Address
City, State Zip

Re: Amendment **(Amendment Letter Designation)**
Agreement # **(08A357)**

Dear **(Mr./Ms. Name)**,

Per the terms of the subject agreement, the Department is willing to amend the terms by increasing the costs in Exhibit "A" and Paragraph **(reference the location in the agreement document)** from **(current dollar amount)** to **(new dollar amount)**. This amendment will become effective once all required signatures are affixed to this document.

We are requesting your concurrence as to the amendment of the above referenced agreement. If you agree to the amendment, please indicate below by checking "Yes," and signing and dating where indicated. Please attach a resolution verifying your authorization to sign this amendment.

Your response is required no later than **(Date)**. Please mail your response to the following address:

PENNDOT
Attn: **Michael C. Lapano**
Engineering District 8-0
2140 Herr Street
Harrisburg, PA. 17105

On behalf of the above-named Sponsor, I agree to the amendment of the above referenced agreement for the _____. I agree to all terms and conditions included in the subject agreement and all previous amendments thereto, if any.

Yes ☐ No ☐

Signature _____ Date _____

Indicate Title: ☐ Chairman ☐ President ☐ Executive Director ☐ Commissioner

or ☐ _____ ***(Indicate title)***

All terms and conditions of the agreement and its amendments (if any) not affected by this letter of amendment remain in full force and effect.

This letter of amendment is not effective until the Office of Comptroller Operations signs and dates this letter of amendment. The Department will forward a copy of the fully executed letter of amendment for your files.

Sincerely,

Name, Title
Organization

Approved for Form and Legality:

_____
for Chief Counsel Date

FOR DEPARTMENT USE ONLY

Encumbrance Information:

SAP Document No. _____
SAP Fund _____
SAP Cost Center _____
GL Account _____
Renewal Amount: $_____

_____
Comptroller Signature Date

Contract No._____, is split _____%, expenditure amount of _____ for federal funds and _____%, expenditure amount of _____ for state funds. The related federal assistance program name and number is_____; _____. The state assistance program name and SAP fund is _____; _____.

SAMPLE LETTER OF ADJUSTMENT

Date

Sponsor Name
ATTN: Contact
Address
City, State Zip

Re: Adjustment **(Adjustment Letter Designation)**
Agreement # **(Contract Number)**

Dear **(Mr./Ms. Name)**,

Per the terms of the subject agreement, the Department will redistribute the costs in Exhibit "A", with no change in the total Project costs, by increasing/decreasing the costs of the phases within the project as shown below.

	Current Phase Costs	New Phase Costs
Final Design	$	$
Utilities	$	$
Right-of-Way	$	$
Construction	$	$
Department-Incurred Costs	$	$
TOTAL PROJECT COST	$	$

All terms and conditions of the agreement and its amendments (if any) not affected by this letter of adjustment remain in full force and effect.

If you have any concerns of the redistribution of costs, please contact us within ten (10) days of this notice; otherwise, the redistribution will be processed as detailed above.

This letter of adjustment is not effective until the Office of Comptroller Operations signs and dates this letter of adjustment. The Department will forward a copy of the fully executed letter of adjustment for your files.

Sincerely,

Name, Title

FOR DEPARTMENT USE ONLY

Encumbrance Information:

SAP Document No. _____
SAP Fund _____
SAP Cost Center _____
GL Account _____
Renewal Amount: $_____

_____
Comptroller Signature Date
Date

Organization

Contract No._____, is split _____%, expenditure amount of _____ for federal funds and _____%, expenditure amount of _____ for state funds. The related federal assistance program name and number is_____; _____. The state assistance program name and SAP fund is _____; _____.

MAINTENANCE ACTIVITIES

[To be used where project improvements are not located within either local or state right-of-way]

GUIDELINES TO PREPARING
MUNICIPAL METHOD OF
MAINTENANCE OPERATION AND SERVICES

1. The MUNICIPALITY must provide for the proper maintenance of all completed project(s) under its jurisdiction. To comply with this federal requirement, the MUNICIPALITY shall establish or maintain a functional traffic engineering unit throughout the design life of all project(s).

2. A functional traffic engineering unit consists of, at a minimum:

   (a) A competent and qualified traffic engineer; and

   (b) A maintenance staff with at least one licensed electrician skilled in the operation and repair of traffic signal equipment.

3. To be considered capable of effectively maintaining completed project(s), the municipal maintenance staff must be provided with the proper equipment and materials necessary, at a minimum, to:

   (a) Repair and replace worn out or damaged signal equipment;

   (b) Install new and replace damaged or obsolete traffic signs; and

   (c) Install or replace paint and thermoplastic pavement markings.

4. The MUNICIPALITY should evaluate its present and proposed organizational charts to determine if the MUNICIPALITY is capable of providing a functional traffic engineering unit within their government. Guidelines for considering the inclusion of a functional traffic engineering unit have been published by the Institute of Traffic Engineers ("ITE"), and should be reviewed by MUNICIPALITY in evaluating their organizational chart. The ITE guidelines make reference to the Model Traffic Ordinance (*Uniform Vehicle Code and Model Traffic Ordinance*, published by the National Committee on Uniform Traffic Laws and Ordinances) as being the best method of providing the legal basis for establishing a traffic engineering function.

5. If the MUNICIPALITY is unwilling or unable to provide the traffic engineering function from within its organization, the MUNICIPALITY has the option of contracting with an outside agent or agency for the required traffic engineering expertise and maintenance.

6. Functional Traffic Engineering Unit Method.

(a) In preparing to comply with this Exhibit, the MUNICIPALITY must select one of the following methods for providing a functional traffic engineering unit:

(i) Municipal Traffic Engineer and Municipal Maintenance Staff.

(ii) Contractual Traffic Engineer and Municipal Maintenance Staff.

(iii) Contractual Traffic Engineer and Contractual Maintenance Staff.

(iv) Municipal Traffic Engineer and Contractual Maintenance Staff.

(b) Depending on which method is chosen, the guidelines for the functional traffic engineering unit shall include, but not be limited to, the following:

(i) **Municipal Traffic Engineer**:

(1) A brief description of educational background and work experience including the length of employment as Municipal Traffic Engineer;

(2) A description of duties assigned and powers delegated to the Municipal Traffic Engineer under municipal ordinance; and

(3) A municipal organizational chart showing the Traffic Engineer's position in the hierarchy of municipal government.

(ii) **Municipal Maintenance Staff:**

(1) The number of employees permanently assigned to this function and the number which may be assigned on a temporary basis;

(2) A brief description of the organization of the staff, including the length of time that it has been in existence; and

(3) A clear demonstration of the maintenance staff's ability to properly maintain and repair traffic signal equipment.

(iii) **Contractual Traffic Engineer:**

(1) The MUNICIPALITY's assurance that the Contractual Traffic Engineer hired is qualified and competent in all aspects of traffic engineering; and

(2) It will not be necessary to include the name and professional background of the individual or organization.

(iv) **Contractual Maintenance Staff**:

(1) A brief description of the organization to be hired, including a history of its experience in this field; and

The MUNICIPALITY's assurance that the organization is capable of properly maintaining and repairing traffic signal equipment and that it has adequate staff available in case of emergency

Required Traffic Controls and Parking Regulations

1. The traffic controls and parking regulations necessary to be maintained on each project must be clearly outlined by COMMONWEALTH and agreed upon by MUNICIPALITY prior to physical construction.

2. The MUNICIPALITY agrees to maintain and enforce the traffic controls and parking regulations set forth below and to adopt any resolutions necessary for the accomplishment of same. If MUNICIPALITY fails to provide a functional traffic engineering unit within its own organization, it is understood that prior COMMONWEALTH and/or FHWA approval will be required for changes to the controls and regulations listed. Prior approval will not be required for the following:

   (a) Expansion of the time restriction for "No Parking" beyond that which is specified.

   (b) Erection of warning sign, painted crosswalks and other traffic control devices not specified below as long as they conform to the requirements in the 1971 edition of the Manual on Uniform Traffic Control Devices and do not require the Secretary's approval as specified in the Vehicle Code.

3. The traffic controls and parking regulations that must be maintained by the MUNICIPALITY are as follows:

(See attached for format)

PROJECT LIMITS	PARKING RESTRICTIONS (use station numbers if feasible)	LOADING RESTRICTIONS	BUS STOP LOCATIONS	TURN PROHIBITION	Signalized Intersection (specify # of phases and of operation)