

Project No. PA-16-X034-46

Agreement No. EG00001049
Federal ID Number 541759925
Federal Grant \$46,400

SECTION 5310 (FORMERLY SECTION 16) FTA GRANT AGREEMENT

THIS AGREEMENT, made this 3rd day of October 2011, by and between the Commonwealth of Pennsylvania, acting through the Department of Transportation ("Department")

and

Huntingdon Nursing and Rehabilitation Center, a private nonprofit corporation organized under the laws of the Commonwealth of Pennsylvania ("Grantee"), having its office at 229 Warm Springs Ave. Huntingdon, PA, 16652

WITNESSETH:

WHEREAS, Section 5310 of the Federal Transit Laws, as codified (49 U.S.C., §5301, et seq.), provides for capital grants to private nonprofit corporations and associations or public bodies for the specific purpose of assisting them in providing transportation services meeting the special needs of elderly and disabled persons for whom mass transportation services are unavailable, insufficient or inappropriate; and,

WHEREAS, the Governor of the Commonwealth has designated the Pennsylvania Department of Transportation to evaluate and select projects proposed by private nonprofit organizations or public bodies in accordance with Section 5310 of the Federal Transit Laws, as codified, and to coordinate grant applications; and,

WHEREAS, the Commonwealth and the Grantee desire to secure and utilize grant funds for the transportation needs of the elderly and disabled citizens of the Commonwealth; and,

WHEREAS, Section 2000 of the Administrative Code, Act of 1970, May 6, P.L. 356, No. 120 §11 (71 P.S. §511) provides that it shall be the power and duty of the Pennsylvania Department of Transportation: "(2) to develop programs designed to foster efficient and economical public transportation services in the State"; and, "(6) to coordinate the transportation activities of the Department with those of other public agencies and authorities";

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

1. Purpose of Agreement. The purpose of this Agreement is to provide for the undertaking of transportation services for elderly and disabled persons through federal financial assistance for the purchase of capital equipment ("Project") and to state the terms, conditions and mutual understandings of the parties as to the manner in which the Project will be undertaken and completed.

2. Scope of Project. The Grantee shall undertake and complete the Project, as described in its Application, as modified, and approved by the Department and the Federal Transit Administration (FTA), and incorporated herein by reference, and in accordance with the terms and conditions of this Agreement. The Grantee shall comply with all Commonwealth regulations, policies and procedures applicable to the Project. The Grantee shall comply with all Federal statutes, regulations, Executive orders and administrative requirements applicable to grants received from the FTA under Section 5310 of the Federal Transit Laws, as codified. The Department may, at any time, withhold funds from the Grantee to insure compliance with such Project regulations, policies and procedures.

3. Period of Performance. The Grantee shall have advertised for or otherwise initiated the purchase of all project related vehicle(s) and/or equipment within six (6) months of the effective date of this agreement. In the event that the Grantee has failed to comply with its obligations under this paragraph, the Department may terminate this agreement in accordance with the provisions of Exhibit B, paragraph 4.

4. Project Cost. The total project cost shall not exceed \$58,000 dollars, the amount indicated on the Project Description and Budget attached hereto as Exhibit A and made a part hereof, except that this amount may be increased by the Department in writing at any time in its discretion. The cost of the Project shall be borne in the manner described in Exhibit A. The Grantee agrees that it shall provide, from sources other than federal funds, funds in the amount sufficient, together with the grant, to assure payment of the actual Project cost. The Grantee shall provide its share of the Project costs at or prior to the time that such funds are needed to meet the Project costs. The Grantee further agrees that it shall not reduce the amount of non-federal funds provided to the Project unless a proportional reduction in the amount of the federal grant is also made. If the Grantee wishes to substitute another item or items for any item or items of Project property prior to obtaining the Project property described in this Agreement, or to add or subtract an item or items of Project property to or from the Project property described in this Agreement, the Grantee shall make a written request to the Department for permission to make the change or changes. The Department, in its sole discretion, may approve or deny the Grantee's request. If the request is approved, the Department shall notify the Grantee in writing.

5. Purchase of Project Equipment. The purchase of all Project equipment financed in whole or in part pursuant to this Agreement shall be undertaken by the Grantee in accordance with applicable State law, procurement regulations or procedures, and the standards set forth in 49 CFR Part 18, FTA Circular 4220.1F, and the Department's "Procurement Procedures", incorporated herein by reference and made a part hereof. Project equipment shall be purchased in conformity with the latest approved Project Budget. All purchases are subject to prior Department concurrence in the selection of the vehicle supplier and the procurement process being undertaken by the Grantee. Title to Project equipment shall be in the Grantee, subject to the restrictions on use and disposition of the Project equipment set forth herein.

6. Reports. The Grantee shall advise the Department regarding the progress of the Project at such times and in such manner as the Department may require, including but not limited to, meetings and interim reports. The Grantee shall submit to the Department, at such time as it may require, such financial statements, data, records, contracts and other documents related to the Project as may be deemed necessary by the Department or FTA.

7. Title VI – Civil Rights Act of 1964. The Grantee shall comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (78 Stat. 252), the Regulations of the United States Department of Transportation issued thereunder (CFR Title 49, Subtitle A, Part 21), and the assurance by the Grantee pursuant thereto

8. FTA Master Agreement. The following document, "Federal Transit Administration Master Agreement," Form FTA MA(16), October 1, 2009, is incorporated by reference and made part of this grant agreement.

9. Standard Terms. The Grantee agrees to comply with the Department's Standard Terms and Conditions for Public Transportation Grants attached as Exhibits B and B-1 to this Agreement.

10. Grant Provisions – Right to Know Law 8-K-1580. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101–3104, applies to this Grant Agreement. Therefore, it is subject to, and the Grantee shall comply with, the clause entitled Grant Provisions – Right to Know Law 8-K-1580, attached as Exhibit B-2 and made a part of this Grant Agreement.

11. ACH. Because the Commonwealth will be making payments under this Agreement through the Automated Clearing House ("ACH") Network, the Grantee shall comply with the provisions governing payments through ACH, attached as paragraph 21, Exhibit "B", and made part of this Agreement.

12. Entire Agreement. This instrument and its attachments constitute the entire Agreement between the Department and the Grantee, and it shall not be amended, altered or changed except by a written amendment signed by the parties. Changes in Project cost and Project property allowed at the discretion of the Department pursuant to Paragraph 4 of this Agreement shall not require a formal amendment to this Agreement.

13. Federal Funding Accountability and Transparency Act of 2006 As a recipient of federal funding, the Grantee shall provide to the Commonwealth the information specified in Exhibit "B", Federal Funding Accountability and Transparency Act of 2006—Grantee Information, attached to and made part of this Agreement, to ensure that the Commonwealth can meet the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their proper officials, the day and year first above written.

ATTEST Huntingdon Nursing and Rehabilitation Center
GRANTEE

By _____ Date _____ By _____ Date _____
Title: _____ Title: _____

If a Corporation, the Chairman, President, Vice-president, Senior Vice-president, Executive Vice-president, Assistant Vice-president, Chief Executive Officer or Chief Operating Officer must sign and the Secretary, Treasurer, Assistant Secretary, Assistant Treasurer, Chief Financial Officer, or Controller must attest. 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 _____ Date _____
for Deputy Secretary
Local and Area Transportation

SAP DOCUMENT NO. EG00001049

COST CENTER 7866201000

FUND	DESCRIPTION	G/L ACCOUNT	AMOUNT
7036211427	FTA Capital Improvement Grants 5310	6600700	\$1,000
7036212427	FTA Capital Improvement Grants 5310	6600700	\$45,400

By _____ Date _____
for Comptroller

**APPROVED AS TO LEGALITY
AND FORM**

PRE-APPROVED FORM
OGC No. 18-K-2850
Approved OAG 11/1/02

By _____ Date _____
for Chief Counsel

Contract No. EG00001049 is split 80%, expenditure amount of \$46,400 for Federal funds and 0%, expenditure amount of \$0.00 for State funds. The related Federal assistance program name and number is Section 5310 Program; 20.510. The State assistance program name and number is N/A;N/A.

EXHIBIT A
PROJECT DESCRIPTION

Huntingdon Nursing and Rehabilitation Center

(hereinafter referred to as the Grantee) agrees to use the project property described below for the transportation of elderly and/or disabled persons.

Accessible Narrow Body Small Bus - Single Rear Wheel (Gas)

BUDGET

The total project cost is not to exceed \$58,000. The United States Department of Transportation share will not exceed 80% of the net project cost, \$46,400. The remaining \$11,600 is to be provided by the Grantee from non-federal sources upon execution of this contract. The total project cost shall include, if applicable, the cost of inspecting project equipment during the manufacture of said project equipment for purposes of quality control.

May 18, 2011

**EXHIBIT B -- STANDARD TERMS AND CONDITIONS
FOR PUBLIC TRANSPORTATION GRANTS**

1. **Project account.** A separate and special Project account shall be maintained by the Grantee, either within the Grantee's existing accounting system or independently, identified by the Project Number appearing on the face of this Agreement. All Grant funds paid to the Grantee to meet Project costs shall be credited to the Project account. After completion of the Grant period, if the Project account is not an interest-bearing account, any unencumbered Department funds remaining in the Project account shall be transferred to an interest bearing account to be identified separately by the Mass Transit Project Number appearing on the face of this Agreement. Such remaining funds, including all accrued interest, shall be kept in the interest bearing account until expended by the Grantee for Project costs or until such time as the Department shall otherwise direct their disposition. The Grantee agrees that any amounts spent in excess of the Grant maximum or outside of the Grant time parameters are the sole responsibility of the Grantee.

2. **Records.** The Grantee will maintain full and accurate records with respect to all matters covered by this Agreement at its principal place of business. The Department or its designee will be permitted, during regular hours and at all reasonable times during the Project period and for three years after final payment under this Agreement, to have free access to original instruments, including records or copies, in the Grantee's possession, custody, or control, and to examine and audit the same, including the right to make and carry away transcripts and to inspect data, records, documents, and notes of activities. If federal funds are included in this Agreement, this paragraph is supplemented with the requirements of paragraph 2, Records in Exhibit B-1.

3. **Payment adjustment.** In the event that the Department determines, by audit or otherwise, which determination shall be conclusive, that the Department financial participation property attributable to the Grant program is less than the amount of the Grant, the Grantee agrees, at the option of the Department, to either refund to the Department the amount by which the Grant exceeds the justified Department financial participation, such refund to be made within 60 days of a Department demand, or agree to the offset of the amount in accordance with Paragraph 13 of these terms and conditions. In lieu of these requirements, the Department may, by letter, adjust the amount of Grant funds under this Agreement to reflect the actual justified amount. If the Department determines that additional funds are justified for the Project, the Department, in its sole discretion, may, by letter, increase the Department's Project participation.

4. **Termination.** The Department may immediately terminate this Agreement for non-performance, inadequate performance, or other breach by the Grantee of any of the provisions of, or obligations of the Grantee under, this Agreement. This Agreement may be terminated immediately by the Department at any time due to non-availability of funds to the Department. In lieu of termination, the Department, at its option, may reduce, delay or deny payments under the Agreement.

The Department may also, upon 30 days' written notice to the Grantee, terminate this Agreement without cause. In this event, the Department shall be obligated to the Grantee for payments under this Agreement which are due and owing prior to the effective date of the termination.

5. **Use and maintenance of project property.** If Grant funds are used, with written Department permission, to purchase property, real or personal, the Grantee agrees to use such property solely for the transportation purposes described in its Project application. The Grantee shall obtain the written approval of the Department of any proposed change in the transportation purposes for which Project property may be used. The Grantee shall keep and maintain Project property in good physical and mechanical condition at all times and make all repairs necessary for its preservation and efficient

operation. Upon notification by the Department that the Project property has not been satisfactorily maintained, the Grantee will, at its own expense, take such corrective action as is necessary to restore the Project property to a state of good, sound and safe repair. The Grantee agrees to procure and maintain occurrence-based insurance against fire, destruction, and similar risks on all Project property in amounts which will adequately protect the current value of the Department's Grant investment. The Department shall be named as an additional insured in all insurance policies covering Project property. In the event of any complete or partial loss of Project property, the Grantee agrees to cooperate in all ways necessary to obtain recovery upon such insurance. Insurance proceeds shall be applied to rebuild or replace Project property where feasible. If rebuilding or replacement is not feasible, with Department approval, insurance proceeds shall be applied to capital expenditures for Project transportation purposes to the extent it is reasonably possible to approximate the purposes served by the Project property before its destruction. The Grantee, with the written approval of the Department, may use its own program of self-insurance to meet its obligations under this paragraph.

6. **Alienation of project property.** The Grantee shall not pledge, lend, mortgage, sublet or part with the possession of the Project property; nor shall the Grantee attempt in any other manner to dispose of Project property or suffer any liens or legal process to be incurred or levied thereon without written permission from the Department.

7. **Estimated useful life.** For purposes of paragraphs seven, eight, nine and ten of this Agreement, the Grantee's responsibilities therein described will extend, as to each item of Project property identified in Exhibit "A", for a term of years or, in the case of vehicles, years or miles traveled, equal to the Estimated Useful Life ("EUL") therein indicated. The EUL will begin, as to each line item of Project property, upon acceptance by the Grantee of Project property, and will extend for the terms of years or, in the case of vehicles, years or miles traveled, indicated in Exhibit "A". In the event the Grantee desires to reduce the EUL of any line item, the Grantee shall make a written request to the Department for permission. The Department, in its sole discretion, may approve or deny the Grantee's request. If the request is approved, the Department shall notify the Grantee in writing, which notification shall include the reduced EUL for the Project property.

If the Grantee retires or otherwise disposes of any item of Project property prior to the expiration of its EUL, the Grantee agrees to refund to the Department an amount equal to:

$$\begin{array}{r} \text{Amount of Federal \& State Funds} \\ \text{used to Purchase the Item} \end{array} \quad \times \quad \frac{\text{Remaining Years of EUL of} \\ \text{Retired or Disposed Property}}{\text{EUL of Retired or Disposed Property}}$$

The Department may waive this requirement at its discretion in the event of extenuating circumstances.

If the Grantee requests a line item substitution or change, as provided in paragraph four of this Agreement, and the Department approves that request, the Department's written notification shall include the EUL for the replacement or additional Project property.

8. **Disposition of project property.** If the Grantee disposes of any item of Project property after the expiration of its EUL, the Grantee shall have and follow written procedures for determining the fair market value of the item. The grantee shall have and follow written procedures for disposing of the item in a manner that allows the proceeds from the sale of the item to be equivalent to the fair market value of the item. The Grantee may retain the sale proceeds of any item of Project property after the expiration of its EUL, as long as the proceeds remain in use for mass transit purposes. The Grantee shall give the Department written notification after the disposition of any item of Project property.

9. **Ownership of documents.** The Department shall have unrestricted authority to reproduce, distribute, and use, in whole or in part, any submitted report, data, or material. No report, document, or other material produced in whole or in part with Grant funds shall be subject to copyright in the United States or any other country without the consent of the Department. The Grantee shall not include in its data any copyrighted matter without the written approval of the Department, which approval shall not be given without the written permission of the copyright owner. All reports and other documents completed as part of the Project, other than documents prepared exclusively for internal use, shall contain an appropriate notice of financial assistance provided by the Department.

10. **Prohibited interests.** No officer, employee, or agent of the Grantee who exercises any function or responsibility in connection with the review or approval of the undertaking or carrying out of the Project or any part thereof has acquired or shall acquire voluntarily, prior to the completion of the Project, any personal interest, direct or indirect, which is incompatible or in conflict with the discharge of his functions or responsibilities for the Project. Any person who involuntarily acquires an incompatible or conflicting personal interest shall immediately disclose this interest to the Department in writing. Thereafter, the affected person shall not participate in any action affecting the work under this Agreement unless the Department shall have determined that, in light of the personal interest disclosed, participation in such action would not be contrary to the public interest.

11. **Independent contractor.** The Grantee certifies that it has performed or will perform its services under this Agreement as an independent contractor and that, in performing all of its services under this Agreement, it has made or will make provisions for Worker's Compensation, where the same is required, and has carried out or will carry out full responsibility for the payment of Social Security taxes, as well as all income tax deductions and any other taxes or payroll deductions required by law, for its employees who have performed or will perform services under this Agreement.

12. **Insurance; Indemnification.** The Grantee shall hold the Department harmless from any and all claims, demands and actions based upon or arising out of any services performed by its employees under this Agreement and shall defend any and all actions brought against the Department based or to be based upon any such claims or demands. It is understood and agreed that the Grantee's standard liability insurance policies protect, or have been or will be endorsed to protect, the Grantee and the Department from all claims of bodily injury (including death) and property damage arising out of any of the service performed or to be performed by the Grantee and its employees and agents.

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

14. **Assignment/novation.** The Grantee certifies that it has not assigned or transferred any interest in this Agreement, whether by assignment or novation, and agrees that it will not do so, without prior written approval of the Department.

15. **No waiver.** No covenant or condition of the Agreement may be waived except by the written consent of the Department and the Grantee. Any action or inaction by the Department in any regard whatsoever shall not be construed as a waiver of any covenant or condition to be performed by the Grantee, and, until complete performance by the Grantee of the covenant or condition, the Department shall be entitled to invoke any remedy available to it under this Agreement or by law or in equity despite prior action or inaction.

16. **ADA Provisions.** During the term of this Agreement, the Grantee agrees to the following provisions concerning the Americans With Disabilities Act:

a. Pursuant to federal regulations promulgated under the authority of the Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the Grantee understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract. As a condition of accepting and executing this contract, the Grantee 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 of Pennsylvania through contracts with outside contractors.

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

17. **Nondiscrimination/Sexual Harassment Clause (Grants)**

The Grantee agrees:

a. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the grant agreement or any subgrant agreement, contract, or subcontract, the Grantee, a subgrantee, a contractor, a subcontractor, or any person acting on behalf of the Grantee shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

b. The Grantee, any subgrantee, contractor or any subcontractor or any person on their behalf shall not in any manner discriminate against or intimidate any of its employees on account of gender, race, creed, or color.

c. The Grantee, any subgrantee, contractor or any subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

d. The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate by reason of gender, race, creed, or color against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the contracts relates.

e. The Grantee, any subgrantee, any contractor or any subcontractor shall, within the time periods requested by the Commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the granting agency and the Bureau of Minority and Women Business Opportunities (BMWBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. Within thirty (30) days after award of any grant, the Grantee shall be required to complete, sign and submit Form STD-21, the "Initial Contract Compliance Data" form. Grantees who have fewer than five employees or whose employees are all from the same family or who have completed the STD-21 form within the past 12 months may, within the 15 days, request an exemption from the STD-21 form from the granting agency.

f. The Grantee, any subgrantee, contractor or any subcontractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subgrant agreement.

contract or subcontract so that those provisions applicable to subgrantees, contractors or subcontractors will be binding upon each subgrantee, contractor or subcontractor.

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

18. **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. "Contractor" means "Grantee".

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 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 Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.

c. 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 for 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.

d. 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.

e. 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.

f. 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.

g. 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.

h. Contractor shall not have 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.

i. 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:

1. Approved in writing by the Commonwealth prior to its disclosure; or
2. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or
2. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
4. Necessary for purposes of Contractor's internal assessment and review; or
5. 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
6. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain; or
7. Otherwise required by law

j. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not 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:

1. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
2. 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:
 - (a) obtaining;
 - (b) attempting to obtain; or

(c) Performing a public contract or subcontract

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

3. Violation of federal or state antitrust statutes.
4. Violation of any federal or state law regulating campaign contributions.
5. Violation of any federal or state environmental law.
6. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wage; or child labor violations.
7. Violation of the *Act of June 2, 1915 (P.L. 736, No. 338)*, known as the *Workers' Compensation Act*, 77 P.S. 1 *et seq.*
8. Violation of any federal or state law prohibiting discrimination in employment.
9. Debarment by any agency or department of the federal government or by any other state.
10. 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

k. 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:

1. 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
2. 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 Commission, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

l. 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 state, are not exempt and must be reported.

- m. 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.
- n. Contractor, by submission of its bid or proposal and/or execution of this contract and by 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.
- o. 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 for 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.
- p. 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 debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or no-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:
- q. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph q.
 - 1. "Confidential Information" means information that a) is not already in the public domain; b) is not available to the public open 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.
 - 2. "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.

3. "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.
4. "Financial interest" means:
 - (a) Ownership of more than a five percent interest in any business; or
 - (b) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
5. "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 1990-18, the 4 Pa. Code §7.153(b), shall apply.
6. "Immediate family" means a spouse and any unemancipated child.
7. "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.
8. "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.

19. 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

20. **Travel.** The Grantee will comply with Commonwealth standard travel policies in effect at the time of the Agreement.

21. **Automated Clearing House (ACH).** During the term of this contract, the Grantee agrees as follows:

a. The Commonwealth will make payments to the Grantee through ACH. Within 10 days of the grant award, the Grantee must submit or must have already submitted its ACH Information on a ACH enrollment form (obtained at www.vendorregistration.state.pa.us/cvnu/paper/Forms/ACH-EE_Tenrollmentform.pdf) to the Commonwealth's Central Vendor Management Unit at 717-214-0140 (FAX) or by mail to the Central Vendor Management Unit, Bureau of Financial Management, Verizon Tower - 6th Floor, 303 Walnut Street, Harrisburg, PA 17101-1830.

b. The Grantee 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 Grantee to properly apply the state agency's payment to the respective invoice or program.

- c. It is the responsibility of the Grantee 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.

22. **Steel Products Procurement.** The Grantee shall comply with applicable provisions of the "Steel Products Procurement Act", Act No. 3 of 1978, March 3, P.L. 6 (73 P.S. Sections 1881 et seq.).

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

24. **Insurance of Project Property.** The Grantee agrees to procure and maintain insurance on all Project property against fire, destruction, or other similar risks, in sufficient amounts to adequately protect the current value of the Department's investment in the Project property. In the event that any or all of the Project property shall be wholly or partially destroyed by fire or other casualty covered by insurance, the Grantee agrees to cooperate by taking or causing to be taken all action necessary to enable recovery upon such insurance. It is understood that the proceeds of any insurance will be applied to rebuild any Project property partially destroyed, or to replace any Project property wholly destroyed, if such rebuilding or replacement is feasible; or, if rebuilding or replacement is not feasible, the proceeds will be applied, with approval of the Department, to capital expenditures for similar transportation purposes, insofar as it is reasonably possible to approximate the purposes served by the Project property before its destruction. The Grantee may use a program of self-insurance to meet its obligations hereunder.

25. **Retainage.** The Department may withhold an amount not to exceed ten (10%) percent of the Department portion of net Project cost of this Agreement to ensure substantial completion by the Grantee of the Project. The Department may at any time release any portion of any such retainage if, in the opinion of the Department, the Grantee has substantially completed sufficient portions of the Project to justify such payments.

26. **Purchase of Project Equipment.** The purchase of all Project equipment financed in whole or in part pursuant to this Agreement shall be undertaken by the Grantee in accordance with applicable State law, procurement regulations or procedures, and the Department's "Procurement Procedures", incorporated herein by reference and made a part hereof. Project equipment shall be purchased in conformity with the latest approved Project Budget. All purchases are subject to prior Department concurrence in the selection of the vehicle supplier and the procurement process being undertaken by the Grantee. Title to Project equipment shall be in the Grantee, subject to the restrictions on use and disposition of the Project equipment set forth herein.

27. **Federal Funding Accountability and Transparency Act.**

1. **Registration and Identification Information**

Grantee must maintain current registration in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded pursuant to this agreement. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.

Grantee must provide its assigned DUNS number, and DUNS + 4 number if applicable, to the Commonwealth along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides this information

2. Primary Location

Grantee must provide to the Commonwealth the primary location of performance under the award, including the city, State, and zip+4. If performance is to occur in multiple locations, then Grantee must list the location where the most amount of the grant award is to be expended pursuant to this grant agreement. Grantee must provide this information to the Commonwealth along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides this information.

3. Compensation of Officers

Grantee must provide to the Commonwealth the names and total compensation of the five most highly compensated officers of the entity if—

- (i) the entity in the preceding fiscal year received—
 - I. 80 percent or more of its annual gross revenues in Federal awards, and
 - II. \$25,000,000 or more in annual gross revenues from Federal awards; and
- (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986

if the Grantee does not meet the conditions listed above, then it must specifically affirm to the Commonwealth that the requirements of this clause are inapplicable to the Grantee. Grantee must provide information responding to this question along with Grantee's return of the signed grant agreement. The Commonwealth will not process this grant until such time that Grantee provides such information responding to this question.

July 13, 2009

**EXHIBIT B-1 – STANDARD TERMS AND CONDITIONS
FOR PUBLIC TRANSPORTATION GRANTS USING FEDERAL FUNDS**

1. **Audit provisions**

a. Audit requirements.

The Grantee must comply with all federal and state audit requirements including: the Single Audit Act, as amended, 31 U.S.C. 7501 et. seq.; Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as amended; and any other applicable law or regulation and any amendment to such other applicable law or regulation which may be enacted or promulgated by the federal government.

If the Grantee is a local government or non-profit organization and expends total federal awards of \$500,000 or more during its fiscal year, received either directly from the federal government or indirectly from a recipient of federal funds, the Grantee is required to have an audit made in accordance with the provisions of OMB Circular A-133.

If the Grantee expends total federal awards of less than \$500,000 during its fiscal year, it is exempt from these audit requirements, but is required to maintain auditable records of federal awards and any state funds which supplement such awards, and to provide access to such records by federal and state agencies or their designees.

b. Submission of audit information to the Commonwealth.

The Grantee must submit copies of the audit report package to the Commonwealth, which shall include:

- 1). Data Collection Form.
- 2). Financial statements and schedule of expenditures of federal awards.
- 3). Auditor's reports on the financial statements and schedule of expenditures of federal awards, internal control and compliance as well as a schedule of findings and questioned costs.
- 4). Summary schedule of prior audit findings.
- 5). Corrective action plan
- 6). Management letter comments.

The number of copies to be submitted shall equal one for the Bureau of

Audits (archival copy) plus one for each Commonwealth agency which provided federal pass-through awards to the entity, as reflected in the entity's Schedule of Expenditures of Federal Awards. The audit report package should be submitted to the:

Bureau of Audits
Special Audit Services Division
Forum Place – 8th Floor
555 Walnut Street
Harrisburg, PA 17101
Phone: (717) 783-9120
Fax: (717) 703-3843

In instances where a federal program-specific audit guide is available, the audit report package for a program-specific audit may be different and should be prepared in accordance with the audit guide and OMB Circular A-133.

c. General Audit Provisions.

The Grantee is responsible for obtaining the necessary audit and securing the services of a certified public accountant or other independent governmental auditor. Federal regulations preclude public accountants licensed in the Commonwealth of Pennsylvania from performing audits of federal awards.

The Commonwealth reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial or performance nature, if deemed necessary by Commonwealth or federal agencies. Any such additional audit work will rely on work already performed by the Grantee's auditor, and the costs for any additional work performed by the federal or state agencies will be borne by those agencies at no additional expense to the Grantee.

Audit working papers and audit reports must be retained by the Grantee's auditor for a minimum of three years from the date of issuance of the audit report, unless the Grantee's auditor is notified in writing by the Commonwealth or the cognizant or oversight federal agency to extend the retention period. Audit working papers will be made available upon request to authorized representatives of the Commonwealth, the cognizant or oversight agency, the federal funding agency, or the General Accounting Office.

2. Records. In addition, financial records, supporting documentation, and all other records pertinent to a grant must be made readily available to authorized representatives of the U. S. Department of Transportation and the Comptroller General of the United States during the retention period. The retention period starts upon notification by the Department that the federal project has been closed out on a statewide basis regardless of the close of the project period. If any litigation, claim or audit is started before the expiration of the three-year period, the records must be retained beyond the three year period until all litigation, claims, or audit findings involving the records have been resolved. This paragraph supplements Paragraph 2. Records in Exhibit B.

3. **Local match requirement.** The Grantee agrees that, if it does not provide local matching funds (if any) required under this Agreement, the difference between the permissible total state and federal contribution and the actual amount paid to the Grantee by the Department shall, in accordance with the terms of Paragraph 3 of Exhibit B, be refunded to the Department or offset against future payments.
4. **Disadvantaged business enterprise.** The Grantee shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Grantee 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 Grantee to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Pennsylvania Department of Transportation deems appropriate. If the Grantee is providing services or supplies for the Pennsylvania Department of Transportation pursuant to this contract, it must include this assurance in each subcontract that it signs with a subcontractor. If the Grantee is a grantee or other recipient of funds from the Department of Transportation, it must include this assurance in each contract into which it enters to carry out the project or activities being funded by this contract.
5. **Appropriations.** The Grantee understands and acknowledges that the Agreement is conditioned upon the availability and receipt by the Department of Federal and State funds appropriated for the purposes of the Agreement.
6. **Congressional interest.** The Grantee shall not admit any member or delegate to the Congress of the United States to any share or part of this Project or to any benefit arising out of the Agreement.
7. **Uniform requirements.** The Grantee shall comply with the requirements of 49 C.F.R. Part 18, "Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments," or 49 C.F.R. Part 19, "Uniform Administrative Requirement for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations", as applicable, which are incorporated by reference into the Agreement.
8. **Buy America.** The Grantee shall comply with the applicable provisions of Section 165 of the Surface Transportation Assistance Act of 1982, as amended.
9. **Federal standards.** The Grantee agrees to comply with the terms and conditions of the Federal Nondiscrimination and Equal Employment Opportunity Clauses dated January, 1976, and the Federal Certification of Restrictions on Lobbying dated 8/6/90.

EXHIBIT B-2 – Grant Provisions – Right to Know Law 8-K-1580

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

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