



A Limited Liability Holding Company
101 RJ Corman Drive • PO Box 788 • Nicholasville, KY 40340-0788
(859) 881-7521 • Fax: (859) 885-7804 • www.rjcorman.com

R. J. Corman Railroad Company/Pennsylvania Lines is seeking **sealed bids** for Tie Removal and Disposal as part of a Pennsylvania Rail Transportation Assistance Program (RTAP) project to perform rehabilitation on its right-of-way.

SEALED BIDS MUST BE RECEIVED BY 8/12/2021 at 3PM EST. No bids will be taken after this time.

Submit original bid in a sealed envelopment with the following information clearly marked:

2018 RTAP TIE DISPOSAL
CONFIDENTIAL SEALED BID

Mail To: R J. Corman Railroad Company/PA
1588 Leestown Road
STE 130-313
Lexington, KY 40511

The bids will be publicly opened and read on 8/12/2021 at 4:00PM EST at the following address:

R. J. Corman Railroad Company
133 Buchanan St.
Lexington, KY 40508

All bidders are invited to attend. You may also join by phone at 1-859-212-9115, ID 584052769# or you can attend virtually by clicking the link [Click here to join the meeting.](#)

- The selected vendor will be required to provide their Commonwealth Vendor Number for Pennsylvania and to be registered with the Commonwealth Vendor Management Unit. Provide your Vendor Number with your bid. How do I find out if I have a Vendor Number? Contact Customer Services Call Center at (877) 435-7363 (toll free), option 1. Registration is done by going to: <https://pasupplierportal.state.pa.us/irj/portal/anonymous>
- Bidders are required to hold their bid valid for 60 days.
- Contractor will be subject to the provisions and requirements of Attachments A and B (see attached).
- Contractor is required to enter into a Contractor Agreement prior to performing work. (Attachment C).
- RJ Corman reserves the right to reject any or all bids.
- Contractor must provide certificate of insurance with the following coverage:

The Contractor shall procure and maintain; and shall require each of its contractors to procure and maintain, adequate insurance covering all liability and damages for work.

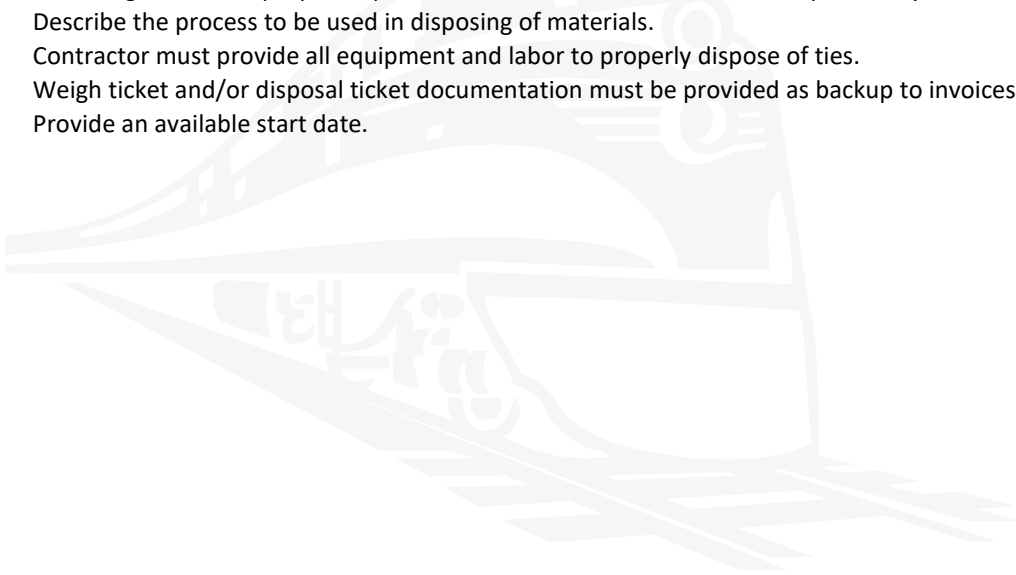
- i. Statutory Worker's Compensation and Employers Liability Insurance.
- ii. Commercial automobile liability insurance with limits of not less than \$500,000 combined single limit for bodily injury and/or property damage per occurrence.
- iii. Commercial General Liability coverage with limits of not less than \$1,000,000 in combined single limits for bodily injury and/or property damage per occurrence, and such policies shall name R.J. Corman Railroad Company, LLC and the Pennsylvania Department of Transportation as an additional insured. Policy should not have any exclusion for work being done within 50' of a railroad track.
- iv. If CONTRACTOR'S insurance does not have railroad liability coverage a Railroad Protective Liability policy must be purchased with limits of TWO MILLION AND NO/100 (\$2,000,000.00) per occurrence and SIX MILLION AND NO/100 (\$6,000,000.00) aggregate with R.J. Corman Railroad Company, LLC. named as the insured.

Questions only may be directed to Jaylen.Slaughter@rjcorman.com

PROJECT DESCRIPTION

R.J. Corman Railroad Company / Pennsylvania Lines invites you to bid on the following item:

- Removal and disposal of approximately 30,362 ties total – see pickup locations below. All counts are estimated amounts.
 - Clearfield, PA (650 Corman Way – Clearfield Yard) – approximately 20,362 ties
 - Karthaus, PA (Oak Hill Road/Tipple Road split by West Branch Susquehanna River) – approximately 10,000 ties
- Please bid a disposal price per ton that includes the haul and landfill rate.
- All arrangements for proper disposal at a certified landfill will be the responsibility of the selected subcontractor.
- Describe the process to be used in disposing of materials.
- Contractor must provide all equipment and labor to properly dispose of ties.
- Weigh ticket and/or disposal ticket documentation must be provided as backup to invoices.
- Provide an available start date.



PROVISIONS CONCERNING THE *AMERICANS WITH DISABILITIES ACT*

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant with the Commonwealth of Pennsylvania (Commonwealth).

During the term of this agreement, the contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of the *Americans with Disabilities Act*, 28 C. F. R. § 35.101 et seq., the contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this agreement or from activities provided for under this agreement. As a condition of accepting and executing this agreement, the contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the *Americans with Disabilities Act* which are applicable to the benefits, services, programs, and activities provided by the Commonwealth through contracts with outside contractors.
2. The contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the contractor's failure to comply with the provisions of paragraph 1.

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Grants]

The Grantee agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the grant agreement or any subgrant agreement, contract, or subcontract, the Grantee, a subgrantee, a contractor, a subcontractor, or any person acting on behalf of the Grantee shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this commonwealth who is qualified and available to perform the work to which the employment relates.
2. The Grantee, any subgrantee, contractor or any subcontractor or any person on their behalf shall not in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any of its employees.
3. Neither the Grantee nor any subgrantee nor any contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the grant agreement, subgrant agreement, contract or subcontract.
4. Neither the Grantee nor any subgrantee nor any contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public Employee Relations Act*, *Pennsylvania Labor Relations Act* or *National Labor Relations Act*, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
5. The Grantee, any subgrantee, contractor or any subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the grant services are performed shall satisfy this requirement for employees with an established work site.
6. The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the grant relates.
7. The Grantee and each subgrantee, contractor and subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Grantee and each subgrantee, contractor and

Attachment B

subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Grantee, any subgrantee, any contractor or any subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the granting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for the purpose of ascertaining compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause.

8. The Grantee, any subgrantee, contractor or any subcontractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subgrant agreement, contract or subcontract so that those provisions applicable to subgrantees, contractors or subcontractors will be binding upon each subgrantee, contractor or subcontractor.
9. The Granter's and each subgrantee's, contractor's and subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the grant agreement through the termination date thereof. Accordingly, the Grantee and each subgrantee, contractor and subcontractor shall have an obligation to inform the commonwealth if, at any time during the term of the grant agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.
10. The commonwealth may cancel or terminate the grant agreement and all money due or to become due under the grant agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the granting agency may proceed with debarment or suspension and may place the Grantee, subgrantee, contractor, or subcontractor in the Contractor Responsibility File.

CONTRACTOR AGREEMENT

THIS AGREEMENT made _____, 20__ by and between R.J. CORMAN RAILROAD COMPANY / PENNSYLVANIA LINES ("RAILROAD"), with an address of PO Box 788, Nicholasville, KY 40340 and _____ ("CONTRACTOR"), with an address of _____.

WHEREAS, RAILROAD has entered into a Agreement with the Pennsylvania Department of Transportation to perform, primarily through its own forces, certain rehabilitation and improvements on its right-of-way through a grant for a Rail Transportation Assistance Program (RTAP) Project, Agreement 631856 (the "Project").

WHEREAS, RAILROAD desires to contract with CONTRACTOR for CONTRACTOR to provide all equipment, labor, materials, supplies, and supervision to complete a portion of the Project in accordance with the plans, specifications and requirements of the Agreement and more particularly to the Scope of Work set out below.

NOW THEREFORE, the parties hereto agree as follows:

1. SCOPE OF WORK:

The Scope of Work ("the Work") to be performed by CONTRACTOR is _____. All work and material disposal is to be performed in accordance with the Agreement and RAILROAD'S Invitation to Bid, a copy of which is Exhibit A and is made part of this Agreement. CONTRACTOR must be registered with the Commonwealth Vendor Management Unit and provide their Commonwealth Vendor number.

2. PAYMENT TERMS:

RAILROAD shall pay the undisputed portions of each of CONTRACTOR'S invoices with required deliverables within 30 days of receipt of same. All payments will be based upon the applicable unit quantity rates set out in CONTRACTOR'S bid made in response to RAILROAD'S Invitation to Bid, a copy of which is Exhibit B and is made part of this Agreement, provided, however that the total amount payable under this Agreement shall not exceed the bid.

3. SCHEDULE OF WORK:

4. WARRANTY:

4.1 CONTRACTOR warrants for the longer of CONTRACTOR'S warranty under the Agreement or a period of one year following the date of acceptance of the Project, that the Work will comply with the requirements set forth in the Agreement and related plans, that all workmanship, fabrication, material, installation and erection will be free from defects, of merchantable quality, and, for materials furnished by CONTRACTOR or which the Agreement does not specify by product name and/or manufacturer, suitable for the intended purpose.

4.2 All workmanship, fabrication, material and installation which breaches this warranty will be repaired, replaced or otherwise corrected by CONTRACTOR at the work site or at such location as may be designated by RAILROAD without any cost or expense to RAILROAD within 30 days from notice to CONTRACTOR of such breach.

5. SAFETY AND REGULATORY COMPLIANCE:

All services provided by CONTRACTOR shall be in compliance with all applicable state and federal laws and regulations. Personal protective equipment, including but limited to, safety glasses, hardhats, steel toed boots and reflector vests must be worn by all personnel on the Project site as required by said laws and regulations.

6. CLEAN UP:

CONTRACTOR shall remove all trash, debris, scrap, packing, shipping and similar materials generated by but not incorporated into the Work each day before leaving the Project site. All such materials not removed within 24 hours following notice to do so is given to CONTRACTOR by RAILROAD will be removed by RAILROAD at the cost of and charged to CONTRACTOR.

7. INSURANCE:

CONTRACTOR shall procure and maintain; and shall require each of its contractors to procure and maintain, the following insurance to cover liability and damages for work under this agreement and shall also be fully compliant with all applicable Workers Compensation requirements:

- i. Worker's Compensation Insurance as required by law.
- ii. Automobile liability insurance in the amount of FIVE HUNDRED THOUSAND AND NO/100 (\$500,000.00) per occurrence; and
- iii. Commercial General Liability insurance in the amount of ONE MILLION AND NO/100 (\$1,000,000.00) per occurrence, with no exclusion of railroad liability, contractual or otherwise, from its coverage.
- iv. R.J. Corman Railroad Company and the Pennsylvania Department of Transportation shall be named as additional insured's.
- v. If CONTRACTOR'S insurance does not have railroad liability coverage a Railroad Protective Liability policy must be purchased with limits of TWO MILLION AND NO/100 (\$2,000,000.00) per occurrence and SIX MILLION AND NO/100 (\$6,000,000.00) aggregate name R.J. Corman Railroad Company, LLC as the insured.

CONTRACTOR will be required to provide proof of insurance.

8. INDEMNIFICATION:

CONTRACTOR will defend, indemnify and hold harmless RAILROAD from and against any and all loss, cost, expense, claim and liability (including but not limited to attorney's fees) resulting from the loss of life or personal injury to any person or loss of or damage to any property arising from, incident to or occurring in connection with the performance of the Work by CONTRACTOR., excepting only such claims as are based in whole or in part on RAILROAD'S gross negligence or willful wrongful act or omission.

9. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS:

CONTRACTOR will comply with all applicable federal, state, and local laws in the conduct of the Work. CONTRACTOR is fully and solely responsible for payment of all unemployment compensation, insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all persons and entities engaged by CONTRACTOR in the performance of the Work.

CONTRACTOR will abide by Pennsylvania Department of Transportation Bureau's Project Management Policy Appendices 3 and 4 attached.

10. CONTROL OF ALCOHOL AND DRUG USE:

CONTRACTOR shall comply, and shall be fully and solely responsible for compliance by all individuals present on the Project site by or through engagement by CONTRACTOR, with all applicable state and federal statutes and regulations in any manner relating to drug or alcohol use before or during presence on the Project site, including, but not limited to 49 CFR Part 219 including Retrospective Regulatory Review-Based Amendments which came into effect June 12, 2017 and all regulations of similar purpose and import, as then currently enforced and applied.

11. DISCRIMINATION:

Attachment C

10.1 Discrimination. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability) is prohibited. During the performance of this Agreement, the CONTRACTOR agrees as follows:

- i. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, 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, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff 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, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- ii. The CONTRACTOR will, in all solicitations or advancements 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, sexual orientation, gender identity, or national origin.
- iii. The CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONTRACTOR'S legal duty to furnish information.
- iv. The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Agreement or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the CONTRACTOR'S commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- v. The CONTRACTOR will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vi. The CONTRACTOR will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vii. In the event of the CONTRACTOR'S noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and the RAILROAD may be declared ineligible for further Government Agreements in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

viii. Pursuant to federal regulations promulgated under the authority of the Americans with Disabilities Act, 28 CFR § 35.101 et seq., the CONTRACTOR understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this agreement or from activities provided for under this agreement. As a condition of accepting and executing this agreement, the CONTRACTOR agrees to comply with the "General Prohibitions Against Discrimination," 28 CFR § 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 RAILROAD.

12. TERMINATION:

This Agreement may be terminated by either party upon fifteen (15) days written notice of termination in the event of either party's default of the terms of this Agreement.

13. INDEPENDENT RAILROAD:

Nothing contained in this Agreement shall create or be construed as creating a partnership, joint venture or employment relationship between RAILROAD and CONTRACTOR. Neither RAILROAD nor CONTRACTOR shall be liable, except as otherwise expressly provided in this Agreement, for any obligations or liabilities incurred by the other. Notwithstanding any other provision in this Agreement, CONTRACTOR is solely responsible for the conduct of its operations and employees and RAILROAD shall have no right to control or supervise any of CONTRACTOR'S operations or employees.

14. CHANGES:

Changes to the Work shall be made only by written Change Order, executed by both RAILROAD and CONTRACTOR, and any change in CONTRACTOR'S compensation by reason of any change in the Work shall be as stated in the Change Order directing that change.

15. BINDING EFFECT:

This Agreement shall insure to the benefit of and be binding upon the parties hereto and their respective successors, assigns and personal representatives.

16. SEVERABILITY:

If any provision of this Agreement is invalid or unenforceable, the remainder of the Agreement shall not be affected thereby.

17. LIENS

CONTRACTOR shall promptly pay all further SUBCONTRACTORS, and RAILROAD may require proof of such payment and/or lien waivers as a condition of making any payment which would otherwise be payable to CONTRACTOR under this Agreement. At RAILROAD's option, RAILROAD may pay any of CONTRACTOR'S further CONTRACTORS who remain unpaid and deduct the amount of any such payment(s) from any payments which would otherwise be payable to CONTRACTOR under this Agreement.

18. PROJECT RECORDS

CONTRACTOR will permit RAILROAD and any state or federal agency providing funding for the Project to inspect all work, materials, payrolls, and other data and records with regard to the Project and to audit all books, records, and accounts pertaining to the Project including books, documents, papers, accounting records, and such other evidence either in hard copy or electronic form as may be appropriate to substantiate costs incurred under this Agreement. Further, CONTRACTOR shall make such materials available at its office at all reasonable times during the Agreement period, and for three (3) years respectively or until all audit exceptions have been resolved, whichever is longer, from the date of final payment under this project specific Agreement, for inspection and audit by any such agency CONTRACTOR shall permit any such agency full access to the Project site at all time during which CONTRACTOR has access to the site.

19. GOVERNING LAW:

The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State in which the Project is located and by all federal laws and regulations applicable to the Work or the performance of the same.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

Witness:

R.J. CORMAN RAILROAD COMPANY/PENNSYLVANIA
LINES

By: _____

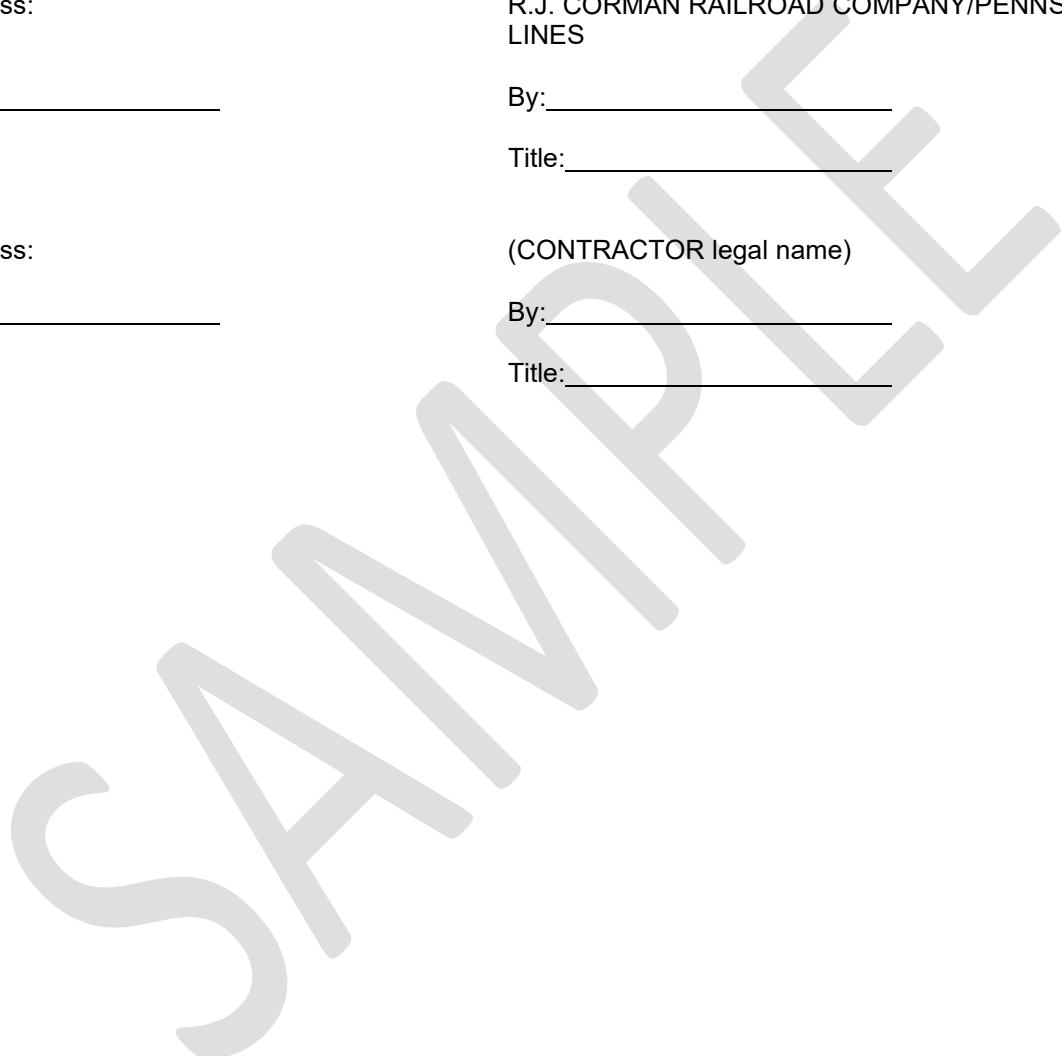
Title: _____

Witness:

(CONTRACTOR legal name)

By: _____

Title: _____



APPENDIX 3



**PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
BUREAU OF RAIL FREIGHT, PORTS AND WATERWAYS
SUPPLEMENTAL CONDITIONS: TRACKWORK CONSTRUCTION**

Formerly known as "Trackwork Inspection Criteria"

(Revised 05/2019)

SECTION 100: GENERAL

The purpose of this document is to provide minimum material and workmanship requirements for common construction items identified in typical track rehabilitation or construction contracts to which the Department (PennDOT) is a party.

Unless otherwise specified in these criteria and approved by the Chief Railroad Engineer, track material and workmanship shall conform to the most current (at time of bid package approval) American Railway Engineering and Maintenance of Way Association (AREMA) specifications, as applicable. AREMA specifications include, but are not limited to, the Manual for Railway Engineering (also referred to as the AREMA Manual) and AREMA Portfolio of Trackwork Plans. Established specifications by the operating railroad may be used in lieu of AREMA specifications. In instances where materials and/or workmanship are not stated in AREMA or operating railroad specifications, the PennDOT Publication 408 specifications shall govern. At a minimum, all track work shall comply with Federal Railroad Administration (FRA) Class I standards (49 CFR Part 213).

All material shall be free of defects, and of the proper size. All methods of measurement and payment are as indicated in the bid package or request for quotation (RFQ).

The term "Contractor" in this document shall mean any person performing any construction work, regardless if that person is contracted labor or force account labor.

SECTION 150: PENNSYLVANIA STEEL PRODUCTS PROCUREMENT ACT

In accordance with the Act of March 3, 1978 (P.L. 6, No. 3), as amended, known as the "Steel Products Procurement Act" (73 P.S. Section 1881 et seq.), the Grantee and/or Contractor shall only use steel products produced in the United States. If a steel product is identifiable from its face, the Grantee and/or Contractor must provide certification, if requested by the Department, that it is in compliance with the Act. If a steel product is unidentifiable from its face, the Grantee and/or Contractor must provide documentation, if requested by the Department, which includes, but is not limited to: invoices, bills of lading, and mill certification that the steel

was melted and manufactured in the United States sufficient to demonstrate compliance with the Act.

In Section 6 of the Act, the definition of “steel products” provides that

[i]f a product contains both foreign and United States steel, such product shall be determined to be a United States steel product only if at least 75% of the cost of the articles, materials and supplies have been mined, produced or manufactured, as the case may be, in the United States.

The Department’s Office of Chief Counsel has determined:

While the 75/25 rule may apply to certain items that are to be installed on rail freight projects funded through PennDOT state grants, we conclude that the rule does not apply to turnout frogs. Certainly the frog may have no utility as a stand-alone item, and its utility arises from its incorporation into the turnout. However, these considerations do not mean that its cost must be determined relative to the total cost of the turnout, and not separately from it, so as to bring it within the scope of the 75/25 rule and demonstrate compliance with the Act as long as its cost represents 25 percent or less of the total cost of the turnout. Regardless of the language used in the bid specifications (including but not limited to references to purchasing/installation of turnout components), the Department presumes that the purchasing and installation of distinct steel items that constitute the turnout separately is contemplated.

Because the definition of “steel products” in Section 6 of the Act includes components destined to become part of another item, it offers further support for our conclusion that the Bureau must consider the frog by itself, and where it was manufactured, for purposes of determining compliance with the Act.

The 75/25 rule applies primarily to a piece of machinery or equipment containing foreign-made steel. Such machinery or equipment would normally already be assembled either at the time of purchase or before delivery to the purchaser and is thus distinguishable from the turnout.

Incorporating a foreign-made frog into a project being funded through a state rail freight grant requires submission of a waiver request to PennDOT *before* bid specifications are approved. Only after approval of a waiver is a foreign frog to be purchased and installed. In reviewing the waiver request, PennDOT will consider such factors as the number of domestic manufacturers, the lead time required for a domestic manufacturer to produce the frog, the impact of the lead time on the project completion date, and the possibility and appropriateness of a time extension.

SECTION 151: PENNSYLVANIA TRADE PRACTICES ACT

In accordance with the Act of July 23, 1968 (P.L. 686, No. 226), as amended, known as the “Trade Practices Act” (71 P.S. Section 773.101 et seq.), the Grantee and/or Contractor cannot and shall not use or permit to be used in the work any aluminum or steel products made in a foreign country which is listed below as a foreign country which discriminates against aluminum

or steel products manufactured in Pennsylvania. The countries of Brazil, South Korea, Spain, and Argentina have been found to discriminate against certain products manufactured in Pennsylvania. Therefore, the purchase or use of those countries products, as listed below, is not permitted:

a. Brazil: Welded carbon steel pipes and tubes; carbon steel wire rod; tool steel; certain stainless steel products including hot-rolled stainless steel bar; stainless steel wire rod and cold-formed stainless steel bar; pre-stressed concrete steel wire strand; hot rolled carbon steel plate in coil; hot-rolled carbon steel sheet; and cold –rolled carbon steel sheet.

b. Spain: Certain stainless steel products including stainless steel wire rod, hot-rolled stainless steel bars, and cold-formed stainless steel bars; pre-stressed concrete steel wire strand; and certain steel products including hot-rolled steel, plate, cold-rolled carbon steel plate, carbon steel structural shapes, galvanized carbon steel sheet, hot-rolled carbon steel bars, and cold-formed carbon steel bars.

c. South Korea: Welded carbon steel pipes and tubes; hot-rolled carbon steel plate; hot-rolled carbon steel sheet; and galvanized steel sheet.

d. Argentina: Carbon steel wire rod and cold-rolled carbon steel sheet.

This provision in no way relieves the Grantee and/or Contractor of responsibility to comply with those provisions which prohibit the use of foreign-made steel and cast iron products. If a product listed above is identifiable from its face, the Grantee and/or Contractor must provide certification, if requested by the Department, that it is in compliance with the Act. If a product listed above is unidentifiable from its face, the Grantee and/or Contractor must provide documentation, if requested by the Department, which includes, but is not limited to: invoices, bills of lading, and mill certification to demonstrate compliance with the Act.

SECTION 152: PENNSYLVANIA UNDERGROUND UTILITY PROTECTION LAW

In accordance with the Act of December 10, 1974 (P.L. 852, No. 287), as amended, known as the “Underground Utility Protection Law” (73 P.S. Section 176 et seq.), the Grantee and/or Contractor is required to inform himself/herself fully concerning location of public and private utilities which may or may not require the removal, resetting, construction and/or reconstruction, and which may interfere with its operations.

The Grantee and/or Contractor shall take all precautions necessary to protect existing utilities, and shall be fully responsible for and shall make good any injury to such utilities that may occur by reason of its operations.

SECTION 153: WORK WITHIN COMMONWEALTH PROPERTY/RIGHT-OF-WAY

No work may occur within Commonwealth property/right-of-way without the prior approval of the appropriate Department or Commission. The Commonwealth, at its discretion, may impose additional requirements to work within Commonwealth property/right-of-way.

SECTION 154: COMPLIANCE WITH ENVIRONMENTAL LAWS

Both the Grantee and Contractor are responsible for ensuring all project work complies with all federal, state, and local environmental laws and regulations.

SECTION 155: PREPAREDNESS, PREVENTION, AND CONTINGENCY (PPC) PLAN

A PPC Plan is required when fuels, lubricants, fertilizers, chemicals, hazardous wastes, or any materials with the potential for causing accidental pollution of air, land, or water are stored or utilized on any project site. If applicable, the PPC Plan must be available at the project site at all times.

SECTION 156: PERMITS AND APPROVALS

The Owner shall ensure all necessary permits and approvals (environmental, municipal, highway occupancy, etc.) have been obtained prior to the commencement of construction.

SECTION 157: HEALTH AND SAFETY

The Contractor shall perform all work in a safe manner in compliance with all applicable federal, state, and local laws, regulations, and railroad safety requirements.

SECTION 158: HOUSEKEEPING OF THE PROJECT SITE

The Contractor shall take all necessary measures, including in designated storage area, to prevent all pollution discharge. The project site shall be kept clean and neat throughout the duration of work. Waste, rubbish, and scrap shall be properly disposed of offsite and off railroad property. The project will not be considered complete until such disposal is complete and the project site is returned to its original condition.

SECTION 159: DISPOSAL OF TIES AND TIMBERS

Ties and timbers removed as part of the project shall be properly disposed of at a permitted/licensed facility (landfill, recycler, incinerator, etc.). The disposal of ties and timbers shall be documented with a dated receipt identifying the quantity, location, and party receiving the ties and/or timbers. This documentation shall be provided to the Department upon request.

SECTION 160: SELECTED APPLICABLE REFERENCES

The list below contains online links to selected published references which may be applicable to project work. The list is in no way meant to be exhaustive and complete.

PennDOT Publication 72M – Roadway Construction Standards:
<http://www.dot.state.pa.us/public/Bureaus/design/PUB72M/PUB72COV.pdf>

PennDOT Publication 371 – Grade Crossing Manual:
<http://www.dot.state.pa.us/public/pubsforms/Publications/PUB%20371.pdf>

PennDOT Publication 408 – Highway Specifications:
http://www.dot.state.pa.us/public/PubsForms/Publications/Pub_408/PUB%20408.pdf

SECTION 200: TRACK CONSTRUCTION

DESCRIPTION: This work consists of the following:

- Preparation of the subgrade including all clearing, excavating, filling and grading necessary for the placement of the railroad track.
- Furnishing, distributing and assembling all components of the railroad track in accordance with this document and AREMA specifications.
- Final leveling and alignment of track.

MATERIAL: All materials shall conform to AREMA specifications and to the criteria contained within this document.

WORKMANSHIP: Work shall comply with AREMA specifications and to the criteria contained within this document.

SECTION 300: CROSS TIES

DESCRIPTION: This work consists of furnishing and distributing the required number of ties, installation of replacement ties, removal and disposal of defective ties, replacement of tie plates, spiking of replacement ties, tamping, replacement of rail anchors, and dressing of ballast.

MATERIAL: Ties shall be oak and/or mixed hardwoods and conform to AREMA specifications. Ties shall not be industrial grade, plant rejects, relays, or manufactured with a material other than wood unless written permission is received from the Chief Railroad Engineer. New cross ties shall be installed and shall measure a minimum of 6"x8"x8'-6" (ties may have a tolerance of -1/4" to +3/4" width and height and be 1" shorter or longer than the length of 8'-6"). No more than 1" of wane shall be allowed in the rail bearing area. As a minimum, cross ties shall be treated with a 60/40 creosote-coal tar solution per cubic foot of material. Boron and Copper Naphthenate treated wood ties may be requested to the Chief Railroad Engineer for review. Treatment reports will be provided if requested.

WORKMANSHIP: Ties shall be delivered clean and free of surface residue. Ties shall be stored at a location where any releases from the wood (i.e. weeping or bleeding) will not

contaminate a sensitive environmental area (i.e. soil, groundwater, surface water, or sediment). Ties shall remain stored until sufficient drying time has elapsed where the placement will not present an environmental hazard. All ties will be placed with the heartwood face down, square with the line of rail and centered with the track. All ties will be brought up tight against the base of the rail and be tamped with an appropriate device. Scarify tie cribs to avoid damaging ties upon insertion. Ties will be handled with tie tongs or approved mechanical device. The use of a pick is not allowed. All ties will be spiked to a minimum gage of 56" but will not exceed 57.5". In areas where ties are spotted in, blending of the existing ties will be required. Where spikes are withdrawn, the spike holes in the tie will be plugged with a creosoted tie plug. Spikes will be driven vertically and square against the rail and driven to allow 1/8" to 3/16" space between the spike head underside and top of rail base. No spikes will be driven into the joint bar slot or at the joint bar ends. Tie plates will be centered on the tie under the rail with the base of the rail bearing firmly against the tie plate. Under no circumstances will the shoulder of the plate be under the base of the rail. Rail anchors disturbed as a result of the work will be reinstalled as per existing anchor pattern.

SECTION 301: SWITCH TIES

DESCRIPTION: This work consists of furnishing and distributing switch ties, removing and disposing of defective switch ties, installing of replacement switch parts and tie plates as required, driving spikes, tamping ties, and dressing ballast.

MATERIAL: Switch ties will be oak and/or mixed hardwoods and conform to AREMA specifications. Switch ties will not be industrial grade, plant rejects, relays, or manufactured with a material other than wood unless written permission is received from the Chief Railroad Engineer. New switch ties will measure as specified in the AREMA Portfolio of Trackwork Plans. No more than 1" of wane will be allowed in the rail bearing area. As a minimum, switch ties will be treated with a 60/40 creosote-coal tar solution per cubic foot of material. Boron and Copper Naphthenate treated wood switch ties may be requested to the Chief Railroad Engineer for review. Treatment reports will be provided if requested.

WORKMANSHIP: Workmanship as described in Section 200 applies. The distance from the field side base of rail to the end of the switch tie will be in the range of 13" - 24" for both ends of the switch tie. Switch ties will be installed per AREMA specifications. Under no circumstances shall switch ties be interlaced, nor shall switch ties be placed off-center for the purpose of avoiding interlacing.

SECTION 302: BRIDGE TIES

DESCRIPTION: This work consists of furnishing and distributing bridge ties, removing and disposing of defective ties, installing replacement ties, reinstalling tie plates, spiking, installing tie bolts, and installing tie spacer bar or timber.

MATERIAL: Bridge ties shall be made of wood and conform to AREMA specifications. Bridge ties will be new and properly treated unless otherwise approved by the Chief Railroad Engineer.

WORKMANSHIP: Workmanship in Section 300 applies, where applicable, and AREMA specifications. Bridge ties will be dapped (if applicable) and fitted to support the running rails at the proper grade and elevation across the entire length of the bridge. For securing the rail to the ties, workmanship shall be as described in the appropriate Section number of this document and AREMA specifications. All joints on the bridge deck will be tightened upon completion of bridge timber installation.

SECTION 400: SUB-BALLAST

DESCRIPTION: This work consists of furnishing sub-ballast for all work.

MATERIAL: All sub-ballast shall comply with AREMA specifications.

WORKMANSHIP: A minimum of six (6) inches of sub-ballast shall be placed below the ballast. Placement shall be in individual lifts not exceeding four (4) inches. Each lift shall be compacted until no movement of material exists beneath compaction equipment. All other workmanship shall be as described in AREMA specifications.

SECTION 401: BALLAST

DESCRIPTION: This work consists of furnishing ballast for all work. This includes, but is not limited to Section 500 – Raising, Lining, and Surfacing and/or Section 501 – Spot Tamping (Surfacing).

MATERIAL: Ballast (crushed stone) shall be new or used (cleaned) and free of screenings, dirt, and foreign matter. Gradation numbers 24, 25, 3, 4, 4A are acceptable as mainline and siding materials. Gradation Numbers 5 and 57 are acceptable as yard materials. All ballast shall comply AREMA specifications. Use of ballast material and/or gradations other than is listed in this Section shall require the approval of the Chief Railroad Engineer.

WORKMANSHIP: Ballast shall be placed a minimum of twelve (12) inches below the bottom of all ties, where practicable, but never less than six (6) inches, and within all void space between ties. All other workmanship shall be as described in the appropriate Section number of this document and all applicable AREMA specifications.

SECTION 500: RAISING, LINING, AND SURFACING

DESCRIPTION: This work consists of raising, lining and surfacing the track to specifications; installing ballast; spiking and tamping all ties; tightening of joints; and regulating ballast.

MATERIAL: Ballast shall be as described in Section 401 – Ballast. All other material shall be as described in AREMA specifications.

WORKMANSHIP: Adequate ballast for dressing to the proper cross section will be distributed in advance of raising. All joints in the work limits will be tightened prior to beginning the surfacing work. Workmanship shall be as described in the appropriate Section number of this

document and AREMA specifications. All spikes will be driven down with care taken not to overdrive. All ties will have a tight bearing against the base of the rail, all joints will be retightened, and ballast will be regulated and dressed after surfacing and lining have been completed (including the cleaning and inspection of switch points).

SECTION 501: SPOT TAMPING (SURFACING)

DESCRIPTION: This work consists of installing the necessary ballast, tamping all low spots, sink holes, down ties, respiking improperly spiked ties, and realigning track areas where needed.

MATERIAL: Ballast shall be as described in Section 401 – Ballast. All other material shall be as described in AREMA specifications.

WORKMANSHIP: Workmanship shall be as described in the appropriate Section number of this document and AREMA specifications. All cribs are to be filled with ballast and ties tamped up tightly to the base of rail. Down ties are to be plugged, respiked, and tamped up tightly to the base of rail. Work area will be properly dressed after completion of surfacing.

SECTION 600: RAIL

DESCRIPTION: This work consists of furnishing rail required for all work. This includes, but is not limited to Section 601 – Jointed Rail and/or Section 602 – Continuously Welded Rail (CWR).

MATERIAL: Rail shall be new, relay (used/second-hand), or Industrial Quality (IQ) of a brand manufactured in the United States (The Bureau uses the list of brands of rail manufactured in the United States found in the “Federal Railroad Administration, Office of Railroad Safety, Track Inspector Rail Defect Reference Manual” as its reference of domestic rail manufacturers.) Rail shall conform to AREMA specifications, with the exception of Industrial Quality rail.

Relay rail purchased for and used in any project will not exceed Class I or II allowable wear as specified in the “Rail Grading Classification by Wear” table in the AREMA Manual (Table 4-3-17). The use of relay rail with wear classified as AREMA Class III or IV will not be used unless approved by the Chief Railroad Engineer. Certification of relay rail Class grading shall be provided to the Bureau upon request.

All Industrial Quality rail shall be permanently identified by grinding diagonally through every “RE” or other designation within the rails’ branding. Each designation shall be ground or milled diagonally from the top right-hand corner to the bottom left-hand corner, a minimum of ¼-inch in width and within 0.010-inch of the parent rail web surface (depth). Documentation from the rail manufacturer must be provided to both the client and the Bureau indicating the reason for the Industrial Quality designation.

WORKMANSHIP: Workmanship shall be as described in the appropriate Section number of this document and AREMA specifications. Industrial Quality rail may not be used on a mainline and may only be used in yards or sidings both that do not carry hazardous materials (hazmat).

SECTION 601: JOINTED RAIL

DESCRIPTION: This work consists of furnishing and distributing required length of rail, installing rail, disposing of replaced rail, installing tie plates, driving spikes, and installing rail anchors.

MATERIAL: Rail shall be as described in Section 600 - Rail. Rail shall be of the same or greater weight and section as that being replaced (if applicable). Rail less than 14' in length shall not be used as replacement rail.

WORKMANSHIP: Rail will be cut with a saw and new bolt holes will be drilled. A torch will not be used for these operations. Rail end mismatch will not exceed ¼" on both the tread and gage side. All rail will be spiked to a minimum gage of 56" but will not exceed 57.5". For securing the rail to the ties, workmanship shall be as described in the appropriate Section number of this document and AREMA specifications.

SECTION 602: CONTINUOUS WELDED RAIL (CWR)

DESCRIPTION: This work consists of furnishing and distributing required length of CWR, installing rail, disposing of replaced rail, installing tie plates, driving spikes, and installing rail anchors.

MATERIAL: Rail shall be as described in Section 600 - Rail. Rail shall be of the same or greater weight and section as that being replaced (if applicable).

WORKMANSHIP: CWR will conform to AREMA specifications and as indicated in an FRA approved CWR Plan of the operating railroad (if required by the FRA and/or 49 CFR 213). CWR will not have holes closer than 4.5" to the weld. All tie holes will be plugged with treated plugs. All CWR rail will be laid to a minimum gage of 56" but will not exceed 57.5". Every tie will be box anchored for 200' beyond each bolted end of the CWR strings, each end of road crossings, and each end of switches. Ballast will extend beyond the tie ends at least 12". Rail will be cut with a saw and new bolt holes drilled; a torch will not be used for these operations. Rail end mismatch will not exceed ¼" on both the tread and gage side. Proper welding specifications will be determined by the contractor performing the welding operation and will be acceptable to the Department. For securing the rail, workmanship shall be as described in the appropriate Section number, AREMA specifications, and FRA approved CWR Plan, as applicable.

SECTION 603: TURNOUT

DESCRIPTION: This work consists of furnishing all materials required for the construction of a turnout.

MATERIALS: All materials shall comply with AREMA specifications.

WORKMANSHIP: The turnout shall be either a Left Hand (LH) or Right Hand (RH). The use of another geometry, such as an equilateral or 3-way turnout, requires the approval of the Chief Railroad Engineer. The placement of a turnout on a curve is discouraged. Workmanship shall be as described in the appropriate Section number of this document and AREMA specifications.

SECTION 700: RAILROAD GRADE CROSSING OF A PUBLIC ROAD

DESCRIPTION: This work consists of the rehabilitation or new construction of a railroad grade crossing a road open to public vehicular and/or pedestrian traffic.

MATERIALS: All materials shall comply with AREMA specifications and the specifications of the governmental agency having jurisdiction.

WORKMANSHIP: Prior to any construction, all approvals shall be obtained. Approvals include, but are not limited to, municipality, PennDOT, and the Pennsylvania Public Utility Commission (PUC). Pedestrian and vehicular traffic shall be fully protected. Work shall not extend beyond railroad right-of-way. All work shall comply with AREMA, owner of the public road (municipality, PennDOT, etc.), and manufacturer (if applicable, such as if using prefabricated concrete panels) specifications. All rail through the crossing shall be continuously welded with the first joint being no closer than six (6) feet from the edge of the road crossing. The crossing shall be constructed to provide a minimum storm water and surface water conveyance of a ten (10)-year storm (a rainfall event with a ten (10) percent maximum exceedance probability in a single year.) Any filter fabric used below the tracks shall meet AREMA specifications, be of weight between ten (10) to sixteen (16) ounces per square yard, and placed a minimum of ten (10) inches below the bottom of the ties. All workmanship shall be in accordance with the most current (at time of bid package approval) PennDOT Publication 408 and Publication 72M – Drawing No. RC-28M, as applicable, for crossings on roads owned by the Commonwealth unless otherwise approved by the appropriate Commonwealth delegated Engineer (i.e. District Grade Crossing Engineer).

SECTION 701: RAILROAD GRADE CROSSING WITHIN PRIVATE PROPERTY

DESCRIPTION: This work consists of the rehabilitation or new construction of a railroad grade crossing of a road within private property (i.e. rail yard, manufacturing plant).

MATERIALS: All materials shall comply with AREMA specifications.

WORKMANSHIP: All work shall comply with AREMA and manufacturer (if applicable, such as when using prefabricated concrete panels) specifications. No joints shall be placed inside six (6) feet from either edge of the road crossing. Any filter fabric used below the tracks shall meet AREMA specifications, be of weight between ten (10) to sixteen (16) ounces per square yard, and placed a minimum of ten (10) inches below the bottom of the ties.

APPENDIX 4

Standard Agreement Provisions

(Agreement Exhibit C)

Offset Provision

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

Standard Agreement Provisions

(Agreement Exhibit D)

CONTRACTOR INTEGRITY PROVISIONS

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

1. DEFINITIONS. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

a. "Affiliate" means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.

c. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.

d. "Contractor Related Parties" means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.

e. "Financial Interest" means either:

(1) Ownership of more than a five percent interest in any business; or

(2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

f. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b)*, shall apply.

Standard Agreement Provisions

g. “Non-bid Basis” means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

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

a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.

c. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

d. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor’s financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor’s submission of the contract signed by Contractor.

e. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:

(1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;

Standard Agreement Provisions

- (2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
- (3) had any business license or professional license suspended or revoked;
- (4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
- (5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract it becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

f. Contractor shall comply with the requirements of the *Lobbying Disclosure Act* (65 Pa.C.S. §13A01 et seq.) regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code* (25 P.S. §3260a).

g. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.

h. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid

Standard Agreement Provisions

or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

i. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.

j. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

Standard Agreement Provisions

(Agreement Exhibit E)

PROVISIONS CONCERNING THE *AMERICANS WITH DISABILITIES ACT*

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant with the Commonwealth of Pennsylvania (Commonwealth).

During the term of this agreement, the contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of the *Americans with Disabilities Act*, 28 C. F. R. § 35.101 et seq., the contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this agreement or from activities provided for under this agreement. As a condition of accepting and executing this agreement, the contractor agrees to comply with the "*General Prohibitions Against Discrimination*," 28 C. F. R. § 35.130, and all other regulations promulgated under *Title II* of the *Americans with Disabilities Act* which are applicable to the benefits, services, programs, and activities provided by the Commonwealth through contracts with outside contractors.
2. The contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the contractor's failure to comply with the provisions of paragraph 1.

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(Agreement Exhibit F)

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Grants]

The Grantee agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the grant agreement or any subgrant agreement, contract, or subcontract, the Grantee, a subgrantee, a contractor, a subcontractor, or any person acting on behalf of the Grantee shall not discriminate in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. The Grantee, any subgrantee, contractor or any subcontractor or any person on their behalf shall not in any manner discriminate in violation of the PHRA and applicable federal laws against or intimidate any of its employees.
3. The Grantee, any subgrantee, contractor or any subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the grant services are performed shall satisfy this requirement.
4. The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate in violation of the PHRA and applicable federal laws against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the grant relates.
5. The Grantee and each subgrantee, contractor and subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Grantee and each subgrantee, contractor and subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Grantee, any subgrantee, any contractor or any subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including

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EEO-1 reports, and permit access to their books, records, and accounts by the granting agency and the Bureau of Small Business Opportunities (BSBO), for the purpose of ascertaining compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause.

6. The Grantee, any subgrantee, contractor or any subcontractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subgrant agreement, contract or subcontract so that those provisions applicable to subgrantees, contractors or subcontractors will be binding upon each subgrantee, contractor or subcontractor.
7. The Granter's and each subgrantee's, contractor's and subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the grant agreement through the termination date thereof. Accordingly, the Grantee and each subgrantee, contractor and subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the grant agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.
8. The Commonwealth may cancel or terminate the grant agreement and all money due or to become due under the grant agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the granting agency may proceed with debarment or suspension and may place the Grantee, subgrantee, contractor, or subcontractor in the Contractor Responsibility File.

Standard Agreement Provisions

(Agreement Exhibit G)

Contractor Responsibility Provisions

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

- 1.** The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- 2.** The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- 3.** The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- 4.** The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- 5.** The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the

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Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

6. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138