

**COOPERATIVE PROJECT AGREEMENT**

PLEASE TYPE OR PRINT ALL INFORMATION IN BLUE OR BLACK INK

County: \_\_\_\_\_ Agreement Number: \_\_\_\_\_  
 Federal ID Number: \_\_\_\_\_ Project SR/SEG: \_\_\_\_\_  
 Project Short Title: \_\_\_\_\_

THIS AGREEMENT for a cooperative highway improvement project (the Agreement) is made and entered into this \_\_\_\_\_, Between the Commonwealth of Pennsylvania, Department of Transportation, (the DEPARTMENT):

And

(the HAULER)

WITNESSETH:

WHEREAS, the DEPARTMENT has jurisdiction and control over State Route \_\_\_\_\_ and its right-of-way located in \_\_\_\_\_ County, Pennsylvania.

WHEREAS, the DEPARTMENT and the HAULER have agreed to enter into this Agreement for State highway repair and/or reconstruction at the following locations (the Project):

County	State Route (S.R.)	Begin Segment/Offset	End Segment/Offset

WHEREAS, the HAULER desires to perform the Project because it desires to improve the State highway right-of-way to a condition that is suitable for the vehicles and heavy equipment that will use it for access to the HAULER's proposed commercial operations;

WHEREAS, The HAULER has requested that the DEPARTMENT permit the HAULER, its employees, agents, representatives and contractors to enter the State highway right-of-way for the purpose of performing the Project;

WHEREAS, the DEPARTMENT, by reason of its exclusive authority and jurisdiction over all State-designated highways, as conferred by Section 2002(a)(10) of the Administrative Code of 1929, as amended, 71 P.S. § 512(a)(10), its authority to issue permits for the opening of the surface of State highways, as conferred by Section 420 of the State Highway Law of 1945, 36 P.S. 670-420, and its authority to condition access to weight-restricted State highways on such undertakings necessary to cover the costs of repair and restoration pursuant to 75 Pa.C.S. 4902, is enabled to authorize and permit the HAULER's activities, uses, and entries made pursuant to this Agreement;

WHEREAS, the DEPARTMENT requires that such use of the State highway right-of-way be subject to a written right of entry;

WHEREAS, independent of the HAULER's needs, the DEPARTMENT has determined that the Highway requires routine maintenance and repair to ensure the safety of the traveling public, consisting of

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WHEREAS, rather than performing its project for routine maintenance, and then allowing the HAULER to tear it apart again to reconstruct or rehabilitate the road, the DEPARTMENT finds it in the best interests of the Commonwealth to retain the HAULER to perform the needed routine maintenance work as part of the Project;

WHEREAS, the DEPARTMENT's Deputy Secretary for Highway Administration has issued a sole source justification for contracting with the HAULER, recognizing that it is not feasible to award a contract on a competitive basis, and/or it is in the best interests of the DEPARTMENT and the Commonwealth to procure the services necessary to repair the Highway from the party that already plans to be working on the Highway;

WHEREAS, the DEPARTMENT has agreed to contribute a portion of the Project cost, and/or contribute materials, where such contribution and/or material value amount shall not exceed \$ \_\_\_\_\_;

WHEREAS, the HAULER has agreed to assume the remainder of the costs associated with the Project; and,

WHEREAS, the parties are entering into this Agreement to outline their respective responsibilities for the Project.

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

1. **Recitals**

The foregoing recitals are incorporated into this Agreement by reference as though set forth at length.

2. **Plans and Specifications**

All work done and materials furnished under and by this Agreement shall conform to and be governed by the plans and specifications prepared by the HAULER. The work shall be subject to the DEPARTMENT's approval and shall not begin until the approval has been granted. The Project design may be amended only upon written consent of the DEPARTMENT. The items of work as set forth in the plans and specifications for the Project are incorporated by reference as though physically attached to this Agreement.

3. **Compliance with Specifications**

Project design and construction shall be in such a manner as not to expose any member of the public to any hazardous or unsafe condition, and shall be in accordance with plans, policies, procedures, criteria and specifications prepared or approved by the DEPARTMENT, including, but not limited to, the most current versions of the following:

- a. DEPARTMENT Publication No. 70M, *Guidelines for Design of Local Roads and Streets*;
- b. DEPARTMENT Design Manuals (Publication Nos. 10, 10A, 13M, 14M, 15M, 16 and 24) current versions as revised;
- c. DEPARTMENT Strike-Off Letters;
- d. DEPARTMENT Form No. 442, *Bureau of Design Specifications for Consultant Agreements*, Division I; and
- e. DEPARTMENT Publication No. 408, *Specifications*, its supplements and amendments.
- f. DEPARTMENT Publication 212, 67 Pa. Code Chapter 212, including provisions pertaining to work zone traffic control.

4. **Conduct of Work**

The HAULER covenants and warrants that all work and labor pursuant to this Agreement shall be done and performed by DEPARTMENT-prequalified contractors, in accordance with 36 P.S. 404.1 and 67 Pa. Code Chapter 457 in the best and most workmanlike manner, that prompt payment shall be made in full for all labor and materials used in the work and that all materials and labor shall conform strictly and fully in every respect to the plans and specifications.

5. **Inspection**

The DEPARTMENT, with its own forces or by contract, shall provide staff to inspect and supervise adequately all construction; and the HAULER shall be solely responsible for all costs and expenses associated with

construction inspection, except to the extent that inspection activities and costs are identified below at paragraph 8(d) as a DEPARTMENT contribution, in which case the value of the inspection costs shall be identified in that section and be subject to the not-to-exceed limitation. If any of the materials or labor destined for use or used within the State highway right-of-way are rejected by the DEPARTMENT as defective, unsuitable, or otherwise contrary to approvals, then those materials shall be removed and replaced with other approved materials; and the labor shall be performed anew to the DEPARTMENT's satisfaction and approval, at the HAULER's cost and expense. The HAULER shall provide all documentation requested by the DEPARTMENT regarding the construction within seven (7) calendar days of the request by the DEPARTMENT.

**6. Utility Coordination**

The HAULER shall arrange for any necessary relocation or adjustment for all utility facilities and shall notify each utility company to relocate any affected facilities to accommodate construction of the Project. Moreover, no relocation of utility lines within the DEPARTMENT's right-of-way shall be permitted without a highway occupancy permit issued by the DEPARTMENT to each of the affected utilities in accordance with 67 Pa. Code Chapter 459 and DEPARTMENT's Design Manual Part 5. The HAULER shall assure that the utility companies apply for and receive these permits from the DEPARTMENT. The HAULER shall obtain the requisite utility clearances.

**7. Right of Entry**

The DEPARTMENT grants the HAULER, its employees, agents, representatives, and contractors a right of entry to the State highway right-of-way at such limited areas as are necessary for the construction of the Project, consistent with the terms and conditions of this Agreement. The DEPARTMENT shall be notified at least forty-eight (48) hours before the HAULER begins any work within the right-of-way, and the HAULER, its employees, agents, representatives, or contractors shall not interfere with DEPARTMENT operations.

**8. Contribution Amounts**

The DEPARTMENT has agreed to contribute (check all that apply):

The amount of \$ \_\_\_\_\_

\_\_\_\_\_ % of the Project cost,

The following materials: \_\_\_\_\_, or

Other: \_\_\_\_\_

\_\_\_\_\_.

Where such monetary contribution, material value, and/or the value of any other contribution shall not exceed the total amount of \$ \_\_\_\_\_. The HAULER shall be responsible for all other Project costs and certifies that it has on hand sufficient funds to meet all its obligations under this Agreement. Total Project costs are estimated to be \$ \_\_\_\_\_.

9. **Plan Submittal**

The HAULER shall submit plans for the Project, which shall be subject to the approval of the DEPARTMENT, and once approved shall be the Final Plans. If necessary, the preparation of the Final Plans shall include the preparation of right-of-way plans, which in the DEPARTMENT's reasonable opinion, based on DEPARTMENT established procedures, are sufficient to describe all necessary right-of-way acquisitions. All required rights-of-way, substituted, abandoned or vacated will be shown on right-of-way acquisition plans.

10. **Final Bid Submittal**

The HAULER shall provide the DEPARTMENT with the final bid amount within five (5) business days of the opening of the bids. The scope and cost of work may not exceed the bid amount, except as provided in paragraph 11 below.

11. **Change Order Procedures**

The Project shall be built in accordance with the Final Plans and any significant changes in the scope of work must be mutually agreed upon in writing as evidenced by the HAULER and the DEPARTMENT initialing a change order approving the change of work, provided that the HAULER shall hereby be authorized to proceed with and approve any change order where the cost associated with such individual change order does not exceed \$10,000.00. If the change order cost for each or any particular change exceeds \$10,000.00, the DEPARTMENT shall be presented with a change order request and the DEPARTMENT's consent to the change order shall be in its sole and absolute discretion, with consent not to be unreasonably withheld. Additionally, once the aggregate of change orders exceeds \$20,000.00, the HAULER and the DEPARTMENT shall promptly meet (within seven (7) business days) to discuss the change order needs. The DEPARTMENT may then require that (1) every subsequent change order over \$5,000.00 shall be presented to the DEPARTMENT for review and approval within three (3) business days of submission of said change order to the DEPARTMENT, with approval or disapproval in the DEPARTMENT's reasonable discretion or (2) to allow for a similar review process as provided herein. If the DEPARTMENT does not approve any proposed change order, the DEPARTMENT shall notify the HAULER, in writing, of its disapproval within three (3) business days and the parties shall meet within one (1) business day after the notice is given to resolve the objection. If no notice of disapproval is given, the change order shall be deemed approved. The parties shall use their respective best efforts to resolve any objection to a change order raised by the DEPARTMENT.

12. **Project Schedule**

The HAULER agrees to construct the Project in accordance with the Final Plans, with construction work relative to the Project to begin within one calendar year from the execution date of this Agreement. The HAULER shall prepare a Project schedule, which shall be provided to every contractor hired by the HAULER and incorporated into each contract entered relative thereto. If the anticipated start date cannot be met, the HAULER and the DEPARTMENT shall meet to discuss any delay in the beginning of construction and to resolve all delays to begin construction activities at the next earliest possible date.

**13. Prompt Completion of Work**

It is the intent of the parties that their best efforts will be made to achieve construction in a timely manner consistent with the time tables set forth in the Final Plans, the bid documents, and the schedule.

**14. Compliance with Legal Requirements**

The HAULER shall comply with all federal, state, and local laws, regulations, and ordinances in the conduct of its operations within the State highway right-of-way and shall be responsible for obtaining all required federal, state or local permits. The HAULER's obligations include, but are not limited to, responsibility for preparing and revising environmental impact statements, environmental assessments, categorical exclusions, environmental reports and other documents required by law or environmental litigation; the defense of environmental litigation resulting from the planning, design or construction of the Project; and proper environmental and erosion and sedimentation controls in accordance with Publication 408, Section 107. The HAULER shall also comply with the requirements of 25 Pa Code Chapter 102, *Erosion and Sediment Control and Stormwater Management*, 25 Pa Code Chapter 92a, *National Pollutant Discharge Elimination System Permitting, Monitoring and Compliance*, 25 Pa. Code Chapter 105, *Water Obstruction and Encroachment Permitting*.

**15. Compliance with Other Agency Requirements**

At the DEPARTMENT's request, the HAULER shall furnish to the DEPARTMENT evidence of the approvals, permits, licenses and approved environmental documents. If the HAULER is notified by any federal, state, or local agency that it is not in full compliance with any federal, state, or local law, regulation, or ordinance, associated with the construction and maintenance of any aspect of the Project, the HAULER shall immediately correct any such violation or deficiency and shall cease all operations until the HAULER is in full compliance. The HAULER shall provide the DEPARTMENT with written notice of any such notification.

**16. Laboratory Results**

The HAULER, at no cost to the DEPARTMENT, shall promptly provide the DEPARTMENT with copies of all laboratory results and reports compiled by its employees, agents, representatives, or contractors relating to the Project, that show the condition of the soil and the groundwater beneath the State highway right-of-way, or that detail any activity performed by the HAULER under this Agreement.

**17. PA One-Call Law**

The HAULER shall assume full responsibility for involved utility facilities as provided by the Act of December 10, 1974 (P.L. 852, No. 287) (73 P.S. 176-182), as amended, concerning protection of the public health and safety by preventing excavation or demolition from damaging underground utility facilities.

**18. Notice of Completion**

Upon completion of the Project by the HAULER or its contractor(s), the HAULER shall send to the DEPARTMENT a written notice of completion. Such notice of completion shall be deemed issued by the HAULER, if not actually provided to the DEPARTMENT within 30 days after the end of active construction. The DEPARTMENT shall, within 60 days, inspect and confirm, in writing, that the work, quantities, and

documentation is acceptable. The DEPARTMENT's written acceptance shall constitute the written notice of acceptance as described below.

**19. Invoicing**

Provided that the work is acceptable, as evidenced by the DEPARTMENT's issuance of its acceptance, the HAULER shall invoice the DEPARTMENT for any amounts due and payable under this Agreement. Because the DEPARTMENT will be making payments under this Agreement through the Automated Clearing House (ACH) Network, the HAULER shall comply with the following provisions governing payments through ACH:

- a. The DEPARTMENT will make payment to the HAULER through ACH. Within ten (10) days of executing this Supplement Agreement, the HAULER must submit or must have already submitted its ACH information on a ACH enrollment form (obtained at [www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf](http://www.vendorregistration.state.pa.us/cvmu/paper/Forms/ACH-EFTenrollmentform.pdf) to the Commonwealth's Central Vendor Management Unit at 717-214-0140 (FAX) or by mail to the Central Vendor Management Unit, Bureau of Financial Management, Forum Place—9th Floor, 555 Walnut Street, Harrisburg, PA, 17101-1830.
- b. The HAULER must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the HAULER to properly apply the state agency's payment to the respective invoice or program.
- c. It is the responsibility of the HAULER to ensure that the ACH information contained in the Commonwealth's Central Vendor Master File is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

**20. Future Maintenance Responsibilities**

Upon satisfactory completion of the Project and acceptance of the work as meeting the DEPARTMENT's standards and requirements, the DEPARTMENT shall resume its normal maintenance responsibilities as required under the State Highway Law, and in accordance with existing policies within the DEPARTMENT.

**21. Termination**

If the HAULER fails to comply with the terms of this Agreement to the DEPARTMENT's satisfaction, the DEPARTMENT may terminate the Agreement upon giving ten (10) days written notice to the HAULER. If the Agreement is terminated for cause, then neither party shall be further obligated to the other, except to the extent that the HAULER shall restore the state highway to its pre-work conditions. If the restoration is not completed to the DEPARTMENT's satisfaction within thirty (30) days of the DEPARTMENT's demand, then the DEPARTMENT may perform the required restoration and the HAULER shall reimburse the DEPARTMENT for the cost of the work. The DEPARTMENT may also terminate upon giving ten (10) days written notice to the HAULER if funds (state or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, or for convenience, and if terminated for non-appropriation or convenience the HAULER shall receive payment, not to exceed the maximum amount set forth above, for the following, only to the extent that appropriated funds are available:



- a. all services performed consistent with the terms of the Agreement prior to the effective date of termination; and,
- b. all actual and reasonable costs incurred by the HAULER as a result of the termination of the Agreement.

If any DEPARTMENT-contributed materials are not needed for the Project, the HAULER shall return those materials to the DEPARTMENT within ten (10) days of completion of work.

**22. Insurance**

The HAULER shall provide and shall require its contractor(s), subcontractor(s) and consultant(s) to provide the DEPARTMENT with a certificate of insurance evidencing coverage of injury, death, or property damage from any or all causes which may arise out of its presence on the State highway right-of-way in the minimum amounts of two-hundred-fifty-thousand dollars (\$250,000.00) per person and one-million dollars (\$1,000,000.00) in the aggregate (occurrence-based insurance). The Commonwealth of Pennsylvania and the DEPARTMENT shall be named as additional insured's on these policies.

**23. Indemnification**

The HAULER shall fully indemnify and shall require its contractor(s), subcontractor(s) and consultant(s), to fully indemnify the COMMONWEALTH (including but not limited to DEPARTMENT) from any and all liability, loss, or damage that the COMMONWEALTH, its officers, agents and employees may suffer as a result of any and all claims, demands, costs, or judgments of any type made against the COMMONWEALTH as a result of granting this Agreement, including, but not limited to, fines, penalties, claims, demands, costs, or judgments arising from the presence of the HAULER, its contractor(s), consultant(s) and/or their officers, agents, and employees or others within the State highway right-of-way or any work or other actions taken by any of them pursuant to or in violation of this Agreement, or as a result of any failure of any of them to conform to all pertinent statutes, ordinances, regulations, or other requirements of any governmental authority in connection with this Agreement. This provision is intended to include claims, demands, costs or judgments resulting from a negligent act or omission of the COMMONWEALTH, its officers, agents, and employees with respect to this Agreement or the subject thereof. The HAULER waives any immunity from liability to the COMMONWEALTH from damages, contribution or indemnity provided by Section 303 of the Worker's Compensation Act, Act of June 2, 1915, P.L. 736, *as amended*, 77 P.S. §481. IT IS THE INTENT OF THIS PROVISION TO ABSOLUTELY ABSOLVE AND PROTECT THE COMMONWEALTH, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL LOSS BY REASON OF THIS AGREEMENT.

The HAULER agrees to defend (if requested) the COMMONWEALTH, its officers, agents and employees, against all claims brought or actions filed against the COMMONWEALTH, either as an original or an additional defendant, with respect to the subject of the indemnity contained herein in the previous paragraph, whether such fines, penalties, claims or actions are rightfully or wrongfully brought or filed. The HAULER hereby waives any and all rights to join the COMMONWEALTH as an additional defendant in any actions arising as a result of the grant of this Agreement. Notwithstanding the foregoing provisions, the HAULER agrees that the DEPARTMENT may employ attorneys of its own selection to appear and defend any claims or actions on behalf of the DEPARTMENT.



**24. Required Standard Provisions**

The HAULER agrees to comply with the *Offset Provisions, Contractor Responsibility Provisions, Contractor Integrity Provisions, the Commonwealth Nondiscrimination/Sexual Harassment Clause and the Provisions Concerning the Americans with Disabilities Act*, which are attached hereto and made part hereof as Exhibits "A," "B," "C," "D," and "E," respectively. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101—3104, applies to this Project Agreement. Therefore, this Agreement is subject to, and the HAULER shall comply with, the clause entitled Contract Provisions – Right to Know Law, attached as Exhibit “F” and made a part of this Agreement. As used in this Agreement, the term “Contractor” refers to the HAULER.

**25. Pennsylvania Prevailing Wage Act**

The Pennsylvania Prevailing Wage Act requires that all workers on a “public work,” as defined in the Act, be paid the prevailing minimum wage determined by the Pennsylvania Department of Labor & Industry, Bureau of Labor Law Compliance. Act of August 15, 1961, P.L. 987, as amended, 43 P.S. §§ 165-1 - 165-17; 34 Pa. Code §§ 9.101-9.112. The HAULER shall comply with the Provisions Relating to the Pennsylvania Prevailing Wage Act, which is attached as Exhibit "G" and made a part of this Agreement. As used in this exhibit, the references to the contractor shall be to the HAULER, references to the Secretary shall be to the Secretary of Labor & Industry, and references to the contract shall be to this Agreement. The HAULER can obtain prevailing wage rates and information about compliance through the following:

Bureau of Labor Law Compliance  
1301 Labor & Industry Building  
Seventh & Forster Streets  
Harrisburg, PA 17120-0019  
717-787-4671  
[www.dli.state.pa.us](http://www.dli.state.pa.us)

The HAULER shall be responsible to maintain all documentation, particularly certified payrolls, showing compliance with the Prevailing Wage Act and to comply with all applicable provisions concerning minimum wage specifications and rates contained in section 107.22 of Publication 408, Specifications, which pertain to the Pennsylvania Prevailing Wage Act.

**26. Disadvantaged Businesses**

The HAULER shall comply with the Provisions Relating to Disadvantaged Businesses, which is attached as Exhibit "H" and made part of this Agreement. The DEPARTMENT'S participation in the Project is expressly conditioned on submission of a Disadvantaged Business Submittal, in the form and with the contents specified in that exhibit, prior to the commencement of any work on the Project. The DEPARTMENT shall have the option to withdraw its participation at any time if this submission is not forthcoming or is insufficient, as determined by the DEPARTMENT.

**27. Notice**

All notices and reports arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, facsimile, e-mail, or delivery in person.

Notice to the HAULER shall be sent to:

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Notice to the DEPARTMENT shall be sent to:

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or to such other names or addresses as the parties may provide to each other in writing.

**28. Department Costs**

The HAULER agrees to reimburse the DEPARTMENT for any necessary expenses, attorneys' fees, or costs incurred in the enforcement of any part of this Agreement within ninety (90) calendar days after receiving written notice that the DEPARTMENT has incurred them.

**29. No Authority to Encroach**

This Agreement shall not be considered to be authorization to the HAULER or its contractors to encroach on the property of others. If the HAULER must enter upon land situated outside the DEPARTMENT's right-of-way that is owned by a third party, the HAULER shall, at its own expense, secure any necessary authorization, release, or right of entry. The HAULER shall be required to provide evidence of permission to enter upon an abutting or adjoining property owner's land, if requested by the DEPARTMENT.

**30. Effective Date**

This Agreement shall not be effective until executed by all required Commonwealth officials. Upon full execution, the DEPARTMENT will insert the effective date of this Agreement on the first page. The effective date shall be the date of the last signature affixed to the Agreement.

**31. Catalog of Domestic Assistance**

Agreement No. \_\_\_\_\_ is split \_\_\_\_\_% expenditure amount of \$\_\_\_\_\_ for federal funds and \_\_\_\_\_% expenditure amount of \$\_\_\_\_\_ for state funds. The related federal assistance program name and number is N/A; . The state program name and number is Highway Maintenance; Appropriation 187/711 Maintenance Operations. This paragraph does not affect the costs to the HAULER.

**32. Amendments and Modifications**

No alterations or variations to this Agreement shall be valid unless made in writing and signed by the parties. Amendments to this Agreement shall be accomplished through a formal written document signed by the parties with the same formality as the original Agreement.

**33. Titles Not Controlling**

Titles of sections are for reference only, and shall not be used to construe the language in this Agreement.

**34. Severability**

The provisions of this Agreement shall be severable. If any phrase, clause, sentence or provision of this Agreement is declared to be contrary to the Constitution of Pennsylvania or of the United States or of the laws of the Commonwealth the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby.

**35. Choice of Law**

The Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it and consents to service of process in any manner authorized by Pennsylvania law.

**36. No Waiver**

Either party may elect not to enforce its rights and remedies under this Agreement in the event of a breach by other parties of any term or condition of this Agreement. In any event, the failure by either party to enforce its rights and remedies under this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other term or condition of this Agreement.

**37. Independence of the Parties**

It is understood by and between the parties that nothing contained herein is intended or shall be construed to, in any respect, create or establish the relationship of partners between the HAULER and the DEPARTMENT, or as constituting the DEPARTMENT as the representative or general agent of the DEPARTMENT for any purpose whatsoever.

**38. Assignment**

This Agreement may not be assigned by the HAULER, either in whole or in part, without the written consent of the DEPARTMENT.

**39. Third-Party Beneficiary Rights**

The parties to this Agreement understand that this Agreement does not create or intend to confer any rights in or on persons or entities not a party to this Agreement.

**40. Force Majeure**

Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

**41. Integration and Merger**

This Agreement, when executed, approved and delivered, shall constitute the final, complete and exclusive Agreement between the parties containing all the terms and conditions agreed on by the parties. All representations, understandings, promises and agreements pertaining to the subject matter of this Agreement made prior to or at the time this Agreement is executed are superseded by this Agreement unless specifically accepted by any other term or provision of this Agreement. There are no conditions precedent to the performance of this Agreement except as expressly set forth herein.

[Remainder of Page Left Intentionally Blank]

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

ATTEST

HAULER

\_\_\_\_\_  
Signature DATE

Print Name: \_\_\_\_\_

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

BY \_\_\_\_\_  
Signature DATE

Print Name: \_\_\_\_\_

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

*If a Corporation, the President or Vice-president must sign and the Secretary, Treasurer, Assistant Secretary or Assistant Treasurer must attest; if a Sole Proprietorship, only the owner must sign; if a Partnership, only one partner need sign; if a Limited Partnership, only the general partner must sign. If a Municipality, Authority or other entity, please attach a resolution.*

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

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

BY \_\_\_\_\_  
Deputy Secretary of DATE  
Transportation

APPROVED AS TO LEGALITY  
AND FORM

BY \_\_\_\_\_  
for Chief Counsel Date

BY \_\_\_\_\_  
Deputy Attorney General Date

BY \_\_\_\_\_  
Deputy General Counsel Date

CERTIFIED FUNDS AVAILABLE UNDER  
FUNDS COMMITMENT NO.: \_\_\_\_\_  
FUND: \_\_\_\_\_  
COST CENTER: \_\_\_\_\_  
G/L ACCOUNT: \_\_\_\_\_  
AMOUNT: \_\_\_\_\_

BY \_\_\_\_\_  
for Comptroller Operations Date