

**DIRT, GRAVEL AND LOW-VOLUME ROAD MAINTENANCE
PROGRAM AGREEMENT**

This Dirt, Gravel and Low-Volume Road Maintenance Program Agreement is entered into by and between the Commonwealth of Pennsylvania (“Commonwealth”), through the Department of Agriculture (“Department”) and the State Conservation Commission (“Commission”), with their principal offices located at 2301 N. Cameron Street, Harrisburg, PA 17110, and the _____ Conservation District, with its principal offices located at _____ (“District”).

WITNESSETH:

WHEREAS, section 9106 of the Vehicle Code (75 Pa.C.S. § 9106) has established the Dirt, Gravel and Low-Volume Road Maintenance Program to provide a dedicated and earmarked mechanism of funding the safe, efficient and environmentally sound maintenance and improvement of dirt, gravel and low-volume state and municipal roads (“Program”);

WHEREAS, the State Legislature has directed that funds in the amount of \$28,000,000.00 shall be appropriated annually to the Commission and administered in a non-lapsing, non-transferable account restricted to maintenance and improvement of dirt, gravel and low-volume State and municipal roads;

WHEREAS, the Commission annually apportions these funds to county conservation districts based upon the apportionment criteria in subsection (c) of section 9106 of the Vehicle Code to fund projects at the county level that will fulfill the purpose of the Program; and

WHEREAS, the District wishes to conduct projects for the maintenance and improvement of dirt, gravel and low-volume roads within _____ County;

NOW THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

**ARTICLE I
GENERAL CONDITIONS**

- 1.1. **Term, Effective Date.** The term of this Agreement shall be for five years, beginning on July 1, 2018 and ending on June 30, 2023. This Agreement shall become effective on the date of the last required Commonwealth signature.
- 1.2. **Payment for Program Activities.** Upon full execution of this Agreement, the Commission may pay for expenditures for work pursuant to project contracts entered into by the District between July 1, 2018 through June 30, 2023. All project work pursuant to project contracts entered into during the term of this Agreement shall be completed, and expenditures for such work paid by the Commission to the District, no later than June 30, 2024.
- 1.3. **Spending of Funds.** All funds apportioned to the District under this Agreement and budgeted by the District shall be spent by the District pursuant to project contracts for

road maintenance work that meets the requirements of the Program. Unless waived by the Commission, all funds apportioned to the District annually must be spent within 24 months from the date the State budget is approved for that fiscal year, but not later than June 30, 2024, or the funds will revert back to the control of the Commission for future apportionments, or the District may, at the discretion of the Commission, be ineligible for future allocations, or the amount of such funds may be deducted from any future apportionment to the District.

- 1.4. **Requirements for Operation of Program.** All projects funded under the Program shall be conducted in accordance with the Commission's then-current (1) Statement of Policy, and (2) Administrative Guidance Manual, as those documents may be amended from time to time, which will be published on the website of the Center for Dirt and Gravel Road Studies at: <https://www.dirtandgravel.psu.edu/>.
- 1.5. **No Personal Financial Benefit.** No District director, Quality Assurance Board member, or District employee, Commission member, or staff of the Commission shall, as a result of this Program, be permitted to obtain financial benefits for himself/herself, an immediate family member, or a business with which he/she is associated. This shall not preclude the payment of normal salary and benefits to employees provided in their normal course of employment of any of the above individuals.

ARTICLE II APPORTIONMENT AND USE OF FUNDS

- 2.1. **Apportionment of Funds.** Contingent upon the availability of funds, the Commission shall apportion funds to participating Districts at least annually based upon the apportionment criteria in subsection (c) of section 9106 of the Vehicle Code without the need to amend this Agreement.
- 2.2. **Apportionment Allocation Worksheet.** After the funds have been encumbered and approved by the Comptroller for each fiscal year, the Commission shall provide the District an Apportionment Allocation Worksheet showing the total allocation and the working capital advance payment available to the District for that fiscal year.
- 2.3. **Notice of Allocation.** The Commission shall publish notification of all funds apportioned to participating Districts under the Program on the website for the Center for Dirt and Gravel Road Studies at: <https://www.dirtandgravel.psu.edu/>.
- 2.4. **Transfer of Funds.** The Commission shall transfer funds to participating Districts in a manner consistent with Section 9106 of the Vehicle Code and the Commission's Statement of Policy and Administrative Guidance Manual.
- 2.5. **Administrative Costs.** The District may utilize up to 10% of the total apportioned funds received from the Commission for administrative costs, limited to actual documented costs as defined by the Commission.

- 2.6. **Training and Education.** The District may utilize up to 10% of the total apportioned funds for training grants and educational purposes at the county level. The Commission may change the allowable percentage of total apportioned funds that may be utilized for training grants and educational purposes at the county level without the need to amend this Agreement.
- 2.7. **Statewide Education and Training Program.** The Commission may provide technical oversight and training to the participating Districts by aggregating and managing up to 10% of the total Program funds for the development and delivery of a coordinated, statewide dirt and gravel road education and training Program.

ARTICLE III
DISTRICT RESPONSIBILITIES AND OBLIGATIONS

- 3.1 **Annual Budget.** The District shall prepare an annual budget for the Program, which is consistent with the Commission’s allocation of funds to the District.
- 3.2 **Supervision of Program.** The District shall exercise direct supervision over the Program established within its county and the Quality Assurance Board impaneled to administer the Program pursuant to 75 Pa.C.S. § 9106(e).
- 3.3 **Compliance with Laws.** The District shall conduct the Program in accordance with Section 9106 of the Vehicle Code, with all other standards and conditions established by the Commission and the District’s Quality Assurance Board, and in compliance with all applicable Federal, State, and local statutes, ordinances, rules, and regulations.
- 3.4 **Retention of Records and Documents.** The District shall retain and make available to the Commission or its agent all financial records, supporting documents, and other records pertaining to Program activities for audit purposes for a period of three years after final payment is made, the Agreement has expired, or all other pending matters are resolved, whichever is longer.
- 3.5 **Submission of Reports.** The District shall submit all Program accomplishment reports, financial audit statements, and other reports on prescribed forms and at times as specified by the Commission. This includes quarterly reports detailing progress on projects, and quarterly financial statements. The Commission may withhold any Program funds apportioned to the District until receipt of required reports or the completion of all conditions of the Agreement.
- 3.6 **Notification to Commission; Meetings.** The District shall immediately notify the Commission in writing of any unusual development or circumstances which could significantly change or otherwise affect the District’s ability to implement the Program or the responsibilities outlined in this Agreement. The Commission and the District shall meet at the request of either party to discuss the progress of work under this Program and any problems pertinent to it.

- 3.7 **Accounting of Funds.** The District shall maintain a separate accounting of the funds received under the Program. The District shall include an itemized accounting of administrative costs claimed by the District. The District shall deposit funds in a federally insured interest bearing account. Interest earnings from the account shall be applied only to the Dirt, Gravel, and Low Volume Road Maintenance Program.

ARTICLE IV
STANDARD COMMONWEALTH TERMS AND CONDITIONS

- 4.1 **Disputes.** Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Contract that is not resolved by agreement of the parties shall be decided by the Commission or its designee, who shall reduce such decision to writing and mail or otherwise furnish a copy thereof to the District. The decision of the Commission or its designee shall be final and conclusive subject to an appeal taken in accordance with the laws of the Commonwealth. In connection with any appeal proceeding under this Article, the District shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute under this Article, the District shall proceed directly with the performance of the Agreement in accordance with the decision of the Commission or its designee.
- 4.2 **Amendments.** No alteration or modification of the terms of this Agreement shall be valid unless made in writing and signed by the parties, and no oral understanding or agreements not incorporated herein, and no alterations or modifications of the terms in this Agreement shall be binding on the parties unless made in writing and executed by the parties.
- 4.3 **Temporary Suspension.** If, at any time during the term of this Agreement, the approved Program, the Commission determines that the terms and conditions of this Agreement are not materially being met, the Commission may, after 30-day written notice, suspend the District's authority to proceed with work under this Agreement until corrective action has been taken to the satisfaction of the Commission or until the Agreement is terminated and all unspent funds are returned to the Commission.
- 4.4 **Termination.** This Agreement may be terminated by any of the signatory parties upon 30-day written notice to the other parties. Within 10 days of such termination, the District shall release to the Commission all files, records and unspent monies pertaining to this Agreement.
- 4.5 **Liability.** Neither the Commission, the Department, the Commonwealth nor the District assumes any liability for each other. As to liability to each other for injury or death to persons, or damages to property, the Commonwealth and the District do not waive any defenses as a result of entering into this Agreement. This provision shall not be construed to limit the Commonwealth's rights, claims or defenses, which arise as a matter of law pursuant to any provisions of this Agreement. This provision shall not be construed to limit the sovereign immunity of the Commonwealth.

- 4.6 **Assignment.** The District shall not assign any interest in this Agreement, nor shall any interest be transferred by novation or assignment without prior written consent of the Commission.
- 4.7 **Applicable Law.** This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of Pennsylvania courts.
- 4.8 **Additional Compliance Requirements.** The following additional compliance requirements are attached and incorporated into this Agreement. The District shall comply with, and be bound by, the provisions set forth in these attachments:
1. Appendix A – Pennsylvania Electronic Payment Program
 2. Appendix B – Nondiscrimination/Sexual Harassment Clause, with respect to which the District is the “Grantee”
 3. Appendix C – Contractor Integrity Provisions, with respect to which the District is the “Contractor.”
 4. Appendix D – The Americans With Disabilities Act provisions, with respect to which the District is the “Contractor.”
 5. Appendix E – Right-to-Know Provisions, with respect to which the District is the “Grantee.”
 6. Appendix F – Contractor Responsibility/Offset Provisions, with respect to which the District is the “Contractor.”
- 4.9 **No Third-Party Beneficiaries.** The terms and provisions of this Agreement are intended solely for the benefit of each party to this Agreement and their respective successors and permitted assigns, and it is not the intention of the parties to confer third-party beneficiary rights upon any other person.
- 4.10 **No Waiver.** Any forbearance by the Commission or the Department in exercising any right or remedy under this Agreement, or otherwise afforded by applicable law shall not be a waiver of or preclude the exercise of any such right or remedy at any appropriate time.
- 4.11 **Severability.** The provisions of this Agreement shall be severable. If any article, clause or provision of this Agreement, or any part thereof, is declared to be invalid or unenforceable by any tribunal having jurisdiction, such invalidity, or unenforceability shall not affect the validity or enforceability of the remaining portions of this Agreement unless the result would be manifestly inequitable or unconscionable.
- 4.12 **Entire Agreement.** This Agreement, when signed by all of the parties hereto, constitutes the full and complete agreement of all parties and shall not be in any manner interpreted or fulfilled in contradiction of its express terms as provided above.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties have signed this Agreement on the dates indicated below.

Districts, through this Agreement, may choose to receive allocations for both Dirt and Gravel Roads, and Low Volume Roads, or may choose to participate in only one part of the Program:

- Enter into agreement for BOTH “Dirt and Gravel” and “Low Volume” Road funding
- Enter into agreement for “Dirt and Gravel” funding ONLY
- Enter into agreement for “Low Volume” funding ONLY

STATE CONSERVATION COMMISSION

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT AGRICULTURE

Executive Secretary (Date)

Secretary (Date)

Attest:

CONSERVATION DISTRICT

District Secretary/Treasurer (Date)

District Chairman (Date)

Federal ID No. Vendor ID No.

Approved as to legality and form:

Office of Chief Counsel (Date)
Department Agriculture

Office of General Counsel (Date)

Office of Attorney General (Date)

Secretary (Date)
Office of Budget

I hereby certify that funds in the amount of \$_____ are available under
Appropriation: _____

Comptroller (Date)

Doc. #: _____

Appendix A

PENNSYLVANIA ELECTRONIC PAYMENT PROGRAM

- a. *The commonwealth may make contract payments through ACH, upon your election. If you so elect, within 10 days of the grant award, the recipient must submit or must have already submitted its ACH 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. Electronic PEPP enrollment form is available at www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf*
- b. *The recipient must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the recipient to properly apply the state agency's payment to the respective invoice or program.*
- c. *It is the responsibility of the recipient 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*

Appendix B

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

The Grantee agrees:

1. *In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the grant agreement or any subgrant agreement, contract, or subcontract, the Grantee, a subgrantee, a contractor, a subcontractor, or any person acting on behalf of the Grantee shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.*
2. *The Grantee, any subgrantee, contractor or any subcontractor or any person on their behalf shall not in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any of its employees.*
3. *The Grantee, any subgrantee, contractor or any subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the grant services are performed shall satisfy this requirement for employees with an established work site.*
4. *The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the grant relates.*
5. *The Grantee and each subgrantee, contractor and subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Grantee and each subgrantee, contractor and subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to Title VII of the Civil Rights Act of 1964, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Grantee, any subgrantee, any contractor or any subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the granting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for the purpose of ascertaining compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause.*
6. *The Grantee, any subgrantee, contractor or any subcontractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subgrant agreement, contract or subcontract so that those provisions applicable to subgrantees, contractors or subcontractors will be binding upon each subgrantee, contractor or subcontractor.*
7. *The Grantor's and each subgrantee's, contractor's and subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the grant agreement through the termination date thereof. Accordingly, the Grantee and each subgrantee, contractor and subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the grant agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.*

8. The Commonwealth may cancel or terminate the grant agreement and all money due or to become due under the grant agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the granting agency may proceed with debarment or suspension and may place the Grantee, subgrantee, contractor, or subcontractor in the Contractor Responsibility File.

Appendix C

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 contracting and procurement process.

1. DEFINITIONS. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

a. "Affiliate" means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

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 prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.

c. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.

d. "Contractor Related Parties" means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.

e. "Financial Interest" means either:

(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.

f. "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.

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.

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

a. 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 or procurement with the Commonwealth.

b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.

c. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

d. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, 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.

e. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:

- (1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
- (2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
- (3) had any business license or professional license suspended or revoked;
- (4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
- (5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract it becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

f. Contractor shall comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.) regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a).

g. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity 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 the Office of the State Inspector General in writing.

h. 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, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the 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. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

i. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an 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 Office of the State 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 refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.

j. 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.

**Appendix D
AMERICANS WITH DISABILITIES ACT**

During the term of this agreement, 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 agreement or from activities provided for under this agreement. As a condition of accepting and executing this agreement, 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 through contracts with outside contractors.

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

**Appendix E
RIGHT TO KNOW LAW - GRANT PROVISIONS - 8-K-1580, 2/1/2010**

a. Grantee or Subgrantee understands that this Grant Agreement and records related to or arising out of the Grant Agreement are subject to requests made pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL"). For the purpose of these provisions, the term "the Commonwealth" shall refer to the granting Commonwealth agency.

b. If the Commonwealth needs the Grantee's or Subgrantee's assistance in any matter arising out of the RTKL related to this Grant Agreement, it shall notify the Grantee or Subgrantee using the legal contact information provided in the Grant Agreement. The Grantee or Subgrantee, 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 Grantee's or Subgrantee's assistance in responding to a request under the RTKL for information related to this Grant Agreement that may be in Grantee's or Subgrantee's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), Grantee or Subgrantee 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 Grantee's or Subgrantee's possession arising out of this Grant Agreement 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 Grant Agreement.

d. If Grantee or Subgrantee 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 Grantee or Subgrantee considers exempt from production under the RTKL, Grantee or Subgrantee must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of Grantee or Subgrantee explaining why the requested material is exempt from public disclosure under the RTKL.

e. The Commonwealth will rely upon the written statement from Grantee or Subgrantee 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, Grantee or Subgrantee shall provide the Requested Information within five (5) business days of receipt of written notice of the Commonwealth's determination.

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

g. The Commonwealth will reimburse Grantee or Subgrantee 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. Grantee or Subgrantee 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, Grantee or Subgrantee 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 Grantee's or Subgrantee's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, Grantee or Subgrantee 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 Grantee's or Subgrantee's duties relating to the RTKL are continuing duties that survive the expiration of this Grant Agreement and shall continue as long as the Grantee or Subgrantee has Requested Information in its possession.

Appendix F

Contractor Responsibility/Offset 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

Offset Provision

The Contractor agrees that the Commonwealth of Pennsylvania (Commonwealth) may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the contractor under any contract with the Commonwealth.