



June 1, 2015

You are invited to submit a proposal for Administrative and Operational Services for PA Logo Signing and TODS Program in accordance with the enclosed request for proposal.

All proposals must be submitted in ten (10) copies to the Bureau of Office Services, 5<sup>th</sup> Floor Commonwealth Keystone Building, 400 North St, Harrisburg PA 17120. Proposals must be received at the above address no later than 2:00 PM on June 25, 2015. Late proposals will not be considered regardless of the reason.

All questions should be submitted by email (with subject line "RFP Logo Trust 005 Question") to William Gipe at [wgipe@pa.gov](mailto:wgipe@pa.gov) no later June 8, 2015. All Offerors will be provided with answers to questions asked by any one Offeror.

In addition, a Pre-proposal conference will be held on June 11, 2015 at 10:00 AM in Room 5N1 (Bid Room) Commonwealth Keystone Building, 400 North St, Harrisburg PA 17120. Since facilities are limited, it is requested you limit your representation to **two (2)**.

Sincerely,

William Gipe

**REQUEST FOR PROPOSALS FOR**

**Administrative and Operational Services for PA Logo Signing and TODS Program**

**ISSUING OFFICE**

**Commonwealth of Pennsylvania  
Department of Transportation  
Bureau of Office Services  
5<sup>th</sup> Floor Keystone Building  
400 North Street  
Harrisburg PA 17120**

**For  
The Pennsylvania Tourism Signing Trust (PTST)**

**RFP NUMBER**

**005**

**DATE OF ISSUANCE**

**June 1, 2015**

**REQUEST FOR PROPOSALS FOR  
LOGO TRUST 005: ADMINISTRATIVE AND OPERATIONAL SERVICES FOR PA  
LOGO SIGNING AND TODS PROGRAM**

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## CALENDAR OF EVENTS

The Commonwealth will make every effort to adhere to the following schedule:

Activity	Responsibility	Date
Deadline to submit Questions via email to <a href="mailto:wgipe@pa.gov">wgipe@pa.gov</a>	Potential Offerors	6/8/2015
<b>Pre-proposal Conference — Room 5N1 (Bid Room) Commonwealth Keystone Building, 400 North St, Harrisburg PA 17120 – 10:00 to 12:00 PM</b>	Issuing Office/Potential Offerors	6/11/2015
Answers to Potential Offeror questions posted to the DGS website ( <a href="http://www.dgsweb.state.pa.us/RTA/Search.aspx">http://www.dgsweb.state.pa.us/RTA/Search.aspx</a> ) no later than this date.	Issuing Office	6/18/2015
Please monitor website for all communications regarding the RFP.	Potential Offerors	
Sealed proposal must be received by the Issuing Office at <b>Bureau of Office Services, 5<sup>th</sup> Floor Commonwealth Keystone Building, 400 North St, Harrisburg PA 17120 prior to 2:00 PM</b>	Offerors	6/25/2015

## PART I

### GENERAL INFORMATION

**I-1. Purpose.** This request for proposals (RFP) provides to those interested in submitting proposals for the subject procurement (“Offerors”) sufficient information to enable them to prepare and submit proposals for the Pennsylvania Tourism Signing Trust’s (“PTST”) consideration to satisfy a need for Administrative and Operational Services for the Pennsylvania Logo Signing and TODS Program (“Project”).

**I-2. Issuing Office.** The Pennsylvania Department of Transportation, Bureau of Office Services (“Issuing Office”), has issued this RFP on behalf of PTST. The sole point of contact for this RFP shall be William Gipe, Pennsylvania Department of Transportation, Bureau of Office Services, 5<sup>th</sup> Floor Commonwealth Keystone Building, 400 North St, Harrisburg, Pennsylvania 17120-0041, e-mail – wgipe@pa.gov, the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer.

**I-3. Scope.** This RFP contains instructions governing the requested proposals, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Offerors must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFP.

**I-4. Problem Statement.** PTST seeks a qualified Offeror to administer the Pennsylvania Department of Transportation’s (PennDOT) Logo Signing and Statewide Tourist Oriented Directional Signing (TODS) Programs. Included in this project will be administration, contracting, engineering, construction, maintenance and repairs for these programs. Subcontracting is permitted to accomplish the tasks associated with this project. Additional detail is provided in **Part IV** of this RFP.

**I-5. Type of Contract.** It is proposed that if the Issuing Office enters into a contract as a result of this RFP, it will be an established-price contract containing the Contract Terms and Conditions as shown in **Appendix A, Sample Contract**. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.

**I-6. Rejection of Proposals.** The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposal received as a result of this RFP.

**I-7. Incurring Costs.** The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

**I-8. Pre-proposal Conference.** The Issuing Office will hold a Pre-proposal conference as specified in the Calendar of Events. The purpose of this conference is to provide opportunity for clarification of the RFP. Offerors should forward all questions to the Issuing Office in accordance with **Part I, Section I-9** to ensure adequate time for analysis before the Issuing Office provides an

answer. Offerors may also ask questions at the conference. In view of the limited facilities available for the conference, Offerors should limit their representation to two (2) individuals per Offeror. The Pre-proposal conference is for information only. Any answers furnished during the conference will not be official until they have been verified, in writing, by the Issuing Office. All questions and written answers will be posted on the Department of General Services' (DGS) website as an addendum to, and shall become part of, this RFP. Attendance at the Pre-proposal Conference is optional.

**I-9. Questions & Answers.** If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (with the subject line "RFP Logo Trust 005 Question") to the Issuing Officer named in Part I, Section I-2 of the RFP. If the Offeror has questions, they must be submitted via email no later than the date indicated on the Calendar of Events. The Offeror shall not attempt to contact the Issuing Officer by any other means. The Issuing Officer shall post the answers to the questions on the DGS website by the date stated on the Calendar of Events. An Offeror who submits a question *after* the deadline date for receipt of questions indicated on the Calendar of Events assumes the risk that its proposal will not be responsive or competitive because PTST is not able to respond before the proposal receipt date or in sufficient time for the Offeror to prepare a responsive or competitive proposal. When submitted after the deadline date for receipt of questions indicated on the Calendar of Events, the Issuing Officer *may* respond to questions of an administrative nature by directing the questioning Offeror to specific provisions in the RFP. To the extent that the Issuing Office decides to respond to a non-administrative question *after* the deadline date for receipt of questions indicated on the Calendar of Events, the answer must be provided to all Offerors through an addendum.

All questions and responses as posted on the DGS website are considered as an addendum to, and part of, this RFP in accordance with RFP Part I, Section I-10. Each Offeror shall be responsible to monitor the DGS website for new or revised RFP information. The Issuing Office shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation. The required protest process for Commonwealth procurements is described in paragraph I-26.

**I-10. Addenda to the RFP.** If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum to the DGS website at <http://www.dgsweb.state.pa.us/RTA/Search.aspx>. It is the Offeror's responsibility to periodically check the website for any new information or addenda to the RFP. Answers to the questions asked during the Questions & Answers period also will be posted to the website as an addendum to the RFP.

**I-11. Response Date.** To be considered for selection, hard copies of proposals must arrive at the Issuing Office on or before the time and date specified in the RFP Calendar of Events. The Issuing Office will **not** accept proposals via email or facsimile transmission. Offerors who send proposals by mail or other delivery service should allow sufficient delivery time to ensure timely receipt of their proposals. If, due to inclement weather, natural disaster, or any other cause, the Commonwealth office location to which proposals are to be returned is closed on the proposal response date, the deadline for submission will be automatically extended until the next

Commonwealth business day on which the office is open, unless the Issuing Office otherwise notifies Offerors. The hour for submission of proposals shall remain the same. The Issuing Office will reject unopened, any late proposals.

**I-12. Proposals.** To be considered, Offerors must submit a complete response to this RFP to the Issuing Office, using the format provided in **Part II**, providing **ten (10) paper copies of the Technical Submittal and ten (10) paper copies of the Cost Submittal**. In addition to the paper copies of the proposal, Offerors shall submit two **complete and exact** copies of the entire proposal (Technical, Cost and Disadvantaged Business Submittals, along with all requested documents) on separate CDs or Flash drives in Microsoft Office or Microsoft Office-compatible format. The electronic copy must be a mirror image of the paper copy and any spreadsheets must be in Microsoft Excel. The Offerors may not lock or protect any cells or tabs. Offerors should ensure that there is no costing information in the technical submittal. Offerors should not reiterate technical information in the cost submittal. The CD or Flash drives should clearly identify the Offeror and include the name and version numbers of the virus scanning software that was used to scan the CDs or Flash drives before it was submitted. The Offeror shall make no other distribution of its proposals to any other Offeror or Commonwealth official or Commonwealth consultant.

Each proposal page should be numbered for ease of reference. An official authorized to bind the Offeror to its provisions must sign the proposal. If the official signs the Proposal Cover Sheet (**Appendix B** to this RFP) and the Proposal Cover Sheet is attached to the Offeror's proposal, the requirement will be met. For this RFP, the proposal must remain valid for 120 days or until a contract is fully executed. If the Issuing Office selects the Offeror's proposal for award, the contents of the selected Offeror's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

Each Offeror submitting a proposal specifically waives any right to withdraw or modify it, except that the Offeror may withdraw its proposal by written notice received at the Issuing Office's address for proposal delivery prior to the exact hour and date specified for proposal receipt. An Offeror or its authorized representative may withdraw its proposal in person prior to the exact hour and date set for proposal receipt, provided the withdrawing person provides appropriate identification and signs a receipt for the proposal. An Offeror may modify its submitted proposal prior to the exact hour and date set for proposal receipt only by submitting a new sealed proposal or sealed modification which complies with the RFP requirements.

**I-13. Economy of Preparation.** Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror's ability to meet the requirements of the RFP. The proposals are limited to a maximum of fifty (50) pages, deemed as each single side counting as one page, not including any exhibits or attachments.

**I-14. Alternate Proposals.** The Issuing Office has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Issuing Office will not accept alternate proposals.

**I-15. Discussions for Clarification.** Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and

Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.

**I-16. Prime Contractor Responsibilities.** The contract will require the selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. The Issuing Office will consider the selected Offeror to be the sole point of contact with regard to contractual matters.

**I-17. Proposal Contents.**

- A. Confidential Information. PTST is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of Offerors' submissions in order to evaluate proposals submitted in response to this RFP. Accordingly, except as provided herein, Offerors should not label proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its proposal must submit the signed written statement described in subsection c. below and must additionally provide a redacted version of its proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.
- B. Trust Use. All material submitted with the proposal shall be considered the property of PTST and may be returned only at the Issuing Office's option. PTST has the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained on proposals, PTST shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.
- C. Public Disclosure. After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. Financial capability information submitted in response to Part II, Section II-7 of this RFP is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

**I-18. Best and Final Offers.**

- A. While not required, the Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining "best and final offers." To obtain best and final offers from Offerors, the Issuing Office may do one or more of the following, in any combination and order:

1. Schedule oral presentations;
2. Request revised proposals; and,
3. Enter into pre-selection negotiations.

**B.** The following Offerors will **not** be invited by the Issuing Office to submit a Best and Final Offer:

1. Those Offerors, which the Issuing Office has determined to be not responsible or whose proposals the Issuing Office has determined to be not responsive.
2. Those Offerors, which the Issuing Office has determined in accordance with **Part III, Section III-5**, from the submitted and gathered financial and other information, do not possess the financial capability, experience or qualifications to assure good faith performance of the contract.
3. Those Offerors whose score for their technical submittal of the proposal is less than 70% of the total amount of technical points allotted to the technical criterion.

The issuing office may further limit participation in the best and final offers process to those remaining responsible offerors which the Issuing Office has, within its discretion, determined to be within the top competitive range of responsive proposals.

**C.** The Evaluation Criteria found in **Part III, Section III-4**, shall also be used to evaluate the Best and Final offers.

**I-19. News Releases.** Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with PTST.

**I-20. Restriction of Contact.** From the issue date of this RFP until the Issuing Office selects a proposal for award, the Issuing Officer is the sole point of contact concerning this RFP. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror's proposal. If the Issuing Office later discovers that the Offeror has engaged in any violations of this condition, the Issuing Office may reject the offending Offeror's proposal or rescind its contract award. Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror who shares information contained in its proposal with other others may be disqualified.

**I-21. Trust Participation.** Offerors shall provide all services supplies and other support necessary to complete the identified work, except as otherwise provided in this RFP. The Issuing Office will conduct an initial evaluation of each proposal to determine that it meets the minimum requirements contained herein. PTST shall provide policy guidance and general oversight to ensure that the project is being managed effectively by the successful Offeror. Pennsylvania Department of Transportation staff will serve as liaison between the successful Offeror and PTST for the duration of the Contract.

**I-22. Term of Contract.** The term of the contract will be 24 months from the Effective Date. There will be renewal(s) of up to an additional 36 months available after the initial term and if necessary a three (3) month extension. Renewal(s) will be executed by letter at the sole discretion of PTST with a price escalation of 2%. An extension can be executed by letter at the sole discretion of PTST with no price escalation. The Issuing Office will fix the Effective Date after the contract has been fully executed by the selected Offeror and by PTST and all approvals required by PTST contracting procedures have been obtained. The selected Offeror shall not start the performance of any work prior to the Effective Date of the contract and the PTST shall not be liable to pay the selected Offeror for any service or work performed or expenses incurred before the Effective Date of the contract.

**I-23. Offeror's Representations and Authorizations.** By submitting its proposal, each Offeror understands, represents, and acknowledges that:

- A.** All of the Offeror's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the contract(s). PTST shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.
- B.** The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential offeror.
- C.** The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.
- D.** The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
- E.** The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
- F.** To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last **four** years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its proposal.

- G. To the best of the knowledge of the person signing the proposal for the Offeror and except as the Offeror has otherwise disclosed in its proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.
- H. The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.
- I. The Offeror has not made, under separate contract with the Issuing Office, any recommendations to the Issuing Office concerning the need for the services described in its proposal or the specifications for the services described in the proposal.
- J. Each Offeror, by submitting its proposal, authorizes Commonwealth agencies to release to PTST and/or Commonwealth information concerning the Offeror's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.
- K. Until the selected Offeror receives a fully executed and approved written contract from the Issuing Office, there is no legal and valid contract, in law or in equity, and the Offeror shall not begin to perform.

**I-24. Notification of Selection.**

- A. **Contract Negotiations.** The Issuing Office will notify all Offerors in writing of the Offeror selected for contract negotiations after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office.
- B. **Award.** Offerors whose proposals are not selected will be notified when contract negotiations have been successfully completed and the Issuing Office has received the final negotiated contract signed by the selected Offeror.

**I-25. Debriefing Conferences.** Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Issuing Office will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror's proposal in relation to all other Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute nor toll the time for filing a protest.

**I-26. RFP Protest Procedure.** A protest by a party not submitting a proposal must be filed within **seven** days after the protesting party knew or should have known of the facts giving rise to the protest, but no later than the proposal submission deadline specified in the Calendar of Events of the RFP. Offerors may file a protest within **seven** days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event may an Offeror file a

protest later than **seven** days after the date the notice of award of the contract. The date of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office.

**I-27. Use of Electronic Versions of this RFP.** This RFP is being made available by electronic means. If an Offeror electronically accepts the RFP, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror's possession and the Issuing Office's version of the RFP, the Issuing Office's version shall govern.

## PART II

### PROPOSAL REQUIREMENTS

Offerors must submit their proposals in the format, including heading descriptions, outlined below. To be considered, the proposal must respond to all requirements in this part of the RFP. Offerors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as an appendix to the Proposal. All cost data relating to this proposal and should be kept separate from and not included in the Technical Submittal. Each Proposal shall consist of the following **two** separately sealed submittals:

- A. Technical Submittal, which shall be a response to RFP **Part II, Sections II-1 through II-8;** and
- B. Cost Submittal, in response to RFP **Part II, Section II-9.**

The Issuing Office reserves the right to request additional information which, in the Issuing Office's opinion, is necessary to assure that the Offeror's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the RFP.

The Issuing Office may make investigations as deemed necessary to determine the ability of the Offeror to perform the Project, and the Offeror shall furnish to the Issuing Office all requested information and data. The Issuing Office reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Offeror fails to satisfy the Issuing Office that such Offeror is properly qualified to carry out the obligations of the RFP and to complete the Project as specified.

**II-1. Statement of the Problem.** State in succinct terms your understanding of the problem presented or the service required by this RFP.

**II-2. Management Summary.** Include a narrative description of the proposed effort and a list of the items to be delivered or services to be provided.

**II-3. Work Plan.** Describe in narrative form your technical plan for accomplishing the work. Use the task descriptions in **Part IV** of this RFP as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of person hours allocated to each task. Include a Program Evaluation and Review Technique (PERT) or similar type display, time related, showing each event. If more than one approach is apparent, comment on why you chose this approach.

**II-4. Prior Experience.** Include experience in Administrative and Operational Services for a Logo Signing and TODS Program. Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

**II-5. Personnel.** Include the number of executive and professional personnel, managers, engineers, analysts, auditors, researchers, programmers, consultants, etc., who will be engaged in the work. Show where these personnel will be physically located during the time they are engaged in the Project. For key personnel, including administrator, marketing staff and engineering/design personnel, include the employee's name and, through a resume or similar document, the Project personnel's education and experience in Administrative and Operational Services of a Logo Signing and TODS Program and/or other relevant traffic engineering work. Indicate the responsibilities each individual will have in this Project and how long each has been with your company. Identify by name any subcontractors you intend to use and the services they will perform.

**II-6. Training.** If appropriate, indicate recommended training of Trust personnel. Include the personnel to be trained, the number to be trained, duration of the program, place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.

**II-7. Financial Capability.** Describe your company's financial stability and economic capability to perform the contract requirements. Provide your company's financial statements for the past three fiscal years. If your company is a publicly traded company, please provide a link to your financial records on your company website; otherwise, provide three (3) years of your company's financial documents such as audited financial statements or recent tax returns. Financial statements must include the company's Balance Sheet and Income Statement or Profit/Loss Statements. Also include a Dun & Bradstreet comprehensive report if available. The PTST reserves the right to request additional information it deems necessary to evaluate an Offeror's financial capability.

**II-8. Objections and Additions to Standard Contract Terms and Conditions.** The Offeror will identify which, if any, of the contract terms and conditions (contained in **Appendix A**) it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office's sole discretion, would be in the best interest of PTST. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for **Appendix A**. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

Regardless of any objections set out in its proposal, the Offeror must submit its proposal, including the cost proposal, on the basis of the terms and conditions set out in **Appendix A**. The Issuing Office will reject any proposal that is conditioned on the negotiation of the terms and conditions set out in **Appendix A or to other provisions of the RFP as specifically identified above.**

**II-9. Cost Submittal.** The information requested in this **Part II, Section II-9** shall constitute the Cost Submittal. The Cost Submittal shall be placed in a separate sealed envelope within the sealed proposal, separated from the technical submittal. The total proposed cost shall be broken down into the following components:

- **Administration and Accounting Costs:** This will include the total ongoing costs for administering and managing the program and accounting for all processes within the program. Included in this would be labor, overhead and operational expenses for marketing and website development and maintenance, normal day to day operations (responding to sponsor questions, reviewing applications, billings, surveying of existing signs for damages, accounting and record keeping, preparing reports and briefings, traveling and attending meetings, as appropriate) and any other tasks to continue smooth operation of the program. It is anticipated that this will be a monthly fee to the PTST.
- **Engineering Costs:** This will include costs for engineering a new logo sign or signs (may also include resetting or relocating) and associated ramps and trailblazers relating to an approved application or applications. May also include the relocation of any necessary PennDOT signs. It is anticipated that there will be a single cost per mainline Type A sign with the costs for any ramps and trailblazers, travel expenses, overhead and profit included.

**Travel and Subsistence.** Although all travel cost is to be included in the fixed cost for each task, Travel and subsistence costs must conform to the requirements of the most current version of Commonwealth Management Directive 230.10, *Travel and Subsistence Allowances*.

[http://www.portal.state.pa.us/portal/server.pt/community/management\\_directives/711/management\\_administrative\\_support\\_%28205-260%29/208571](http://www.portal.state.pa.us/portal/server.pt/community/management_directives/711/management_administrative_support_%28205-260%29/208571)

Offerors should **not** include any assumptions in their cost submittals. If the Offeror includes assumptions in its cost submittal, the Issuing Office may reject the proposal. Offerors should direct in writing to the Issuing Office pursuant to **Part I, Section I-9**, of this RFP any questions about whether a cost or other component is included or applies. All Offerors will then have the benefit of the Issuing Office's written answer so that all proposals are submitted on the same basis. Please use **Appendix C, Cost Worksheet** to prepare and submit your Cost.

**The Issuing Office will reimburse the selected Offeror for work satisfactorily performed after execution of a written contract and the start of the contract term, in accordance with contract requirements, and only after the Issuing Office has issued a notice to proceed.**

## PART III

### CRITERIA FOR SELECTION

**III-1. Mandatory Responsiveness Requirements.** To be eligible for selection, a proposal must be:

- A. Timely received from an Offeror;
- B. Properly signed by the Offeror.

**III-2. Technical Nonconforming Proposals.** The two (2) Mandatory Responsiveness Requirements set forth in **Section III-1** above (A-B) are the only RFP requirements that PTST will consider to be *non-waivable*. The Issuing Office reserves the right, in its sole discretion, to (1) waive any other technical or immaterial nonconformities in an Offeror's proposal, (2) allow the Offeror to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Offeror's proposal.

**III-3. Evaluation.** The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. The Issuing Office will notify in writing of its selection for negotiation the responsible Offeror whose proposal is determined to be the most advantageous to PTST as determined by the Issuing Office after taking into consideration all of the evaluation factors.

**III-4. Evaluation Criteria.** The following criteria will be used in evaluating each proposal:

**A. Technical:** The Issuing Office has established the weight for the Technical criterion for this RFP as **70%** of the total points. Evaluation will be based upon the following in order of importance: **Soundness of Approach, Personnel Qualifications, Offeror Qualification, and Understanding the Problem.**

**B. Cost:** The Issuing Office has established the weight for the Cost criterion for this RFP as **30%** of the total points.

**III-5. Offeror Responsibility.** To be responsible, an Offeror must submit a responsive proposal and possess the capability to fully perform the contract requirements in all respects and the integrity and reliability to assure good faith performance of the contract.

In order for an Offeror to be considered responsible for this RFP and therefore eligible for selection for best and final offers or selection for contract negotiations:

- A. The total score for the technical submittal of the Offeror's proposal must be greater than or equal to **70%** of the **available technical points**; and
- B. The Offeror's financial information must demonstrate that the Offeror possesses the financial capability to assure good faith performance of the contract. The Issuing

Office will review the Offeror's previous three financial statements, any additional information received from the Offeror, and any other publicly-available financial information concerning the Offeror, and assess each Offeror's financial capacity based on calculating and analyzing various financial ratios, and comparison with industry standards and trends.

An Offeror which fails to demonstrate sufficient financial capability to assure good faith performance of the contract as specified herein may be considered by the Issuing Office, in its sole discretion, for Best and Final Offers or contract negotiation contingent upon such Offeror providing contract performance security for the first contract year cost proposed by the Offeror in a form acceptable to the Issuing Office. Based on the financial condition of the Offeror, the Issuing Office may require a certified or bank (cashier's) check, letter of credit, or a performance bond conditioned upon the faithful performance of the contract by the Offeror. The required performance security must be issued or executed by a bank or surety company authorized to do business in the Commonwealth. The cost of the required performance security will be the sole responsibility of the Offeror and cannot increase the Offeror's cost proposal or the contract cost to the PTST.

Further, the Issuing Office will award a contract only to an Offeror determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.

## PART IV

### WORK STATEMENT

#### IV-1. Objectives.

**A. General.** The Pennsylvania Department of Transportation (PennDOT) executed a Trust Agreement on November 1, 1984 which was Restated and Amended in its entirety on July 31, 2007 and further amended on May 28, 2009 and on July 23, 2009 creating the Pennsylvania Tourism Signing Trust (PTST) to fulfill PennDOT's Logo Signing and Tourist Oriented Directional Signing (TODS) Programs as well as other signing related issues assigned to it from time to time by PennDOT. The Agreement further provides that the PTST Board may select, in cooperation with PennDOT, a person, firm or corporation as Administrator for the Programs. The entity selected as the Administrator shall have responsibilities, as determined by the PTST Board, to administer the Logo Signing and TODS Programs. A copy of this Agreement is provided in **Appendix D – Pennsylvania Tourism Signing Trust Agreement**. Information regarding PennDOT's Logo Program and TODS Program is provided in **Appendix E –Section 2.7 and 2.14 of Publication 46, Traffic Engineering and Operations Manual**.

The Logo Program has grown significantly over the years and there are now 1988 separate participants at individual interchanges with logo panels on 3058 mainline signs, 2622 ramp signs, 685 trailblazers and 18 Attraction TODS trailblazers.

The TODS Program functions with individual applications being accepted and reviewed for qualification and then having selected TODS erected at approved locations.

**B. Specific.** As the Administrator, the selected offeror shall have responsibilities identified by the PTST Board which shall include:

- Solicitation, marketing and qualification of businesses for participation in the Logo Signing and TODS Programs
- Billing and collection of accounts
- Delivery of engineering services
- Delivery of construction services
- Delivery of accounting services
- General administration of the Logo Signing and TODS Programs
- Performance of any and all functions incident to acting as the delegate of the PTST Board
- Staff and operate an Office within the vicinity of the City of Harrisburg, PA as designated and provided by PTST for staff to conduct the business of administering the Logo and TODS programs on a daily basis
- Providing detailed financial and program information to PTST's Business Manager on a schedule established by the Business Manager for his review.

**IV-2. Nature and Scope of the Project.** PTST will provide office space, furniture, computers, telephones, fax and a copier. PTST will also be responsible for all utilities associated with the office space including internet and telephone service. The selected offeror will be responsible for providing

all personnel, keeping website information current, security for sensitive files, consumable office supplies, postage, etc. for all administrative activities and any other supplies or services not specified to be provided by PTST. The selected offeror will also be responsible for transitioning all records from the current administrator to their control. The selected offeror will collect all applicable fees set by the PTST Board including issuing and collecting annual billings and deposit into applicable PTST accounts. The selected offeror will invoice PTST monthly for the tasks identified in Section 3.

The vendor shall maintain staffing at the designated office for the minimum hours of operation below:

- Daily - Monday through Friday
- Hours - 8:00 AM to 4:00 PM
- With the exception of the following - New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day.

Vendor staff assigned to this project will be expected to perform the majority of their work from the PTST designated office. Any exceptions to the hours of operation or staffing levels are subject to PTST review and approval prior to implementing, even if on a limited term basis.

PTST shall provide policy guidance and general oversight to ensure that the project is being managed effectively by the successful Offeror. Pennsylvania Department of Transportation staff will serve as liaison between the successful Offeror and PTST for the duration of the Contract.

#### **IV-3. Tasks.**

**A. Administration.** The vendor shall invoice PTST monthly a flat fee for administration services provided which will include, but are not limited to:

(1) Maintain PTST accounts through the use of PTST's Quickbooks Pro software license. Multiple accounts exist that encompass both the Logo and TODS programs. These accounts are used for funds tracking, invoicing, preparation of monthly financial data and general accounting. The accounting data will be securely backed-up daily. A copy of the backup will be provided to the Business Manager or designee monthly.

(2) Maintain and keep updated the inventory of Logo Sign Panels in ESRI Online Database.

(3) Maintain and keep updated a database of all Logo and TODS Program participants in software, approved by PTST. The data is to be backed up daily in a manner approved by PTST.

(4) Process applications for participation in the Logo and TODS Programs. This task shall include, but not be limited to, the collection of fees, qualification of applicants under strict adherence to the PennDOT guidelines in effect at the time, execution of necessary contracts/permits, processing of work orders for the installation of participant Logo Panel and /or TODS by independent construction contractors. Installation of Logo Panels under this task will entail placement on an empty space or expansion of an existing sign. Preparation of work orders for installation of TODS by independent contractors will involve all aspects of sign installation following Publication 111, Publication 408, as amended, and Publication 236 for individual TODS. TODS installed under this task will include any necessary coordination with

PennDOT District Offices and construction inspection. Review of applications for this program must be completed within forty-five (45) days of receipt and a decision rendered to the applicant.

(5) Process work orders for repairs, maintenance and participant changes for Specific Service Signs, Logo Panels and TODS. If this work is not covered under the participant's annual fee the contractor must invoice and collect fees from the participant. All work shall be performed under the administrative task.

(6) Perform all ancillary work necessary to maintain Specific Service Signs, Logo Panels and TODS to include damaged sign repairs and insurance claim processing.

(7) Execute and maintain participant agreements for both the Logo and TODS programs.

(8) Send annual fee and compliance form mailings (may include second and third notices), collect and process fees, initiate removal of signs if required, update account data software and database.

(9) Maintain as-built drawings for all Specific Service Signs, Ramp Signs, Trailblazers and TODS at each interchange/intersection in a suitable CADD software and in hardcopy format. The data is to be backed up and stored on PTST's server daily.

(10) Provide for bi-monthly PTST meetings (approximately 15-20 individuals) to include securing meeting accommodations (location approved by Trust Board), provide for food and beverage, prepare agendas, assemble and provide meeting packets to all attendees in advance. PTST will be responsible for all costs associated with meeting accommodations and food and beverages. Arrange for conference calls as required (typically 6-8 per year). Receive and authorize Trustee expense vouchers. Complete initial draft of minutes within 10 business days following the meeting and distribute final approved minutes.

(11) Recommend changes to Logo and TODS Program guidelines.

(12) Process Assignment of Agreements as required.

(13) Conduct compliance quality assurance reviews as directed by the PTST Board.

(14) Maintain the Trust's web site at [www.palogo.org](http://www.palogo.org) which will remain as a free-standing website and cannot be integrated as pages into a corporate website. The domain name is owned by the Trust; however, the Administrator will be provided the access codes necessary to manage the website that is hosted by a third-party vendor. The Administrator is responsible for paying the annual fees associated with hosting a website. Under no circumstances can the Administrator change the ownership of the domain name. The website has been built using WordPress (open source platform) and has a robust content management system (CMS). The Administrator will be trained on how to use the CMS. The Administrator is responsible for ensuring accurate information is contained on the website and making updates as necessary and adding new pages/content as needed. The

website is to be used as a marketing tool to attract new businesses to participate in the Logo program.

(15) Respond to legislative inquiries and inquiries from the public concerning both the Logo and TODS Programs. Maintain a correspondence and telephone log to include date of contact, contact person, email, status, details of correspondence and applicable remarks. At a minimum, the log is to be updated daily.

(16) PTST has established telephone numbers for PTST business and it shall be the responsibility of the Selected Offeror to maintain PTST's telephone numbers for permanent ongoing use. PTST funds will pay for costs related to telephone service. (See note 4 in **Appendix C, Cost Worksheet**)

(17) Use in-house accounting resources or retain subcontractor to assist the administrative staff as necessary to maintain adequate accounting documentation of the PTST's assets including generation of monthly financial statements.

(18) Assist as necessary with PTST auditor in preparation of the annual financial audit.

(19) Store a copy of all electronic work product in an unprotected and editable format on PTST's server which must be backed up daily.

(20) The selected offeror may need to sign a nondisclosure agreement.

- **B. Engineering.** This shall include costs for engineering a new logo sign or signs (may also include resetting or relocating) and associated ramps and trailblazers relating to an approved application or applications. It may also include the relocation of any necessary PennDOT signs. It is anticipated that there will be a single cost per mainline Type A sign with the costs for any ramps and trailblazers, travel expenses, overhead and profit included. Use in-house engineering resources or subcontract engineering consultant services to include, but not limited to, the following work:

(1) Prepare preliminary construction plans. Preparation of final Plans, Specifications and Estimates (PS&E) in accordance with Design Manual Parts 1 & 3, Publications 10 and 14M, respectively. Preparation of preliminary construction plans must begin within forty-five (45) days from approval of the construction project has been granted by the board. This will include the construction of new Type A signs which may include Specific Service Signs and relocated PennDOT signs. Modification of any Specific Service Signs, modification or installation of new Ramp Signs, Trailblazers and TODS is part of this engineering task PS&E will comply with Publication 408 and all required special provisions, be approved by PennDOT and include FHWA approval, if required. Bid packages must be created in accordance with Publication 51, Bid Package Preparation Guide. The referenced publications can be found at the following link: [PennDOT Forms and Publications](#).

(2) Advertise, let and award projects. Retain construction contractors through PennBID or similar type bidding site, using pre-qualified construction contractors for the installation of signs. Prepare contract documents for review by Trust Counsel, and the Trust will execute the

contract with the construction contractor. The selected offeror will oversee the administration of the construction contract.

(3) Conduct construction inspection to ensure that all work complies with Publication 408 as amended, Publication 8, Publication 213 and all RC Standards and TC Standards, Publications 72M and 111, respectively. Vendor must maintain records in accordance with Publication 2, Project Office Manual (see link above to all Publications).

(4) Coordinate with all eleven PennDOT engineering districts to include field view and approval of preliminary plans, conduct pre-final and final construction inspections and final acceptance of work.

#### **IV-4. Reports and Project Control.**

**A. Annual Report for Logo and TODS Program.** A summary of the programs' results for the past year must be provided annually. The report shall cover activities, problems and future objectives. Statistics regarding program activities and participants shall be included. This report is due 150 days following the end of the Trust Fiscal Year. Due date is February 1 of each year; Trust Fiscal Year ends August 31.

**B. Status Report.** Monthly progress reports covering activities, problems and recommendations must be provided to the PennDOT liaison by the 5<sup>th</sup> of the following month.

**C.** All reports shall be in a PTST approved format. PTST reserves the right to request additional reports as necessary.

Appendix A - Sample Contract

Sample

CONTRACT NO. TRUST 005

FEDERAL ID NO.

## CONTRACT

PENNSYLVANIA TOURISM SIGNING TRUST  
AND  
SUCCESSFUL OFFEROR

This Contract (“**Contract**”), made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
and between the Pennsylvania Tourism Signing Trust (the “**Trust**”),

### A N D

Name and address of Successful Offeror, and acting through its proper officials (the  
“**Contractor**”).

Trust and Contractor are hereinafter collectively referred to as “**Parties**” or individually a “Party”.

## 1. GENERAL

The Contractor will conduct work (the “**Project**”) in accordance with the terms and conditions of the following documents, all of which are attached hereto as Exhibits 1(a), 1(b), 1(c), and 1(d), respectively and are incorporated herein by this reference:

- (a) Project Requirements referred to as The Request for Proposals titled, “Administrative and Operational Services of Pennsylvania Logo Signing Program”, dated insert date (the “**Project Requirements**”),
- (b) The Pre-proposal Presentation and/or Questions and Answers, dated insert date,
- (c) The Contractor’s Proposal titled, “Administrative and Operational Services of Pennsylvania Logo Signing Program”, dated insert date (the “**Proposal**”), and
- (d) The Contractor’s Proposal Addendum titled, “Proposal Addendum”, dated insert date (the “**Proposal Addendum**”).

## 2. TERM

The term (the “**Term**”) of this Contract shall be for a period of two (2) years during which the Contractor agrees to perform the services as contemplated herein, unless earlier terminated as provided in **Section 14**; provided, however, that the Trust, at its sole discretion, may, upon thirty (30) days advance written notice to Contractor, renew by letter with a price escalation of 2%, the Term for up to thirty-six (36) additional months upon the same terms and conditions. If necessary at the sole discretion of the Trust this contract may be extended for three (3) additional months upon the same terms and conditions without a price escalation. The purpose of the Trust’s right to extend the Term for an additional three months is to prevent a lapse in Contract coverage while the Trust is in the process of entering into a new contract. The Term shall commence on the date the Trust provides notice to Contractor to proceed (the “**Notice to Proceed**”).

## 3. INCORPORATION BY REFERENCE

The following designated Contract provisions, acts, and policies, and any amendments thereto, are hereby incorporated by reference as though set forth in full herein:

- (a) the Contractor Responsibility Provisions and Offset Provisions, dated October 25, 2010;
- (b) the Contractor Integrity Provisions, dated January 14, 2015;
- (c) the Provisions Concerning the Americans with Disabilities Act, dated October 14, 2011;

(d) Commonwealth Travel Policy, dated January 1, 2012; and

(e) The Commonwealth Nondiscrimination/Sexual Harassment Clause, dated February 24, 2015.

In these documents, references to the Commonwealth are replaced with PTST, except when a Commonwealth provision, act or policy is cited.

#### 4. DELIVERABLES

The Contractor will provide the Trust with all products and services stated in the Proposal, as may be modified by the Proposal Addendum, if applicable, and as specified by the Project Requirements.

#### 5. SUBCONTRACTS

Any subcontract must first be approved by the Trust, in writing. Subcontracts shall include the following provisions from this Contract in their terms and conditions: **Section 3, Incorporation by Reference; Section 7, Review Rights; Section 9, Travel, if applicable; Section 10, Overhead, if applicable; Section 20, Beneficial Interests; Section 21, Accounting Records.**

Any subcontract must also contain a provision that the subcontract may be terminated by the Contractor if this Contract is terminated by the Trust for any reason. Additionally, every subcontract must include a statement that the Contractor is required to make payment to the subcontractor within 10 (ten) calendar days from receipt of payment from the Trust for the subcontractor's work.

**In selecting a subcontractor, Contractor should keep in mind that providing opportunities for disadvantaged business enterprises, minority-owned, women-owned and small business concerns to compete for work is an important endeavor. The Contractor is encouraged to involve businesses of these types in the work required under this Contract.**

#### 6. OWNERSHIP RIGHTS

All proprietary materials and methodologies brought by the Contractor to the Project and all documents, sketches, drawings, designs, works, papers, files, reports, computer programs, data, computer documentation and other tangible materials authored and prepared by Contractor as the work product covered in the scope of work shall be treated in accordance with the following principles:

(1) Pre-existing Materials Brought by Contractor to the Project: The Trust shall have no ownership rights to Contractor's proprietary materials, data, software, methodologies or other intellectual property that Contractor brings to the Project or has previously developed with or obtained from third parties (collectively, the "**Contractor Property**");

(2) Copyright Ownership – Ownership of Materials Developed as Part of the Scope of Work for the Project: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, data, computer documentation and other tangible materials authored and prepared by Contractor as the work product covered in the scope of work for the Project, including works and work product developed by subcontractors, are the sole and exclusive property of the Trust and shall be considered works made for hire (collectively the “**Works**”). In the event that such Works do not fall within the specifically enumerated works that constitute works made for hire under the United States copyright laws, Contractor agrees to assign and, upon their authorship or creation, expressly and automatically assign all copyright interests, proprietary rights, trade secrets, and other right, title and interest in and to such Works to the Trust. The Trust shall have the rights accorded a holder of copyright under the United States copyright laws including, but not limited to, the exclusive right to reproduce the Works in copies, the right to distribute copies by sale or other transfers, the right to register all copyrights in its own name as author in the United States and in foreign countries, the right to prepare derivative works based upon the Works, and the right to display the Works. Upon completion or termination of this Contract, all working papers, files and other documentation shall immediately be delivered by Contractor to the Trust. Contractor warrants that the Works are original and do not infringe the rights of any other work.

(a) Contractor License – Notwithstanding the foregoing, Contractor and any subcontractors shall retain a royalty free non-exclusive license to reproduce such Works for internal use in furtherance of their services on behalf the Trust, for the length of this of this Contract, or, in the case of a subcontractor, for the length of such subcontractor’s contract with Contractor, and to have such Works published for any academic purpose including, but not limited to, publication as part of any thesis or dissertation or journal article, subject to the provisions of Section I-19 News Releases of the Request for Proposal.

(3) Patent Ownership: Contractor and its subcontractors shall retain ownership to patentable items, including, but not limited to, patents, processes, inventions or discoveries (collectively the “**Patentable Items**”) made by the Contractor during the performance of this Contract. Notwithstanding the foregoing, the Trust is granted a non-exclusive, non-transferable, royalty free license to use or practice the Patentable Items. The Trust may disclose to third parties any such Patentable Items made by Contractor or any of its subcontractors under the scope of work for the Project that have been previously publicly disclosed. The Trust understands that any third party disclosure will not confer any license under such Patentable Items.

## 7. REVIEW RIGHTS

The Trust and the Pennsylvania Department of Transportation Representative, who shall be designated by the Trust from time to time, have the right to review and inspect all Project activities upon reasonable notice of at least three (3) business days, during normal business hours.

**8. PAYMENT**

The Trust will pay the Contractor during the time period set forth in **Section 2** of this Contract, for work completed in accordance with the terms and conditions of this Contract, the Project Requirements and the Proposal, the amount of \$XXXXXXX per year (the “**Administrative Fee**”), paid in 12 equal monthly payments, which shall not be subject to annual escalation or increase. The Administrative Fee shall not include reimbursement of construction and engineering costs incurred by Contractor pursuant to this Agreement, which shall be in addition to and shall be paid separately from the Administrative Fee and negotiated through the use of the Work Order Process. Collectively, the Administrative Fee and the Construction and Engineering Costs shall constitute the “**Contract Price.**”

**9. TRAVEL**

All travel expenses incurred by the Contractor will be covered within the cost provided for each task..

**10. OVERHEAD**

All subcontractors’ final overhead rates shall be based on the actual overhead costs verified by an audit performed by an approved agent of the Trust upon completion of this Contract or at such time that this Contract is terminated.

**11. TRUST CONTRACTING OFFICER**

The person designated to act for the Trust in administering and monitoring this Contract is Ted Leonard or her/his designee or replacement (the “**Contracting Officer**”).

**12. DEFAULT**

a. The Trust may, subject to the provisions of **Section 13**, Force Majeure, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in **Section 14**, Termination Provisions) the whole or any part of this Contract for any of the following reasons:

- 1) Failure to begin work within the time specified in the Contract or as otherwise specified;
- 2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract terms;
- 3) Unsatisfactory performance of the work;
- 4) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
- 5) Discontinuance of work without approval;

- 6) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
  - 7) Insolvency or bankruptcy;
  - 8) Assignment made for the benefit of creditors;
  - 9) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
  - 10) Failure to protect, to repair, or to cure any damage or injury to property; or
  - 11) Breach of any provision of this Contract.
- b.** In the event that the Trust terminates this Contract in whole or in part as provided in Subparagraph a. above, the Trust may procure, upon such terms and in such manner as it determines, services similar or identical to those so terminated, and the Contractor shall be liable to the Trust for any reasonable excess costs for such similar or identical services included within the terminated part of the Contract.
- c.** If the Contract is terminated as provided in Subparagraph a. above, the Trust, in addition to any other rights provided in this **Section 12**, may require the Contractor to transfer title and deliver immediately to the Trust in the manner and to the extent directed by the Pennsylvania Department of Transportation, such partially completed work, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated. Payment for completed work accepted by the Trust shall be at the Contract Price; provided. Except as provided below, payment for partially completed work, including, where applicable, reports and working papers, delivered to and accepted by the Trust, shall be in an amount agreed upon by the Contractor and Contracting Officer. The Trust may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Trust against loss.
- d.** The rights and remedies of the Trust provided in this **Section 12** shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- e.** The Trust's failure to exercise any rights or remedies provided in this **Section 12** shall not be construed to be a waiver by the Trust of its rights and remedies in regard to the event of default or any succeeding event of default.

### **13. FORCE MAJEURE**

Neither Party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either Party. Causes beyond a Party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements

of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Contractor shall notify the Trust orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Trust may reasonably request. After receipt of such notification, the Trust may elect either to cancel the Contract or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

In the event of a declared emergency by competent governmental authorities, the Trust by notice to the Contractor, may suspend all or a portion of the Contract.

#### **14. TERMINATION PROVISIONS**

The Trust has the right to terminate this Contract, completely or in part, for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

- a. **TERMINATION FOR CONVENIENCE:** The Trust shall have the right to terminate the Contract for its convenience if the Trust determines that such termination is in the Trust's best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.
- b. **NON-APPROPRIATION:** The Trust's obligation to make payments during any Trust fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Trust shall have the right to terminate the Contract. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under this Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.
- c. **TERMINATION FOR CAUSE:** The Trust shall have the right to terminate the Contract due to Contractor's default under **Section 12**, Default, upon written notice to the Contractor. The Trust shall also have the right, upon written notice to the Contractor, to terminate the Contract for other cause as specified in this contract or by law. If it is later determined that the Trust erred in terminating the Contract for cause, then, at the Trust's discretion, the Contract shall be deemed to have been terminated for convenience under **Section 14.a**.

## 15. CONTRACT CONTROVERSIES

- a. Filing of Written Claim. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the Contracting Officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor shall be deemed to have irrevocably waived and forever released its right to assert a claim in any forum.
- b. Role of Contracting Officer. The Contracting Officer, or his or her designee, shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by the mutual consent of the Contracting Officer and the Contractor. The Contracting Officer, or his or her designee, shall send his/her written determination to the Contractor. If the Contracting Officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The Contracting Officer's determination shall be the final order and shall not be subject to appeal.

## 16. COMPLIANCE WITH LAWS

The Contractor shall comply with all Federal, State and local laws applicable to its work, and shall procure at its expense all licenses and permits necessary for the fulfillment of its obligations.

## 17. NO CONSEQUENTIAL DAMAGES

Under no circumstances and under no legal theory, whether in tort, contract or otherwise, shall either Party be liable to the other Party for an indirect, special, incidental or consequential damages of any character arising out of this Contract, including without limitation, damages for loss of goodwill, lost profits, or work stoppage even if the other Party has been informed of the possibility of such damages.

## 18. INSURANCE REQUIREMENTS

The Contractor shall procure and maintain at its expense the following types of insurance issued by companies acceptable to the Trust and authorized to conduct such business under the laws of the Trust:

- a. Worker's compensation insurance for all of the Contractor's employees and those of any subContractor, engaged in work at the site of the Project in accordance with the Worker's Compensation Act of 1915 and any supplements or amendments thereof.



Contractor or any of its employees, subcontractors or consultants introduces a virus or malicious, mischievous or destructive programming into the Trust and provided further that the Trust can demonstrate that the virus or malicious, mischievous or destructive programming was introduced by the Contractor or any of its employees, agents, subcontractors or consultants, the Contractor shall be liable for any damage to any data and/or software owned or licensed by the Trust. In addition, the Contractor shall be liable for the damages incurred by the Trust including, but not limited to, the expenditure of Trust funds to eliminate or remove a computer virus or malicious mischievous or destructive programming that result from the Contractor's failure to take proactive measures to keep virus or malicious, mischievous or destructive programming from originating from the Contractor, its servants, agents, subcontractors, or employees through appropriate firewalls and maintenance of anti-virus software and software security updates (such as operating systems security patches, etc.). In the event of destruction or modification of software, the Contractor shall eliminate the virus, malicious, mischievous or destructive programming, restore the Trust's software, and be liable to the Trust for any resulting damages.

2. The Trust may, at any time, audit, by a means deemed appropriate by the Trust, any computing devices being used by representatives of the Contractor to provide services to the Trust for the sole purpose of determining whether those devices have anti-virus software with current virus signature files and whether the current minimum operating system patches or workarounds have been installed. Devices found to be out of compliance will immediately be disconnected and will not be permitted to connect or reconnect to the Trust network until the proper installation(s) have been made.

The Contractor may use the anti-virus software used by the Trust to protect Contractor's computing devices used in the course of providing services to the Trust. It is understood that the Contractor may not install the software on any computing device not being used to provide services to the Trust, and that all copies of the software will be removed from all devices upon termination of this Contract.

## **23. NOTICES**

Any notices required or permitted by this Contract or given in connection herewith, shall be in writing and made by certified mail, overnight mail service, first-class mail, fax or personal delivery, postage paid to the following representatives or their designees of the Parties:

If to the Trust:  
Ted Leonard, Chairman  
Pennsylvania Tourism Signing Trust  
600 North Third Street  
PO Box 2865  
Harrisburg, PA 17105

If to the Contractor:  
Name  
Address

These notices include, but are not limited to, notice of termination, provision of the certificate of insurance, issues requiring resolution of a dispute, modifications to this Contract and any general issues concerning the interpretation of this Contract.

Other points of contact which are necessary to complete the work conducted under the terms of this Contract and not concerning the items listed in the above paragraph, shall be identified by the Parties immediately after the notice to proceed given by the Trust.

**24. ORDER OF PRECEDENCE**

If any conflicts or discrepancies should arise in the terms and conditions of this Contract, or the interpretation thereof, the order of precedence for resolution shall be, in descending order with the highest preference first: (a) the Contract; (b) the Contractor's Proposal Addendum dated insert date; if applicable, (c) the Preproposal Presentation and/or Questions and Answers dated insert date, (d) the Request for Proposals dated insert date; and (e) the Contractor's Proposal dated insert date.

**25. APPLICABLE LAW**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to conflict of law principles thereof.

**26. SUCCESSORS AND ASSIGNS**

This Contract shall be binding upon and inure to the benefit of the Parties, their respective heirs, and permitted assigns; provided, however, that the Contractor shall not be permitted, under any circumstances, to assign or transfer any right or remedy hereunder without the prior written consent of the Trust, which may be withheld or denied in the Trust's sole discretion.

**27. COUNTERPARTS**

This Contract may be executed and delivered in separate counterparts (including by means of facsimile or email transmission), each of which is deemed to be an original and all of which taken together constitute one and the same agreement.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parties have executed this Contract the date first above written.

CONTRACTOR:

\_\_\_\_\_  
Title:

BY \_\_\_\_\_

DATE: \_\_\_\_\_

If a Corporation, only the Chairman, President, Vice President, Senior Vice President, Executive Vice President, Assistant Vice President, Chief Executive Officer, or Chief Operating Officer must sign; if one of these officers are not available, please attach a resolution. If a sole proprietorship, only the owner must sign; if a partnership, only one partner needs to sign; if a limited partnership, only the general partner may sign. If a Limited Liability Company (“LLC”), only one member needs to sign, unless it is a manager-based LLC, then a manager must sign. If a Municipality, Authority, or other entity, please attach a resolution.

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**DO NOT WRITE BELOW THIS LINE--FOR TRUST USE ONLY**  
**TRUSTEES**

DATE: \_\_\_\_\_ BY \_\_\_\_\_

DATE: \_\_\_\_\_ BY \_\_\_\_\_

DATE: \_\_\_\_\_ BY \_\_\_\_\_

DATE: \_\_\_\_\_ BY \_\_\_\_\_

**(SIGNATURES CONTINUED ON NEXT PAGE)**

DATE: \_\_\_\_\_ BY \_\_\_\_\_

DATE: \_\_\_\_\_ BY \_\_\_\_\_

DATE: \_\_\_\_\_ BY \_\_\_\_\_

DATE: \_\_\_\_\_ BY \_\_\_\_\_

**APPENDIX B - PROPOSAL COVER SHEET**

**APPENDIX B - PROPOSAL COVER SHEET  
 THE PENNSYLVANIA TOURISM SIGNING TRUST (PTST)  
 [Pennsylvania Department of Transportation – Bureau of Office Services]**

**Administrative and Operational Services for PA Logo Signing Program  
 RFP# Logo Trust 005**

**Enclosed in two separately sealed submittals is the proposal of the Offeror identified below for the above-referenced RFP:**

<b>Offeror Information:</b>	
Offeror Name	
Offeror Mailing Address	
Offeror Website	
Offeror Contact Person	
Contact Person's Phone Number	
Contact Person's Facsimile Number	
Contact Person's E-Mail Address	
Offeror Federal ID Number	
Offeror SAP/SRM Vendor Number	

<b>Submittals Enclosed and Separately Sealed:</b>	
<input type="checkbox"/>	Technical Submittal
<input type="checkbox"/>	Cost Submittal

<i>Signature</i>	
Signature of an official authorized to bind the Offeror to the provisions contained in the Offeror's proposal:	
Printed Name	
Title	

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM WITH THE OFFEROR'S PROPOSAL MAY RESULT IN THE REJECTION OF THE OFFEROR'S PROPOSAL**

**Appendix C COST WORKSHEET**

**TASK A. Administration**

Monthly Fee	# of Months	Total
	24	\$ -

**TASK B. Engineering**

Cost per Type A Sign	# of Signs	Total
	30	\$ -

Summary	
TASK A	\$ -
TASKS B	\$ -
<b>Total</b>	<b>\$ -</b>

EFFECTIVE DATE: 7/31/07

AGREEMENT NO: 200706191

(DEPARTMENT will insert)

PTLA SAP ID NO.: 0000304562

PTLA FID NO.: 23-2184572

MPMS NO.: none

**RESTATED AND AMENDED**  
**PENNSYLVANIA TOURISM SIGNING TRUST**  
**(FORMERLY THE PENNSYLVANIA LOGO SIGNING TRUST AGREEMENT)**

THIS RESTATED AND AMENDED DECLARATION OF TRUST, executed this 31<sup>st</sup> day of July 2007, representing an amendment to and the restatement of a Trust Agreement as originally executed November 1, 1984, effective September 21, 1984, and as amended by a First Amendment dated May 7, 1987, a Second Amendment dated November 29, 1995, and a Third Amendment dated January 1, 2000, by and among the PENNSYLVANIA TOURISM & LODGING ASSOCIATION (formerly the Pennsylvania Travel Council), a nonprofit corporation with its offices situate at 128 Walnut Street, Harrisburg, Dauphin County, Pennsylvania ("PTLA" and "Grantor"), and the following trustees: DAVID CARBAUGH, MIKE LaCESA, TED LEONARD, ROBERT McCOLL, GEORGE MEROVICH, MARK MORATH, AND PATRICE NITTERHOUSE (all adult individuals, who have agreed to act as the Trustees of the Trust as of the Effective Date of this Restated and Amended Pennsylvania Tourism Signing and Services Trust), establishing a Trust for the benefit of the COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION ("PENNDOT").

WITNESSETH:

WHEREAS, in order to resolve certain technical legal requirements inherent in the formation, implementation, and funding of the PENNDOT Logo Signing Program, it was necessary for a Trust to be created to hold certain funds for the benefit of PENNDOT to pay for the expenses incurred in the implementation of such program; and

WHEREAS, PENNDOT, pursuant to Part V of the Pennsylvania Vehicle Code, P.L. 162, No. 81 of June 17, 1976, as amended from time to time, specifically 75 Pa.C.S.A. §6125, has the authority to provide for and approve the erection and maintenance of specific service signs including tourist oriented directional signs (TODS) and business logo signs on State-designated highways, including intersections with local highways, and to administer PENNDOT's programs pursuant to policy guidelines regarding such signs within the Commonwealth of Pennsylvania consistent with Federal Highway Administration guidelines; and

WHEREAS, the Commonwealth of Pennsylvania, Department of Community and Economic Development ("DCED"), pursuant to section 1709-4 of the act of May 10, 1939, known as the Commerce Law, has the power, and its duty shall be, to plan and conduct a program of information, advertising and publicity relating to the business, industrial, commercial, agricultural, educational, recreational, scenic, historic, highway and residential facilities, advantages and attractions of the Commonwealth, including any political subdivisions thereof, which may include newspaper, magazine, outdoor and radio advertising, both within and without the limits of the Commonwealth, as well as the duty to encourage and, so far as it is practicable to do so, coordinate the activities of persons, firms, associations, corporations and other organizations engaged in publicizing and promoting such facilities, advantages and attractions of the Commonwealth, or any political subdivision thereof; and

WHEREAS, the Trustees, PENNDOT and DCED wish to develop a statewide logo sign and TODS system for tourism and motorist service signing, providing information to the traveler throughout the Commonwealth of Pennsylvania pursuant to the Program(s) administered pursuant to this Trust Agreement throughout seven (7) recognized Tourism Regions in the Commonwealth of Pennsylvania and to expand upon the specific Program(s) administered by this Trust from time to time; and

WHEREAS, the Trust has been working with representatives from PENNDOT and DCED ("Task Force") to develop a statewide structure for highway signing, providing information to the traveler throughout seven (7) recognized Tourism Regions in the Commonwealth of Pennsylvania; and

WHEREAS, the Trustees have received a presentation by representatives of such Task Force, including recommendations of the Task Force involving expanded responsibilities of the Trust, including: (a) amending the Pennsylvania Logo Signing Trust to encompass not only the fulfillment of the Logo Signing Program in Pennsylvania, but also the Way finding System (a comprehensive network of integrated tourist oriented directional signing to developed and implemented in accordance with PENNDOT guidelines) in Pennsylvania, as well as other signage issues assigned to it from time to time by PENNDOT, the Trust beneficiary; (b) restructuring the Board composition of the Trust to include the current seven (7) representative segments (Gas, Food, Lodging, Camping, Attractions, Outdoor Advertising, and the Traveling Public), as well as one representative from each of two (2) state agencies (PENNDOT and DCED); and (c) developing Regional Signing Committees within the seven (7) Tourism Regions, which Regional Signing Committees will develop regional signing business plans and

assist in the marketing of signage within their respective Tourism Regions, subject to the approval of the Trust; and

WHEREAS, the subject of this Trust shall be PENNDOT logo and TODS signing Program(s) as well as other signage programs which may be designated from time to time by PENNDOT and/or DCED; and

WHEREAS, pursuant to The Administrative Code of 1929, 71 P.S. §181, PENNDOT has the authority and is empowered to devise practical solutions for cooperation and coordination of work; and

WHEREAS, PENNDOT may, at its discretion, delegate and desires to delegate certain day-to-day duties and responsibilities with respect to the erection and maintenance of logo and TODS throughout the Commonwealth of Pennsylvania; and

WHEREAS, the Trustees executing this Agreement have agreed to act as the current Trustees of the Trust.

NOW, THEREFORE, in consideration of these premises and the mutual covenants herein contained, the parties hereto covenant and agree as follows:

#### ARTICLE I

##### Definitions

The following words and phrases as used in this Agreement shall have the following meanings unless the context clearly indicates a different meaning:

- (a) Administrator: The person, firm, or corporation appointed by the Board pursuant to Article V hereof to perform certain responsibilities in the administration of the Trust.
- (b) Beneficiary: The Department of Transportation, Commonwealth of Pennsylvania ("PENNDOT").

(c) Board or Board Members: The combined number of the seven (7) Trustees plus the two (2) PENNDOT and DCED Representatives to the Trust.

(d) Guidelines: The PENNDOT Program(s) Guidelines, as adopted and amended from time to time by PENNDOT with comment, if need be, from DCED for the implementation and administration of tourism signing throughout the Commonwealth of Pennsylvania.

(e) Logo sign: A motorist service traffic control device owned by PENNDOT erected along a interstate highways or other freeways to provide directional information about essential motorist services for gas, food, lodging, camping services, and general attraction destinations, containing a business identification symbol, name, brand trademark or combination, provided by a business or attraction and attached to a specific service sign, ramp sign or trailblazer.

(f) Participant: Any business, entity or attraction which participates in a Program(s) governed by the agreement.

(g) Program(s): The PENNDOT Logo Signing Program as outlined in PENNDOT Guidelines thereon, the Pennsylvania Wayfinding TODS Program, as outlined by PENNDOT Guidelines thereon or any other Program developed by PENNDOT, with comment, if need be, from DCED related to Pennsylvania tourism signing and designated to this Trust for administration by PENNDOT and/or DCED.

(h) Regional Advisory Board: A board of advisors appointed by the Board pursuant to Article IV, Section (a)(23) hereof, to provide advice with respect to a Region's Regional Wayfinding TODS Program, to develop a regional signing business plan and to assist in the marketing of signing for its Region.

(i) Representative(s) to the Trust: A designated representative of PENNDOT and a designated representative of DCED appointed to serve on the Trust in voting capacity with an equal vote to the Trustees.

(j) Tourism Region: One of seven (7) geographic Regions of the Commonwealth of Pennsylvania, recognized by PENNDOT and/or DCED as a separate geographic area designated for the development of Regional Tourism Signing Program(s) throughout the Commonwealth of Pennsylvania.

(k) Wayfinding TODS. A highway signing system consisting of specialized tourist oriented directional signs and accessory signs used in conjunction with logo motorist service signs.

(l) Tourist oriented directional sign (TODS). A traffic control device owned by PENNDOT erected pursuant to PENNDOT policy guidelines along a rural conventional highway that provides business identification and directional information for business, services and activities.

(m) Trust: All property, monies, contract, rights, privileges and powers held by the Trustees pursuant to the provisions of this Agreement.

(n) Trustees: The Trustees herein named and any successor Trustees appointed or elected and qualified to administer the Trust.

## ARTICLE II

### Establishment of Trust

(a) Delegation of Authority. Pursuant to Part V of the Pennsylvania Vehicle Code, P.L. 162, No. 81 of June 17, 1976, as amended from time to time, specifically 75 Pa.C.S.A. §6125, to provide for and approve the erection and maintenance of TODS signs on State-

designated highways, including intersections with local highways, and develop policy guidelines regarding such signs within the Commonwealth of Pennsylvania, and pursuant to other statutory authority, the Commonwealth of Pennsylvania, Department of Transportation (“PENNDOT”) hereby delegates certain day to day duties and responsibilities with regard to the erection and maintenance of logo and TODS signs on State-designated highways, to the Pennsylvania Tourism Signing Trust, subject to the review and approval of PENNDOT and the other terms and conditions provided herein.

(b) Creation of Trust. The Pennsylvania Tourism & Lodging Association (“Grantor”), on behalf of businesses in the Commonwealth of Pennsylvania which would qualify for the Program(s), has delivered to the Trustees upon original execution of this Agreement the sum of One Dollar (\$1.00), the receipt of which the Trustees hereby acknowledge. DCED and PENNDOT may consider from time to time providing funding to the Trust for Program(s). Said sums, together with all other monies which hereafter may be delivered to the Trustees, shall be held in trust by the Trustees for the uses and purposes herein set forth. Any contributions by the PTLA shall be irrevocable, and the PTLA and DCED shall have no rights, directly or indirectly, present, future, or residual, with respect to the Trust and its assets, other than any sums which may be due the PTLA on a fee billing basis for services rendered and expenses directly incurred by PTLA on behalf of the Program(s). Provided, however, neither PTLA nor PENNDOT shall incur any expenses (except as to materials, budgeted repairs and maintenance of signs) to be charged to the Trust without first securing the approval of the Trust for such expenditure.

(c) Name. The Trust shall be known as the “Pennsylvania Tourism Signing Trust”, and the Board may hold property, enter into contracts, and in all matters act on behalf of the Trust in that name.

(d) Effective Date. The Trust hereunder created shall take effect as of the date of the execution of this Agreement, and the Amendments hereto shall take effect as of the effective dates of such Amendments.

(e) Purposes of Trust. The purposes of the Trust herein created and established are:

(1) Generally, to provide day to day administration in accordance with the applicable statutes and PENNDOT Guidelines within the Commonwealth of Pennsylvania for the various categories of Participants as established herein, which meet the minimum requirements for qualification in a Program(s), and for the benefit of the general public;

(2) To calculate and recommend, for approval by PENNDOT, the fees necessary for the administration of Program(s);

(3) To collect the fees to be paid by the Participants in the Program(s) for participation in the Program(s);

(4) To pay the expenses of the Program(s);

(5) To provide for the long-term financial viability of the Program(s) by establishing a sinking fund and investing, such funds for the maintenance and replacement of signs, as necessitated by casualty or deterioration.

(6) Subject to the review and approval of PENNDOT and recognizing that PENNDOT is a state governmental agency, to execute contracts and administer the Program(s) pursuant to the terms of this trust agreement in a fair, reasonable, non-discriminatory and equitable manner in accordance with law, governmental standards and regulations, including but not limited to Act 57 of 1998, as amended, the Commonwealth Procurement Code.

## ARTICLE III

Board

(a) Administration of Trust. The administration of the Trust established under this Agreement shall be carried out by a nine (9) member Board consisting of seven (7) Trustees and two (2) Representatives to the Trust. Any action by the Board shall be taken by:

- (1) consent of a majority of the Board then in office at a properly called meeting of the Board;
- (2) unanimous written consent of the Board, without notice;
- (3) consent of a majority of the Board members then in office in a conference telephone call, duly called in the same manner as a meeting;
- (4) consent of a majority of the Board members in number, which number shall be those in attendance at a properly-called meeting of the Board, at which less than a majority of the Board was present, with the consent of a sufficient number of additional Board members to effect a quorum (majority of the Board members); such additional Board members may consent to the actions taken at the duly-called meeting through conference telephone call with the Administrator after a Trust meeting, or through written consent, after having reviewed the actions taken by the Board in attendance at the properly-called meeting of the Board;
- (5) a majority of the Board may sign on behalf of the Board, and their signatures shall bind the Trust; or
- (6) a "majority" of the Board shall equal one (1) Board member more than fifty percent (50%) of the total number of Board members.

Provided, however, that prior to the implementation of policy actions outside the scope of day to day operations and existing Guidelines taken by the Board, such actions shall be submitted to the authorized representatives of PENNDOT, as identified in writing from time to time by PENNDOT to the Administrator of the Trust, for review and approval. The term “authorized representatives of PENNDOT” shall be deemed to require notice to: PENNDOT Deputy Secretary for Highway Administration, PENNDOT Traffic Signing Section Manager; the Representative of PENNDOT serving on this Trust, or such other person as may be from time to time designated to the Trust in writing by PENNDOT.

(b) Appointment of Trustees. The seven (7) Trustees shall be divided into the following Classes. Trustees shall serve for a term(s) of office that coincide with the Trust’s fiscal year. Seven (7) Trustees shall be elected by a majority vote of the Board then in office pursuant to the following procedures: Trustees initially shall be nominated by the Board of Directors of PTLA; such nominees shall be reviewed by PENNDOT, and non-binding written comments concerning the nominees may be submitted by PENNDOT to the Board. Thereafter, the Board then in office shall vote thereon.

The composition of the Trustees shall be as follows:

(1) At least three (3) of the seven (7) Trustees at all times must be classified as representing “small business”; “small business” for the purposes of this Trust Agreement shall mean: “a for-profit corporation, partnership or proprietorship, which together with its parents, affiliates and subsidiaries, employs in the aggregate less than 500 full-time employees”;

(2) No more than three (3) Trustees shall be members of the Board of Directors of the PTLA during their tenure as Trustee;

- (3) One (1) Trustee shall be a representative of the traveling public;
- (4) One (1) Trustee shall be a representative of the outdoor advertising industry in Pennsylvania;
- (5) Four of the following five (5) classifications of service as defined in the Guidelines must be represented at all times on the Board of Trustees:

- (a) Food
- (b) Lodging
- (c) Campgrounds
- (d) Gas
- (e) Attractions

(6) One Trustee may fill one or more of the composition requirements set forth in subparagraphs (1) through (5) above.

(7) All seven Trustees shall be segregated into two (2) classes, one class consisting of three (3) Trustees, and the other class consisting of four (4) Trustees, each class to serve for a two year term; i.e. one class of four to be elected one fiscal year, and the other class of three to be elected the following fiscal year, and alternately thereafter.

(c) Appointment of Representatives to the Board. PENNDOT and DCED shall appoint its representative to the Board by notifying the Trust in writing of such appointment, which appointment shall be effective immediately until revoked, amended or superceded by a subsequent appointment.

(d) Removal of Board Members. Except for PENNDOT and DCED Representative Board members, any Board member may be removed: (1) for not attending in person three (3) consecutive meetings of the Board, duly called by mailing notice thereof to each Board member

or by telephoning each Board member at least five (5) days prior to the proposed meeting; or (2) by the affirmative vote of a majority of the Board at any meeting of the Board duly called for that purpose, for conduct detrimental to the purposes of the Trust, for lack of sympathy with the Trust objectives, incapacity, or for refusal to render reasonable assistance in carrying out the purposes of the Trust. Any such Board member proposed to be removed shall be entitled to at least five (5) days' notice in writing by mail of the meeting at which such removal is to be voted upon and shall be entitled to appear before and be heard at such meeting. Upon the removal of a Board member, the Board shall provide for the appointment of a substitute Board member of the same Class as the removed Board member and in accordance with the procedures hereunder for the appointment of a Trustee.

(e) Resignation. A Board member may resign at any time upon delivering to the Board a written notice of his/her resignation, to take effect not less than thirty (30) days after the delivery thereof, unless such notice shall be waived by the remaining Board members. Upon the resignation of a Board member, the Board, shall provide for the appointment of a substitute Trustee or of the Board member, as appropriate, in accordance with the procedures hereunder for the appointment of a Trustee or a Representative to the Trust.

(f) Proxy. A Representative of the Trust may appoint an individual from his/her Department as proxy to act on his/her behalf during a meeting(s) of the Board; such proxy shall be appointed in writing, filed with the Administrator.

(g) Acceptance of Trust. The Board members, for themselves and their successors in trusteeship, accept the delegation of duties by PENNDOT and the Trust herein created and agree to perform their duties as Board members faithfully and in accordance with the statutes, rules and

regulations of the Commonwealth of Pennsylvania, but only upon the express terms and conditions of this Agreement, including but not limited to the following:

(1) Except as hereinafter provided, the Board members shall receive no compensation for their services to be rendered, Trustees may be reimbursed for reasonable out-of-pocket expenses (travel, parking, lodging and meals when overnight stay is required) incurred in the administration of their duties as Trustees, which expenses shall be in accordance with the travel expense policy for employees of the Commonwealth of Pennsylvania. Representatives to the Board shall receive no expense reimbursement from the Trust.

(2) Unless required otherwise by law, the Board members shall not be required to give any bond or other security for the faithful performance of their duties hereunder.

(3) Subject to the provisions of Article VI hereof, the Board members shall exercise ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties hereunder.

(4) The Board members shall be responsible solely for such assets as shall actually be received by them as Board members.

(5) In the event any tax or assessment is levied upon the Trust or any portion thereof, or upon the Board members by reason of the existence of the Trust, the Board members shall have the power to pay such tax or assessment, notwithstanding any other provisions of this Agreement, from the funds of the Trust and charge the same against the Trust.

- (6) To administer all Program(s) delegated to the Trust by PENNDOT or DCED in a manner similar to administration by those agencies.
- (g) Expenses of Trust. All costs of the administration of the Trust shall be borne by the Trust.
- (h) Records. The Board members shall maintain records of their administration of the Trust,
- (i) Information. PENNDOT, the Beneficiary, shall furnish the Board such reasonable information as may from time to time and at any time be requested by the Board for the proper and reasonable administration of the Trust. The Board shall be entitled to rely upon the correctness of such information. The Administrator of the Trust shall furnish information to any member of the Board when requested.
- (j) Accounting. The fiscal year of the Trust shall end August 31 of each calendar year. The Board members shall, within one hundred and fifty (150) days after the close of each fiscal year, render to the PTLA, DCED, and PENNDOT an accounting of the administration of the Trust for such preceding fiscal year; such accounting shall be prepared by a certified public accountant on a certified audit basis, using United States Generally Accepted Accounting Principles (GAAP) and Government Auditing Standards; the selection of such certified public accountant shall be approved in advance by PENNDOT. Written approval of the Beneficiary, PENNDOT, as to all matters stated or shown by such accounting, shall be binding upon all persons who are then or may thereafter become Participants in the Program(s), or who are then or may thereafter become interested in the Trust. Should PENNDOT, by written communication, disagree with such accounting, the Trustees may submit such issues of disagreement to an independent financial auditor, whose decision shall be final, binding, and

conclusive upon the Board, PENNDOT, all Participants, and all parties having or claiming to have any interest in the Trust. The costs of such independent financial auditor shall be an administrative expense of the Trust.

#### ARTICLE IV

##### Duties and Powers of the Board

(a) Administration of Program(s). Generally, the responsibilities and powers of the Board shall be to administer the Program(s) as defined from time to time by PENNDOT guidelines. The Board shall manage the Trust and conduct the Trust's activities exercisable subject to the consent of PENNDOT and subject to the limitations specifically set forth in this Trust Agreement. The Board's powers shall include, but shall not be limited to or by, the following:

- (1) Preparation of draft Guidelines relating to the Program(s) for review, approval and publication, if applicable, by PENNDOT;
- (2) Recommend the fees for initial and annual participation in the Program(s), subject to review and approval by PENNDOT;
- (3) To retain, following procedures consistent with Commonwealth policies and state and federal requirements, and subject to PENNDOT approval in accordance with agreed upon Guidelines, qualified engineers, to provide the necessary engineering consulting services to administer the Program(s), including but not necessarily limited to:
  - (i) initial study and feasibility; (ii) professional evaluation of eligibility criteria; (iii) construction contract preparation and letting; and (iv) construction monitoring and follow-up;

(4) To retain, following procedures consistent with Commonwealth policies and requirements and state and federal requirements and subject to PENNDOT approval, construction contractors, and in accordance with PENNDOT's approved listing of signing contractors;

(5) To retain, subject to the review and approval of PENNDOT, agents, employees, actuaries, accountants, attorneys (also subject to pre-approval by the Pennsylvania Executive Offices Governor's Office General Counsel), and liability insurers necessary for the administration of the Program(s);

(6) To prepare necessary materials and to provide services for the solicitation of Participants in the Program(s);

(7) To execute contracts, in accordance with Commonwealth policies and requirements, with the Participants and to bill and collect fees from the Participants;

(8) To pay bills received by the Trust with respect to the administration of the Program(s);

(9) To borrow funds and accept grants from various organizations for the administration of the Program(s);

(10) To purchase or otherwise acquire real or personal property, and to sell, exchange, mortgage, grant or secure an interest in, pledge, or in any manner deal with the Trust property or any part thereof or any interest therein, upon such terms and for such considerations as they deem proper;

(11) To incur indebtedness, borrow or lend (other than to PTLA) money, with or without security; execute, accept, discount, negotiate, and deal in commercial paper

and evidences of indebtedness. This provision does not pledge the full faith and credit of the Commonwealth;

(12) If requested by PENNDOT's Office of Chief Counsel, to prosecute and defend all actions and administrative hearings, affecting the Trust, and, subject to the written approval of PENNDOT, to compromise or settle any suits, claims or demands, or waive or release any rights relating to the Trust;

(13) To sell or otherwise dispose of any property, real or personal, at any time forming part of the Trust, for cash or upon credit, in such manner and on such terms and conditions as they deem fit;

(14) To vote any stocks, bonds, or other securities held in trust, to give general or specific proxies with respect to such securities, and to exercise any privileges or rights incident to the holding of such securities;

(15) To register any investment held in trust in the name of the Trust, or in the name of the Board or in the name of nominees, and to hold any investment in bearer form; provided, however, that the records of the Trust shall thereupon show that all such investments are part of the Trust;

(16) To execute or require the execution of any document of transfer, receipt, or waiver, or any other document which in the Board's discretion is necessary for the proper administration of the Trust;

(17) To establish such bank accounts as may from time to time be determined to be necessary in conjunction with the administration of the Trust;

(18) To adopt internal operating procedures as may from time to time be necessary for the proper administration of the Trust;

(19) To appoint a Chairperson of the Board who shall be a Trustee or Representative of PENNDOT or DCED. The Chairperson shall preside at all meetings of the Trust and shall perform all duties ordinarily indicative to the office of Chairperson;

(20) To appoint one or more Vice Chairpersons of the Board who shall be a Trustee or Representative of PENNDOT or DCED and who shall serve in the absence of the Chairperson or in the event of the Chairperson's inability or refusal to act, and when so acting, shall have all the powers and be subject to all of the restrictions upon the Chairperson. He/she shall also perform such other duties as from time to time may be assigned to him by the Chairperson or the Board;

(21) To appoint a Secretary of the Trust who need not be a Board member. The Secretary should: keep the minutes of the Trust in one or more books provided for that purpose; act as custodian of the records of the Trust; and in general perform all duties incident to the office of the Secretary or as may be assigned from time to time to the Secretary by the Chairman or the Trustees;

(22) To appoint a Financial Trustee or Treasurer who shall be a Trustee and shall have charge and custody of and be responsible for all funds and securities of the Trust; receive and give receipts for monies due and payable to the Trust from any source whatsoever; and deposit all such monies in the name of the Trust and such depository institution shall be selected by the Board, and in general will perform all duties incident to the office of Treasurer or such other duties that from time to time may be assigned to him/her by the Chairperson or by the Board;

(23) To appoint seven (7) Regional Advisory Boards for Wayfinding TODS, and to develop guidelines with respect to the administration of such Regional Advisory

Boards, subject to the written approval of PENNDOT and DCED. Such Regional Advisory Boards shall be of an advisory nature only and shall have no policy or decision-making authority. All actions of Regional Advisory Boards must be ratified by the Board of this Pennsylvania Tourism Signing Trust. Each Regional Advisory Board shall consist of nine (9) members comprised of the following classifications: a representative of the tourist promotion agency or convention and visitors bureau which covers the largest geographic territory within the Region; a representative appointed by PENNDOT; a representative appointed by DCED; and six (6) members, who shall be private sector (non-government agency) representatives of the tourism industry within the Region; each of the following classifications of service shall be represented by a member: (a) historical/ architectural; (b) transportation related; (c) cultural/industrial; (d) recreational; (e) commercial attractions; and (f) tourist services. The PENNDOT and DCED Representatives to the Trust shall coordinate the activities of Regional Advisory Boards and shall report on their behalf to the Pennsylvania Tourism Signing Trust. The PENNDOT and DCED Representatives to the Trust shall represent the Regional Advisory Boards on the Board of the Pennsylvania Tourism Signing Trust and shall, as necessary, act as Chairperson of a Council of the seven (7) Regional Advisory Board Chairpersons. Participation in the Wayfinding TODS program will be optional with the local Regions if approved by the Board. However, it is the stated policy of the Trust, PENNDOT, and DCED to encourage the operation and administration of Regional Signing and Services programs within the Commonwealth of Pennsylvania through the Program(s) administered by this Trust rather than developing separate programs within the various Regions. The advantages of a state-wide Trust include:

- (A) Product consistency;
- (B) Centralized administration, contracting, maintenance, engineering and professional services; and
- (C) It is more efficient for PENNDOT and DCED to work through one entity.

(24) To appoint the Pennsylvania Logo Signing Advisory Committee, consisting of the Trustees and the PENNDOT representative to the Trust, which committee shall be of advisory nature only, and it shall have no policy or decision making authority. All actions of the Pennsylvania Logo Signing Advisory Committee must be ratified by the Board of this Pennsylvania Tourism Signing Trust. The Trust Board and the Pennsylvania Logo Signing Advisory Committee may meet at the same time, in the discretion of the Trustees.

(b) Use of Trust. Any and all fees, interest income, and other receipts, including same obtained or realized from or by reason of the investments of the Trust, shall be added to and become a part of the Trust, and shall be held, used and administered by the Board for the purposes of such Trust in accordance with the terms and conditions of this Agreement.

Upon receipt of fees or any other monetary sums added to the Trust, irrespective of the source thereof, the Trustees shall deposit same in a reputable financial institution authorized to do business within the Commonwealth of Pennsylvania. The Board shall make such investments of any such property held in the Trust in such bonds, stocks, securities, accounts, or negotiable instruments as may be reasonably prudent.

The Trust shall be held by the Board for the stated purposes thereof as herein provided, and shall be used by the Trustees for any one or more of the following purposes:

(1) To pay the expenses of the administration of the Program(s) on behalf of the Beneficiary, PENNDOT;

(2) To increase the funds held within the Trust so as to provide for the future repair and maintenance of LOGO, TODS and other Wayfinding signage administered by the Trust as may be necessary by reason of casualty or deterioration.

#### ARTICLE V

##### The Administrator

(a) Appointment and Duties of the Administrator. The Board shall select, in cooperation with and subject to approval of PENNDOT, such person, firm or corporation to be the Administrator of this Trust. The Administrator shall have such responsibilities as may be determined by the Board, which responsibilities may include the following and such others as may be agreeable to the Trustees and PENNDOT and DCED Representatives:

1. The solicitation, marketing and qualification for participation in the Program(s);
2. Billing and collection of accounts;
3. Promotion of the Program(s);
4. Retention of Engineering Consultants;
5. Retention of construction contractors;
6. General administration of the Program(s);
7. Performance of any and all functions incident to acting as the delegate of the Board as hereinafter provided.

(b) Delegation of Duties by the Board/Trustees. The Board, subject to the approval of PENNDOT, may retain, employ and pay agents, employees, accountants, actuaries, counsel,

including but not limited to legal counsel (also subject to pre-approval by the Pennsylvania Executive Offices Governor's Office of General Counsel) and investment counsel or advisors, brokers, banks, custodians, and other agents, for advice and other professional services, and to delegate to them, in writing, such duties, rights and powers as the Board may determine, for such time periods as they deem necessary. If such delegation is made, the directions, instructions, judgments or other actions made or taken by the delegate shall be considered to have come directly from the Board, and anyone acting pursuant thereto may rely thereon as if same had been made or taken by the Board.

## ARTICLE VI

### Limitation of Liability of Grantor, Trustees and, Administrator

(a) Neither the Trust, its Grantor (PTLA), PENNDOT, nor the Board, officers, employees, agents and Administrator of the Trust shall have any responsibility or liability to any Participant, other than to perform their respective duties hereunder in good faith, and in the manner and limits herein provided.

(b) Indemnification of Trustees, Officers, Employees, Administrator and Agents.

The Trust shall indemnify any Trustee, officer, employee, Administrator and/or agent (and who is not employed by the Commonwealth in any capacity), or any former officer, Trustee, employee, Administrator and/or agent, who is a party to, or is threatened to be made a party to, or who is called to be a witness in connection with, any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Trust) by reason of the fact that such person is or was a Trustee, officer, employee, Administrator and/or agent of the Trust, or is or was serving at

the request of the Trust as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including reasonable attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, action or proceeding, all in accordance with the "Statement of Policy of Office of General Counsel regarding Defense of Suits", 4 Pa. Code §39.11 et seq. ("Statement of Policy"), as modified from time to time. Provided, however, where such Statement of Policy refers to the Office of General Counsel, the Office of PENNDOT Chief Counsel shall be substitute therefore, and references to an agency throughout such Statement of Policy may refer to the Trust. The procedures set forth in such Statement of Policy are to be guidelines with respect to the indemnification provisions set forth herein and subject to a reasonable, good faith application to an entity that is not a state agency. The parties acknowledge that it is not the intent of this subsection or of the Trust Agreement as a whole, to establish the Trust as a Commonwealth government agency of any nature, but rather, it is an independent, private organization.

(c) The Trust may create a fund of any nature, which may, but need not be under the control of a Trustee, or otherwise secure or insure in any manner its indemnification obligations arising under this Article.

(d) The Trust shall have the power to purchase and maintain insurance on behalf of any person who is or was a Trustee, officer, employee, Administrator and/or agent of the Trust, or is or was serving at the request of the Trust as an officer and/or employee of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and by him in any such capacity, or arising out of his status as such, whether or not the Trust would have the power to indemnify him against such liability under the provisions of

this Article. Provided, however, the language of this subparagraph shall not be construed to shift any obligation of the Trust to PENNDOT as the beneficiary in the event that Trust assets, including insurance coverage, are exhausted.

(e) The indemnification provisions of this Article VI do not apply to the Representatives to the Trust or any other person who is employed by the Commonwealth of Pennsylvania. In such case, they shall be indemnified in accordance with the policies and procedures of the Commonwealth of Pennsylvania for its employees.

## ARTICLE VII

Miscellaneous

- (a) Amendments. The provisions of this Agreement may be amended to any extent and at any time by the agreement of six (6) Trustees, with the consent of the PENNDOT; any amendments must be in writing and executed by all seven (7) Trustees and the PENNDOT representative.
- (b) Termination. This Trust may be terminated at any time upon the following:
- (i) Mutual agreement by a majority of the Trustees and the PENNDOT representative;
  - (ii) By PENNDOT, with or without cause, upon thirty (30) days prior written notice.
- (c) In the event that the Trust is terminated, the Trustees shall apply the Trust funds then remaining as follows:
- (i) To the payment of the Trust's costs, expenses, and debts to the extent allowable by the provisions of this Agreement;
  - (ii) To the fulfillment of a program acceptable to PENNDOT which is reasonably similar to the purposes of this Trust.
- (d) The Trust shall be administered so as not to violate the rule against perpetuities.
- (e) Rights in the Trust. Legal title to the Trust shall be exclusively vested in the Trustees. Neither the Trust, nor any interest therein, shall be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge by any beneficiary of this Trust, except as hereinafter provided, and any attempt to make it so subject shall be void. No person or

entity shall have the right to receive any portion of the Trust other than as provided in this Trust Agreement.

(f) Continuation of Trust. In the event of the insolvency or termination of the existence of PENNDOT, such entity as assumes the responsibility for the majority of the functions currently assigned to PENNDOT shall become the substitute beneficiary and be bound by the provisions of this Trust Agreement.

(g) Meetings. Meetings of the Board and meetings between the Trustees and PENNDOT may be called from time to time, at such times as the Chairperson considers advisable. Notice of every meeting, specifying the time, place and the purposes, shall be sent by mail, or by telephone contact, at least five (5) days prior to the holding of the meeting. A majority of the Board may require the Chairperson to call a meeting. A quorum of a meeting or conference telephone call of Board shall be a majority of the Board then in office, either in person or through written Proxy as allowed under the Trust Agreement.

(h) Exculpation. No Trustee shall in any manner be liable for the act or acts of any other Trustee. Except in the case of fraud, willful or wanton misconduct, or gross negligence, the Trustees shall not be liable, either in their fiduciary capacities or individually, jointly or severally, for any diminution in value or loss of property, for any act taken or omitted, or for any error or mistake in judgment.

(i) Captions. The captions of the various Articles and paragraphs of this Agreement are inserted solely for the convenience of reference and are not a part of, nor shall they be used to construe, any term or provision hereof.

(j) Situs of Trust. This Agreement is being created and accepted by all parties within the Commonwealth of Pennsylvania, and all questions pertaining to its validity, interpretation,

construction, administration and enforcement shall be determined in accordance with the laws of such jurisdiction.

(k) Exhibits. The following Exhibits are attached to this Agreement and deemed an integral part hereof:

- A.— Contractor Integrity Provisions
- B. — Americans with Disabilities Act Requirements
- C. — Non-Discriminatory Policies of the Commonwealth
- D. — Sexual Harassment Policies of the Commonwealth

These Exhibits may be modified from time to time upon the agreement of the Trustees and PENNDOT.

IN WITNESS WHEREOF, the parties to this Agreement, intending to be legally bound hereby, have hereunto affixed their hands and seals on the day and year first above written.

ATTEST:

Sponsor/Grantor:  
PENNSYLVANIA  
TOURISM & LODGING ASSOCIATION

Isisrael Graybill

By Barry Wickes  
Barry Wickes, President

WITNESS:

Current Trustees:

Isisrael Graybill

David Carbaugh  
David Carbaugh

Isisrael Graybill

Mike LaCesa  
Mike LaCesa

Isisrael Graybill

Ted Leonard  
Ted Leonard

Celine Astin

Robert McColl  
Robert McColl

Isisrael Graybill

George Merovich  
George Merovich

Isisrael Graybill

Mark Morath  
Mark Morath

Isisrael Graybill

Patrice Nitterhouse  
Patrice Nitterhouse

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

Beneficiary:  
COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

BY [Signature] 7/3/07  
Deputy Secretary Date

APPROVED AS TO LEGALITY  
AND FORM

BY [Signature] 7/31/07  
for Chief Counsel Date

FUNDS COMMITMENT DOC. NO. \_\_\_\_\_  
CERTIFIED FUNDS AVAILABLE UNDER  
SAP NO. \_\_\_\_\_  
SAP COST CENTER \_\_\_\_\_  
GL. ACCOUNT \_\_\_\_\_  
AMOUNT \_\_\_\_\_

**NONENCUMBERED**

BY [Signature] 7/16/07  
Deputy General Counsel Date

BY [Signature] 7/9/07  
for Comptroller Date

BY [Signature] 7/31/07  
Deputy Attorney General Date

December 20, 1991

## CONTRACTOR INTEGRITY PROVISIONS

1. For purposes of this clause only, the words "confidential information," "consent," "contractor," "financial interest," and "gratuity" shall have the following definitions.
  - a. **Confidential information** means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with 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 prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this agreement.
  - c. **Contractor** means the individual or entity that has entered into the Contract with the Commonwealth, including directors, officers, partners, managers, key employees and owners of more than a five percent interest.
  - 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 the like, or holding any position of management.
  - e. **Gratuity** means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.
2. The Contractor shall maintain the highest standards of integrity in the performance of the Contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.
3. The Contractor shall not disclose to others any confidential information gained by virtue of the Contract.
4. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, 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 officer or employee of the Commonwealth.
5. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.
6. Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under the Contract except as provided therein.
7. Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.
8. Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.
9. The Contractor, by execution of the Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies, and represents that he or she has not violated any of these provisions.
10. The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, 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 the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents or files of any type or form which refers to or concern the Contract. Such information shall be retained by the Contractor for a period of three years beyond the termination of the Contract unless otherwise provided by law.
11. For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another Contractor to complete performance hereunder, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

EXHIBIT "A"

January 16, 2001

**PROVISIONS CONCERNING THE AMERICANS WITH DISABILITIES ACT**

During the term of this contract, the Contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq.*, The Contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract. As a condition of accepting and executing this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of *The Americans With Disabilities Act* which are applicable to the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
2. The Contractor 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 Contractor's failure to comply with the provisions of paragraph 1.

EXHIBIT B

**FEDERAL NONDISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY CLAUSES  
(All Federal Aid Contracts)\* (1-76)**

1. **Selection of Labor:** During the performance of this contract, the contractor shall not discriminate against labor from any other State, possession or territory of the United States.
2. **Employment Practices:** During the performance of this contract, the contractor agrees as follows:
  - a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by the State highway department setting forth the provisions of this nondiscrimination clause.
  - b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
  - c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway department advising the said labor union or workers' representative of the contractor's commitments under section 2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.
  - e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
  - f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
  - g. The contractor will include the provisions of Section 2 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Federal Highway Administration, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
3. **Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment:** During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- a. **Compliance with Regulations:** The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations) which are herein incorporated by reference and made a part of this contract.
- b. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in the Regulations.
- c. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontract or supplier shall be notified by the contract of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex or national origin.
- d. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State highway department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- e. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - (1) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (2) cancellation, termination or suspension of the contract, in whole or in part.
- f. **Incorporation of Provisions:** The contractor shall include the provisions of this paragraph 3 in every subcontract, including procurements of materials and leases of equipment, unless except by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State highway department or enter into such litigation to protect the interest of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Wherever hereinabove the word "contractor" is used, it shall also include the word engineer, consultant, researcher, or other entity (governmental, corporate, or otherwise), its successors and assigns as may be appropriate.

\*Not to be used if otherwise included in Construction or Appalachian Contract Provisions.

Exhibit "C"

June 30, 1999

**COMMONWEALTH NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE**

Each contract entered into by a governmental agency shall contain the following provisions by which the Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the contractor, subcontractor, or any person acting on behalf of the contractor or subcontractor 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.

2. Neither the contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.

3. Contractors and subcontractors 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.

4. Contractors shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contracts relates.

5. The contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to their books, records, and accounts by the contracting agency and the Bureau of Contract Administration and Business Development, for purposes of investigation, to ascertain compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. If the contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, the contractor or subcontractor shall furnish such information on reporting forms supplied by the contracting agency or the Bureau of Contract Administration and Business Development.

6. The contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provision will be binding upon each subcontractor.

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

Exhibit **D**

Agreement No.: 200706191A  
Trust FID No.: 23-6797676

**FIRST AMENDMENT TO RESTATED AND AMENDED  
PENNSYLVANIA TOURISM SIGNING TRUST**

THIS FIRST AMENDMENT TO THE RESTATED AND AMENDED PENNSYLVANIA TOURISM SIGNING TRUST (this "Amendment"), made this 18<sup>th</sup> day of August, 2009 by and among DAVID CARBAUGH, MICHAEL LaCESA, TED LEONARD, CARL CREWS, ANNIE URBAN, GEORGE MEROVICH, MARK MORATH, in their capacity as Trustees (collectively, the "Trustees"), amends that certain Restated and Amended Pennsylvania Tourism Signing Trust dated July 31, 2007 by and among the Pennsylvania Tourism & Lodging Association, as Grantor, and the Trustees (the "Restated and Amended Trust").

**RECITALS**

WHEREAS, the Pennsylvania Tourism and Lodging Association, as Grantor, and the Trustees entered into the Restated and Amended Trust on July 31, 2007;

WHEREAS, Article VII of the Restated and Amended Trust provides that it can be amended at any time by the agreement of six (6) Trustees, with the consent of PENNDOT; and

WHEREAS, pursuant to Article VII, the Trustees now desire to modify Articles III and VI of the Restated and Amended Trust.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, covenants, and agreements set forth in this Amendment, and intending to be bound hereby, the Trustees hereby amend the Restated and Amended Trust as follows:

1. Subsection (b) of Article III is hereby deleted and replaced with the following:

"(b) Appointment of Trustees. The seven (7) Trustees shall be divided into the following Classes. Trustees shall serve for a term(s) of office that coincides with the Trust's fiscal year and shall be elected annually by the majority vote of the Board of Trustees then in office. Prior to the election of the Trustees, the candidates shall be reviewed by PENNDOT and non-binding written comments concerning the candidates may be submitted by PENNDOT to the Board of Trustees.

The composition of the Trustees shall be as follows:

- (1) At least three (3) of the seven (7) Trustees at all times must be classified as representing "small business"; "small business" for the purposes of this Trust Agreement shall mean: "a for-profit corporation, partnership or proprietorship, which together with its parents, affiliates and subsidiaries, employs in the aggregate less than 500 full-time employees";

- (2) No more than three (3) Trustees shall be members of the Board of Directors of the Pennsylvania Tourism & Lodging Association during their tenure as Trustee;
- (3) One (1) Trustee shall be a representative of the traveling public;
- (4) One (1) Trustee shall be a representative of the outdoor advertising industry in Pennsylvania;
- (5) Four of the following five (5) classifications of service as defined in the Guidelines must be represented at all times on the Board of Trustees:
  - (a) Food
  - (b) Lodging
  - (c) Campgrounds
  - (d) Gas
  - (e) Attractions
- (6) One Trustee may fill one or more of the composition requirements set forth in subparagraphs (1) through (5) above.
- (7) All seven Trustees shall be segregated into two (2) classes, one class consisting of three (3) Trustees, and the other class consisting of four (4) Trustees, each class to serve for a two year term; i.e. one class of four to be elected one fiscal year, and the other class of three to be elected the following fiscal year, and alternatively thereafter.

2. At the end of Article VI, a new subsection shall be inserted and designated as Article VI(f) and shall read as follows:

“Notwithstanding anything to the contrary contained in this Trust document, no current or former Trustee, in any event, as the result of any action, omission, or occurrence of any nature, related in any way to the Trust or its activities, shall have any liability, whether under this Trust Agreement or otherwise, to anyone whatsoever for any monetary, consequential, special, or indirect damages of any nature, including without limitation for any loss of revenue, loss of profits, damage to reputation or any other indirect damages now or hereafter occurring.”

3. In all other respects, the Restated and Amended Trust is hereby ratified and confirmed.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Trustees have executed this Amendment on the date first written above.

WITNESS:

TRUSTEES:

c. Mark Alefander

David A Carbaugh  
DAVID CARBAUGH

c. Mark Alefander

Michael Lacesa  
MICHAEL LACESA

c. Mark Alefander

Ted Leonard  
TED LEONARD

c. Mark Alefander

Carl Crews  
CARL CREWS

c. Mark Alefander

Annie Urban  
ANNIE URBAN

c. Mark Alefander

George Merovich  
GEORGE MEROVICH

c. Mark Alefander

Mark Morath  
MARK MORATH

[signature page continues]

WITNESS:

C. Mark Alexander

C. Mark Alexander

WITNESS:

C. Mark Alexander

GOVERNMENT REPRESENTATIVES:

Suzanne Itzko  
SUZANNE ITZKO, PENNDOT  
Representative to the Trust

J. Mickey Rowley  
J. MICKEY ROWLEY, D.C.E.D.  
Representative to the Trust

APPROVED:

BY: Suzanne Itzko  
SUZANNE ITZKO, Deputy Secretary  
for Administration  
Pennsylvania Department of Transportation

Preliminary Approval:

BY W. J. Cole 6/23/09  
Assistant Counsel Date  
Ch. 2

APPROVED AS TO FORM AND LEGALITY

BY W. J. Cole 7/8/09  
Assistant Chief Counsel Date

BY David 8.4.09  
Deputy General Counsel Date

BY Anthony 8/10/09  
Deputy Attorney General Date

CERTIFIED FUNDS AVAILABLE UNDER  
SAP NO. \_\_\_\_\_  
SAP COST CENTER \_\_\_\_\_  
GL. ACCOUNT \_\_\_\_\_  
AMOUNT NA

BY Rich Zittlen 7/28/09  
for Comptroller Date

Agreement No.: 200706191B  
Trust FID No.: 23-6797676

**SECOND AMENDMENT TO RESTATED AND AMENDED  
PENNSYLVANIA TOURISM SIGNING TRUST**

THIS SECOND AMENDMENT TO THE RESTATED AND AMENDED PENNSYLVANIA TOURISM SIGNING TRUST (this "Amendment"), made this 23rd day of July, 2009 by and among DAVID CARBAUGH, MICHAEL LaCESA, TED LEONARD, CARL CREWS, ANNIE URBAN, GEORGE MEROVICH, MARK MORATH, in their capacity as Trustees (collectively, the "Trustees"), amends that certain Restated and Amended Pennsylvania Tourism Signing Trust dated July 31, 2007 by and among the Pennsylvania Tourism & Lodging Association, as Grantor, and the Trustees, as the same has previously been amended by the First Amendment thereto dated August 18, 2009 (the "Restated and Amended Trust").

**RECITALS**

WHEREAS, the Pennsylvania Tourism and Lodging Association, as Grantor, and the Trustees originally entered into the Restated and Amended Trust on July 31, 2007, which was amended by First Amendment on August 18, 2009;

WHEREAS, Article VII of the Restated and Amended Trust provides that it can be amended at any time by the agreement of six (6) Trustees, with the consent of PENNDOT; and

WHEREAS, pursuant to Article VII, the Trustees now desire to modify Article IV of the Restated and Amended Trust to contain a policy with respect to conflicts of interest that may arise as to Trustees of the Trust from time to time, which is intended to be consistent with the best interests of the Trust and to comply with applicable statutory and regulatory law.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, covenants, and agreements set forth in this Amendment, and intending to be bound hereby, the Trustees hereby amend the Restated and Amended Trust as follows:

1. At the end of Article IV, a new subsection shall be inserted and designated as Article IV(c) and shall read as follows:

"(c) Conflict of Interest Policy. All Trustees shall comply with the following conflict of interest policy, the purpose of which is to protect the interests of the Trust when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a Trustee. This policy is intended to supplement but not replace any applicable

state laws governing conflicts of interest, which, to the extent that they conflict with the provisions of this Trust, or require further or additional actions than those required hereby, shall be construed to supersede the provisions hereof and shall be applied to the fullest extent possible.

- (1) In General. Each Trustee shall, in the course of his or her duties on behalf of the Trust, act with strict loyalty and fidelity to the best interests of the Trust, exercise the utmost good faith in all matters and transactions involving the Trust, and adhere to the highest ethical standards of fiduciary duty as a Trustee. Each Trustee shall endeavor to avoid, to the best of his or her ability, any situation which may result in a compromise of his or her duty to the Trust.
- (2) What Constitutes a Conflict of Interest. The following shall constitute a conflict of interest ("Conflict of Interest"): (i) the use by a Trustee of the authority of his or her position as Trustee for the pecuniary benefit of the Trustee, a member of the Trustee's immediate family, or a business in which the Trustee or a member of the Trustee's immediate family is a director, officer, owner, employee or has a financial interest; (ii) the use by a Trustee of any confidential information received by virtue of his or her position for the pecuniary benefit of such Trustee, a member of the Trustee's immediate family, or a business in which the Trustee or a member of the Trustee's immediate family is a director, officer, owner, employee or has a financial interest. For purposes of this subsection (c), the term "immediate family" shall mean the Trustee's parent, spouse, child, brother or sister; the term "financial interest" shall mean any financial interest in a legal entity engaged in business for profit which comprises more than five percent of the equity of the business or more than five percent of the assets of the economic interest in indebtedness.
- (3) Duty to Disclose. In connection with any transaction or arrangement that may result in an actual or potential Conflict of Interest, a Trustee must disclose the existence of such Conflict of Interest and be given an opportunity to disclose all material facts to all of the Board Members and PENNDOT.
- (4) Determining Whether a Conflict of Interest Exists. After the disclosure of the potential Conflict of Interest, together with all material facts, and after a discussion with the interested Trustee, it shall be the obligation of the Board Members, without the participation of the interested Trustee and outside such Trustee's presence, in consultation with PENNDOT to make a determination whether a Conflict of Interest exists.
- (5) Minutes. The minutes of the Board meeting shall include the name of the Trustee who disclosed an actual or potential Conflict of Interest or was

otherwise found to have a Conflict of Interest, the nature of the Conflict of Interest, and whether the Board determined that there was an actual or potential Conflict of Interest. In addition, the minutes shall identify those Board Members who were present for discussions and votes relating to the matter being voted on, shall summarize the contents of those discussions, and shall record the vote.

- (6) If the Board Members Determine that Actual or Potential Conflict Exists in Connection with a Transaction or Arrangement. If the Board Members determine that an actual or potential Conflict of Interest exists in connection with a contemplated transaction or arrangement, then the interested Trustee must not take part in any discussion, decision, vote or other action by the Board involving such transaction or arrangement in which such Trustee has a Conflict of Interest.
- (7) Voting on Matters Involving a Conflict of Interest. If a Trustee is called upon to vote on a matter that would result in a Conflict of Interest, the Trustee shall abstain from voting. Prior to the vote being taken, the Trustee must disclose the nature of the Conflict of Interest to the Board and the person responsible for recording the minutes of the meeting shall note any abstentions and the reason stated therefore. Notwithstanding the foregoing, whenever the Board would be unable to take any action on a matter before it because the number of Board Members required to abstain from voting due to a Conflict of Interest makes the majority or other legally required vote of approval unattainable, then such Trustee(s) shall be permitted to vote if disclosures are made as otherwise provided in this subsection (c)(7).
- (8) Conflict of Interest in Contracts. No Trustee or the spouse or child of a Trustee or business in which the Trustee, the Trustee's spouse or child is a director, officer, owner, employee or has a financial interest shall enter into a contract valued at \$500 or more with the Trust or any subcontract valued at \$500 or more with any person or entity that has been awarded a contract with the Trust, unless the contract has been awarded through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded. In such case, the Trustee shall not have any supervisory or overall responsibility for the implementation or administration of the contract.
- (9) Recommendation of a Contract. No Trustee shall recommend the making of a contract or a course of action which contemplates the making of a contract if doing so would result in a Conflict of Interest.
- (10) Violation of this Policy. It shall be a violation of this policy for a Trustee to have a Conflict of Interest. If a Board Member has reasonable cause to

believe that a Trustee has failed to disclose an actual or potential Conflict of Interest to the full Board, he or she shall inform the Board of the basis for such belief and afford such Trustee an opportunity to explain the alleged failure to disclose. If, after hearing the response of the Trustee and making such further investigation as may be warranted under the circumstances, the Board determines that the Trustee has in fact failed to disclose an actual or possible Conflict of Interest, the Board may take appropriate corrective and/or disciplinary action, including, but not limited to, the removal of such Trustee from office.

- (11) Accepting Improper Influence. It shall also be a violation of this policy for a Trustee to solicit or accept anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment, based on any understanding that the vote, official action or judgment of the Trustee would be influenced thereby.

2. In all other respects, the Restated and Amended Pennsylvania Tourism Signing Trust and the First Amendment thereto are hereby ratified and confirmed.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Trustees have executed this Amendment on the date first written above.

WITNESS:

TRUSTEES:

*Loisrae Traybill*  
*Loisrae Traybill*  
*Loisrae Traybill*  
*Loisrae Traybill*

*David Carbaugh*  
 DAVID CARBAUGH  
*Michael A. Lacesa*  
 MICHAEL LACESA  
*Ted Leonard*  
 TED LEONARD  
*Carl Crews*  
 CARL CREWS

[signature page continues]

Isisrae Daybill

Isisrae Daybill

Isisrae Daybill

Annie Urban  
ANNIE URBAN

George Merovich  
GEORGE MEROVICH

Mark Morath  
MARK MORATH

**WITNESS:**

Isisrae Daybill

Isisrae Daybill

**GOVERNMENT REPRESENTATIVES:**

Suzanne Itzko  
SUZANNE ITZKO, PENNDOT  
Representative to the Trust

J. Mickey Rowley  
J. MICKEY ROWLEY, D.C.E.D.  
Representative to the Trust

**WITNESS:**

Isisrae Daybill

**APPROVED:**

BY: Suzanne Itzko  
SUZANNE ITZKO, Deputy Secretary  
for Administration  
Pennsylvania Department of Transportation

Preliminary Approval:

BY [Signature] 9/24/09  
Assistant Counsel Date

APPROVED AS TO FORM AND LEGALITY

BY [Signature] 9/24/09  
Assistant Chief Counsel Date

BY [Signature] 10.15.09  
Deputy General Counsel Date

BY [Signature] 10/26/09  
Deputy Attorney General Date

CERTIFIED FUNDS AVAILABLE UNDER

SAP NO. \_\_\_\_\_

SAP COST CENTER \_\_\_\_\_

GL. ACCOUNT \_\_\_\_\_

AMOUNT not encumbered

BY [Signature] 10/6/09  
for Comptroller Date