BRIDGE INVENTORY AND INSPECTION ACTIVITY
REIMBURSEMENT AGREEMENT
For Federal-Aid Highway Projects

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

and

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

When referred to collectively, the DEPARTMENT and the LOCAL GOVERNMENT UNIT will be referred to as the Parties.

WITNESSES:

WHEREAS, the Congress of the United States has found it to be in the national interest to promote through the states a continuing
Federal-Aid Highway Program to improve public roads both on and off federal-aid systems within the states, in order to bring these public roads up to standards and thereby enhance the safety and traffic flow on these roads, and has provided funds to be administered in accordance with the provisions of the various federal-aid highway acts and their amendments; and,

WHEREAS, 23 U.S.C. § 151 and the regulations promulgated under its authority at 23 C.F.R. Part 650, Subpart C mandate the establishment of national bridge inspection standards ("NBIS"), including the methods by which the states shall carry out the inspections, the maximum time period between inspections, the qualifications of the personnel, mandatory systematic quality assurance/quality control procedures and required follow-up regarding critical findings, for all highway bridges open to the public, and authorize the provision of federal funds to the states to carry out the NBIS inspection program; and,

WHEREAS, the DEPARTMENT has adopted policies and procedures for the initiation and conduct of bridge inventories and inspections on public roads in compliance with NBIS, pursuant to the requirements set forth by the United States Department of Transportation Federal Highway Administration ("FHWA"), regulations implementing the provisions of the federal aid highway acts and
amendments hereto, as set forth in the applicable provisions of Title 23 of the United States Code; and,

WHEREAS, the LOCAL GOVERNMENT UNIT has signified its willingness to participate in the project described below in accordance with the terms, conditions, and provisions hereinafter contained in the Agreement.

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

1. RECITALS

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

2. INVENTORIES AND INSPECTIONS

a. The LOCAL GOVERNMENT UNIT shall participate in bridge inventories and inspections as specified in the Agreement. The maximum amount of federal funds available for the work to be performed under this Agreement is Six Hundred Forty-Two Thousand Three Hundred Sixty-Three dollars and 75 cents ($ 642,363.75).

b. The work involved shall be in accordance with policies, procedures, and specifications prepared or approved by the
DEPARTMENT and the FHWA, which policies, procedures, and specifications shall apply to the LOCAL GOVERNMENT UNIT and its consultants and shall be incorporated into all agreements entered into by them under the terms of this Agreement. These policies, procedures, and specifications are contained in the DEPARTMENT's "Bridge Safety Inspection Manual," designated as Publication 238 (current edition), its supplements, amendments, and updates, incorporated by reference and made part of this Agreement as if physically attached. This Agreement will cover all services or activities performed after the FHWA's approval of the Form 4232; provided further, that the DEPARTMENT must approve all consultant agreements prior to the start of any work, if the work is to be eligible for reimbursement under the terms of this Agreement. Bridges to be inspected or reinspected, inventoried, and load rated under the terms of this Agreement; the political subdivisions that own them (if applicable); and other relevant information regarding the work are listed on Exhibit "A" attached to and made part of this Agreement; and the work to be performed on these bridges is collectively referred to as the "Project."

c. Where a county is acting as agent for the municipalities whose bridges are listed on Exhibit "A," it assumes responsibility for all work done by its consultant(s) and contractor(s) in connection with this Agreement. The county is responsible for
securing from the affected municipalities any required consents or authorizations to serve as their agent.

d. The proportionate shares of costs on this Project and their amounts are as follows:

Total Inventory and Inspection Cost $ 802,954.69  
Federal Share (80%) $ 642,363.75  
Local Share (20%) $ 160,590.94  

3. REIMBURSEMENT  
a. Subject to the terms and conditions of this Agreement, the DEPARTMENT, from funds allocated for this purpose by the FHWA, and to the extent such funds are first made available by FHWA to the DEPARTMENT, shall reimburse the LOCAL GOVERNMENT UNIT in the amount of eighty percent (80%) of the total allowable Project costs, estimated to be Six Hundred Forty-Two Thousand Three Hundred Sixty-Three dollars and 75 cents ($ 642,363.75). Accordingly, the amount to be reimbursed to the LOCAL GOVERNMENT UNIT is estimated to be Six Hundred Forty-Two Thousand Three Hundred Sixty-Three dollars and 75 cents ($ 642,363.75).

b. The LOCAL GOVERNMENT UNIT, by executing this Agreement, hereby certifies that it has on hand, or will obtain during the life of the Project, sufficient funds to meet all of its obligations under the terms
of this Agreement and that it, and not the DEPARTMENT, shall provide all funds needed to pay any costs incurred in excess of those costs eligible for federal-aid participation and shall bear all such excess costs.

c. For the purpose of reimbursement as indicated in this paragraph, the LOCAL GOVERNMENT UNIT shall submit to the DEPARTMENT certified periodic invoices for the following:

(1) Allowable costs for work performed by the LOCAL GOVERNMENT UNIT's forces on the Project, or

(2) Work performed on the Project by the LOCAL GOVERNMENT UNIT's consultant(s) and contractor(s), based on current estimates of the work of the consultant(s) and contractor(s) on the Project.

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

d. The LOCAL GOVERNMENT UNIT shall be responsible for the remaining twenty percent (20%) of all allowable costs incurred on the Project, as well as any and all costs incurred in excess of those eligible for federal-aid participation, including, but not limited to, any and all costs relating to or resulting from unauthorized changes made to the approved procedures and/or specifications, unreasonable time
delays and unauthorized extensions of time, interest for late payments or for money borrowed to finance the projects (inasmuch as interest paid by the LOCAL GOVERNMENT UNIT is not federally reimbursable), and all other unforeseen, unauthorized costs and expenses not included in the estimates set forth above in subparagraph a.

e. The DEPARTMENT shall not reimburse any additional or extra work performed or materials furnished, not expressly authorized under this Agreement, unless the DEPARTMENT has first approved such additional or extra work or materials in writing. Any such work done or materials furnished without such written approval first being given shall be at the LOCAL GOVERNMENT UNIT's own risk, cost, and expense.

f. **Automated Clearing House Provisions.** In accordance with Commonwealth Management Directive 310.30 Amended, issued May 22, 2009, relating to the Pennsylvania Electronic Payment Program and the establishment of the Automated Clearing House Network ("ACH") as the Commonwealth's preferred method of payment, the LOCAL GOVERNMENT UNIT shall comply with the following provisions:

(1) **The DEPARTMENT will make payments to the LOCAL GOVERNMENT UNIT through ACH.** Within 10 days of executing this Agreement, the LOCAL GOVERNMENT UNIT 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.

(2) The LOCAL GOVERNMENT UNIT 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 LOCAL GOVERNMENT UNIT to properly apply the state agency's payment to the respective invoice or program.

(3) It is the responsibility of the LOCAL GOVERNMENT UNIT 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.

g. The LOCAL GOVERNMENT UNIT shall submit its final invoices for reimbursement of the items set forth in subparagraph c. to the DEPARTMENT within one (1) year of the completion of the Project. If the LOCAL GOVERNMENT UNIT fails to submit its final invoices within this
one- (1-) year period, it may forfeit all remaining federal financial participation in the Project.

4. RECORDS AND AUDIT REQUIREMENTS

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

   b. As specified by the Federal Office of Management and Budget, the LOCAL GOVERNMENT UNIT agrees to satisfy the audit requirements contained in the Single Audit Act of 1984, as amended, 31 U.S.C. Section 7501 et seq., and, for this purpose, to comply with the Audit Clause to Be Used in Agreements with Entities Receiving Federal Awards from the
Commonwealth, dated December 3, 2003, which is incorporated into this Agreement by reference as though physically attached. As used in the Audit Clause, the term "Subrecipient" means the LOCAL GOVERNMENT UNIT.

5. ABANDONMENT OF PROJECT

If the LOCAL GOVERNMENT UNIT abandons or indefinitely postpones the Project, the LOCAL GOVERNMENT UNIT may terminate this Agreement by sending a thirty- (30-) day written notice of termination to the DEPARTMENT, with the understanding that the FHWA will not participate in any costs of an incomplete bridge inspection, rating, or accompanying report and that the DEPARTMENT must be reimbursed for all costs incurred by it for the Project. Consequently, in that event, the LOCAL GOVERNMENT UNIT shall reimburse the DEPARTMENT, within thirty (30) days of receipt of a statement from the DEPARTMENT, all federal-aid funds received by the LOCAL GOVERNMENT UNIT for work performed on a particular structure but not completed, for refund to the FHWA. If the LOCAL GOVERNMENT UNIT fails to reimburse the DEPARTMENT within this time period, the LOCAL GOVERNMENT UNIT shall be in default pursuant to Paragraph 6 of this Agreement.

6. DEFAULT

If the LOCAL GOVERNMENT UNIT fails to perform any of the terms, conditions or provisions of this Agreement, including, but not limited to, any default of payment for a period of thirty (30) days, the LOCAL GOVERNMENT UNIT authorizes the DEPARTMENT to withhold so much of the
LOCAL GOVERNMENT UNIT's Liquid Fuels Tax Fund allocation as may be necessary to complete the Project or reimburse the DEPARTMENT or the FHWA in full for all costs due under this Agreement; and the LOCAL GOVERNMENT UNIT authorizes the DEPARTMENT to withhold such amount and to apply such funds, or portion thereof, to remedy such default.

7. REQUIRED ACTION UPON CRITICAL FINDINGS

   a. The LOCAL GOVERNMENT UNIT shall require its inspectors, whether its own staff or inspectors under contract, to adhere to the Department's Publication 238 regarding emergency reporting and notification of critical deficiencies observed or found during any inspection authorized by this Agreement.

   b. The LOCAL GOVERNMENT UNIT shall take action to mitigate any critical deficiencies, or perilous or hazardous conditions reported to it as soon as possible, but no later than seven (7) days from receipt of notice of such deficiency.

   c. Failure to comply with subparagraphs a. or b. above may be considered a default or abandonment of this Agreement, and the provisions of Paragraphs 5 or 6 shall apply as appropriate. Furthermore, failure to comply with these subparagraphs may result in the loss of federal and state funds.

8. INDEMNIFICATION
The LOCAL GOVERNMENT UNIT shall indemnify, save harmless, and (if requested) defend the Commonwealth of Pennsylvania, the DEPARTMENT, the FHWA, and all of their officers, agents, and employees from all suits, actions, or claims of any character, name, or description, brought for or on account of any injuries or damages received or sustained by any person, persons, or property, arising out of, resulting from, or connected with any work on the Project by the LOCAL GOVERNMENT UNIT and/or the LOCAL GOVERNMENT UNIT's consultant(s) and/or contractor(s) and their officers, agents, and employees, whether the same be due to defective materials, defective workmanship, or neglect in safeguarding the work, or by or on account of any act, omission, neglect, or misconduct of the LOCAL GOVERNMENT UNIT and/or the LOCAL GOVERNMENT UNIT's consultant(s) and/or contractor(s), their officers, agents, and employees, during the performance of the work or thereafter, or to any other cause whatever.

9. FHWA APPROVAL

The Parties fully understand and agree that their respective obligations under this Agreement shall be made contingent upon the approvals, prior to commencement of the work herewith, of the Project's eligibility for participation in federal funds to the extent of the proportionate share specified in Subparagraph 2.d. above; and, if the FHWA does not give such approval, neither of the Parties shall be further obligated by the terms of this Agreement.
10. TERMINATION PROVISION

Because this Agreement is to be funded either partially or completely by federal funds, the DEPARTMENT may terminate it if federal funds are not provided to the DEPARTMENT for the purpose stated in the Agreement. The DEPARTMENT shall effect such termination by delivery to the LOCAL GOVERNMENT UNIT of a notice of termination specifying the reason for termination and its effective date. The DEPARTMENT shall compensate the LOCAL GOVERNMENT UNIT for bridge inspections, ratings, and reports that were completed by the date of notice of termination or such other date as the notice of termination shall specify.

11. REQUIRED CONTRACT PROVISIONS

The Parties agree, and the LOCAL GOVERNMENT UNIT shall also provide in its contracts for the Project, that all plans, specifications, estimates of costs, bridge safety inspections and associated tasks, acceptance of the work, and procedures in general shall, at all times, conform to all applicable federal and state laws, rules, regulations, orders, and approvals, including specifically the procedures and requirements relating to labor standards, equal employment opportunity, nondiscrimination, anti-solicitation, information, auditing, and reporting provisions. The LOCAL GOVERNMENT UNIT shall comply, and shall cause its consultant(s) and contractor(s) to comply, with the conditions set forth in the Commonwealth Nondiscrimination/Sexual Harassment Clause and the Federal Nondiscrimination Clauses, which are incorporated into this Agreement by reference as though physically attached.
12. CONTRACTOR INTEGRITY PROVISIONS

The LOCAL GOVERNMENT UNIT shall comply with the Commonwealth Contractor Integrity Provisions, which are incorporated into this Agreement by reference as though physically attached.

13. OFFSET PROVISION

The LOCAL GOVERNMENT UNIT agrees that the Commonwealth may offset the amount of any state tax or Commonwealth liability of the LOCAL GOVERNMENT UNIT or its affiliates and subsidiaries that is owed to the Commonwealth against any payments due the LOCAL GOVERNMENT UNIT under this or any other contract with the Commonwealth.

14. AMERICANS WITH DISABILITIES ACT PROVISIONS

The LOCAL GOVERNMENT UNIT shall comply with the Commonwealth Provisions Concerning the Americans with Disabilities Act, which are incorporated into this Agreement by reference as though physically attached.

15. ANTI-LOBBING REQUIREMENT

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

16. CONTRACTOR RESPONSIBILITY PROVISIONS

The LOCAL GOVERNMENT UNIT shall comply with the Commonwealth Contractor Responsibility Provisions, which are incorporated into this Agreement by reference as though physically attached.

17. DISADVANTAGED BUSINESS ENTERPRISE REGULATORY COMPLIANCE REQUIREMENTS

The LOCAL GOVERNMENT UNIT shall take the following steps, where applicable, in order to comply with the Disadvantaged Business Enterprise ("DBE") requirements of current federal highway funding authorizations and regulations adopted pursuant thereto:

a. For federally-assisted transportation-related projects, the DEPARTMENT may establish a percentage participation goal. The LOCAL GOVERNMENT UNIT shall work with the DEPARTMENT's Engineering District Office concerning the necessity of establishing a goal for this Project. If a DBE goal is not applicable, the LOCAL GOVERNMENT UNIT shall comply with the "Disadvantaged Business Enterprise and Small Business Concern Involvement" provision, which is incorporated into this Agreement by reference as though physically attached. If a goal is established, this goal must be attained by the LOCAL GOVERNMENT UNIT's consultant(s) and
contractor(s) or, in the alternative, a showing of good faith effort must be made. Determination of good faith effort shall be made by the LOCAL GOVERNMENT UNIT and is subject to the concurrence of the DEPARTMENT. The LOCAL GOVERNMENT UNIT shall comply with the DBE Special Requirements—Engineering, which are incorporated into this Agreement by reference as though physically attached to it.

b. All DBE's must be certified by the Pennsylvania Unified Certification Program ("PA UCP") before the bid submission date.

18. REQUIRED DISADVANTAGED BUSINESS ENTERPRISE ASSURANCE PROVISION

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

b. As a recipient of funds from the DEPARTMENT, the LOCAL GOVERNMENT UNIT must include the assurance set forth in subparagraph a. in each contract into which it enters to carry out the Project or activities being funded by this Agreement.
19. ORDINANCES AND RESOLUTIONS

The LOCAL GOVERNMENT UNIT shall enact and/or adopt such ordinances and/or resolutions as may be necessary to affect the purposes of this Agreement.

20. SUCCESSORS AND ASSIGNS

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

21. 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 LOCAL GOVERNMENT UNIT 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 LOCAL GOVERNMENT UNIT.

22. EFFECTIVE DATE

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

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

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY
District Executive DATE

Dauphin County
(Name of LOCAL GOVERNMENT UNIT)*

BY
Chairman DATE

ATTEST:

Signature DATE
Chief Clerk

Title

(SEAL)

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

APPROVED AS TO LEGALITY AND FORM

BY
for Chief Counsel Date

BY
Deputy General Counsel Date

BY
Deputy Attorney General Date

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

Agreement No. 089481 is split 80%, expenditure amount of $642,363.75 for Federal funds and 0%, expenditure amount $0.00 for State funds. The related Federal assistance program name and number are Bridge Safety Inventory Inspection, H1C0 NBIS 051 for Local Federal Aid Bridges. The State assistance program name and number are not applicable.
RESOLUTION

BE IT RESOLVED, by authority of the
Board of
(Name of governing body)
Commissioners
of the
(Name of municipality)
Dauphin COUNTY, and it is hereby resolved by
authority of the same, that the Chairman of said
(Designate official title)
municipality be authorized and directed to sign the
attached agreement on its behalf and that the Chief Clerk
(Designate official title)
be authorized and directed to attest the same.

ATTEST

County of Dauphin
(Name of municipality)

Chief Clerk
By: Chairman
(Signature and designation of official title)
(Signature and designation of official title)
(SEAL)

I, Chad Saylor, Chief Clerk
(Name) (Official Title)
of the County of Dauphin do hereby certify
(Name of governing body and municipality)
that the foregoing is a true and correct copy of the Resolution
adopted at a regular meeting of the Board of Commissioners
(Name of governing body)
held the 1 day of September, 2010.

DATE: 9 1, 2010

Chief Clerk
(Signature and designation of official title)
EXHIBIT A
REIMBURSEMENT AGREEMENT 089481
FOR WORK DESCRIBED IN ENGINEERING AGREEMENT 089480
LOCAL BRIDGE INSPECTION PROGRAM – 2010-2015
DAUPHIN COUNTY
LIST OF MUNICIPALITIES PARTICIPATING IN CONTRACT

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**Exhibit A**

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**Dauphin County L&F Structure Inventory**
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LOBBYPING CERTIFICATION FORM

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under Section 1552, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for such failure.

SIGNATURE: ____________________________

TITLE: Chairman

DATE: 9-1-10
*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.

d. 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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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.