

EFFECTIVE DATE 11-15-16  
SPONSOR City of Pittsburgh  
Equipment Leasing Authority

AGREEMENT NO. 3900038064  
FEDERAL ID NO. 25-6000879  
SAP VENDOR NO. 158975  
MPMS NO. TBD

**MULTIMODAL FUND GRANT/REIMBURSEMENT AGREEMENT  
FOR DURABLE PAVEMENT MARKING CAPITAL EQUIPMENT**

THIS AGREEMENT is made and entered into by and between the PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION ("PennDOT"),

and

The CITY OF PITTSBURGH EQUIPMENT LEASING AUTHORITY, Allegheny  
County ("the AUTHORITY"), a municipal authority duly and properly formed under the laws of  
the Commonwealth of Pennsylvania, with offices located at 414 Grant Street, Room 526,  
Pittsburgh, PA 15219.

**WITNESSETH:**

WHEREAS, Act 89 of 2013, enacted November 25, 2013, amended various sections of  
Title 74 (Transportation) of the Pennsylvania Consolidated Statutes and added Chapter 21  
(Multimodal Fund); and,

WHEREAS, 74 Pa. C.S. § 2102 established a new funding source, the Multimodal  
Transportation Fund ("MTF"), to provide grants to be administered by PennDOT for programs  
related to highway and bridge projects; and,

WHEREAS, the City of Pittsburgh (the "CITY") submitted a request (the "Application")  
for PennDOT funds from the MTF in an amount not to exceed \$103,028 ("MTF award") for

purchasing two trailer-mounted thermoplastic pre-melting kettles, three thermoplastic handliners, a heavy-duty truck, ancillary equipment and staff training to begin a durable pavement marking program within the CITY ("Project"); and,

WHEREAS, PennDOT, following review of the CITY's Application by the appropriate evaluation committee, in consultation with the chairman and minority chairman of the Transportation Committee of the Senate and the chairman and minority chairman of the Transportation Committee of the House of Representatives, has confirmed that the CITY is an eligible applicant requesting a grant for an eligible project; and,

WHEREAS, PennDOT, following review of the CITY's Application on a competitive basis, has confirmed the selection of its Project, for funding under the MTF; and,

WHEREAS, the AUTHORITY, as the title holder for all CITY vehicles and other major pieces of equipment operated by the CITY, will be responsible for acquisition of the equipment that constitutes the Project; and,

WHEREAS, because of the AUTHORITY's role with respect to the Project, the CITY, by letter dated August 15, 2016, requested that PennDOT transfer the MTF award to the AUTHORITY; and,

WHEREAS, PennDOT, by email response dated August 23, 2016, approved the CITY's request to transfer the award to the AUTHORITY; and,

WHEREAS, the AUTHORITY has signified its willingness to accept PennDOT's MTF award of \$103,028 by signing this Agreement and proceeding with the Project as its Sponsor in accordance with the terms, conditions and provisions contained in this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual promises hereinafter set forth, the parties hereto agree, with the intention of being legally bound

hereby, as follows:

1. INCORPORATION BY REFERENCE

The recitals set forth above are incorporated by reference as a material part of this Agreement.

2. GENERAL PROVISIONS

- (a) The Project cost estimate, attached to and made a part of this Agreement as Exhibit "A," sets forth the items being reimbursed, the estimated costs and the reimbursement percentages.
- (b) Only work begun on the Project after full execution of this Agreement shall be eligible for reimbursement under the terms of this Agreement, unless PennDOT in writing authorizes the AUTHORITY to incur costs before full execution of the Agreement. In the event that PennDOT authorizes the AUTHORITY to incur costs before full execution of the Agreement, any costs incurred prior to that written authorization shall not be eligible for reimbursement.

3. AMENDMENTS AND SUPPLEMENTS

- (a) If the AUTHORITY determines that the costs for any item listed on Exhibit "A" should be revised and redistributed among other line items, and the revisions and redistribution does not result in an increase or decrease in total Project costs or any increase in costs to the AUTHORITY, the AUTHORITY will revise and redistribute such costs by sending PennDOT notification via a letter of adjustment that will include a revised Exhibit "A". PennDOT cannot pay or reimburse the AUTHORITY for the costs of these items until the Office of Comptroller Operations signs and dates the letter of adjustment. The Department's signature is not required for the letter of adjustment to be effective. A sample letter of adjustment is attached as Exhibit "B" and made part of this Agreement.
- (b) If there are changes to any Standard Provisions that need to be addressed, the parties can incorporate those revised and/or updated Standard Provisions by noting the incorporation and attachment of such Standard Provisions to a letter of amendment,

fully executed by the parties. For the purposes of this subparagraph, Standard Provisions consist of those provisions, exhibits 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, and Commonwealth Nondiscrimination. Changes that would otherwise require only a letter of adjustment as detailed in subparagraph (a) will need a letter of amendment if one of these Standard Provisions described herein needs updating. A sample letter of amendment is attached as Exhibit "C" and made part of this agreement.

- (c) All other changes to 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.

#### 4. BIDDING AND AWARD OF CONTRACTS

The AUTHORITY shall prepare the specifications necessary to bid the Project, which shall include, at minimum, item descriptions, quantities, and units; shall advertise for and open bids; and shall award the contract(s) to the lowest responsive and responsible bidder(s), all in accordance with either the Commonwealth Procurement Code, the Municipality Authorities Act or the AUTHORITY's bylaws. If any equipment to be acquired as part of the Project involves a sole source procurement or procurement through a cooperative arrangement with another governmental entity, the AUTHORITY shall ascertain that it has the legal authority to procure items in these manners and shall include a written determination to this effect in the Project file. PennDOT reserves the right to review specifications before advertisement of the Project occurs and to review the bids received before contract award occurs. In addition, the AUTHORITY shall maintain and make available to PennDOT all documentation relevant to the procurement as part of its record-keeping obligation in accordance with Paragraph 12.

#### 5. LAWS TO BE OBSERVED

At all times, AUTHORITY shall observe and comply with all Federal, State, and local laws, ordinances, and regulations that apply to the Project and affect its conduct or that apply to

employees on the Project including, but not limited to, the Steel Products Procurement Act, Act of March 3, 1978, P.L. 6, 73 P.S. §§ 1881 – 1887; the Motor Vehicle Procurement Act, Act of April 4, 1982, P.L. 193, 62 Pa. C.S. §§ 3731 - 3736; and all orders or decrees that have been or may be enacted by any legal bodies or tribunals having authority or jurisdiction over the equipment to be procured, employees, or contracts.

#### 6. APPROVALS AND PERMITS

The AUTHORITY shall secure all necessary approvals, permits and licenses from all other governmental agencies as may be required to complete the Project and utilize the equipment constituting the Project. The AUTHORITY will be the applicant and ultimately the permittee or licensee. At PennDOT's request, the AUTHORITY, prior to advertising and letting the Project, or at any time during the course of the Project, shall furnish PennDOT with evidence of the approvals, permits and licenses.

#### 7. AVAILABILITY OF FUNDS

The AUTHORITY, by executing this Agreement, certifies that it has on hand sufficient funds to meet all of its obligations under the terms of this Agreement. Further, the AUTHORITY, and not PennDOT, shall bear and provide for all costs incurred in excess of those costs eligible for non-federal-aid participation.

#### 8. MATCHING FUNDS

- (a) The AUTHORITY shall match the MTF award with local funding in an amount not less than thirty percent (30%) of the non-federal share of the award costs. In-kind contributions are not permitted to satisfy the local match requirement except as set forth below in subsection (b).
- (b) If PennDOT authorizes the AUTHORITY to incur costs before full execution of this Agreement, as provided above in Paragraph 2(b), costs thus incurred by the AUTHORITY may be used as part of the matching funds if:
  - (i) These costs are directly attributable and reasonable expenses of the Project, subject to review and approval by PennDOT; and
  - (ii) The expenditures are eligible costs of the MTF program; and

- (iii) The expenditures were incurred by the AUTHORITY after November 25, 2013; and
  - (iv) The expenditures meet all MTF program requirements; and
  - (v) The AUTHORITY has provided full documentation of reasonable costs to PennDOT, subject to review and approval by PennDOT; and
  - (vi) The matching funds approved by PennDOT have not been used as project match funds under another funding source or program.
- (c) The AUTHORITY's matching funds, as approved by PennDOT, is set forth in Exhibit "D", which is attached hereto and made part of this Agreement. Any changes to Exhibit "D", which have not been approved in writing by PennDOT, will preclude reimbursement of funds.

## 9. INSPECTION

The AUTHORITY shall inspect the equipment upon delivery to assure that it meets the specifications and shall make necessary arrangements with the contractor(s) to have any equipment that fails to meet specifications returned and replaced at no additional cost. PennDOT will not provide inspection services; however, it reserves the right to have representatives present when the AUTHORITY conducts its inspections.

## 10. PAYMENT PROCEDURES AND RESPONSIBILITIES

- (a) Subject to the terms of this Agreement, PennDOT, from funds allocated for this purpose by the MTF, shall pay the AUTHORITY for a portion of the total allowable Project costs, as detailed in Exhibit "A" by dollar amounts and percentages. The AUTHORITY shall be responsible for the remainder of the total Projects costs, again as detailed in Exhibit "A" by dollar amounts and percentages. This subparagraph shall not preclude the AUTHORITY from reducing the scope of the Project, with the approval of PennDOT, if the costs exceed the available funds. The AUTHORITY shall also be responsible for all costs incurred that are either in excess of those eligible for MTF funding or are otherwise ineligible for MTF funding, including, but not limited to, the following:

- (i) Any and all costs relating to or resulting from changes made to the approved plans or specifications;
  - (ii) Costs resulting from time delays and extensions of time;
  - (iii) Interest for late payments;
  - (iv) Interest incurred by borrowing money;
  - (v) All other unforeseen costs and expenses not included in the estimates of Project costs, but which are directly related to or caused by the planning, development or performance of the Project.
- (b) Payment procedures will be based on a reimbursement basis; and the following procedures shall apply:
  - (i) The AUTHORITY shall submit to PennDOT certified invoices for reimbursement for items listed in Exhibit "A."
  - (ii) The AUTHORITY shall include with the invoices verification of payment of the contractor(s) by means of a copy of the cancelled check or a certified letter from the consultant(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, PennDOT shall approve the invoices for payment.
  - (iv) Upon approval of the invoices, PennDOT shall forward to the Office of Comptroller Operations a cover letter containing the agreement number, and invoice amount, together with a copy of the payment estimate.
  - (v) As MTF funds are made available, PennDOT shall reimburse the AUTHORITY for the proportionate share of the approved charges.
- (c) PennDOT shall not reimburse the AUTHORITY for items purchase in addition to or different from those specifically set forth in Exhibit "A" unless PennDOT has issued prior written approval of the additional or different items. If the AUTHORITY proceeds to purchase such items without PennDOT's prior written

approval, the AUTHORITY does so at its own risk, cost and expense. The AUTHORITY shall not interpret PennDOT's approval as authority to increase the maximum amount of the MTF Award and reimbursement pursuant to this Agreement.

- (d) For services performed by PennDOT, including, but not limited to, all required contract development, liaison and supervisory services, the AUTHORITY shall directly reimburse PennDOT for the AUTHORITY's share of PennDOT's incurred costs. The estimated cost of these services and the AUTHORITY's share, by dollar amounts and percentages, are set forth in Exhibit "A."
- (e) PennDOT shall invoice the AUTHORITY on a monthly basis for those costs set forth in subparagraph (d). If the AUTHORITY fails to reimburse PennDOT within forty-five (45) days, the AUTHORITY shall be in default of payment; and PennDOT shall take necessary action to address the default.
- (f) The AUTHORITY shall submit its final invoices for payment or reimbursement, as the case may be, of the items set forth in subparagraph (a) to PennDOT within nine (9) months of the acceptance of the Project. If the AUTHORITY fails to submit its final invoices within this nine- (9-) month period, it may forfeit all remaining MTF financial participation in the Project.

#### 11. EXCESS FUNDS REMAINING UPON COMPLETION OF PROJECT

In the event excess funds remain from the MTF award after completion of the Project, said funds will remain in the MTF for future awards.

#### 12. RECORDS

The AUTHORITY shall maintain, and shall require its consultant(s) and contractor(s) 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 these materials available at all reasonable times during the contract period and for three (3) years from the date of submission of the final voucher for inspection or audit by PennDOT, or any other authorized representatives of the state government; and copies thereof 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, the AUTHORITY shall keep, and shall require its consultant(s) or contractor(s), as applicable, to keep, a complete record of time for personnel assigned part-time to the Project. A record of time limited to only their work on this Project will not be acceptable.

### 13. FINAL REPORT

The AUTHORITY shall submit to PennDOT a comprehensive final report on the Project within ninety (90) days after final expenditure of funds by the AUTHORITY. The final report shall include a detailed description of the activities undertaken by the AUTHORITY with the MTF award; a final, itemized statement of the expenditure of the MTF award; a description of the benefits derived from the Project activities, such as creation of jobs and/or decrease in highway-related transportation of goods; and any additional information requested by PennDOT. The AUTHORITY shall, if requested, furnish PennDOT with copies of any other pertinent data prepared or developed in connection with or as a part of the Project.

### 14. AUDIT

The AUTHORITY shall provide an audit report prepared in accordance with accepted audit standards. At PennDOT's option, the AUTHORITY may substitute a reputable public accounting firm's unaudited financial statement substantiating Project costs. If an audit of all Project costs has been completed by the date of submission of any required reports, the audit report shall be included with that report; if some or all Project costs have not yet been audited when any final reports are submitted, the AUTHORITY shall submit the audit report within six months of the conclusion of the funding period.

### 15. ABANDONMENT OR POSTPONEMENT OF PROJECT

- (a) If the AUTHORITY abandons or indefinitely postpones the Project, the AUTHORITY may terminate this Agreement by sending to PennDOT a thirty- (30) day written notice of termination. By sending the written notice of termination, the AUTHORITY acknowledges that PennDOT will not participate in any costs of a

project that is not completed. The AUTHORITY shall reimburse PennDOT, within forty-five (45) days of receipt of a statement from PennDOT, in an amount equal to the sum of all funds received by the AUTHORITY from PennDOT for work performed under this Agreement for return to the MTF.

- (b) If the AUTHORITY fails to reimburse PennDOT within the time period set forth in subparagraph (a) above, the AUTHORITY shall be in default and PennDOT shall be entitled to pursue appropriate remedies to include pursuing any and all actions, causes of action, claims, suits, or demands, before any court of law or other appropriate tribunal.

#### 16. MAINTENANCE AND OPERATION OF EQUIPMENT

- (a) The AUTHORITY, at its sole cost and expense, shall operate and maintain all of the equipment purchased as part of the Project and funded in part with this MTF award, in accordance with the manufacturers' manuals and warranties, to assure that it remains in satisfactory condition for the duration of its estimated life. Because the AUTHORITY will share responsibility for operation and maintenance of the equipment with the CITY, the AUTHORITY shall assure that the CITY, also at its sole cost and expense, likewise operates and maintains the equipment in accordance with the manufacturers' manuals and warranties. The AUTHORITY certifies that it shall make available sufficient funds to provide for an acceptable maintenance program, and it shall assure that the CITY makes available sufficient funds for those maintenance and operation activities that are the CITY's responsibility. .
- (b) The maintenance program shall include, but not be limited to, the following activities:
  - (i) Periodic inspections;
  - (ii) Appropriate preventative maintenance, which shall include cleaning, lubrication and refurbishing;
  - (iii) A systematic record-keeping system; and

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

17. SAVE HARMLESS

The AUTHORITY shall indemnify, save harmless and defend (if requested) the Commonwealth of Pennsylvania, the DEPARTMENT, and all of their officers, agents and employees, from all suits, actions or claims of any character, name or description, relating to personal injury, including death, or property damage, arising out of the preliminary engineering, final design, right-of-way acquisition, utility relocation, construction, operation or maintenance of the Project improvements, by the AUTHORITY, its consultant(s) or contractor(s), their officers, agents and employees, whether the same be due to the use of defective materials, defective workmanship, neglect in safeguarding the work, or by or on account of any act, omission, neglect or misconduct of the AUTHORITY, its consultant(s) or contractor(s), their officers, agents and employees, during the performance of said work or thereafter, or to any other cause whatever.

18. NO THIRD PARTY BENEFICIARY RIGHTS

It is not intended by any of the provisions of this Agreement or any documents, publications or other written materials referenced herein or related to the Project to benefit any third party nor to create any third-party beneficiary hereunder nor to authorize any person or entity not a signing party to this Agreement to maintain a claim or lawsuit of any kind against PennDOT or the Commonwealth.

19. REQUIRED CONTRACT PROVISIONS

The parties agree, and the AUTHORITY shall also provide in its contracts for the Project, that all designs, plans, specifications, estimates of cost, 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 AUTHORITY shall comply, and shall cause its consultant(s) and contractor(s) to comply, with the conditions set forth in the current version of the *Commonwealth Nondiscrimination/Sexual*

*Harassment Clause*, which is attached as Exhibit “E” and made a part of this Agreement. As used in these clauses, the term “Grantee” means the AUTHORITY.

20. CONTRACTOR INTEGRITY PROVISIONS

The AUTHORITY shall comply, and shall cause its consultant(s) and contractor(s) to comply, with the current version of the *Contractor Integrity Provisions*, which are attached as Exhibit “F” and made a part of this Agreement. As used in these provisions, the term "Contractor" means the AUTHORITY.

21. OFFSET PROVISION

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

22. TERMINATION OF AGREEMENT FOR LACK OF FUNDS

Because this Agreement is to be funded partially by MTF moneys, PennDOT may terminate this Agreement if MTF moneys are not provided to PennDOT for the purposes stated in the Agreement. Termination shall become effective as of the termination date specified in PennDOT’s written notice of termination to the AUTHORITY specifying the reason for termination. PennDOT shall reimburse the AUTHORITY for all eligible work performed under this Agreement up to the date of the notice of termination, or such other date that the notice of termination shall specify.

23. DIVERSE BUSINESS PARTICIPATION FOR NON-FEDERAL-FUNDED PROJECTS

If the AUTHORITY qualifies as a local transportation organization, which by definition includes municipalities functioning as transit providers, then it shall comply with the provisions of Section 303 of Title 74 of Pennsylvania Consolidated Statutes. 74 Pa. C.S. §303 (Diverse business participation).

## 24. PROVISIONS CONCERNING THE AMERICANS WITH DISABILITIES ACT

The AUTHORITY shall comply, and shall cause its consultant(s) and contractor(s) to comply, with the current version of the *Provisions Concerning the Americans with Disabilities Act*, which are attached as Exhibit “G” and made a part of this Agreement. As used in these provisions, the term “Contractor” means the AUTHORITY.

## 25. CONTRACTOR RESPONSIBILITY PROVISIONS

The AUTHORITY shall comply, and shall cause its consultant(s) and contractor(s) to comply, with the current version of the *Contractor Responsibility Provisions*, which are attached as Exhibit “H” and made a part of this Agreement. As used in these provisions, the term “Contractor” means the AUTHORITY.

## 26. AUTOMATED CLEARING HOUSE PROVISIONS

Because PennDOT will be making payments under this Agreement through the Automated Clearing House (“ACH”) Network, the AUTHORITY shall comply with the following provisions governing payments through ACH:

- (a) PennDOT will make payments to the AUTHORITY through ACH. Within 10 days of the execution of this Agreement, the AUTHORITY must submit or must have already submitted its ACH information on an ACH enrollment form (obtained at [www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf](http://www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf)) and electronic addenda information, if desired, to the Commonwealth of Pennsylvania’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 – 9<sup>th</sup> Floor, Harrisburg, PA 17101.
- (b) The AUTHORITY 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 AUTHORITY to properly apply the state agency’s payment to the respective invoice or program.
- (c) It is the responsibility of the AUTHORITY 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.

27. CENTRAL CONTRACTOR REGISTRATION

The Central Contractor Registration and Universal Identifier Requirements apply to this Grant Agreement and the AUTHORITY shall comply with the Central Contractor Registration and Universal Identifier Requirements that can be found at [www.vendorregistration.state.pa.us](http://www.vendorregistration.state.pa.us).

28. 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 AUTHORITY shall comply with, the clause entitled *Grant Provisions – Right to Know Law*, attached as Exhibit “I” and made a part of this Agreement. As used in this exhibit, the term “Grantee” refers to the AUTHORITY.

29. CHOICE OF LAW

The Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania and the decisions of the Pennsylvania courts. The AUTHORITY consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The AUTHORITY agrees that any such court shall have in personam jurisdiction over it and consents to service of process in any manner authorized by Pennsylvania law.

30. MULTIPLE FUNDING SOURCES

In the event the Project is also funded through Section 2104(A)(4), relating to funding eligible programs by the Commonwealth Financing Authority, and the requirements set forth by that funding source conflict with the requirements set forth in this Agreement, the stricter requirements shall control.

31. RESOLUTIONS, ORDINANCES AND CONTRACTS

The AUTHORITY shall enact and/or adopt such ordinances and/or resolutions, and it shall make such arrangements with third parties, as may be necessary to accomplish the purposes of this

Agreement.

32. NO WAIVER

Either party may elect not to enforce its rights and remedies under this Agreement in the event of a breach by the other party of any term or condition of this Agreement. In any event, the failure by either party to enforce its rights and remedies under this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other term or condition of this Agreement.

33. SEVERABILITY

The provisions of this Agreement shall be severable. If any phrase, clause, sentence or provision of this Agreement is declared to be contrary to the Constitution of Pennsylvania or of the United States or of the laws of the Commonwealth and the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby.

34. INDEPENDENCE OF THE PARTIES

The parties understand by and between themselves that nothing contained herein is intended or shall be construed to, in any respect, create or establish the relationship of partners between the AUTHORITY and PennDOT, or as constituting the PennDOT as the representative or general agent of the AUTHORITY for any purpose whatsoever.

35. ASSIGNMENT

This Agreement may not be assigned by the AUTHORITY, either in whole or in part, without the written consent of PennDOT.

36. NOTICES

All notices and reports arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the addresses provided below, either by regular mail, facsimile, e-mail or delivery in person, at the following addresses:

If to PennDOT:

David J. Bratina, Director  
Office of Multimodal Transportation Fund  
Department of Transportation  
400 North Street, 8<sup>th</sup> Floor  
Harrisburg, PA 17120  
email: [djbratina@pa.gov](mailto:djbratina@pa.gov)  
Fax: (717) 787-5491

If to AUTHORITY:

Jennifer Presutti, Chair  
City of Pittsburgh Equipment Leasing Authority  
526 City County Building  
414 Grant Street  
Pittsburgh, PA 15219  
[jennifer.presutti@pittsburghpa.gov](mailto:jennifer.presutti@pittsburghpa.gov)  
(412) 255-4899

or to such other person or address as the parties may provide to each other in writing.

### 37. TITLES NOT CONTROLLING

Titles of paragraphs are for reference only, and shall not be used to construe the language in this Agreement.

### 38. FORCE MAJEURE

The obligations of the Parties shall be subject to force majeure (which shall include strikes, riots, floods, accidents, act of God, and other causes or circumstances beyond the control of the party claiming such force majeure as an excuse for nonperformance), but only as long as, and to the extent that, such force majeure shall prevent performance of such obligations. The foregoing shall not relieve PennDOT of its obligation to reimburse the AUTHORITY for expenses incurred in accordance with Section 10 of this Agreement.

### 39. COMPLETION OF WORK

The AUTHORITY shall expend the MTF award within one (1) year of execution of this Agreement. Any extension of time must be approved in advance in writing by PennDOT.



#### 40. EFFECTIVE DATE

This Agreement will not be effective until it has been executed by all necessary Commonwealth officials as required by law. Following full execution, PennDOT will insert the effective date at the top of Page 1. This Agreement shall remain in effect until the Project is abandoned or completed, whichever occurs first.

#### 41. INTEGRATION AND MERGER

This Agreement, when executed, approved and delivered, shall constitute the final, complete and exclusive Agreement between the parties containing all the terms and conditions agreed on by the parties. All representations, understandings, promises and agreements pertaining to the subject matter of this Agreement made prior to or at the time this Agreement is executed are superseded by this Agreement unless specifically accepted by any other term or provision of this Agreement. There are no conditions precedent to the performance of this Agreement except as expressly set forth herein.

[Remainder of page left blank intentionally]

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

ATTEST/WITNESS:

CITY OF PITTSBURGH EQUIPMENT  
LEASING AUTHORITY

*Kimberly Peterson* 9/14/16  
Title: *Budget* Administrator DATE

BY: *Guy Costa* 9/14/16  
Guy Costa DATE  
Vice-Chair, Equipment Leasing  
Authority

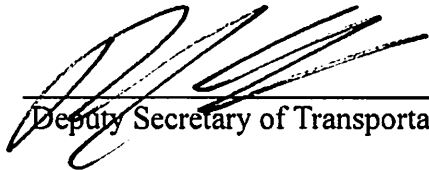
APPROVED AS TO FORM:

BY: *James J. Gladys*  
James J. Gladys DATE 9/15/16  
Solicitor, Equipment Leasing Authority

[Signatures continue on next page]

THIS PAGE IS FOR COMMONWEALTH USE ONLY

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

  
Deputy Secretary of Transportation

9/23/16  
Date

APPROVED AS TO LEGALITY  
AND FORM

BY Michael H. Krier  
for Chief Counsel Date 10/13/16

BY Elizabeth H. Stone  
Deputy General Counsel Date 10/25/16

BY Richie Littlejohn  
for Comptroller Operations Date 10/17/16

BY John H. ...  
Deputy Attorney General Date 11/15/16

Funds Commitment Document No. 3900038064  
Certified Funds Available Under SAP No 2940700238  
GL Account 6600800  
Amount \$103,028

Reimbursement Agreement No. 3900038064, is split 0 %, expenditure amount of \$0 for federal funds and 100 %, expenditure amount of \$103,028 for state funds. The related federal assistance program name and number is N/A; N/A. The state assistance program name and SAP fund is MTF; 411.

## EXHIBIT "A"

### Project Cost Estimate

<b>Multimodal Transportation Fund</b>
AUTHORITY: City of Pittsburgh Equipment Leasing Authority
Project Name: Durable Pavement Marking Capital Equipment

**NOTES:**

1. MTF Funds for Engineering/Design and Construction Inspection cannot be more than 10% of the MTF Grant Award.
2. If there is more than one source for AUTHORITY Match funds, attach additional sheets as needed.

Reimbursable Activity	MTF Funds	AUTHORITY Match	Source	Other	Subtotals
Equipment, Consisting of Thermoplastic Trailer, Handliners, and Replacement Dies and Springs	\$103,028	\$44,155	City of Pittsburgh Equipment Leasing Authority		
<b>Subtotals</b>	\$103,028	\$44,155			\$147,183

**TOTAL PROJECT COST** \$147,183

**EXHIBIT "B"**  
**SAMPLE LETTER OF ADJUSTMENT**

Date  
Pennsylvania Department of Transportation  
Engineering District  
ATTN: Contact  
Address  
AUTHORITY, State Zip

Re: Amendment [AMENDMENT NUMBER DESIGNATION]  
Agreement # [CONTRACT NUMBER]

Dear [MR./MRS. NAME]:

Per the terms of the subject agreement, this letter of adjustment will notify you that the AUTHORITY will redistribute the costs in the current Estimated Project Cost Exhibit, with no change in the total Project costs, by increasing/decreasing the costs of the phases within the project as shown below and as further detailed in the attached Exhibit " ", which replaces the current exhibit.

	Current Total Phase Costs	New Total Phase Costs
Preliminary Engineering	\$	\$
Final Design	\$	\$
Utilities	\$	\$
Right-of-Way	\$	\$
Construction	\$	\$
<b>TOTAL PROJECT COST</b>	<b>\$</b>	<b>\$</b>

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, please forward this letter of adjustment to the Office of Comptroller Operations so that we may proceed with the redistribution as detailed above.

The AUTHORITY acknowledges that this letter of adjustment is not effective until the Office of Comptroller Operations signs and dates it. Please forward a copy of the fully executed letter of adjustment for our files.

Sincerely,

[NAME, TITLE]  
[AUTHORITY]

\_\_\_\_\_  
Comptroller Signature                      Date

Agreement No.                      is split N/A%, expenditure amount of N/A for federal funds and                      %, expenditure amount of                      for state funds. The related federal assistance program and number is N/A; N/A .  
The state assistance program name and number is                      ;                      .

## EXHIBIT "C"

### SAMPLE LETTER OF AMENDMENT

**Date**

**AUTHORITY Name**

**ATTN: Contact**

**Address**

**AUTHORITY, State Zip**

**Re:** Amendment [AMENDMENT LETTER DESIGNATION]  
Agreement # [CONTRACT NUMBER]

Dear [MR./MRS. NAME]:

Since the date of the Original Agreement, some standard provisions and accompanying exhibits have been updated. Per the terms of the subject Agreement, copies of the updated exhibit(s) are attached hereto and hereby supersede and replace the corresponding exhibit(s) attached to the Original Agreement.

We are requesting your concurrence as to the amendment of the above-referenced agreement with the updated exhibit(s). If you agree to the amendment, please indicate below by signing and noting your title where indicated. Please attach a resolution verifying your authorization to sign this letter of amendment.

Your response is required no later than [DATE].

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
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:

District:

EXHIBIT "C"

**\*\*\*THIS PAGE IS FOR COMMONWEALTH USE ONLY\*\*\***

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION**

BY \_\_\_\_\_  
[TITLE] Date

**Approved for Form and Legality:**

BY \_\_\_\_\_  
for Chief Counsel Date

**Encumbrance Information:**

SAP Document No.  
SAP Fund  
SAP Cost Center  
GL Account  
Amount :

BY \_\_\_\_\_  
for Office of Comptroller Operations Date

Agreement No. is split N/A, expenditure amount of N/A for federal funds and %, expenditure amount of for state funds. The related federal assistance program name and number is N/A; N/A . The state assistance program name and number is ; .

**EXHIBIT "D"**

**MULTIMODAL TRANSPORTATION FUND MATCHING FUNDS DOCUMENTATION**

<b>Project Recipient:</b>	City of Pittsburgh Equipment Leasing Authority
<b>Project Title:</b>	Durable Pavement Marking Capital Equipment
<b>County:</b>	Allegheny
<b>Municipality:</b>	Pittsburgh (City)
<b>Total Project Cost:</b>	\$147,183
<b>Amount of Award:</b>	\$103,028
<b>Amount of Matching Funds Documented on MTF Application:</b>	\$44,155

Sources of Matching Funds	AMOUNT	DATE FUNDS WERE SECURED	FUNDS USED FOR MATCH IN OTHER PROGRAMS? Y/N
City of Pittsburgh Equipment Leasing Authority	\$44,155	6/20/2014	N
<b>TOTAL</b>			



## **EXHIBIT "E"**

### **NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Grants]**

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 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 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 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.
4. The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate 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 Small Business Opportunities (BSBO), 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 Granter'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.

## EXHIBIT "F"

### 2015-01-14 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.

## **EXHIBIT "G"**

### **PROVISIONS CONCERNING THE *AMERICANS WITH DISABILITIES ACT***

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant with the Commonwealth of Pennsylvania (Commonwealth).

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.

## **EXHIBIT "H"**

### **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

## **EXHIBIT "I"**

### **Grant Provisions – Right to Know Law**

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 notification 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.