

CHAPTER 10
MUNICIPAL AGREEMENTS

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10.1 ADMINISTRATIVE PROCEDURES

INTRODUCTION

The Department of Transportation may enter into agreements with municipalities who are willing to perform certain maintenance operations on state highways (located within their municipal boundaries), where Department Forces cannot complete the task within a reasonable time. Municipalities may also maintain roadways outside their municipal boundaries if they can document insurance coverage for those roadways. Five-Year Winter Traffic Services Agreements for snow and ice control operations and Comprehensive Maintenance Agreements for roadway maintenance activities are the two forms used to execute these types of agreements with municipalities.

Winter Traffic Services agreements may use either a Department issued rate per mile (the majority of Agreements) or the Municipality's actual costs as the basis of payment.

The Engineering District shall contact prospective municipalities with which the Department desires to enter into an agreement. The number and quantity of activities contained in an agreement shall depend on the county's fiscal status and the roadway conditions along with the municipality's ability to provide the service(s).

The District Executive, or his authorized representative, must initial each agreement to signify that the District has reviewed and approved the agreement. All municipal agreements must be fully executed by the Department, the Office of Chief Counsel and the Office of the Comptroller, prior to being placed in service.

Additionally, actual cost winter agreements must be executed by the Office of Attorney General. Maintenance Organizations must take this additional processing time into consideration when executing actual cost agreements.

POSTED BRIDGES

Bridges with weight restrictions posted under authority of Section 4902 of the Vehicle Code cannot be crossed by any over-posted-weight vehicle except as provided under Department Regulation 191. Under Regulation 191, the District Bridge Engineer may issue a permit authorizing an over-posted-weight vehicle to cross a posted state bridge if—for all practical purposes—the vehicle can only reach its destination via the posted bridge, and analysis of the axle weights and other data indicates that the vehicle will not have a detrimental effect on the bridge.

The County Maintenance Manager must ensure that no posted state bridges will be overloaded by equipment which is operated under a municipal agreement, so the Maintenance Manager must ensure that the municipality files the proper permit application(s) (Form M-4902) with the District Bridge Engineer for subject over-posted weight vehicles (i.e., each piece of over-posted weight equipment the municipality needs to crossover a posted state bridge to allow it to fulfill its contracted obligations to the Department—including snow and ice control operations).

All such permits by a municipality (to fulfill their obligations agreement with the Department) may be issued by the District on a non-fee basis, but the permits must be placed in the over-posted weight vehicle to be available for inspection by the police.

MUNICIPAL RESOLUTIONS

The Engineering District should ensure that the municipal resolution is properly signed and dated by the municipal officers prior to submitting an agreement to the District Executive for signature and forwarding to the Office of Chief Counsel for processing. Improperly signed municipal resolutions will result in the agreement being rejected by the officers of our Chief Counsel.

For the agreement and the municipal resolution, the municipal official(s) granted legal signature authority must sign on the appropriate line on the right-hand side and list their title(s). The official(s) designated to attest must sign on the left side (under the word "Attest"), and list their title(s). The dates of each person signing and attesting the municipal agreement must exactly correspond to the dates authorized by the municipal resolution to perform those duties.

FUNDS COMMITMENT

The County must establish a sufficient funds commitment for each municipal agreement using SAP transaction FMZ1. The resulting 10 digit funds commitment number will function as the agreement number. The County will encumber funds for each year of the agreement.

LEGAL APPROVAL TRACKING SYSTEM (LATS)

After establishing a funds commitment and obtaining the agreement number, the County must enter the agreement in the [Legal Approval Tracking System \(LATS\)](#) of the Office of Chief Counsel. A sample LATS agreement entry can be found in Sample E. Once the agreement is entered, the routing letter for processing the agreement must be printed from LATS by selecting the "Print routing Letter" option on the agreement's screen (see Sample E).

Agreements must be entered by an authorized LATS user. For assistance in becoming a user, or assistance with the LATS system, users should use the "Contact LATS Admin" link on the LATS intranet site. The LATS site is located at <http://dot.state.pa.us/pennidot/ChiefCounsel/ccpcspc.nsf>

AGREEMENT PROCESSING AND DISTRIBUTION

Records related to each agreement shall be retained in accordance with the Records Retention and Disposition Schedule maintained by the Office of Enterprise Records Management.

Once the Agreement has been fully processed, it will be returned to the originating office (as signified by the routing sheet) for distribution.

Instructions for distributing the document are included on the routing sheet. NOTE: The Office of the Comptroller will not post the funds commitment prior to receipt of their copy of the Agreement.

AGREEMENT RETENTION

The District or County office initiating the Agreement should secure two (2) original signature documents from the municipality. Only one (1) original signature document along with the Encumbrance documents, the proper exhibits and a LATS routing sheet, is to be forwarded to the District Executive for forwarding to the Office of Chief Counsel for processing. The other original signature document is to be stored locally, in a safe place, to be used only if the original would be lost or destroyed.

The Engineering District shall retain the Department's original municipal agreement during the time it is active and for an additional two years after the agreement is expired or canceled. Two years after its termination, the agreement shall be forwarded to the District Office's archives to be retained for an additional five (5) years.

Any agreements involved in litigation also shall be retained until the action is resolved.

FORMS

Forms applicable to this chapter can be found on the P Drive.

PAYMENT THROUGH AUTMATED CLEARING HOUSE

For all municipal agreements, the municipality shall be paid through the Commonwealth's Automated Clearing House (ACH) Network. Municipalities not enrolled in ACH must do so within 10 days of the final execution date of the agreement (that date of the final review by Office of Chief Counsel). The current revisions of all agreement forms contain instructions to the municipality for enrolling in ACH.

10.2 WINTER SERVICES AGREEMENTS

A municipality entering into a Winter Traffic Services Agreement will be responsible for complete snow and ice control operations on the section(s) of State highway(s) covered by the agreement. These operations shall include the furnishing and application of deicing chemicals and abrasives as necessary. The State highways under agreement must be maintained to a manner acceptable to the Commonwealth and will be subject to inspection by Department officials.

Municipalities under contract with the Department and using deicing chemicals and abrasive materials to control ice and snow are encouraged to employ environmentally-soundest Management Practices.

If the District believes circumstances warrant defining particular special icing and drifting conditions for inclusion in an agreement, their correspondence with that municipality should contain a more detailed definition of the municipality's maintenance responsibilities regarding these conditions. This wording will be at the discretion of the District and be included in the Agreement.

Both the standard and actual cost Winter Traffic Services Agreements are for five years in length. If reservations are expressed concerning the five year length of the agreement, it should be explained to the municipality that they retain the option to terminate the agreement prior to each winter season (as per the provisions defined in of the agreement). In order to terminate the agreement, the municipality must simply provide the Department a termination letter on (or before) July 31st of the winter season in question.

Municipalities entering into Winter Traffic Services Agreements with the Department will be reimbursed for severe winters by way of the following formula:

Standard Agreement: The municipality will be compensated with a lump sum payment in the amount indicated as Total Cost and as adjusted by the Department at the end of each year. The municipality will be compensated with an adjustment equal to the percentage of the Department's actual costs (for similarly serviced roads) over and above the five-year average for a particular county, less a \$1,000 deductible for municipalities with agreements totaling \$5,000.01 or more and a \$500 deductible for all others.

This reimbursement formula must appear at the bottom of Exhibit "A" for all Winter Traffic Services Agreements (see Sample C). The actual reimbursement, if any, will be calculated annually by the Bureau of Maintenance and Operations. District Offices will be notified as soon as possible prior to June 30th of each year in order to have adjustments paid prior to July 30th of each year.

In order to assure prompt payment, it is absolutely necessary for all agreements to be completed correctly by the District/County, properly executed by the municipality and forwarded as per the instructions contained on the routing sheet prior to August 15th of the subject year.

Actual Cost Agreements: The Municipality will be reimbursed for its actual costs incurred for maintaining the state roadways under agreement. The costs must be documented on the Department's Exhibit E form (see Sample O) and submitted by the Municipality at the end of each winter season. Payment will be capped at the highest Department rate for standard agreements in the same season. No additional payment will be made if the actual costs do not exceed the initial payment made at the beginning of the season.

SCHEDULE OF RATES (SEE SAMPLE K)

Each year, a new schedule or rates for standard winter traffic services for each county (broken down by MFC classifications) will be determined and released by the Bureau of Maintenance and Operations and provided to the District Offices by June 30th. The rates represent the amount authorized (in a given year) for payment to the municipalities for each travel lane mile under agreement. The rates will reflect a reasonable reimbursement to municipalities entering into a Winter Traffic Services Agreement with the Department.

Rate changes within a county will be considered if the county has extremely varying weather, terrain or traffic patterns to justify such actions. Any request to change rates within county must be justified in writing and forwarded to the Bureau of Maintenance and Operations for approval consideration by the Deputy Secretary for Highway Administration. A copy of the Deputy Secretary's subsequent rate change approval letter must be included as part of the documentation submitted for any or payment funds commitment activity for a subject agreement.

PLANNING

Equipment routing must be carefully examined to assure that Department equipment is utilized to the maximum efficiency. To ensure there is no duplication of effort, the County Maintenance Manager must make absolutely sure that no state highway is selected for inclusion in a municipal agreement if Department forces (in the course of performing their snow and ice control operations) would have to continue to transverse the

route. Generally, major traffic routes continuing directly through two or more municipalities should not be placed under agreement.

It should not be construed that the District or County has blanket authority to include all the state routes within a given municipality's boundaries on a Winter Traffic Services Agreement. When negotiating Winter Traffic Services Agreements, municipalities should be encouraged to take on state routes they must transverse in the course of performing snow and ice control operations on their own highways; however, the Department should continue to handle priority routes. The District or County shall not limit the municipality to the choice of servicing all state routes within their boundaries or servicing none.

Any municipality considered for a Winter Traffic Services Agreement must have the necessary equipment, materials and personnel (be it their own, leased, rented, under contract or any combination thereof) to satisfactorily perform the required snow and ice control operations in accordance with the provisions of the agreement.

WBS ELEMENT

A WBS Element shall be established via SAP transaction CJ01 for all Municipal Winter Traffic Services Agreements. This WBS Element must be established prior to processing any Funds Commitment for Municipal Winter Traffic Services Agreements.

The proper cost coding for establishing this WBS Element should be in accordance with this example:

T-0SNOWS09MSA-XXXX-712 (where XXXX=organization code)

FUNDS COMMITMENT

For each winter season, sufficient funds must be encumbered in the County's budget for each Municipal Winter Traffic Services Agreement. A funds commitment shall be created using SAP transaction FMZ1. Account Codes on the funds commitment shall be as follows:

Fund: 10582XX712
(where XX=fiscal year)

G/L Account: 6344450

Cost Center: 7841110000

WBS Element: T-0SNOWS09MSA-XXXX-712
(where XXXX=organization code)

COMPILING AND COLLATING AGREEMENTS

Prior to submission to the District Executive for forwarding to the Office of Chief Counsel, all Municipal Winter Traffic Services Agreements must be compiled and collated as follows:

- Routing sheet with all pertinent information provided (see Sample A)
- Agreement form (see Samples B and N), with all original signatures
- Municipal Resolution, with all original signatures (see Sample B)
- 1 Exhibit "A" (see Sample C) clauses incorporated by reference

PROCESSING AGREEMENT PAYMENTS

Remuneration for a Five-Year Winter Municipal Traffic Services Agreement is in the form of an annual lump sum payment to the municipality for the total cost listed on Exhibit "A" (sample C) for a particular winter season.

Additionally, actual cost agreements may be due an additional end-of-season payment if the actual costs documented on Exhibit E (see Sample O) exceed the initial payment.

Each year of an agreement, the proper fiscal documents should be processed in a timely manner, so the annual payment can be forwarded to the municipality on (or before) November 15th of the subject winter season. However, no SAP-8 Forms for Winter Traffic Services Agreements may be forwarded to the Comptroller's Office prior to September 15th of the subject winter season.

For processing payment in the second through fifth years of the agreement, the District/County must forward the required documents for each agreement as follows:

Bureau of Maintenance and Operations

- 1 copy of Exhibit "A" (see sample C)
- 1 copy of Exhibit "E" at end of season (actual cost agreements only)

Comptroller's Office

- SAP-8 Form
- 1 copy of Exhibit "A" for current winter season
- 1 copy of Exhibit "A" for the previous winter season
- 1 copy of Exhibit "E" at end of season (actual cost agreements only)

All revisions to a Winter Traffic Services Agreement, whether to mileage or routes, require the preparation and processing of a supplemental agreement (see "SUPPLEMENTAL AGREEMENTS" below).

NONPERFORMANCE BY MUNICIPALITY

Several instances of strikes and work stoppages have occurred which resulted in municipalities refusing to perform winter traffic services as provided for in the agreements.

The procedure for charging the municipalities for nonperformance (as a result of refusing to perform winter traffic services) is as follows:

- 1) When a municipality fails to perform the necessary winter traffic services as provided for the agreement (as a result of a strike or work stoppage), the back charge will be computed based on the actual number of days they refused to provide services. The agreement will have to run for the full winter season in order to make the computations. (Example: Actual days needed = 25 days. Municipality refused to provide services = 5 days. Contract value for the subject winter season = \$5000. $\$5000 \text{ divided by } 25 = \$200 \text{ per day} \times 5 \text{ days} = \$1000 \text{ back charge.}$)
- 2) Documentation must be made part of the Municipal Agreement for the day(s) that services were refused, and this is to include the person's name and title in the municipality who was contacted (or who contacted the District/County) regarding this matter and the date of such notification. The record is to include the total number of days and dates involved in each instance of nonperformance due to a strike or work stoppage.
- 3) The Assistant District Executive for Maintenance shall forward written notice to the municipality (informing them that they will be charged according to the above procedure).
- 4) The District shall forward (to the Bureau of Maintenance and Operations) both a copy of the Department's notice to the municipality and a copy of the computation schedule for the back charge. The Bureau of Maintenance and Operations will review these documents and forward them to the Comptroller's Office for billing the appropriate municipality.

For audit trail purposes, it is required that a copy of all related correspondence and computation schedules be attached to the municipality's agreement file at the District and County.

TURNBACKS

The following guidelines are established for processing Municipal Winter Traffic Services Agreements for routes that fall under the turnback program and will be officially turned back to local control during the agreement period.

When a turnback is imminent, a Winter Traffic Services Agreement should not be negotiated for that roadway. Department forces should perform that service for the short period of time between November and the effective date of turnback.

In those situations where turnbacks are imminent but a Winter Traffic Services Agreement has been negotiated, a supplemental agreement must be executed and the amount of the contract will be prorated as per the instruction in the section below entitled "Proration of Supplemental Agreements Executed after October 15th." This will be the negotiated lump sum payment for that particular turnback road. If the turnback does not take place, be aware that an amendment will be necessary to extend the effective date for that road. Utilization of this approach may necessitate executing two Winter Traffic Services Agreements for one municipality (i.e., one for roads not scheduled for turnback and one for roads scheduled for turnback); however, this approach will increase the county's administration costs and involve additional processing time.

When a route under agreement is turned back to the municipality in the succeeding years of a 5 year Winter Traffic Services Agreement, the Engineering District must execute a supplemental agreement to delete this turnback route from Exhibit "A" of the original agreement.

SUPPLEMENTAL AGREEMENTS

All revisions to a Winter Traffic Services Agreement, whether to mileage or routes (or other provisions), require the preparation and processing of a supplemental agreement to implement the changes. Identify whether State highways are being added or deleted.

To determine the proper number for the supplemental agreement, a letter is added to the subject 5-year Winter Traffic Services Agreement number (for example, the first supplemental agreement for a 5-year snow removal agreement 3900000001 would be designated 3900000001-A, the second supplement would be designated 3900000001-B, etc.).

Prior to submission to the Office of Chief Counsel, all Winter Traffic Services Supplemental Agreements must be compiled and collated as follows:

- Supplemental Agreement routing sheet - with all pertinent information provided (see Sample A)
- Supplemental Agreement (see Sample G), with all original signatures (plus, the Certification of Funds block and the Catalog of Domestic Assistance paragraph on the signature page must be completed).
- Municipal Resolution, with all original signatures
- 1 Supplemental Exhibit "A" (see Sample H)

Required for Chief Counsel Reference

- 1 duplicate copy of the original Exhibit "A". If applicable, a duplicate copy of the Supplemental Exhibit "A" for any previously executed supplemental agreements must also be included.

NOTE - If the supplemental agreement makes any changes to the original agreement other than just the addition or deletion of routes (or mileage), a complete duplicate copy of the fully executed original 5-year agreement will have to be attached instead of just the original Exhibit "A". A complete duplicate copy of any previous supplemental agreements would also be required. If the original five-year agreement required additional routing through the Office of General Counsel (OGC) and the Office of Attorney General (OAG), then any supplemental agreements for the remainder of the five-year cycle will also require routing through these offices and must make use of an Amendment (See Sample P) rather than a Supplemental Agreement.

PRORATION OF SUPPLEMENTAL AGREEMENTS EXECUTED AFTER OCTOBER 15TH

The winter season, for the purpose of this Agreement, is the period from October 15th to April 30th of each season. If a supplemental agreement for the purpose of adding or deleting a roadway is fully signed and executed by the District Executive, Office of Chief Counsel and Office of the Comptroller after October 15th, the amount owed to the municipality by the Department (for an added roadway) or the amount owed to the Department by the municipality (for a deleted roadway) must be prorated on the basis of 198 days (or 199

days if the season includes leap-year) from October 15th to April 30th. Divide 198 days into the lump sum payment which the municipality would have received for a full season. This provides the daily rate. Multiply the daily rate by the number of the days from the date of execution (normally, this is the date of the second signature by Office of the Chief Counsel) to April 30th. Note that proration applies to Supplemental agreements only. New agreements executed after October 15th are not prorated.

10.3 COMPREHENSIVE MAINTENANCE AGREEMENTS

GENERAL

A Comprehensive Maintenance Agreement is used to contract a municipality to perform certain roadway maintenance activities on selected State Highways located within the municipality's boundaries. The municipality being considered must have all the necessary equipment, materials, and personnel (be it their own, leased, rented, under contract or any combination thereof) to satisfactorily perform the required service(s). The agreement may be for any activity. The activities listed on the "Comprehensive Maintenance Agreement Rate Schedule" (Example K) are for the most-often used activities only.

SCHEDULE OF RATES

By June 30th of each year, a new schedule of activity reimbursement rates will be determined and released by the Bureau of Maintenance and Operations for all the approved maintenance operations a municipality may be contracted to perform under a Comprehensive Maintenance Agreement (see Sample K).

PLANNING

The agreement establishes the maximum total amount to be paid to the municipality. This figure is to be based on a joint preliminary estimate of the work that should be performed under the contract. In order to keep funds commitment adjustments and supplemental agreements to a minimum, it is necessary to give special attention to the amount of work estimated to be accomplished by the municipality.

COMPILING AND COLLATING AGREEMENTS

Prior to submission to the District Executive for forwarding to the Office of Chief Counsel, all Comprehensive Maintenance Agreements must be compiled and collated as follows:

- Routing sheet with all pertinent information provided (see Sample I)
- Agreement (see Sample L), with all original signatures
- Municipal Resolution, with all original signatures (see Sample J)
- 1 Exhibit "B" (see Sample K)
- SAP-8 Form

INSPECTION PROCEDURE

The inspection procedure requires the Assistant County Maintenance Manager (or an assigned inspector) to monitor the performance of the municipality's contracted maintenance activities. The Department personnel with the inspection responsibilities must be able to certify that the work site location(s) and the municipality's work methods were in accordance with the provisions of the agreement, and must be able to certify that the work and quantities invoiced are true and accurate. Department certification can be documented on a separate statement (see Sample L), or a Department certification statement can be included on the municipality's certification document (see Sample M).

10.4 SAMPLES

(ON THE FOLLOWING PAGES)

SAMPLE A

Agreement Routing Sheet

Type of Agreement **SNOW REMOVAL**
 Agreement Number **3900021162**
 Party **NORTH VERSAILLES**
 City **NORTH VERSAILLES**
 County **ALLEGHENY**
 Form Number **18-K-244**
 Federal ID Number **256002343**
 Amount **32072.59**
 SAP Vendor Number **159194**

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PLEASE SUBMIT ONLY 1 ORIGINAL - MAKE COPIES ONCE FULLY EXECUTED

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EXECUTION PROCESS	RECEIVED	RETURNED
District Executive or Designee For Signature and Date on Agreement Engineering District _____		
Office of Chief Counsel For Preliminary / Final Approval Commonwealth Keystone Building, 9th Floor		
Office of the Comptroller For Audit and Approval Commonwealth Keystone Building, 9th Floor		
Office of Chief Counsel For Date / Final Logging Commonwealth Keystone Building, 9th Floor		

DISTRIBUTION (1 copy each):

- Copy to BOMO*
- Copy to Municipality*
- Copy to Comptroller—Commonwealth Keystone Building, 9th Floor*
- Copy to Treasury--Treasury Dept., Treasury Audits, Finance Bldg., Room G-11*

Original to: Engineering District _____
Attention:
Telephone:

SAMPLE B

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

WINTER TRAFFIC SERVICES 5 – YEAR

AGREEMENT NO _____

FID/SSN _____

SAP VENDOR No. _____

THIS AGREEMENT, fully executed and approved this _____ day of _____, **20**, by and between the COMMONWEALTH of Pennsylvania, acting through the Department of Transportation (“COMMONWEALTH”).

AND

_____ of the COMMONWEALTH of Pennsylvania, acting through its authorized officials (“MUNICIPALITY”).

WITNESSETH;

WHEREAS, certain public highways, including bridges with their approaches, in the MUNICIPALITY have been adopted and taken over as part of the State Highway System, to be constructed, improved and maintained by the COMMONWEALTH, upon the terms and conditions and subject to the limitations contained in the Act of May 29, 1945, P.L. 1108; the Act of June 1, 1945, P.L. 1242; and the Act of September 18, 1961, P.L. 1389; all as supplemented and amended; and,

WHEREAS, the MUNICIPALITY has the equipment, materials and personnel available and ready to perform snow and ice clearance together with the application of anti-skid and/or de-icing materials for certain State Highways, including bridges with their approaches, within the MUNICIPALITY, in a prompt and efficient manner and has signified its willingness to furnish these winter traffic services for the COMMONWEALTH during the Winter Season(s) of **20 - 20; 20 - 20; 20 - 20; 20 - 20; and 20 - 20** (the “Winter Season” for the purpose of this Agreement shall be the period from October 15 to April 30 of each season), subject to payment by the COMMONWEALTH to the MUNICIPALITY as described in this Agreement; and

WHEREAS, the MUNICIPALITY shall conduct its winter traffic services in a manner satisfactory to the COMMONWEALTH, in order to facilitate the safe and unimpeded flow of vehicular traffic over said State Highways within the MUNICIPALITY in accordance with the terms, covenants and conditions hereinafter set forth in this Agreement; and

WHEREAS, the MUNICIPALITY shall conduct the winter traffic services for and in the agreed amount during the term of this Agreement, regardless of the amount of work required.

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

1. The MUNICIPALITY shall undertake and accomplish the required snow and ice clearance together with the application of anti-skid and/or de-icing materials for the State Highways, including bridges and their approaches, as indicated in Exhibit “A” attached to and made part of this Agreement. The MUNICIPALITY shall perform all work in accordance with all applicable PennDOT Specifications (“Publication 408”), policies and procedures set forth in the PennDOT Highway Maintenance Foreman Manual (“Publication 113”) and the PennDOT Maintenance Manual (“Publication 23”), which all are incorporated by reference into this Agreement as though physically attached. This work shall be performed in a prompt and efficient manner so as to facilitate the safe and unimpeded flow of vehicular traffic over the State Highways within the MUNICIPALITY.

SAMPLE B

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

2. If, to undertake and accomplish the duties required in Paragraph (1.), the MUNICIPALITY'S forces must traverse a bridge with a posted weight restriction, the MUNICIPALITY agrees to file a permit application with the posting authority and obtain a permit to traverse the bridge pursuant to 67 Pa. Code Chapter 191. The MUNICIPALITY agrees to refile permit applications as needed during the term of this Agreement and to obtain permits for each succeeding winter season for which this Agreement is renewed. Failure to obtain such permits shall be grounds for termination of this Agreement.
3. The COMMONWEALTH shall pay to the MUNICIPALITY, as reimbursement for the services contracted for in this Agreement, the total sum of the rate established for each particular season, as set forth on Exhibit "A," payable on or before November 15th, for each successive Winter Season through the termination of the Agreement. The starting date of this Agreement shall be the date on which the Agreement has been fully executed and approved by the COMMONWEALTH, or the date agreed to by both the MUNICIPALITY and the COMMONWEALTH, whichever comes later. Further, the MUNICIPALITY shall not be permitted to start any work until notified by the COMMONWEALTH that the Agreement has been fully executed and approved, except as set forth in Paragraph 4 below. The MUNICIPALITY shall perform all services for the rates set forth in Exhibit "A," regardless of the amount of work required. The COMMONWEALTH is not responsible for paying additional amounts when the MUNICIPALITY incurs costs for the work in excess of the established rate or does not otherwise meet the guidelines contained in the "Severe Winter Adjustment" both set forth in Exhibit "A" of this Agreement.
4. The MUNICIPALITY undertakes the responsibilities as an independent contractor and its employees and/or lessors or contractors shall not be considered employees of the COMMONWEALTH for any purpose. This Agreement shall be considered a maintenance contract between a Commonwealth agency and a local agency for purposes of 42 Pa. C.S. 8542(b)(6)(ii), relating to acts which may impose liability on local agencies. Further, this Agreement shall not be construed for the benefit of any person or political subdivision not a party to this Agreement, nor shall this Agreement be construed to authorize any person or political subdivision not a party to this Agreement to maintain a lawsuit on or under this Agreement.
5. In the event a winter emergency occurs that necessitates winter traffic services prior to the execution of this Agreement, the District Executive on behalf of the COMMONWEALTH may issue a written letter to the MUNICIPALITY finding that an emergency exists under Section 516 of the Procurement Code and authorizing the MUNICIPALITY to perform the services required by this Agreement subject to the terms and conditions of this Agreement. If the MUNICIPALITY receives an emergency winter traffic services letter from the District Executive prior to execution of this Agreement, because of the critical need to provide winter traffic services to assure public safety on the State Highway System, the COMMONWEALTH shall pay the MUNICIPALITY for any costs incurred to service State Highways as a result of the onset of winter weather emergency necessitating the provision of the services under this Agreement between the beginning of the Winter Season and full execution of this Agreement.
6. The obligations of the MUNICIPALITY under this Agreement shall terminate and end as of midnight on April 30th for each Winter Season.
7. Work performed by the MUNICIPALITY under this Agreement shall be done to the satisfaction of the COMMONWEALTH. Such work shall be subject to inspection by the Secretary of Transportation, the District Executive, and/or their duly authorized representatives.
8. If the MUNICIPALITY fails to comply with the terms of this Agreement to the satisfaction of the COMMONWEALTH, the COMMONWEALTH may terminate the Agreement upon giving ten (10) days written notice to the MUNICIPALITY. If the Agreement is so terminated, then the COMMONWEALTH shall not be further obligated to pay any amount of money to the MUNICIPALITY and the MUNICIPALITY shall be entitled to funds from the COMMONWEALTH in proportion to the period of the Agreement for which services were provided. Therefore, the MUNICIPALITY shall refund to the COMMONWEALTH the balance of the lump sum payment within thirty (30) days of receiving notice from the COMMONWEALTH of the amount due.
9. The COMMONWEALTH reserves the right to terminate this Agreement for convenience if it determined

SAMPLE B

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

that termination is in the best interest of the COMMONWEALTH. If the Agreement is so terminated, then the COMMONWEALTH shall not be further obligated to pay any amount of money to the MUNICIPALITY, the MUNICIPALITY shall not be further obligated to perform, and the MUNICIPALITY shall be entitled to payment for all eligible actual costs incurred by the MUNICIPALITY pursuant to this Agreement up to the date when termination is effective.

10. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101—3104, applies to this Agreement. Therefore, this Agreement is subject to, and the MUNICIPALITY shall comply with, the clause entitled Contract Provisions – Right to Know Law, attached as Exhibit “B” and made a part of this Agreement. As used in this exhibit, the term “Contractor” refers to the MUNICIPALITY.
11. The MUNICIPALITY shall comply with the following clauses or provisions attached as Exhibit “C” and incorporated here by reference: The most current versions of the Commonwealth Nondiscrimination / Sexual Harassment Clause, the Contractor Integrity Provisions the Provisions Concerning the Americans with Disabilities Act, the Contractor Responsibility Provisions, and the Enhanced Minimum Wage Provisions.
12. The MUNICIPALITY agrees that the COMMONWEALTH may set off the amount of any state tax liability or other obligation of the MUNICIPALITY or its subsidiaries to the COMMONWEALTH against any payments due the MUNICIPALITY under any contract with the COMMONWEALTH.
13. Because the COMMONWEALTH will be making payments under this Agreement through the Automated Clearing House (“ACH”) Network, the MUNICIPALITY shall comply with the following provisions governing payments through ACH:
 - (a) The COMMONWEALTH will make payments to the MUNICIPALITY through ACH. Within 10 days of the execution of this Agreement, the MUNICIPALITY must submit or must have already submitted its ACH information on a ACH enrollment form (obtained at www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf) and electronic addenda information, if desired to the Commonwealth’s Payable Service Center, Vendor Data Management Unit at 717-214-0140 (FAX) or by mail to the Office of Comptroller Operations, Bureau of Payable Services, Payable Service Center, Vendor Data Management Unit, 555 Walnut Street – 9th Floor, Harrisburg, PA 17101.
 - (b) The MUNICIPALITY 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 contractor to properly apply the state agency’s payment to the respective invoice or program.
 - (c) It is the responsibility of the MUNICIPALITY 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.
14. The Department of Transportation and other agencies of the Commonwealth of Pennsylvania may, at reasonable times and places, audit the books and records of the MUNICIPALITY to the extent that they relate to the MUNICIPALITY’s performance of this Agreement and the costs incurred by the MUNICIPALITY in providing services under it. The MUNICIPALITY shall maintain the books and records for a period of three (3) years from the date of final payment under the Agreement, including all renewals.
15. The Agreement constitutes the entire agreement between the parties. No amendment or modifications of this Agreement shall be valid unless it is in writing and duly executed and approved by both parties.

SAMPLE B

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

16. This Agreement shall automatically renew for succeeding Winter Seasons at the rate established for each particular season unless either party shall terminate upon written notice to the other on or before July 31st preceding the Winter Season in question.

17. The COMMONWEALTH has implemented a Strategic Environmental Management Program (SEMP) which complies with the ISO 14001:2004 standard. As part of SEMP, the COMMONWEALTH has established a Green Plan Policy that can be found at www.dot.state.pa.us and is also posted at the COMMONWEALTH's District and County Offices. The Green Plan Policy is designed to protect the environment, conserve resources and comply with environmental laws and regulations. The MUNICIPALITY shall ensure that its personnel (including the personnel of any of its subcontractors) are aware of the COMMONWEALTH's commitment to protecting the environment, are properly trained about the environmental impacts of their work and are competent (through appropriate work experience, job training or classroom education) to perform the work that they do.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

Municipal Winter Traffic Services Agreement

SAMPLE B

(Revised 1/2017)

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST

MUNICIPALITY

Title: _____ DATE _____

BY _____
Title: _____ DATE _____

If a Corporation, the president or Vice-president must sign and the Secretary, Treasurer, Assistant Secretary or Assistant Treasurer must attest; if a sole proprietorship, only the owner must sign; if a partnership, only one partner need sign; if a limited partnership, only the general partner must sign. If a MUNICIPALITY, Authority or other entity, please attach a resolution.

DO NOT WRITE BELOW THIS LINE – FOR COMMONWEALTH USE ONLY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY _____
District Executive Date _____

APPROVED AS TO LEGALITY
AND FORM

for Chief Counsel Date _____

Certified Funds Available Under
SAP DOCUMENT NO. _____
SAP FUND _____
SAP COST CENTER _____
GL. ACCOUNT _____
AMOUNT _____
BY _____
for Comptroller Operations Date _____

Contract No. _____ is split **0%**, expenditure amount of **0.00**, for federal funds and **100%**, 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 SAP Fund is **Highway Maintenance; 582**.

Preapproved Form: OGC No. 18-FA-34.1
Appv'd OAG 11/09/2015

Municipal Winter Traffic Services Agreement

SAMPLE B

(Revised 1/2017)

RESOLUTION

BE IT RESOLVED, by authority of the _____
 (Name of governing body)
 of the _____, _____ County, and it
 (Name of MUNICIPALITY)
 is hereby resolved by authority of the same, that the _____ of
 (designate official title)
 said MUNICIPALITY be authorized and directed to sign the attached Agreement on its behalf.

ATTEST:

 (Name of MUNICIPALITY)
 _____ By: _____
 (Signature and designation of official title) (Signature and designation of official title)

I, _____,
 (Name) (Official title)
 of the _____, do hereby certify that the foregoing
 (Name of governing body and MUNICIPALITY)
 is a true and correct copy of the Resolution adopted at a regular meeting of the
 _____, held the _____ day of _____, 20____.
 (Name of governing body)

DATE: _____

 (Signature and designation of official title)

NOTE: Signature on the Department signature page of this Agreement must conform with signature on this Resolution.

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

EXHIBIT B

Contract Provisions – Right to Know Law

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

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

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

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

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

EXHIBIT "C"

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor 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. Neither the Contractor nor any subcontractor nor any person on their behalf shall 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 employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. The Contractor and each 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 contracted services are performed shall satisfy this requirement for employees with an established work site.
4. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each 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 Contractor and each 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 contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

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

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

EXHIBIT "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.

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

- 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

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

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

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

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.

January 14, 2015

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

EXHIBIT "C"

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.

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

EXHIBIT "C"

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

Municipal Winter Traffic Services Agreement

(Revised 1/2017)

EXHIBIT "C"

ENHANCED MINIMUM WAGE PROVISIONS

1. Enhanced Minimum Wage. Contractor/Lessor agrees to pay no less than \$10.15 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.

2. Adjustment. Beginning January 1, 2017, and annually thereafter, Contractor/Lessor shall pay its employees described in Paragraph 1. above an amount that is no less than the amount previously in effect; increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication as determined by the United States Bureau of Labor Statistics; and rounded to the nearest multiple of \$0.05. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

3. Exceptions. These Enhanced Minimum Wage Provisions shall not apply to employees:

- a. exempt from the minimum wage under the Minimum Wage Act of 1968;
- b. covered by a collective bargaining agreement;
- c. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
- d. required to be paid a higher wage under any state or local policy or ordinance.

4. Notice. Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.

5. Records. Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

6. Sanctions. Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.

7. Subcontractors. Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

July 2016

2002-2003 WINTER MUNICIPAL AGREEMENT

SAMPLE C

AGREEMENT NO.
YEAR
OF

042045
2
5

CONTRACT EXHIBIT A

COUNTY: LACKAWANNA

MUNICIP: CITY OF CARBONDALE

STATE ROUTE	LOCAL DESCRIPTION	BEGIN SEGMENT	BEGIN OFFSET	END SEGMENT	END OFFSET	LINEAR MILES	MFC	NO. OF LANES	RATE PER TRAVEL LANE	COST
0106	Salem Ave, Dundaff St., Fallbrook St.	0152	0000	0172	2739	1.51	C	2.43	\$932	\$3,419.79
0107	Dundaff St.	0010	0000	0010	2382	0.45	D	2	\$815	\$733.50
1004	Greenfield Rd.	0070	0000	0070	1200	0.23	E	2	\$815	\$374.90
6006	Cottage St, Pike St., and Main St.	0472	0000	0490	1896	1.57	C	3.27	\$932	\$4,784.79
1019	Salem Ave. to Wayne St.	0110	0000	0110	1911	0.36	C	2	\$932	\$671.04

MILEAGE MFC B = 0.00
 MILEAGE MFC C = 9.52
 MILEAGE MFC D = 0.90
 MILEAGE MFC E = 0.46
 TOTAL MILEAGE 10.88
 TOTAL COST = \$9,984.02

TERMS OF PAYMENT: The Municipality will be compensated with a lump sum payment in the amount indicated as Total Cost, and as adjusted by the Department of Transportation at the end of each year. The Municipality will be compensated with an adjustment equal to the percentage of the Department's actual costs (for similar roads serviced) over and above the five-year average for a particular county, less a \$1,000.00 deductible for Municipalities with agreements totaling \$5,000.01 or more and a \$500.00 deductible for all others.

SAMPLE D

The screenshot displays the SAP 'Funds commitment: Display Overview scm' window. At the top, there is a menu bar with 'Document', 'Edit', 'Goto', 'Extras', 'Environment', 'System', and 'Help'. Below the menu is a toolbar with various icons. The main header area shows the document title and a 'Consumption' button. The document details section includes fields for Document number (3900012332), Document type (PE), Company code (COPA USD), and Doc.text (Municipal 5-year winter traffic services agreement). A 'Grand total' of 17,140.89 is shown. The 'Line items' table below lists five rows of commitment data with columns for D..., Overall amount, Orig. amount, Text, Commitment item, Funds center, Fund, FA, G/L accou..., and Cost ce. The bottom of the window shows a 'Position' field and a page indicator '1 / 5'.

D...	Overall amount	Orig. amount	Text	Commitment item	Funds center	Fund	FA	G/L accou...	Cost ce
1	2,595.50	2,595.50	1st year 2004-2005	6344400	7841110000	1058204712	6150	6344450	784111
2	2,856.50	2,673.37	2nd year 2005-2006	6344400	7841110000	1058205712	6150	6344450	784111
3	3,010.20	2,753.57	3rd year 2006-2007	6344400	7841110000	1058206712	6150	6344450	784111
4	2,836.17	2,836.17	4th year 2007-2008	6344400	7841110000	1058207712	6150	6344450	784111
5	5,842.52	5,842.52	5th year 2008-2009	6344400	7841110000	1058208712	6150	6344450	784111

**SAMPLE E
LEGAL APPROVAL SYSTEM (LATS) ENTRY**

Number 3900021162
 MySAP Number 159194
 EIN/FID 256002343
 Contractor North Versailles
 City North Versailles
 County Allegheny
 Amount \$32,072.59
 Sent to Vendor

SPC Type
 Org
 Competition

Sole Source
 Sole Source Category

Agreement Type Snow Removal
 Category
 Sub Category

Description 5 year snow agreement

Effective
 Terminate

DOT Contact

Name
 Phone Number
 Email Address

Current Modifier			
Form Number	18-K-244		
Received OCC	11/07/2005		
Attorney			
Returned for			
Approval/Forwarded to Dates			
Deputy	10/06/2005		
Secretary			
OGC			
Comptroller	11/08/2005		
AG			
Comment			
Final Bur/Dist	11/14/2005		
SPC/SBC Approved			
Modification History			
11/14/2005- Final Bur/Dist date set to 11/14/2005			

SAMPLE F

Agreement Routing Sheet

Type of Agreement **SNOW REMOVAL**
 Agreement Number **3900021162**
 Party **NORTH VERSAILLES**
 City **NORTH VERSAILLES**
 County **ALLEGHENY**
 Form Number **18-K-244**
 Federal ID Number **256002343**
 Amount **32072.59**
 SAP Vendor Number **159194**

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PLEASE SUBMIT ONLY 1 ORIGINAL - MAKE COPIES ONCE FULLY EXECUTED

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EXECUTION PROCESS	RECEIVED	RETURNED
District Executive or Designee For Signature and Date on Agreement Engineering District _____		
Office of Chief Counsel For Preliminary / Final Approval Commonwealth Keystone Building, 9th Floor		
Office of the Comptroller For Audit and Approval Commonwealth Keystone Building, 9th Floor		
Office of Chief Counsel For Date / Final Logging Commonwealth Keystone Building, 9th Floor		

DISTRIBUTION (1 copy each):

- Copy to BOMO*
- Copy to Municipality*
- Copy to Comptroller—Commonwealth Keystone Building, 9th Floor*
- Copy to Treasury--Treasury Dept., Treasury Audits, Finance Bldg., Room G-11*

Original to: Engineering District _____
Attention:
Telephone:

SAMPLE G

Municipal Winter Traffic Services Supplemental Agreement

OGC Form 18-FA-33.0
Approved OAG 5/6/2013

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

WINTER TRAFFIC SERVICES SUPPLEMENTAL **AGREEMENT NO** _____
FID/SSN # _____
SAP VENDOR # _____

THIS SUPPLEMENTAL AGREEMENT, fully executed and approved this _____ day of _____,
_____, by and between the COMMONWEALTH of Pennsylvania, acting through the Department of Transportation
("COMMONWEALTH"),

AND

the _____ of the COMMONWEALTH of Pennsylvania, acting through its
authorized officials ("MUNICIPALITY").

WITNESSETH:

WHEREAS, the parties entered into Agreement No. _____, whereby the MUNICIPALITY agreed to
perform snow and ice clearance together with the application of anti-skid and/or de-icing materials for certain State
Highways as set forth therein; and,

WHEREAS, the parties desire to amend Agreement No. _____ for the purpose of **adding/deleting**
certain State Highways.

NOW, THEREFORE, the parties agree to amend Agreement No. _____ in accordance with the
following:

1. Exhibit "A" attached to Agreement No. _____ is revised in accordance with Supplemental Exhibit "_____" which is attached to and made part of this Supplemental Agreement, for the purpose of **adding/deleting** the specified state Highway(s).
2. The effective date of this **addition/deletion** shall be the date on which this Supplemental Agreement has been fully executed and approved by the COMMONWEALTH, or October 15 of the calendar year in which this Supplemental Agreement is made, whichever date is later.

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Municipal Winter Traffic Services Supplemental Agreement

3. The original agreement as hereby supplemented shall continue to renew on October 15 of each successive season through the original termination date. If this Supplemental Agreement is not fully executed and approved prior to October 15 of the Winter Season for which it will initially take effect, the COMMONWEALTH shall prorate payment for that Winter Season only. Furthermore, the proration shall affect the **added/deleted** roadway only. The amount to be prorated shall be based upon the percentage that the affected roadway bears to the total State Highway mileage maintained by the MUNICIPALITY, multiplied by 1/198 (1/199 for leap years). This number shall be multiplied by (a) the number of days between October 15 and the effective date of this Supplemental Agreement and then by (b) the rate applicable to that roadway classification. The COMMONWEALTH will then add the resulting amount to, or subtract it from, the total annual payment.
4. Because the COMMONWEALTH will be making payments under this Agreement through the Automated Clearing House (“ACH”) Network, the MUNICIPALITY shall comply with the following provisions governing payments through ACH:
- a) The COMMONWEALTH will make payments to the MUNICIPALITY through ACH. Within 10 days of the execution of this Agreement, the MUNICIPALITY must submit or must have already submitted its ACH information on a ACH enrollment form (obtained at www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf) and electronic addenda information, if desired to the Commonwealth’s Payable Service Center, Vendor Data Management Unit at 717-214-0140 (FAX) or by mail to the Office of Comptroller Operations, Bureau of Payable Services, Payable Service Center, Vendor Data Management Unit, 555 Walnut Street – 9th Floor, Harrisburg, PA 17101.
 - (b) The MUNICIPALITY 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 contractor to properly apply the state agency’s payment to the respective invoice or program.
 - (c) It is the responsibility of the MUNICIPALITY 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.
5. The COMMONWEALTH has implemented a Strategic Environmental Management Program (SEMP) which complies with the ISO 14001:2004 standard. As part of SEMP, the COMMONWEALTH has established a Green Plan Policy that can be found at www.dot.state.pa.us and is also posted at the COMMONWEALTH’s District and County Offices. The Green Plan Policy is designed to protect the environment, conserve resources and comply with environmental laws and regulations. The MUNICIPALITY shall ensure that its personnel (including the personnel of any of its subcontractors) are aware of the COMMONWEALTH’s commitment to protecting the environment, are properly trained about the environmental impacts of their work and are competent (through appropriate work experience, job training or classroom education) to perform the work that they do.
6. The following is added to Agreement No. _____:

The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101—3104, applies to this Agreement. Therefore, this Agreement is subject to, and the MUNICIPALITY shall comply with, the clause entitled Contract Provisions – Right to Know Law 8-K-1532, attached as Exhibit “B” and made a part of this Agreement. As used in this exhibit, the term “Contractor” refers to the MUNICIPALITY.

SAMPLE G

Municipal Winter Traffic Services Supplemental Agreement

7. Paragraph__ of Agreement No. _____ is deleted in its entirety and replaced with the following:

The MUNICIPALITY agrees that the COMMONWEALTH may set off the amount of any state tax liability or other obligation of the MUNICIPALITY or its subsidiaries to the COMMONWEALTH against any payments due the MUNICIPALITY under any contract with the COMMONWEALTH.

8. All other terms and conditions of Agreement No. _____ not modified by this Supplemental Agreement shall remain in full force and effect.

9. Replacing the clauses and provisions provided for in Paragraph __ of Agreement Number _____, the following clauses or provisions are added:

The most current versions of the Commonwealth Nondiscrimination / Sexual Harassment Clause, the Contractor Integrity Provisions the Provisions Concerning the Americans with Disabilities Act, the Contractor Responsibility Provisions, and the Enhanced Minimum Wage Provisions.

These provisions are designated as Exhibit “C,” attached hereto and incorporated herein by reference.

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Municipal Winter Traffic Services Supplemental Agreement

IN WITNESS WHEREOF, the parties have executed this Supplemental Agreement.

ATTEST

MUNICIPALITY

Title: DATE

BY _____
Title: DATE

If a Corporation, the president or Vice-president must sign and the Secretary, Treasurer, Assistant Secretary or Assistant Treasurer must attest; if a sole proprietorship, only the owner must sign; if a partnership, only one partner need sign; if a limited partnership, only the general partner must sign. If a MUNICIPALITY, Authority or other entity, please attach a resolution.

DO NOT WRITE BELOW THIS LINE – FOR COMMONWEALTH USE ONLY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY _____
District Executive Date

APPROVED AS TO LEGALITY
AND FORM

for Chief Counsel Date

Certified Funds Available Under
SAP DOCUMENT NO. _____
SAP FUND _____
SAP COST CENTER _____
GL. ACCOUNT _____
AMOUNT _____
BY _____
for Comptroller Operations Date

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

Preapproved Form: OGC No. 18-FA-33.0
Appv'd OAG 5/6/2013

MUNICIPAL WINTER TRAFFIC SERVICES SUPPLEMENTAL AGREEMENT

SAMPLE G

Municipal Winter Traffic Services Supplemental Agreement

RESOLUTION

BE IT RESOLVED, by authority of the _____
(Name of governing body)
of the _____, _____ County, and it
(Name of MUNICIPALITY)

is hereby resolved by authority of the same, that the _____ CHAIRMAN _____ of
(designate official title)

said MUNICIPALITY be authorized and directed to sign the attached Agreement on its behalf.

ATTEST:

(Signature and designation of official title) By: _____ CHAIRMAN
(Name of MUNICIPALITY) (Signature and designation of official title)

I, _____,
(Name) _____
(Official title)
of the _____, do hereby certify that the foregoing
(Name of governing body and MUNICIPALITY)

is a true and correct copy of the Resolution adopted at a regular meeting of the
_____, held the _____ day of _____,
(Name of governing body)

DATE: _____
(Signature and designation of official title)

NOTE: Signature on the Department signature page of this Agreement must conform with the signature on this Resolution.

SAMPLE G

Municipal Winter Traffic Services Supplemental Agreement

EXHIBIT B**Contract Provisions – Right to Know Law 8-K-1532**

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.

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Municipal Winter Traffic Services Supplemental Agreement

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

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

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

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Municipal Winter Traffic Services Supplemental Agreement

EXHIBIT "C"

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor 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. Neither the Contractor nor any subcontractor nor any person on their behalf shall 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 employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. The Contractor and each 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 contracted services are performed shall satisfy this requirement for employees with an established work site.
4. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each 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 Contractor and each 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 contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The Contractor's and each subcontractor'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 and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these

SAMPLE G

Municipal Winter Traffic Services Supplemental Agreement

provisions.

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

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Municipal Winter Traffic Services Supplemental Agreement

EXHIBIT "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

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Municipal Winter Traffic Services Supplemental Agreement

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

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Municipal Winter Traffic Services Supplemental Agreement

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.

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Municipal Winter Traffic Services Supplemental Agreement

- 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.

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Municipal Winter Traffic Services Supplemental Agreement

EXHIBIT "C"

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.

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Municipal Winter Traffic Services Supplemental Agreement

EXHIBIT "C"

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

SAMPLE G

Municipal Winter Traffic Services Supplemental Agreement

EXHIBIT "C"

ENHANCED MINIMUM WAGE PROVISIONS

1. Enhanced Minimum Wage. Contractor/Lessor agrees to pay no less than \$10.15 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.

2. Adjustment. Beginning January 1, 2017, and annually thereafter, Contractor/Lessor shall pay its employees described in Paragraph 1. above an amount that is no less than the amount previously in effect; increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication as determined by the United States Bureau of Labor Statistics; and rounded to the nearest multiple of \$0.05. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

3. Exceptions. These Enhanced Minimum Wage Provisions shall not apply to employees:

- exempt from the minimum wage under the Minimum Wage Act of 1968;
- covered by a collective bargaining agreement;
- required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
- required to be paid a higher wage under any state or local policy or ordinance.

4. Notice. Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.

5. Records. Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

6. Sanctions. Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.

7. Subcontractors. Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

July 2016

2002-2003 WINTER MUNICIPAL AGREEMENT
 COUNTY: WESTMORELAND
 MUNICIPAL: NORTH BELLE VERNON BOROUGH

SAMPLE H
SUPPLEMENTAL "EXHIBIT A"

AGREEMENT NO. 125846-A
 YEAR 3
 OF 5

STATE ROUTE	LOCAL DESCRIPTION	BEGIN SEGMENT	BEGIN OFFSET	END SEGMENT	END OFFSET	LINEAR MILES	MFC	NO. OF LANES	RATE PER TRAVEL LANE	COST
3007	FAYETTE ST.	10	0	20	0	0.22	C	2	\$977	\$429.88
3007	FAYETTE ST.	20	0	20	1005	0.19	D	2	\$856	\$325.28
3005	BROAD & LOCUST	10	0	30	1250	0.77	C	2	\$977	\$1,504.58
8016	RAMP 20	10	0	10	416	0.08	E	2	\$856	\$136.96
8016	RAMP 19	750	0	750	376	0.07	E	2	\$856	\$119.84
8016	RAMPS 18 & 21	500	0	510	1025	0.36	E	2	\$856	\$616.32

MILEAGE MFC B = 0.00
 MILEAGE MFC C = 0.99
 MILEAGE MFC D = 0.19
 MILEAGE MFC E = 0.51
 TOTAL MILEAGE 1.69
 TOTAL COST = \$3,132.86

TERMS OF PAYMENT: The Municipality will be compensated with a lump sum payment in the amount indicated as Total Cost, and as adjusted by the Department of Transportation at the end of each year. The Municipality will be compensated with an adjustment equal to the percentage of the Department's actual costs (for similar roads serviced) over and above the five-year average for a particular county, less a \$1,000.00 deductible for Municipalities with agreements totaling \$5,000.01 or more and a \$500.00 deductible for all others.

SAMPLE I

Agreement Routing Sheet

Type of Agreement **COMPREHENSIVE MAINTENANCE**
 Agreement Number **3900034307**
 Party **INDEPENDENCE TOWNSHIP**
 City **ALIQUIPPA**
 County **BEAVER**
 Form Number **18-K-220**
 Federal ID Number **2560001791**
 Amount **3016.86**
 SAP Vendor Number **159114**

=====

PLEASE SUBMIT ONLY 1 ORIGINAL - MAKE COPIES ONCE FULLY EXECUTED

=====

EXECUTION PROCESS	RECEIVED	RETURNED
District Executive or Designee For Signature and Date on Agreement Engineering District _____		
Office of Chief Counsel For Final Approval Commonwealth Keystone Building, 9th Floor		
Office of the Comptroller <input type="checkbox"/> -APPROVED For Audit and Approval <input type="checkbox"/> -REJECTED Forum Place, 9th Floor		
Office of Chief Counsel For Date/ Final Logging Commonwealth Keystone Building, 9th Floor		

DISTRIBUTION (1 copy each):

- Copy to Contractor/Municipality
- Copy to Bureau of Maintenance and Operations--Commonwealth Keystone Bldg, 6th Fl.
- Copy to Comptroller--Forum Place, 9th Floor
- Copy to Treasurer--Treasury Dept., Treasury Audits, Finance Bldg., Room G-11

Original to: Engineering District _____
 Attention:
 Telephone:
 E-Mail Address:

SAMPLE J

OGC Form 18-FA-5.0 (approved OAG 5/1/2013)

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

MAINTENANCE SERVICES

AGREEMENT NO _____

FID #: _____

SAP VENDOR # _____

THIS AGREEMENT, fully executed and approved this _____ day of _____, by and between the COMMONWEALTH of Pennsylvania, acting through the Department of Transportation ("COMMONWEALTH"),

AND

_____, acting through its authorized officials ("MUNICIPALITY").

WITNESSETH:

WHEREAS, certain public highways, including bridges with their approaches, located in the MUNICIPALITY have been adopted and taken over as part of the State Highway System, to be constructed, improved and maintained by the COMMONWEALTH, upon the terms and conditions and subject to the limitations contained in the Act of May 29, 1945, P.L. 1108; the Act of June 1, 1945, P.L. 1242; and the Act of September 18, 1961, P.L. 1389, all as supplemented and amended; and,

WHEREAS, the COMMONWEALTH and the MUNICIPALITY are both public procurement units under Chapter 19 of the Commonwealth Procurement Code, 62 Pa. C.S. § 1901 et seq., and are authorized to enter into agreements related to the cooperative use of supplies or services pursuant to Section 1904 of the Procurement Code, 62 Pa. C.S. § 1904, under which the latter shall perform minor routine maintenance work on the roadway and shoulders of any State Highway, or portion thereof; and,

WHEREAS, the COMMONWEALTH desires to obtain the assistance of the MUNICIPALITY to carry out minor routine maintenance on the State Highways listed on Exhibit "A", which is attached to and made a part of this Agreement; and,

WHEREAS, the MUNICIPALITY has the equipment, materials, and personnel available and ready to perform all the items of repair and maintenance within the MUNICIPALITY listed on Exhibit "B", which is attached to and made part of this Agreement, in a prompt and efficient manner and has signified its willingness to furnish these repair and maintenance functions, subject to payment by the COMMONWEALTH as set forth in the List of Prices in Exhibit "B".

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

1. The MUNICIPALITY shall, in a good and workmanlike manner, perform the minor routine maintenance items at the amounts set forth in the List of Prices, all as set forth in Exhibit "B", on the State Highways located within the boundaries of the MUNICIPALITY, as listed on Exhibit "A". The MUNICIPALITY shall use equipment owned or leased by it and its own materials and personnel to perform the work. All work shall be completed in accordance with all applicable Department of Transportation Specifications ("Publication 408"), and with the policies and procedures set forth in the Highway Maintenance Foreman Manual ("Publication 113"), which are incorporated by reference into this Agreement as if physically attached.
2. The COMMONWEALTH shall pay the MUNICIPALITY for all authorized work performed on the items contracted for in Exhibit "B" as follows:
 - (a) Lump sum items shall be paid on a quarterly basis.
 - (b) Items performed on a unit price basis shall be paid in accordance with Paragraph 11 below.
 - (c) The starting date of this Agreement shall be either the date on which the Agreement has been fully executed and approved by the COMMONWEALTH, or another date agreed to by both the MUNICIPALITY and the COMMONWEALTH, whichever is later. Further, the MUNICIPALITY shall not be permitted to start any work until notified by the COMMONWEALTH that the Agreement has been fully executed and approved.

3. The MUNICIPALITY undertakes these responsibilities as an independent contractor, and its employees and/or lessors and/or contractors are not to be considered employees of the COMMONWEALTH for any purposes. The COMMONWEALTH shall not be liable, nor shall it indemnify, defend, or save harmless the MUNICIPALITY for the negligent acts of the MUNICIPALITY'S employees and/or lessors and/or contractors during the performance of, or resulting from the performance under, this Agreement.
4. This Agreement shall be effective for the period commencing upon written notice by the COMMONWEALTH to the MUNICIPALITY and terminating on _____, unless sooner terminated for cause upon thirty (30) days' written notice by either party to the other. Upon termination for cause, all obligations, except liability for claims arising from the MUNICIPALITY'S performance and damages incurred by the COMMONWEALTH, shall cease. In the event of termination, the MUNICIPALITY shall be paid for the work performed to the date of termination, to the extent such work has been performed in accordance with the requirements of this Agreement.
5. Work performed by the MUNICIPALITY under this Agreement shall be subject to inspection by the Secretary of Transportation, the District Engineer, and/or their duly authorized representatives within sixty (60) days of completion of the work. If, upon inspection, certain work is found not to be in conformance with the specifications, policies and procedures of the COMMONWEALTH, or is not performed in a good and workmanlike manner, the work shall be corrected or re-performed, as necessary, by the MUNICIPALITY, at no cost to the COMMONWEALTH. The COMMONWEALTH shall not be obligated to conduct an inspection program. Spot inspection or inspection of a particular project will be conducted at the discretion of the COMMONWEALTH.
6. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101—3104, applies to this Agreement. Therefore, this Agreement is subject to, and the MUNICIPALITY shall comply with, the clause entitled Contract Provisions – Right to Know Law 8-K-1532, attached as Exhibit “C” and made a part of this Agreement. As used in this exhibit, the term “Contractor” refers to the MUNICIPALITY.
7. The MUNICIPALITY shall comply with the following clauses or provisions attached as Exhibit “D” and incorporated herein by reference: The most current versions of the Commonwealth Nondiscrimination / Sexual Harassment Clause, the Contractor Integrity Provisions the Provisions Concerning the Americans with Disabilities Act, the Contractor Responsibility Provisions, and the Enhanced Minimum Wage Provisions.
8. The MUNICIPALITY agrees that the COMMONWEALTH may set off the amount of any state tax liability or other obligation of the MUNICIPALITY or its subsidiaries to the COMMONWEALTH against any payments due the MUNICIPALITY under any contract with the COMMONWEALTH.
9.
 - (a) Within ten (10) days after the effective date of this Agreement and every ninety (90) days thereafter, the MUNICIPALITY shall submit a proposed work program to the COMMONWEALTH, addressed to the Department of Transportation's local County Maintenance Manager. The MUNICIPALITY may proceed to work five (5) working days after submitting its proposed work program to the COMMONWEALTH, unless notified to the contrary.
 - (b) The MUNICIPALITY may, at any time during the progress of a quarterly work program, submit, for the COMMONWEALTH'S approval, a supplemental or amended work program and may proceed to work five (5) working days after submitting such amended work program, unless notified to the contrary.
 - (c) If an emergency situation arises, the Department of Transportation's local County Maintenance Manager, who shall be responsible for declaring such an emergency situation, may give verbal authorization to perform necessary additional work. The MUNICIPALITY shall promptly confirm any emergency authorization in writing. Any emergency work authorized pursuant to this paragraph shall be limited to the categories of work for which the MUNICIPALITY has assumed responsibility under this Agreement.
10. The MUNICIPALITY shall be responsible for maintenance and protection of traffic at all times during the performance of its responsibilities under this Agreement. This shall be performed in accordance with the Department of Transportation's Publication 213, entitled Work Zone Traffic Control, current edition, which the COMMONWEALTH shall make available to the MUNICIPALITY upon request.
11. The MUNICIPALITY may submit invoices at various intervals, but in no event shall invoices be submitted more frequently than on a monthly basis. Invoices shall be accompanied by a written statement certifying that the work listed in the invoice

was performed properly, specifically in accordance with the specifications, policies and procedures set forth in this Agreement.

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

(a) The COMMONWEALTH will make payments to the MUNICIPALITY through ACH. Within 10 days of the execution of this Agreement, the MUNICIPALITY must submit or must have already submitted its ACH information on a ACH enrollment form (obtained at www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf) and electronic addenda information, if desired to the Commonwealth’s Payable Service Center, Vendor Data Management Unit at 717-214-0140 (FAX) or by mail to the Office of Comptroller Operations, Bureau of Payable Services, Payable Service Center, Vendor Data Management Unit, 555 Walnut Street – 9th Floor, Harrisburg, PA 17101.

(b) The MUNICIPALITY 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 MUNICIPALITY to properly apply the state agency’s payment to the respective invoice or program.

(c) It is the responsibility of the MUNICIPALITY 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.

13. It is understood between the parties that the maximum amount payable under this Agreement by the COMMONWEALTH to the MUNICIPALITY shall not exceed the sum of _____ (\$.) dollars, without a written supplemental agreement signed by both parties.

14. The COMMONWEALTH has implemented a Strategic Environmental Management Program (SEMP) which complies with the ISO 14001:2004 standard. As part of SEMP, the COMMONWEALTH has established a Green Plan Policy that can be found at www.dot.state.pa.us and is also posted at the COMMONWEALTH’s District and County Offices. The Green Plan Policy is designed to protect the environment, conserve resources and comply with environmental laws and regulations. The MUNICIPALITY shall ensure that its personnel (including the personnel of any of its subcontractors) are aware of the COMMONWEALTH’s commitment to protecting the environment, are properly trained about the environmental impacts of their work and are competent (through appropriate work experience, job training or classroom education) to perform the work that they do.

EXHIBIT C

Contract Provisions – Right to Know Law 8-K-1532

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.

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

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

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

Revised February 1, 2010

Exhibit D

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor 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. Neither the Contractor nor any subcontractor nor any person on their behalf shall 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 employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. The Contractor and each 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 contracted services are performed shall satisfy this requirement for employees with an established work site.
4. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each 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 Contractor and each 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 contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The Contractor’s and each subcontractor’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 and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

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

EXHIBIT "D"

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 "D"

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 "D"

ENHANCED MINIMUM WAGE PROVISIONS

1. Enhanced Minimum Wage. Contractor/Lessor agrees to pay no less than \$10.15 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.

2. Adjustment. Beginning January 1, 2017, and annually thereafter, Contractor/Lessor shall pay its employees described in Paragraph 1. above an amount that is no less than the amount previously in effect; increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication as determined by the United States Bureau of Labor Statistics; and rounded to the nearest multiple of \$0.05. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

3. Exceptions. These Enhanced Minimum Wage Provisions shall not apply to employees:

- a. exempt from the minimum wage under the Minimum Wage Act of 1968;
- b. covered by a collective bargaining agreement;
- c. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
- d. required to be paid a higher wage under any state or local policy or ordinance.

4. Notice. Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.

5. Records. Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

6. Sanctions. Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.

7. Subcontractors. Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

July 2016

SAMPLE K**ATTACHMENT "B"
COMPREHENSIVE MAINTENANCE AGREEMENTS
RATE SCHEDULE****For use during the 2009/2010 Fiscal Year**

Unpaved Roads	1. Shaping	\$627.33/Mile
	2. Dust Palliative	\$0.44/Square Yard
Unpaved Shoulders	1. Grading	\$691.10/Mile
	2. Dust Palliative	\$0.43/Square Yard
	3. Cutting	\$958.15/Mile
	4. Side Dozing	\$0.74/Foot
Pavement	1. Manual Patching	\$279.23/Ton
	2. Mechanized Patching	\$76.43/Ton
	3. Base Repair	\$72.01/Ton
	4. Skin Patching	\$3.92/Gallon
	5. Single Seal Coat	\$1.89/Gallon
	6. Crack Sealing Bituminous Surface	\$1,478.57/Lane Mile
	7. Crack and Joint Sealing Concrete	\$1,769.21/Lane Mile
Paved Shoulders	1. Manual Patching	\$227.42/Ton
	2. Mechanized Patching	\$59.73/Ton
	3. Base Repair	\$99.68/Ton
	4. Skin Patching	\$3.78/Gallon
Drainage/Cleaning	1. Clean Inlets	\$34.93/Each
	2. Clean Ditches	\$1.65/Foot
	3. Clean Pipes < 36"	\$4.50/Foot
	4. Clean Pipes >= 36"	Negotiable/Foot
	5. Repair/Replace End Wall	\$424.65/Each
	6. Inlet Repair/Replace (Pre-Cast)	\$2,138.73/Each
	7. Repair/Replace Pipe and Culverts < 36"	\$52.64/Foot
	8. Repair/Replace Pipe and Culverts >= 36"	Negotiable/Foot
Miscellaneous	1. All Signs	\$30.86/Hour ¹
	2. Guide rail Repair	\$33.13/Hour ¹
	3. Mowing	\$73.56/Acre
	Mowing	\$72.15/Lane Mile
	4. Sweeping	\$99.65/Hour
	5. U-Drain	\$13.97/Linear Foot
	6. Concrete Repair (labor, materials and equipment)	\$193.84/Square Yard
	7. Gabion Basket (includes everything)	\$308.57/Cubic Yard
	8. Austrian Pines 8" high - bailed and burlaped	\$326.69/Each
	9. Velvet Pillar Crabtree's	\$363.00/Each
10. Shade Master Honey Locust Tree	\$453.77/Each	

¹Plus materials if the Department does not supply them.

No Increase is granted if Department costs are less than FY 08/09 Comprehensive Agreement Rates

SAMPLE L

DATE: July 1, 2004

SUBJECT: Township Agreement Number

TO:

FROM: Maintenance Manager or Asst. County Maintenance Manager
Engineering Maintenance District

I certify that the units of work listed for these routes are true and accurate and that the work was completed in accordance with the specifications, policies and procedures set forth in the agreement.

List the S.R., Segment and Offset of the location where work was performed, type of work and units of work performed. Units of work performed should be totaled.

SAMPLE M

**TOWNSHIP ROAD SUPERVISORS
TOWNSHIP, PENNSYLVANIA**

July 1, 2004

Pennsylvania Department of Transportation

Gentlemen:

This is to verify that the following work has been completed by _____
Township during the month of June 2004.

GRADING UNPAVED SHOULDERS

List the S.R., Segment and Offset of the location where work was performed, type of work and units of work performed. Units of work performed should be totaled.

TOWNSHIP SUPERVISORS

_____,
Chairman

DEPARTMENT OF TRANSPORTATION CERTIFICATION

I certify that the units of work listed for these routes are true and accurate and that the work was completed in accordance with the specifications, policies and procedures set forth in the agreement.

SIGNATURE (DATE)

TITLE

SAMPLE N

Municipal Winter Traffic Services Agreement

(Revised 4/2017)

AGREEMENT NO
FID/SSN
SAP VENDOR No

**AGREEMENT FOR MUNICIPAL WINTER TRAFFIC SERVICES
ACTUAL COSTS**

THIS AGREEMENT for municipal winter traffic services ("Agreement") is made and entered into this _____ day of _____, 20__, by and between the Commonwealth of Pennsylvania, acting through the Department of Transportation ("PennDOT").

and

Click or tap here to enter text., a political subdivision, duly and properly formed under the laws of the Commonwealth of Pennsylvania, acting through its proper officials ("Municipality").

As used in this Agreement, PennDOT and the Municipality are sometimes individually referred to as the "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, certain public highways, including bridges with their approaches, in the Municipality have been adopted and taken over as part of the State Highway System, to be constructed, improved and maintained by PennDOT, upon the terms and conditions and subject to the limitations contained in the Act of May 29, 1945, P.L. 1108; the Act of June 1, 1945, P.L. 1242; and the Act of September 18, 1961, P.L. 1389; all as supplemented and amended;

WHEREAS, the Municipality has the equipment, materials and personnel available and ready to perform snow and ice clearance together with the application of anti-skid and/or de-icing materials for certain State Highways, including bridges with their approaches, within the Municipality, in a prompt and efficient manner and has signified its willingness to furnish these winter traffic services for PennDOT during the Winter Season(s) of Click or tap here to enter text.- Click or tap here to enter text.; Click or tap here to enter text.- Click or tap here to enter text.; Click or tap here to enter text.- Click or tap here to enter text.; Click or tap here to enter text.- Click or tap here to enter text.; and Click or tap here to enter text.- Click or tap here to enter text. (the "Winter Season" for the purpose of this Agreement shall be the period from October 15 to April 30 of each season), subject to payment by PennDOT to the Municipality as described in this Agreement;

WHEREAS, the Municipality shall conduct its winter traffic services in a manner satisfactory to PennDOT, in order to facilitate the safe and unimpeded flow of vehicular

Municipal Winter Traffic Services Agreement

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traffic over said State Highways within the Municipality in accordance with the terms, covenants and conditions hereinafter set forth in this Agreement; and

WHEREAS, the Municipality shall conduct the winter traffic services for and in the agreed amount during the term of this Agreement, regardless of the amount of work required.

NOW, THEREFORE, in consideration of the premises, the mutual promises contained in this Agreement and with the intention of being legally bound, the Parties agree as follows:

1. **Recitals.** The foregoing recitals are incorporated by reference as a material part of this Agreement.
2. **Work to be performed by the Municipality.** The Municipality shall undertake and accomplish the required snow and ice clearance together with the application of anti-skid and/or de-icing materials for the State Highways, including bridges and their approaches, as indicated in Exhibit "A", attached to and made part of this Agreement. The Municipality shall perform all work in accordance with all applicable PennDOT Specifications ("Publication 408"), policies and procedures set forth in the PennDOT Highway Maintenance Foreman Manual ("Publication 113") and the PennDOT Maintenance Manual ("Publication 23"), which all are incorporated by reference into this Agreement as though physically attached. This work shall be performed in a prompt and efficient manner so as to facilitate the safe and unimpeded flow of vehicular traffic over the State Highways within the Municipality.
3. **Municipality to obtain Required Permits.** If, to undertake and accomplish the duties required in Section 1, the Municipality's forces must traverse a bridge with a posted weight restriction, the Municipality agrees to file a permit application with the posting authority and obtain a permit to traverse the bridge pursuant to 67 Pa. Code Chapter 191. The Municipality agrees to refile permit applications as needed during the term of this Agreement and obtain permits for each succeeding Winter Season for which this Agreement is renewed. Failure to obtain such permits shall be grounds for termination of this Agreement.
4. **Commencement of Work.** The starting date of this Agreement shall be the date on which the Agreement has been fully executed and approved by PennDOT, or the date agreed to by both the Municipality and PennDOT, whichever comes later. Further, the Municipality shall not be permitted to start any work until notified by PennDOT that the Agreement has been fully executed and approved, except as set forth in Section 7 below.
5. **Reimbursement of Actual Costs.** PennDOT shall pay the Municipality, as consideration for the services contracted for in this Agreement, the total sum of the Municipality's eligible actual costs incurred in providing the services under this Agreement, consisting of the items set forth in Section 6 below. As evidence of its actual costs, the Municipality shall submit to PennDOT a completed Exhibit "B." The amount owed to the Municipality shall not exceed the highest snow lane mile rate in the state for that Winter Season including the Severe Winter Adjustment, an adjustment set by PennDOT at the end of a Winter Season based upon the severity of the Winter Season.

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6. **Eligible Costs.** Actual costs to the Municipality that are eligible for payment shall consist of the following items: labor costs (consisting of salaries and employee overhead), equipment costs (rental costs), salt, salt brine and overhead. Any actual costs incurred by the Municipality during the Winter Season shall be paid by PennDOT in accordance with Section 5 above.

7. **Winter Emergency.** In the event a winter emergency occurs that necessitates winter traffic services prior to the execution of this Agreement, the District Executive on behalf of PennDOT may issue a written letter to the Municipality finding that an emergency exists under Section 516 of the Procurement Code and authorizing the Municipality to perform the services required by this Agreement subject to the terms and conditions of this Agreement. If the Municipality receives an emergency winter traffic services letter from the District Executive prior to execution of this Agreement, because of the critical need to provide winter traffic services to assure public safety on the State Highway System, PennDOT shall pay the Municipality for any costs incurred to service State Highways as a result of the onset of winter weather emergency necessitating the provision of the services under this Agreement between the beginning of the Winter Season and full execution of this Agreement.

8. **Relationship of the Parties.** The Municipality undertakes the responsibilities as an independent contractor and its employees and/or lessors or contractors shall not be considered employees of PennDOT for any purpose. This Agreement shall be considered a maintenance contract between a Commonwealth agency and a local agency for purposes of 42 Pa. C.S. 8542(6)(b)(ii), relating to acts which may impose liability on local agencies.

9. **End of the Municipality's Winter Season Obligations.** The obligations of the Municipality under this Agreement shall terminate and end as of midnight on April 30th for each Winter Season.

10. **Inspection of Work.** Work performed by the Municipality under this Agreement shall be done to the satisfaction of PennDOT. Such work shall be subject to inspection by the Secretary of Transportation, the District Executive, and/or their duly authorized representatives.

11. **Termination for Cause by PennDOT.** If the Municipality fails to comply with the terms of this Agreement to the satisfaction of PennDOT, PennDOT may terminate the Agreement upon giving ten (10) days written notice to the Municipality. If the Agreement is so terminated, then PennDOT shall not be further obligated to pay any amount of money to the Municipality and the Municipality shall be entitled to payment for all eligible actual costs incurred by the Municipality pursuant to this Agreement prior to the date of termination.

12. **Termination for Convenience by PennDOT.** PennDOT reserves the right to terminate this Agreement for convenience if PennDOT determines that termination is in the best interest of PennDOT. If the Agreement is so terminated, then PennDOT shall not be further obligated to pay any amount of money to the Municipality, the Municipality shall not be further obligated to perform, and the Municipality shall be entitled to payment for all eligible actual costs incurred by the Municipality pursuant to this Agreement up to the date when termination is effective.

13. **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 Municipality

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shall comply with, the clause entitled Contract Provisions – Right to Know Law, attached to and made a part of this Agreement as Exhibit “C.” As used in this exhibit, the term “Contractor” refers to the Municipality.

14. Required Commonwealth Provisions. The Municipality shall comply with the following required Commonwealth Provisions. As used in these provisions, “Contractor” refers to the Municipality:

- a. **Commonwealth Nondiscrimination/Sexual Harassment Clause.** The current version of the Commonwealth Nondiscrimination/Sexual Harassment Clause, which is attached to and made part of this Agreement as Exhibit “D;”
- b. **Contractor Integrity Provisions.** The current version of the Contractor Integrity Provisions, which are attached to and made part of this Agreement as Exhibit “E;”
- c. **Americans with Disabilities Act.** The current version of the Commonwealth Provisions Concerning the Americans with Disabilities Act, which are attached to and made part of this Agreement as Exhibit “F;” and
- d. **Contractor Responsibility Provisions.** The current version of the Commonwealth Contractor Responsibility Provisions, which are attached to and made part of this Agreement as Exhibit “G.”

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

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

- a. **Enrollment in ACH.** PennDOT will make payments to the Municipality through ACH. Within ten (10) days of the execution of this Agreement, the Municipality must submit or must have already submitted its ACH information and electronic addenda information, if desired, on an ACH enrollment form obtained at: www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf to the Commonwealth’s Payable Service Center, Vendor Data Management Unit at 717-214-0140 (FAX) or by mail to the Office of Comptroller Operations, Bureau of Payable Services, Payable Service Center, Vendor Data Management Unit, 555 Walnut Street – 9th Floor, Harrisburg, PA 17101.
- b. **Unique Identifying Number.** The Municipality must submit a completed Exhibit “B” with a unique identifying number. The unique number will be listed on the Commonwealth of Pennsylvania’s ACH remittance advice to enable the Municipality to properly apply the state agency’s payment to the respective invoice or program.

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- c. **Accuracy of Information.** It is the responsibility of the Municipality 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.

17. Audit and Maintenance of Records. PennDOT and other agencies of the Commonwealth of Pennsylvania may, at reasonable times and places, audit the books and records of the Municipality to the extent that they relate to the Municipality's performance of this Agreement and the costs incurred by the Municipality in providing services under it. The Municipality shall maintain the books and records for a period of three (3) years from the date of final payment under the Agreement, including all renewals.

18. Choice of Law. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania and the decisions of Pennsylvania courts. The Municipality 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 Municipality 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.

19. Indemnification. The Municipality shall indemnify, save harmless, and defend (if requested) PennDOT, its officers, agents, and employees from all suits, actions, or claims of any character, name, or description brought for or on account of any injuries or damages received or sustained by any person, persons or property by or from the Municipality, its contractors, their officers, agents and employees as a result of the obligations assumed by the Municipality under this Agreement.

20. Amendments and Modifications. No alterations or variations to this Agreement shall be valid unless made in writing and signed by the Parties. Amendments to this Agreement shall be accomplished through a formal written document signed by the Parties with the same formality as this Agreement.

21. Renewal. This Agreement shall automatically renew for succeeding Winter Seasons, identified above, at the rate established for each particular season set forth in this Agreement unless either Party shall terminate upon written notice to the other on or before July 31st before the start of the following Winter Season.

22. Strategic Environmental Management Program ("SEMP"). PennDOT has implemented a SEMP which complies with the ISO 14001:2004 standard. As part of SEMP, PennDOT has established a Green Plan Policy that can be found at www.dot.state.pa.us and is also posted at PennDOT's District and County Offices. The Green Plan Policy is designed to protect the environment, conserve resources and comply with environmental laws and regulations. The Municipality shall ensure that its personnel (including the personnel of any of its subcontractors) are aware of PennDOT's commitment to protecting the environment, are properly trained about the environmental impacts of their work and are competent (through appropriate work experience, job training or classroom education) to perform the work that they do.

23. Enhanced Minimum Wage Provisions. The Municipality shall comply with the Enhanced Minimum Wage Provisions, attached to and made part of this Agreement as

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Exhibit "H."

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

25. **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 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.

26. **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.

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

28. **Third-Party Beneficiary Rights.** The Parties to this Agreement understand that this Agreement does not create or intend to confer any rights in person or on persons or entities not a party to this Agreement.

29. **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 address provided under this Agreement, either by regular mail, facsimile, e-mail, or delivery in person:

PennDOT:

- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.

Municipality:

- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.
- Click or tap here to enter text.

30. **Force Majeure.** Neither Party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming Party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, and freight embargoes. This provision shall become effective only if the Party failing to perform immediately notifies the other Party of the extent and nature of the

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problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming Party.

31. 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 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.

32. Execution Date. This Agreement shall not be effective until it has been executed by all necessary Commonwealth officials as required by law. Following full execution, the DEPARTMENT will insert the effective date at the top of Page 1. The effective date will be the date of the last signature.

[The remainder of this page is intentionally left blank.]

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and signed, to be effective as of the date of the last signature affixed below.

ATTEST

MUNICIPALITY

BY _____
Title: _____ Date _____ Title: _____ Date _____

Please attach a resolution as proof of signature authority.

DO NOT WRITE BELOW THIS LINE - FOR COMMONWEALTH USE ONLY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY _____
District Executive Date

APPROVED AS TO LEGALITY
AND FORM

BY _____
for Chief Counsel Date

Certified Funds Available Under
SAP DOCUMENT NO. _____
SAP FUND _____
SAP COST CENTER _____
GL. ACCOUNT _____

BY _____
Deputy General Counsel Date

AMOUNT _____

BY _____
Deputy Attorney General Date

BY _____
for Comptroller Operations Date

Contract No. _____, is split 0%, expenditure amount of 0.00, for federal funds and 100%, 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 SAP Fund is Highway Maintenance; 582.

OCC Form No. 18-AT-26.0

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RESOLUTION

BE IT RESOLVED, by authority of the _____
(Name of governing body)

of the _____, _____ County,
(Name of MUNICIPALITY)

and it is hereby resolved by authority of the same, that the _____
(designate official title)

of said MUNICIPALITY be authorized and directed to sign the attached Agreement on its behalf.

ATTEST: _____
(Name of MUNICIPALITY)

(Signature and designation of official title) By: _____
(Signature and designation of official title)

I, _____,
(Name) _____
(Official title)

of the _____, do hereby certify that the
(Name of governing body and MUNICIPALITY)

foregoing is a true and correct copy of the Resolution adopted at a regular meeting of the
_____, held the ____ day of _____, 20____.
(Name of governing body)

DATE: _____
(Signature and designation of official title)

NOTE: Signature on the Department signature page of this Agreement must conform with signature on this Resolution.

Municipal Winter Traffic Services Agreement

EXHIBIT "C"

Contract Provisions - Right to Know Law

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:
1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

Municipal Winter Traffic Services Agreement

- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

Municipal Winter Traffic Services Agreement

EXHIBIT "D"

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor 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. Neither the Contractor nor any subcontractor nor any person on their behalf shall 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 employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. The Contractor and each 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 contracted services are performed shall satisfy this requirement for employees with an established work site.
4. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each 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 Contractor and each 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 contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose

Municipal Winter Traffic Services Agreement

of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The Contractor's and each subcontractor'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 and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
8. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

Municipal Winter Traffic Services Agreement

EXHIBIT "E"

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.

Municipal Winter Traffic Services Agreement

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;

Municipal Winter Traffic Services Agreement

- (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 if 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

Municipal Winter Traffic Services Agreement

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.

Municipal Winter Traffic Services Agreement

EXHIBIT "F"

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.

Municipal Winter Traffic Services Agreement

EXHIBIT "G"

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

Municipal Winter Traffic Services Agreement

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

Municipal Winter Traffic Services Agreement

EXHIBIT "H"

ENHANCED MINIMUM WAGE PROVISIONS

1. **Enhanced Minimum Wage.** Contractor/Lessor agrees to pay no less than \$10.15 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.
2. **Adjustment.** Beginning January 1, 2017, and annually thereafter, Contractor/Lessor shall pay its employees described in Paragraph 1. above an amount that is no less than the amount previously in effect; increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication as determined by the United States Bureau of Labor Statistics; and rounded to the nearest multiple of \$0.05. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
3. **Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
 - a. exempt from the minimum wage under the Minimum Wage Act of 1968;
 - b. covered by a collective bargaining agreement;
 - c. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
 - d. required to be paid a higher wage under any state or local policy or ordinance.
4. **Notice.** Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
5. **Records.** Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
6. **Sanctions.** Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
7. **Subcontractors.** Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

INSTRUCTIONS:*Detail Fields*

Complete all fields above the expenditures table (gray fields).

Enter your price of salt (\$/Ton) in the Cost per Ton of Salt field.

"State Road SLM Serviced" refers to the number of lane-miles of state roads that are serviced by your organization within the municipality.

"Total Municipality SLM Serviced" refers to the number of total lane-miles that are serviced by your organization within the municipality.

Expenditures Table

Enter all costs by your organization for the servicing of all roads within the municipality.

Complete all columns in the table. "Total Salt Cost" and "Total Cost" are automatically calculated.

If events carry through two or more dates, start a new line for each subsequent date and enter costs only charged on each day.

Signature Fields

A signature by an officer within the municipality is required for submittal.

Email the form to hquinn@pa.gov for electronic filing (signed/scanned pdf or excel format).

Please email hquinn@pa.gov for electronic filing

Form revision 6/30/2015

SAMPLE P

**AMENDMENT TO WINTER TRAFFIC SERVICES AGREEMENT
BETWEEN
THE COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF TRANSPORTATION AND**

THIS AMENDMENT to Winter Traffic Services Agreement No. _____ is entered into the ____ day of _____, 20__ by and between the Commonwealth of Pennsylvania, Department of Transportation (“COMMONWEALTH”) and _____ (“MUNICIPALITY”).

WITNESSETH:

WHEREAS, the parties entered into Agreement No. _____ (“Agreement”) on _____, 20__ for the performance of snow and ice clearance together with the application of anti-skid and/or de-icing materials for certain State Highways; and

WHEREAS, the parties wish to amend the terms of the Agreement to add, delete or both certain State highways to Exhibit A of Agreement No. _____.

NOW, THEREFORE, the parties, intending to be legally bound, agree that the Agreement shall be amended as follows:

1. Exhibit A to the Agreement is hereby struck in its entirety and replaced with Exhibit AA, which is attached to this Amendment.
2. The following Paragraph is added to the end of the Agreement.
 18. The MUNICIPALITY shall comply with the Enhanced Minimum Wage Provisions, attached to this Amendment as Exhibit “D”.
3. The Effective Date of this Amendment shall be the date that this Amendment is fully executed by the MUNICIPALITY and the COMMONWEALTH and all approvals as required by Commonwealth contracting procedures have been obtained, as indicated by the date of the last Commonwealth signature. Following full execution, the COMMONWEALTH shall insert the Effective Date at the top of page 1.
4. The additions, deletions or both of the roadway(s) set forth in this Amendment shall take effect on the Effective Date of this Amendment as

defined above or on October 15th of the calendar year in which this Amendment becomes effective, whichever date is later.

5. The Agreement, as amended, shall continue to renew on October 15 of each successive season through the original termination date. If this Amendment is not fully executed and approved prior to October 15 of the Winter Season for which it will initially take effect, the COMMONWEALTH shall prorate payment for that Winter Season only. Furthermore, the proration shall affect only the added and deleted roadway(s) only. The amount to be prorated shall be based upon the percentage that the affected roadway(s) bear(s) to the total State Highway mileage maintained by the MUNICIPALITY, multiplied by 1/198 (1/199 for leap years). This number shall be multiplied by (a) the number of days between October 15 and the effective date of this Amendment and then by (b) the rate applicable to that roadway classification. The COMMONWEALTH shall then add the resulting amount to, or subtract it from, the total annual payment.
6. Capitalized terms used in this Amendment and not otherwise defined herein shall have the meanings specified for such terms in the Agreement.
7. Except as explicitly provided by this Amendment, the other provisions of the Agreement shall remain in full force and effect.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, and intending to be bound hereby, the parties subscribe their signatures to this Amendment herein below:

ATTEST

MUNICIPALITY

Title: Date

BY _____
Title: Date

If a Corporation, the president or Vice-president must sign and the Secretary, Treasurer, Assistant Secretary or Assistant Treasurer must attest; if a sole proprietorship, only the owner must sign; if a partnership, only one partner need sign; if a limited partnership, only the general partner must sign. If a MUNICIPALITY, Authority or other entity, please attach a resolution.

DO NOT WRITE BELOW THIS LINE - FOR COMMONWEALTH USE ONLY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY _____
District Executive Date

APPROVED AS TO FORM AND LEGALITY

Office of Comptroller Date
Operations

Office of Chief Counsel Date
Department of Transportation

Encumbrance No.

Deputy General Counsel Date
Office of General Counsel

Deputy Attorney General Date
Office of Attorney General

Contract No. _____ is split **0%**, expenditure amount of **0.00**, for federal funds and **100%**, 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 SAP Fund is **Highway Maintenance; 582**.

18-AT-64.0

IN WITNESS WHEREOF, and intending to be bound hereby, the parties subscribe their signatures to this Amendment herein below:

ATTEST

MUNICIPALITY

Title: Date

BY _____
Title: Date

If a Corporation, the president or Vice-president must sign and the Secretary, Treasurer, Assistant Secretary or Assistant Treasurer must attest; if a sole proprietorship, only the owner must sign; if a partnership, only one partner need sign; if a limited partnership, only the general partner must sign. If a MUNICIPALITY, Authority or other entity, please attach a resolution.

DO NOT WRITE BELOW THIS LINE - FOR COMMONWEALTH USE ONLY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY _____
District Executive Date

APPROVED AS TO FORM AND LEGALITY

Office of Comptroller Date
Operations

Office of Chief Counsel Date
Department of Transportation

Encumbrance No.

Deputy General Counsel Date
Office of General Counsel

Deputy Attorney General Date
Office of Attorney General

Contract No. _____ is split 0%, expenditure amount of 0.00, for federal funds and 100%, 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 SAP Fund is Highway Maintenance; 582.

18-AT-64.0