

**AGREEMENT FOR INSTALLATION OF UTILITY FACILITY ON STRUCTURE**

THIS AGREEMENT, numbered \_\_\_\_\_ in COMMONWEALTH files, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between the COMMONWEALTH of Pennsylvania, acting through the Department of Transportation, hereinafter called COMMONWEALTH;

AND

\_\_\_\_\_, with its principal place of business located at \_\_\_\_\_ hereinafter called "UTILITY".

**WITNESSETH:**

WHEREAS, the Secretary of Transportation, in pursuance of authority in him by law vested, is about to undertake a highway construction project ("Project") on State Route \_\_\_\_\_, Section \_\_\_\_\_, in \_\_\_\_\_ County, which will include the construction of S-\_\_\_\_\_, a \_\_\_\_\_ between stations \_\_\_\_\_ and \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_ under/over \_\_\_\_\_.

WHEREAS, UTILITY has requested COMMONWEALTH to include within the Project on the aforementioned structure, the construction and installation of certain utility facilities as hereinafter set forth; and,

WHEREAS, UTILITY is required to apply for and obtain from the COMMONWEALTH a bridge occupancy license (Form M-906L) in accordance with 67 Pa. Code Chapter 67, relating to occupancy of highways by utilities, prior to installation of utility facilities attached to COMMONWEALTH's structure; and,

WHEREAS, COMMONWEALTH is willing to include within the Project the requested utility facilities on the aforementioned structure, subject to the terms and conditions of COMMONWEALTH'S bridge occupancy license or permit issued to UTILITY therefor, and to reimbursement by UTILITY to COMMONWEALTH of the construction and installation costs for same, in accordance with the terms, conditions, and provisions of this Agreement.

**NOW, THEREFORE:**

In consideration of the foregoing premises and the mutual covenants hereinafter contained and with intent to be legally bound hereby, the parties agree as follows:

FIRST - In the structure design, the COMMONWEALTH shall provide for the attachments of the UTILITY facility or encasement of such facility between beams or in other such structure components.

SECOND - In providing for UTILITY facility attachments, additional engineering is required to determine the structural requirements of the supporting members resulting from the additional loads due to UTILITY attachment. COMMONWEALTH shall analyze the effect on structural members and provide a solution to accommodate these effects. UTILITY shall reimburse COMMONWEALTH for the actual costs of this additional engineering.

THIRD - In providing for UTILITY facility attachments, additional structural requirements will be imposed on the supporting members resulting from the additional loads due to UTILITY attachment. COMMONWEALTH shall provide and install those materials required to increase the structural capacity to accommodate UTILITY attachment. UTILITY shall reimburse the COMMONWEALTH the actual cost for the additional structural capacity determined on the basis of the applicable bid price of materials received from the COMMONWEALTH'S successful bidder within 60 days after receipt of notification of satisfactory completion of the work described hereafter. When structural items are bid in a manner that unit price cannot be identified, UTILITY agrees to pay the COMMONWEALTH the estimated cost of the structural items.

FOURTH - COMMONWEALTH shall, subject to reimbursement as hereinafter provided, include, within its construction contract for the Project, the installation of \_\_\_\_\_ to be constructed and installed on said structure, as indicated on Structure Drawings S-\_\_\_\_\_ and in accordance with the specifications associated with Pay Item \_\_\_\_\_. Said plans and specifications are incorporated herein by reference and made a part hereof as if physically attached hereto and being in the possession of the parties.

Upon completion of the work to the satisfaction of the COMMONWEALTH and the UTILITY, the UTILITY shall reimburse the COMMONWEALTH the sum of \_\_\_\_\_ dollars, developed as shown on Attachment "A", for such work within 60 days after receipt of proper billing.

The cost of any changes or field modifications required by the UTILITY which are beyond the scope of this Agreement shall be reimbursed to the COMMONWEALTH within 60 days after receipt of proper billing from the COMMONWEALTH for the actual cost to COMMONWEALTH of all such extra work performed by the COMMONWEALTH'S contractor, in accordance with appropriate sections of COMMONWEALTH'S Specifications, Publication 408, as amended and supplemented, covering Additional Work, Extra Work, and Extra Work on a Force Account Basis.

FIFTH - In cases where the UTILITY has structure attachment work to be constructed and/or installed on COMMONWEALTH'S structure by either the UTILITY'S contractor or the UTILITY'S own forces in conjunction with the COMMONWEALTH'S Project, if requested by COMMONWEALTH, UTILITY shall furnish COMMONWEALTH with a bond with good and sufficient surety in a sum equal to the established cost of the construction of said structure attachment work. Said bond shall be conditioned for prompt performance of the work of construction and installation required in accordance with a schedule jointly agreed to by COMMONWEALTH'S contractor and UTILITY after receipt by UTILITY of notice to proceed from COMMONWEALTH'S contractor. In this connection, it is understood and agreed that UTILITY shall be granted a reasonable extension of time for delays in the work caused by conditions beyond UTILITY'S control.

SIXTH - Where the UTILITY performs structure attachment work by either its own contractor or its own forces as provided above, it shall cooperate with COMMONWEALTH'S contractor in such a manner as not to interfere with or hinder the progress of the performance of COMMONWEALTH contractor's work on COMMONWEALTH'S said construction and improvement project and, in this connection, UTILITY shall indemnify and save harmless the COMMONWEALTH, the Department of Transportation and all of their officers, agents, and employees from all suits, actions, or claims of any character, name, and description, relating to personal injury or property damage received or sustained during the performance of the work on the Project by or from UTILITY, its contractor, their officers, agents, and employees, whether the same be due to the use of defective materials, defective workmanship, neglect in safeguarding the work or by or on account of any act, omission, neglect, or misconduct of UTILITY, its contractor, their officers, agents, and employees during the performance of said work and during the effective period of this Agreement.

SEVENTH – Where the COMMONWEALTH performs structure attachment by its contractor as provided above, the COMMONWEALTH agrees to require its contractor to indemnify and save the UTILITY and all of its officers, agents, and employees harmless from all suits, actions, or claims of any character, name, and description, relating to personal injury or property damage received or sustained during the performance of the work on the Project by or from the COMMONWEALTH'S contractor, its officers, agents, and employees, whether the same be due to the use of defective materials, defective workmanship, neglect in safeguarding the work or by or on account of any act, omission, neglect, or misconduct of the contractor, its officers, agents, and employees during the performance of said work and during the effective period of this Agreement.

EIGHTH - Where the COMMONWEALTH performs structure attachment by its own forces as provided above, the COMMONWEALTH agrees to pay for any loss, liability, or expense, which arises out of or relates to the COMMONWEALTH'S acts or omissions with respect to such work, where a final determination of liability on the part of the COMMONWEALTH is established by a court of law or where settlement has been agreed to by the COMMONWEALTH. This provision shall not be construed to limit the COMMONWEALTH'S rights, claims, or defenses which arise as a matter of law or pursuant to any other provision of this Agreement. This provision shall not be construed to limit the sovereign immunity of the COMMONWEALTH.

(a) In the event of a controversy or claim arising from this Agreement, the UTILITY must, within six (6) months after the cause of action accrues, file a written notice of controversy or claim with the COMMONWEALTH'S Contracting Officer, identified below, for a determination. The Contracting Officer shall send his written determination to the UTILITY. The decision of the Contracting Officer shall be final and conclusive unless, within thirty (30) days after receipt of such written determination, the UTILITY then files a claim with the Board of Claims of the Commonwealth of Pennsylvania. Pending a final judicial resolution of a controversy or claim, the UTILITY shall proceed diligently with the performance of the Agreement in a manner consistent with the interpretation of the Contracting Officer; and the UTILITY shall compensate the COMMONWEALTH pursuant to the terms of the Agreement.

(b) The Contracting Officer for this Agreement is  
District Executive  
Pennsylvania Department of Transportation  
Engineering District "Insert District"  
"Insert Address"  
"Insert City", PA, "Insert Zip Code"

(c) In accordance with Section 1724(a)(2) of the Commonwealth Procurement Code, as amended, 62 Pa. C.S. § 1724(a)(2), the parties hereto expressly agree to utilize the Board of Claims to arbitrate disputes arising from this Agreement. If the UTILITY is dissatisfied with a final determination issued by the Contracting Officer in accordance with Paragraph 19(a), then it may file a statement of claim with the Board of Claims within six (6) months of the issuance of the Contracting Officer's determination or within six (6) months of the date the claim is deemed denied, whichever occurs first, as provided by Sections 1724(c) and 1725(a) of the Commonwealth Procurement Code, as amended, 62 Pa. C.S. §§ 1724(c), 1725(a).

NINTH - It is agreed by the parties hereto that, upon completion of said improvement and construction project, the aforesaid UTILITY facilities affecting the section of state highway so improved shall be subject to the terms and conditions of the COMMONWEALTH'S structure occupancy license or permit issued to UTILITY therefor and that UTILITY shall maintain and keep in good repair said facilities constructed under the terms of this Agreement in accordance with applicable state laws, except as otherwise provided hereafter.

(a) Notwithstanding anything contained herein to the contrary, in the event the Pennsylvania Public Utility Commission assumes jurisdiction of the structure under the Public Utility Code of 1978, Act of July 1, 1978, P.L. 598, as amended, the parties hereto agree to be bound by any orders of the Commission or decisions of an appropriate tribunal after appeal from such orders.

If the said Commission assumes jurisdiction of the structure, this Agreement shall not be placed into evidence or the record of the Commission unless mutually agreed by the parties hereto.

If the said Commission assumes jurisdiction of the structure, this Agreement is not to be construed to mean or imply that the UTILITY agrees to pay for the work described herein at its initial cost and expense.

If the said Commission assumes jurisdiction of the structure and directs UTILITY to bear the cost for the work described herein at its initial cost and expense, such payment of the initial cost shall not be interpreted to mean the parties have mutually agreed upon the proportion of the costs UTILITY shall bear and has paid for so as to prevent the said Commission from allocating costs under Section 2704(a) of the Public Utility Code, supra.

It is further understood and agreed that in the event the said Commission assumes jurisdiction of the structure, UTILITY is not required to apply for or obtain a bridge occupancy license or permit. However, in order for the COMMONWEALTH to maintain good and proper records of attachments to all structures in the COMMONWEALTH, UTILITY agrees to furnish a detailed plan of the proposed facility to the COMMONWEALTH and COMMONWEALTH shall issue to the UTILITY a bridge occupancy license or permit consistent with the terms of the Commission's Order. After the facility is installed, the UTILITY agrees to furnish an as-built plan to the COMMONWEALTH.

(b) In the event that the UTILITY withdraws its request to attach at a time prior to awarding of the contract for construction, then in that case the UTILITY shall be responsible only for additional engineering costs and any engineering costs to modify the structure plan to eliminate the UTILITY attachment.

(c) In the event that the UTILITY withdraws its request to attach at a time subsequent to awarding of the contract for construction, then in that case the UTILITY shall be responsible for paying any additional engineering costs specified above plus any costs attributable to UTILITY'S withdrawal and incurred by COMMONWEALTH, including cost of labor and materials employed in the installation of the UTILITY'S facilities up to the time of withdrawal and any additional engineering costs to modify the structure plan to eliminate the UTILITY attachment. UTILITY shall also be responsible for the cost of materials ordered by the contractor for installation of the UTILITY'S facilities prior to UTILITY'S withdrawal if the order for said materials cannot be cancelled and if the materials cannot be used elsewhere in the project. In the event materials are ordered and the order cannot be cancelled and the materials cannot be used within the project, they are to be supplied to the UTILITY.

(d) In the event that COMMONWEALTH decides not to construct the project, upon notification in writing to UTILITY of such elimination, this Agreement shall terminate and neither party shall be responsible to the other for any costs. Further, in the event the project is not let for construction within one year from the date of this Agreement and construction costs have increased, COMMONWEALTH shall have the option to renegotiate the costs to be paid by UTILITY set forth herein. At that time, the UTILITY shall have the right to withdraw its request to attach, whereupon UTILITY shall be responsible for engineering costs above unless, however, UTILITY can show the said delay has caused UTILITY to find other means to provide its service. This Agreement shall thereupon terminate and UTILITY shall not be responsible to the COMMONWEALTH for any costs. In the event, however, that the UTILITY elects not to withdraw its request to attach and the parties cannot agree upon a renegotiated sum, then the UTILITY agrees to pay COMMONWEALTH the actual costs of construction and installation of UTILITY'S facilities in accordance with appropriate sections of COMMONWEALTH'S Specifications, Publication 408, as amended and supplemented, covering Additional Work, Extra Work, and Extra Work on a Force Account Basis.

TENTH - UTILITY covenants and agrees to comply with a directive entitled "Contractor Integrity Provisions for Commonwealth Contracts" a copy of which is attached hereto and incorporated herein as **Exhibit "B"**.

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

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IN WITNESS WHEREOF, the COMMONWEALTH and the UTILITY have caused this Agreement to be duly executed, ensealed and attested by their proper officials, pursuant to due and legal action authorizing the same to be done, the day and year first above written.

ATTEST:

by \_\_\_\_\_  
Signature Date

by \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

*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 or Authority, a resolution for signature authority must be attached.*

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Do not write below this line – for Commonwealth use only

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION**

by \_\_\_\_\_  
District Utility Manager Date

**APPROVED AS TO LEGALITY  
AND FORM**

**PRELIMINARILY APPROVED**

by \_\_\_\_\_  
Chief Counsel Date

by \_\_\_\_\_  
Assistant Counsel Date

by \_\_\_\_\_  
Deputy Attorney General Date

Funds Commitment Document Number  
\_\_\_\_\_

by \_\_\_\_\_  
Deputy General Counsel Date

Certified Funds Available under SAP  
Number \_\_\_\_\_

SAP Cost Center \_\_\_\_\_

GL Account \_\_\_\_\_

Amount \$ \_\_\_\_\_

SAP Vendor Number \_\_\_\_\_

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

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

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

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

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

## EXHIBIT “B”

### CONTRACTOR INTEGRITY PROVISIONS

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

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

1. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting with the Commonwealth.
2. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.
3. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the *Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; and the [\*Governor’s Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.\*](#), or to breach any other state or federal law or regulation.
4. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.
5. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the [\*Governor’s Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.\*](#) or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.
6. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.
7. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the

performance of work under the contract, except as provided in the contract.

8. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.
9. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104*, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:
  - a. Approved in writing by the Commonwealth prior to its disclosure; or
  - b. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or
  - c. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
  - d. Necessary for purposes of Contractor's internal assessment and review; or
  - e. Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or
  - f. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain: or
  - g. Otherwise required by law.
10. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

- a. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- b. Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:
  - (1) obtaining;
  - (2) attempting to obtain; or
  - (3) performing a public contract or subcontract.

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

- c. Violation of federal or state antitrust statutes.
- d. Violation of any federal or state law regulating campaign contributions.
- e. Violation of any federal or state environmental law.
- f. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
- g. Violation of the *Act of June 2, 1915 (P.L.736, No. 338)*, known as the *Worker's Compensation Act, 77 P.S. 1 et seq.*
- h. Violation of any federal or state law prohibiting discrimination in employment.
- i. Debarment by any agency or department of the federal government or by any other state.
- j. Any other crime involving moral turpitude or business honesty or integrity.

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

- 11. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by Section 1641 of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political

contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

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

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

12. Contractor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and must be reported.
13. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or Commonwealth Inspector General in writing.
14. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract.
15. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited

to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.

16. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.
17. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph 17.
  - a. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through a act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.
  - b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.
  - c. "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.
  - d. "Financial interest" means:
    - (1) Ownership of more than a five percent interest in any business; or
    - (2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
  - e. "Gratuity" means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services,

employment, or contracts of any kind. The exceptions set forth in the [Governor's Code of Conduct, Executive Order 1980-18](#), the *4 Pa. Code §7.153(b)*, shall apply.

- f. “Immediate family” means a spouse and any unemancipated child.
- g. “Non-bid basis” means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.
- h. “Political contribution” means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.