



REQUEST FOR PROPOSAL

Design, Engineering and Permitting Services for Implementing the Trail Reclamation and Pedestrian Bridge Construction Project at the Shenks Ferry Nature Preserve as part of the Lancaster River Hills Conservation Area

PROJECT OVERVIEW

The Lancaster Conservancy (hereafter referred to as “the Conservancy”) of Lancaster County, Pennsylvania, a 501(c)(3) charitable organization that owns and manages preserved lands in Lancaster, York, Dauphin, and Chester Counties (www.lancasterconservancy.org), seeks proposals from qualified professional services firms to implement a Trail Reclamation and Pedestrian Bridge Construction Project at the Shenks Ferry Nature Preserve. The Preserve is part of the larger Lancaster River Hills Conservation Area, located in Conestoga Township, Lancaster County, Pennsylvania. This project includes the design, engineering, permitting and construction of: (1) approximately 1600 feet of trail revitalization, and (2) the removal of existing temporary structures (culvert pipes and wooden foot bridge), stabilization of the existing stream bank and replacement with an engineered permanent pedestrian bridge across an unnamed tributary to Grub Run.

This project is funded in part by PA Department of Community and Economic Development (DCED) and administered by the Commonwealth Financing Authority (CFA) and as such requires compliance with applicable statutes, regulations, directives, and guidelines including but not limited to the Prohibition of Illegal Alien Labor on Assisted Projects Act and adherence to Nondiscrimination/Sexual Harassment statutes. Additionally, DCED has certain other requirements and standards that must be met by the Lancaster Conservancy and its contracted firm(s).

Shenks Ferry Wildflower Preserve is included in the National Register of Historic Places and as such may be subject to the Section 106 process (archeological reviews) which may or may not have an impact on the proposed activities.

Please provide via email an electronic copy of proposal clearly labeled “Shenks Ferry Trail and Bridge Project” no later than Friday, February 20th, 2023 by 12 P.M. ET to Mark Heller, mheller@lancasterconservancy.org.

If additional information is needed, please contact Mark Heller at 717-979-6244 or via the previously listed email.

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I. Project Description

SHENK'S FERRY NATURE PRESERVE

Property Background

The Shenks Ferry Wildflower Preserve is a 92-acre preserve located in Conestoga Township, Lancaster County, PA, along the east bank of the Susquehanna River with a connection to the Enola Low Grade Rail Trail. The wildflower preserve is renowned nationally for its display of wildflowers, especially of spring ephemeral species and as such receives a large seasonal influx of visitors from Pennsylvania and surrounding states (as far as Connecticut and Virginia) in the range of a thousand people per weekend from April through June with the Conservancy serving this influx of visitation with specialized interpretive programming. Wildflowers such as Virginia Waterleaf, Woodland Phlox, Wild Geranium, and a host of other species throughout the season carpet the forest floor. The preserve boasts over 50 different species of bird, including: owls, hawks, indigo bunting, and the pileated woodpecker. The preserve is improved with a 1.7-mile walking trail and is bisected by an unnamed tributary to Grub Run. Grub Run flows through the Preserve and directly into the Susquehanna River. Recently, Lancaster Conservancy partnered with Conestoga Township to close the length of Green Hill Road running parallel to the Susquehanna River. The intent of the partnership was to close the road to motorized traffic and improve it for pedestrian use only. The Conservancy at the same time created a new parking area and visitor's hub (kiosk, signage, parking, and restroom facilities). Though still owned by the

Township, the pedestrian portion of Green Hill Road has become a natural extension of the Shenks Ferry Wildflower Preserve Trail; but the focus of this project is the beginning section of the original Wildflower Trail starting at the Conservancy property's trailhead.

Shenks Ferry Wildflower Preserve is on the National Register of Historic Places and the trail itself runs along an historic narrow-gauge rail line. The trail is characterized by gentle slopes and is a relatively short 1.7 miles, which includes the pedestrian only segment of Green Hill Road. The trail provides users with visual access to unique, rare, and endangered wildflowers and the remnants of several 19th Century Improvements, including the foundation of an iron mill, the remains of a dynamite factory, and a stone-arch tunnel located at the terminus of the trail. The Conservancy has been addressing the impacts of stormwater and erosion since acquiring the property from PPL in 2014. The Shenks Ferry Wildflower Preserve Trail has historically been characterized as an unimproved gravel trail roughly eight (8) to ten (10) feet in width. However, over the years erosion from stormwater has deposited sediment in some portions of the trail and removed it from others, decreasing the width to only 3' in some places.

Additionally, the trail crosses an unnamed tributary to Grub Run utilizing a smooth line corrugated plastic pipe (SLCPP) and a temporary small wooden pedestrian bridge. The plastic pipe has failed on multiple occasions and the subsequent erosion is threatening a historic stonewall and jeopardizing several species of rare and endangered wildflowers. The decreased overall width of the trail has made it difficult for the Conservancy to access and maintain the trail's tributary crossing with mechanized equipment. Additionally, the trail's narrow width does not appropriately allow for two-way pedestrian passage without venturing off the trail and trampling various species of unique, rare, and endangered plant life. The SLCPP is not large enough to allow for the tributary to cross under the trail completely. Heavy precipitation events routinely exceed the capacity of the SLCPP, which leads to dangerous trail conditions, continued erosion of the trail and is jeopardizing the health of adjoining flora and historic pieces of 19th Century infrastructure.

Project Vision

The Lancaster Conservancy wants to revitalize approximately 1,600 feet of the existing trail via widening and reconstruction with an 8'-10' wide, crushed stone pathway that will begin where the current Shenks Ferry Wildflower Preserve Trail starts off of that portion of Green Hill Road that has been closed to all but pedestrian traffic (see map in Appendix B) and will end where the trail crosses the tributary to Grub Run where the current SLCPP and small temporary wooden pedestrian bridge is to be replaced with a permanent engineered pedestrian bridge. The trail reclamation will allow for two-way pedestrian traffic and large equipment access to the tributary crossing to install the new bridge as well as provide access for future maintenance. The new bridge will improve pedestrian safety at the tributary crossing, improve the tributary's hydrologic capacity, and enable streambank stabilization to prevent further erosion that currently endangers the natural and historic features of the trail.

The overall focus of this project is to insure improved, equitable and universal access regardless of the users age and ability, coupled with the preservation and protection of unique, rare, and endangered wildflower species and historic resources from the impacts of increase precipitation and stormwater erosion. The Conservancy aspires to align the trail revitalization with the character of the historic narrow-gauge rail line.

PROJECT FUNDING

The design, engineering, permitting, and construction project is partially funded by the Department of Community and Economic Development (DCED) with matching funding from the Lancaster Conservancy. DCED has certain requirements and standards that must be met by the Lancaster Conservancy and its contracted firm(s). DCED and its appropriate departments will monitor the project, and certain documents and drafts of documents will be subject to their review and approval. The agreement number for this grant is C000083594.

Table 1: RFP Schedule

RFP Available	Monday, January 16th, 2023
RSVP for optional pre-bid meeting	Monday, January 23 rd , 2023
Optional pre-bid meeting on-site	Monday, January 30 th , 2023
Deadline to Submit Questions to the Conservancy	Monday, February 6 th , 2023
Deadline for Conservancy to Respond to Questions	Monday, February 13 th , 2023
Proposal due date	Monday, February 20th, 2023
Firm selection and notice	Wednesday, February 22nd, 2023

II. SCOPE OF WORK

- 1) The selected professional services firm will be responsible for conducting the necessary and appropriate field and office base work including, but not limited to: site survey, archaeological review and survey, wetlands identification & survey, PNDI clearances and subsurface analysis, and the subsequent preparation of the final design, engineering and construction drawings and specifications including the application for and achievement of the necessary federal, state, county, and local permits, plans, and approvals. Those documents, plans, permits and approvals shall meet the requirements for contractor bidding and construction of the project. The selected firm shall also provide a preliminary opinion of probable construction costs.
 - a) The Shenk's Ferry Wildflower Preserve is included in the National Register of Historic Places and is identified as Shenks Ferry Site (36LA2) in the database: [National Register Database and Research - National Register of Historic Places \(U.S. National Park Service\) \(nps.gov\)](https://www.nps.gov/subjects/nationalregister/database.cfm). Pursuant to a Memorandum Of Understanding (MOU) with Pennsylvania Historical and

Museum Commission (PHMC), earth disturbances such as outlined herein are subject to a Section 106 process as outlined in the MOU. This is a key element and needs priority attention. Compliance with the MOU requires the services of a Secretary of Interior Qualified Archaeologist. The PHMC maintains a list of qualified consultants and firms.

- 2) The selected professional services firm will also assist in preparing the appropriate bid documents and assist the Conservancy in advertising, reviewing, and selecting the appropriate contractor(s) as well as assisting the Conservancy through participating in Construction Observation Services.

- 3) The project elements include the following:
 - a) Widening and reconstruction of approximately 1,600 linear feet of trail. Please see the attached color-coded project site map in Appendix B.
 - i) The trail shall be rebuilt using a proposed 8" stone base and a 6" stone top course. See Appendix C. Please note that due to the proximity of wildflowers and spring ephemerals to the trail, the Conservancy wants no impact on the current soil characteristics to be caused by the type of stone introduced.
 - b) Construction and placement of a permanent engineered pedestrian bridge. See concept drawing of the bridge in Appendix D.

Additionally, the project deliverables and associated deadlines are outlined in table 2, below:

Table 2: Project Deliverables and Deadlines for All Project Components

Execution of Professional Services Contract	February 2023
Survey/Wetlands	March/April 2023
Trail/Bridge Design	May - July 2023
E&S/Zoning Permits	August - December 2023
Contract Documents	January/February 2024
Public Advertisement	March/April 2024
Construction Contract Execution	May 2024
Site Construction & Bridge Installation	June-March 2025
Project Completion Deadline	March 2025

- 4) During all aspects of this project, the selected Firm shall:
 - a) Consult with relevant Lancaster Conservancy and DCED staff.
 - b) Comply with the Nondiscrimination/Sexual Harassment Clause (see Appendix E).
 - c) Comply with the State of Pennsylvania Prevailing Wage Act
 - d) The selected firm shall comply with the attached Commonwealth of Pennsylvania,

Commonwealth Financing Authority Contract No. C000083594, attached in Appendix A of this RFP. Note that references in the DCED contract to Grantee, Contractor or Subcontractor shall apply to the selected firm referenced in this RFP and in the Contract for Professional Services. In the case of conflict between definitions or descriptions between Contract No. C00083594, the RFP and the Contract for Professional Services, the more stringent shall apply. Please pay particular attention, but not exclusively to Articles: V, IX, XI, XII, XIV, Appendix A & B, and Exhibits A & B.

- e) Fully consider, evaluate, and when necessary, briefly discuss handicap accessibility standards as prescribed by the Americans with Disabilities Act of 1990 (ADA).
- f) Fully consider, evaluate, and when necessary, briefly discuss sustainable site design and green infrastructure elements that could be used to reduce environmental impact, potentially lower maintenance and operation costs, and conserve energy (e.g., stormwater best management practices, landscaping with native plants ...etc.).

III. CONSULTANT QUALIFICATIONS

The Professional Services Firm that the Conservancy seeks must meet the following qualifications listed below:

- (1) Meets or exceeds the State of Pennsylvania's standards set forth for Professional Licensing and Practice.
- (2) Compliance with all applicable State statutes, regulations, conditions, directives, guidelines, and additional Commonwealth of Pennsylvania requirements as noted in Section II: Scope of Work, above.
- (3) Have familiarity with and adhere to the [Land Trust Standards and Practices](#) that are relevant to the work.

IV. PROPOSAL FORMAT

Letter of Transmittal

This letter must include the following:

- (1) A statement demonstrating the firm's understanding of the work to be performed.
- (2) A statement confirming that the firm meets the Consultant Qualifications (See Section III above).
- (3) The Firm's point of contact for correspondence regarding this RFP including name, title, mailing address, telephone number, and email address.

Profile of Firm and Project Team

This consists of the following:

- (1) A statement of the firm's experience in conducting work of a similar nature sought by this RFP; advertising brochures may be included in support of this statement.
- (2) The location of the firm's office that will perform the work.
- (3) Resumes of individuals (consultants, employees) proposed to conduct the work and the specific duties of each employee in relation to the work.
- (4) A reference list of other clients of the firm with contact information.
- (5) Any other information relating to the capabilities and expertise of the firm in doing comparable work, including recent examples of similar work.

Methods and Procedures

The proposal must include a detailed description of the methods and procedures the firm will use to perform the work. Inclusion of examples of similar work is encouraged.

Description of Services and Deliverables

For each item in the Scope of Work Deliverables Section, describe the service the firm will provide. Discuss how the firm will demonstrate that work was completed.

Detailed Work Schedule

The schedule must include timeframes that meet the deadlines listed in this RFP for each major work element and dates for completion of draft and final documents.

Proposed Fees

For each service, the costs must be itemized showing:

- (1) For each person assigned to the work, the title/rank (organizational level) of the person in the organization, the hourly rate, and the number of hours to be worked. If awarded a contract, the firm may not change the staffing assigned to the project without approval by The Conservancy.
- (2) The reimbursable expenses to be claimed include travel expenses, copies, etc.
- (3) The itemized costs, which must be totaled to produce a contract price. If awarded a contract, the proposer is bound by this price in performing the work. The contract price may not be exceeded unless the contract is amended to allow for additional costs. Any changes to the contract must first be approved by the Conservancy.
- (4) See the attached contract for the method of payment.

Contract

Included with this RFP is a Lancaster Conservancy contract (see Appendix E.) that should be submitted as part of your proposal. The Conservancy reserves the right to enter into this contract with the successful firm. Partnerships, corporations, LLCs, and other entities must provide evidence of authority to sign.

V. SELECTION PROCESS

Per funding requirements, the Conservancy will be complying with competitive and open bidding procedures. The Conservancy reserves the right to reject any or all proposals and to select the proposal that it determines to be in the best interest of the Conservancy.

The Conservancy and DCED reserve the right to approve or disapprove contractors, sub-firms, joint venture partners, or other proposed team members.

The Conservancy reserves the right to cancel or modify this RFP. There is no guarantee that the Conservancy will place the requested services under contract.

**APPENDIX A: Commonwealth of PA, Commonwealth Financing
Authority Contract No. C000083594**

**COMMONWEALTH OF PENNSYLVANIA
COMMONWEALTH FINANCING AUTHORITY**

**GREENWAYS, TRAILS, AND RECREATION PROGRAM
GRANT AGREEMENT**

This Contract, is entered into by and between the Commonwealth of Pennsylvania (the "Commonwealth"), acting through the Commonwealth Financing Authority (the "Grantor" or "Authority"), and

**LANCASTER CONSERVANCY
117 S. West End Avenue
Lancaster PA 17603**

(the "Grantee").

BACKGROUND:

Section 2315(a.1)(1)(iv) of the Act of February 14, 2012 (P.L. 87, No. 13) (58 Pa.C.S. §2315), referred to by the Authority as Act 13, authorizes the Commonwealth Financing Authority to award grants to eligible applicants for planning, acquisition, development, rehabilitation and repair of greenways, recreational trails, open space, parks and beautification projects.

The General Assembly of the Commonwealth has appropriated funds to the Commonwealth Financing Authority to carry out the provisions of the Act.

NOW, THEREFORE, in consideration of the foregoing, and subject to the conditions contained herein, the parties hereto intending to be legally bound hereby, do covenant and agree for themselves, their respective successors and assignees as follows:

**ARTICLE I
AMOUNT OF THE CONTRACT**

Subject to the terms of this Grant, the Grantor hereby makes available to the Grantee out of funds appropriated a grant in the sum of **TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) AND NO CENTS-----** or such portion thereof as may be required by the Grantee and authorized by the Grantor, subject to the condition that it shall be used by the Grantee to carry out the activities described in the application submitted by the Grantee and as approved by the Grantor, and which is incorporated herein by reference. In addition, this Grant shall be subject to Appendix A, Project Description and Special Conditions, and Appendix B, Budget Summary, which are attached hereto and incorporated herein.

ARTICLE II EFFECTIVE DATES

The term of this Grant shall commence on the Effective Date (as defined below) and shall end on **JUNE 30, 2025**, subject to the other provisions of this Grant.

The Effective Date shall be the date the fully executed Grant is sent to the Grantee. A fully executed contract is one that has been signed by the Grantee and by the Grantor and contains all approvals required by Commonwealth contracting procedures.

This Grant is not binding in any way, nor will the Commonwealth be bound, until this document has been fully executed and sent to the Grantee. Any cost incurred by the Grantee prior thereto are incurred at the Grantee's risk.

ARTICLE III PAYMENT PROVISIONS AND FISCAL RESPONSIBILITIES

(a) The Grantor agrees to pay the Grantee for eligible project costs incurred under this Grant between **SEPTEMBER 20, 2022** and **JUNE 30, 2025** (the "Grant Activity Period") as follows:

- (1) Subject to the availability of state funds and other terms and conditions of this Grant, the Grantor will reimburse the Grantee based upon the Grantor's determination of the Grantee's needs and in accordance with the proposed budget as set forth in Appendix B.

The Grantor may pay the Grantee for eligible project costs at intervals to be determined by the Grantor. Under no circumstances shall the Commonwealth or the Grantor be liable for any expenditure exceeding the amount stated in this Grant or amendments hereto.

The Grantor shall have the right to disapprove any expenditure made by the Grantee which is not in accordance with the terms of this Grant and the Grantor may adjust payment to the Grantee accordingly.

- (2) Initial payments to the Grantee to perform the activities under this Grant and all other payments shall be made on invoice forms and in accordance with instructions provided by the Grantor.

To receive payments under this Grant, the Grantee shall submit requests for payment based on the Grantee's estimate of expenditures, at intervals as determined by the Grantee to meet disbursement needs. Unless otherwise instructed by the Grantor, this estimate may not exceed the current disbursement needs of the Grantee in order that the amount of cash on hand and available to the Grantee is as close to daily needs as administratively feasible. The Grantor may, however, set a minimum payment level or amount for each request for payment.

(b) Conditions for Payment:

- (1) Grant payments under this Grant shall be conditioned upon the completion of any Special Conditions set forth in Appendix A or otherwise incorporated into this Grant.
- (2) Costs allocated to program administration shall be limited to those set forth in the project budget or as otherwise revised in accordance with the amendment provisions of this Grant set forth in the Article entitled Amendments and Modifications.
- (3) Payment by the Commonwealth and all other terms of this Grant are subject to the effect of any federal deficit reduction legislation upon the availability of funds awarded by this Grant.

(c) The Grantee shall charge to the project account all approved costs of the project. All such costs, including activities contributed by the Grantee or others and charged to the project account, shall be supported by properly executed vouchers or other records indicating in proper detail the nature and propriety of the charge.

(d) Conditions for Repayment of Grant Funds:

- (1) Misuse or Failure to Use Funds.
 - (A) The Grantee agrees that it will use the funds granted hereunder, or as much as may be necessary, to carry out the aforesaid project in accordance with the terms of this Grant. If after all or any part of the funds has been paid to the Grantee and the Grantee shall fail to carry out the activities, the Grantee shall repay the Grantor the funds theretofore paid.
 - (B) If the Grantee does not use all or a portion of the funds paid under the terms of this Grant for purposes of and in accordance with this Grant, the Grantee shall be liable to the Grantor for the amount of funds unused or improperly used and shall return said funds to the Grantor.
 - (C) In the event the Grantor shall be entitled to repayment of all or a portion of the funds granted herein, the repayment shall include all interest, income, accumulations and the monetary equivalent of

any appreciation in value of any property (real, personal or mixed) purchased with the funds granted them. A check shall be written, payable to the Commonwealth of Pennsylvania, and forwarded to the Grantor for: (1) the principal and (2) the total of any such interest, income, accumulations or appreciation in value.

(2) Violation of the Prohibition of Illegal Alien Labor on Assisted Projects Act.

In the event that the Grantee

- (i) knowingly employs, or knowingly permits any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania; and
- (ii) the Grantee or any of its subcontractors are sentenced under Federal law for an offense involving knowing use of labor by an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania,

the Grantee shall repay to the Grantor all grant funds received by the Grantee from the Grantor pursuant to this Grant. A check shall be written, payable to the Commonwealth of Pennsylvania, and forwarded to the Grantor.

ARTICLE IV
BONDING, INSURANCE AND TAX LIABILITY REQUIREMENTS

(a) Hold Harmless:

The Grantee shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all claims, demands and actions based or arising out of any activities performed by the Grantee and its employees and agents under this Grant; and shall defend any and all actions brought against the Commonwealth based upon any such claims or demands. It is understood and agreed that the Grantee's standard liability insurance policies shall protect, or shall be endorsed to protect, the Commonwealth from claims of bodily injury and/or property damage arising out of any activities performed by the Grantee or its employees or agents under this Grant, including business and non-business invitees, and their property and all other property sustaining damage as a direct or indirect result of the execution of this project when validly present on Grantee's premises whether or not actually engaged in the project at the time the claim inures. Such policies shall not include any provision limiting then existing sovereign immunity of the Commonwealth or of its agents or employees. Upon request, the Grantee shall furnish to the Grantor proof of insurance as required by this paragraph.

(b) Other Liability Requirements:

The Grantee shall provide workers' compensation insurance where the same is required and shall accept full responsibility for the payment of premiums for workers' compensation and social security and any other taxes or payroll deductions required by law for its employees who are performing activities specified by this Grant.

ARTICLE V
COMPLIANCE WITH APPLICABLE STATUTES AND REGULATIONS

All activities authorized by this Grant shall be performed in accordance with applicable statutes, regulations, conditions, directives, guidelines and such additional requirements as may be attached hereto as Appendix C or are otherwise provided by the Grantor. The Grantee acknowledges that this Grant is subject to all requirements set forth herein and further agrees that it will comply with future requirements determined by the Grantor as necessary.

(a) Compliance with State Statutes and Regulations:

The Grantee also agrees to comply with all applicable state statutes and regulations.

(b) Nondiscrimination/Sexual Harassment Provisions:

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 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 Grantee'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.
- (c) Compliance with the State Contractor Responsibility Program:

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

- (1) The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- (2) The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- (3) The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to

inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

- (4) The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- (5) The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- (6) The Contractor may search the current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment List tab.

(d) Compliance with the Offset Provision for Commonwealth Grants:

The Grantee agrees that the Commonwealth may set off the amount of any state tax liability or other debt of the Grantee or its subsidiaries that is owed to the Commonwealth and is not being contested on appeal, against any payments due the Grantee under this or any other contract with the Commonwealth.

(e) Compliance with 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.

(f) Compliance with Anti-Pollution Regulations:

The Grantee and its subcontractors agree that in the performance of their obligations under this Grant they shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.

(g) 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:

- (i) a parent entity owns more than fifty percent of the voting stock of each of the entities; or
- (ii) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or
- (iii) 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:
 - (i) Ownership of more than a five percent interest in any business; or
 - (ii) 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.
 - (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:
 - (i) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 - (ii) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
 - (iii) had any business license or professional license suspended or revoked;
 - (iv) 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

- (v) 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 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.

(h) Compliance with the Prohibition of Illegal Alien Labor on Assisted Projects Act.

Pursuant to the Act of May 11, 2006 (P.L. 173, No. 43), known as the Prohibition of Illegal Alien Labor on Assisted Projects Act, the Grantee shall not knowingly employ, or knowingly permit any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by a grant or loan issued by an executive agency of the Commonwealth of Pennsylvania.

In the event that the Grantee

- (A) knowingly employs, or knowingly permits any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania; and
- (B) the Grantee or any of its subcontractors are sentenced under Federal law for an offense involving knowing use of labor by an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania,

the Grantee shall:

- (A) repay to the Grantor all grant funds received by the Grantee from the Grantor pursuant to this Grant, and
- (B) be ineligible to apply for any Commonwealth grant or loan for a period of two years.

(i) Right to Know Law Provisions

- (1) The Grantee or Subgrantee understands that the Grant Agreement and records related to or arising out of the Grant Agreement are subject to requests made pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL"). For the purpose of these provisions, the term "the Commonwealth" shall refer to the Commonwealth Financing Authority.

- (2) If the Commonwealth needs the Grantee's or Subgrantee's assistance in any matter arising out of the RTKL related to this Grant Agreement, it shall notify the Grantee or Subgrantee using the legal contact information provided in the Grant Agreement. The Grantee or Subgrantee, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- (3) Upon written notification from the Commonwealth that it requires Grantee's or Subgrantee's assistance in responding to a request under the RTKL for information related to this Grant Agreement that may be in Grantee's or Subgrantee's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), Grantee or Subgrantee shall:
 - (A) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in Grantee's or Subgrantee's possession arising out of this Grant Agreement that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 - (B) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Grant Agreement.
- (4) If Grantee or Subgrantee considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that Grantee or Subgrantee considers exempt from production under the RTKL, Grantee or Subgrantee must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of Grantee or Subgrantee explaining why the requested material is exempt from public disclosure under the RTKL.
- (5) The Commonwealth will rely upon the written statement from Grantee or Subgrantee in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, Grantee or Subgrantee shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
- (6) If Grantee or Subgrantee fails to provide the Requested Information within the time period required by these provisions, Grantee or Subgrantee shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of Grantee's or Subgrantee's failure, including any statutory damages assessed against the Commonwealth.

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

ARTICLE VI ASSIGNMENT, TRANSFER, COLLATERAL USE

This Grant shall be binding upon and inure to the benefit of the Grantor, the Grantee, and their respective successors and assigns, except that the Grantee may not assign or transfer its rights hereunder without the prior written consent of the Grantor. Approval of an assignment does not establish any legal relationship between the Commonwealth or the Grantor and any other third party, and under no circumstances shall the Commonwealth be held liable for any act or omission committed pursuant to such an assignment.

ARTICLE VII INDEPENDENT CONTRACTOR

Notwithstanding anything contained herein to the contrary, the rights and duties hereby granted to and assumed by the Grantee are those of an independent contractor only. Nothing contained herein shall be so construed as to create an employment, agency or partnership relationship between the Grantor and the Grantee.

ARTICLE VIII INTEREST OF PARTIES AND OTHERS

No officer, member, employee, independent contractor or elected official of the Authority and no member of its governing body who exercises any functions or responsibilities in the review or approval of activities being performed under this Grant shall participate in any decision relating to this Grant which affects his/her personal

interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested. Nor shall any such officer, member, elected official or employee of the Commonwealth or any member of its governing body have any interest direct or indirect in this Grant or the proceeds thereof.

The Grantee covenants that the Grantee (including directors, officers, members and employees of the Grantee) presently has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of activities required to be performed under this Grant. The Grantee further covenants that no person having any such interest shall be employed in the performance of activities for this Grant.

The Grantee represents and warrants that no elected state official or any employee of the Grantor or a member of such elected state official's or the Grantor's employee's immediate family (parent, spouse, domestic partner, child, brother or sister, daughter-in-law or son-in-law, or grandchild), or any entity in which any such person shall have an ownership interest of 5% or greater, or in which entity such person shall have a controlling interest, has received or will receive a direct or indirect pecuniary benefit from or as a result of the full execution of this Grant. Further, the Grantee represents and warrants that it has not and will not enter into any contract for goods or services with the persons enumerated above using any funds made available to Grantee under this Grant.

ARTICLE IX SUBCONTRACTS

The Grantee shall not execute or concur in any subcontract with any person or entity in any respect concerning the activities herein without prior written approval of the Grantor. Such prior written approval shall not be required for the purchase by the Grantee of articles, supplies, equipment and activities which are both necessary for and merely incidental to the performance of the work required under this Grant. The Grantee shall not execute or concur in any subcontract declared disapproved by the Grantor. A subcontractor shall be automatically disapproved, without a declaration from the Grantor, if the subcontractor is currently or becomes suspended or debarred by the Commonwealth or the federal government. In any event, the Grantee shall be responsible for the quantity and quality of the performance of any of its subcontracts.

All subcontracts must contain provisions of nondiscrimination/sexual harassment as specified in the Article entitled Compliance with Applicable Statutes and Regulations, subsection (b). In addition, all subcontracts involving the pass through of Grant funds to subrecipients must include the contract closeout requirements contained in the Article entitled Contract Closeout Requirements. The Grantee is responsible for ensuring that copies of cancelled checks are received from subcontractors verifying the payment of eligible project costs incurred in accordance with the terms of this Contract, and, in the event that the Commonwealth audits this Contract, for resolving any findings contained in any audit reports. All costs deemed unallowable in any audit report involving the pass through of Grant funds to subrecipients are required to be returned to the Grantor through the Grantee.

ARTICLE X

BIDDING REQUIREMENTS

If the Grantee is a political subdivision or other entity for which open and competitive bidding procedures have been established by law, the Grantee shall comply with those procedures if they are applicable to the project being funded with the grant funds. Otherwise, the Grantee shall comply with open and competitive bidding procedures in awarding any and all grants, subgrants, contracts, subcontracts or other agreements in excess of \$10,000.00 for construction, reconstruction, demolition, alteration and/or repair, for acquisition of machinery and equipment, or for engagement of the services of a professional consultant, when said grants, subgrants, contracts, subcontracts or other agreements are funded in whole or at least 50% in part with funds made available under this Grant. The Grantor may require the Grantee to submit proof of compliance with said procedures, and failure to provide such proof to the satisfaction of the Grantor may result in termination of the Grant and repayment of all or a portion of the funds available under this Grant. Upon written request and for good cause shown, the Grantor may, at the Grantor's sole discretion, permit the Grantee to use an alternative procedure for solicitation of bids not inconsistent with law.

ARTICLE XI RECORDS

The Grantee, using accepted procedures, shall maintain at its principal office or place of business complete and accurate records and accounts including documents, correspondence and other evidence pertaining to costs and expenses of this Grant, and reflecting all matters and activities covered by this Grant.

At any time during normal business hours and as often as the Grantor deems necessary, the Grantee shall make available for inspection by the Grantor, the Commonwealth Auditor General, the Commonwealth Attorney General, or the Comptroller General of the United States, or their duly authorized representative, all of its records with respect to all matters covered by this Grant and will permit the Grantor to audit, examine and make copies of such records.

All required records shall be maintained by the Grantee for a period of five (5) years from the date of final audit or close out of this Grant by the Grantor, except in those cases where unresolved audit questions may require maintaining some or all records for a longer period. In such event, records shall be maintained until all pending matters are resolved.

ARTICLE XII PROGRESS REPORTS

The Grantee and its subcontractors shall furnish to the Grantor such progress reports in such form and quantity as the Grantor may from time to time require, including, but not limited to, status reports of the project, project account statements, certificates, approvals, proposed budgets, invoices, copies of all contracts executed and proposed, employment placements, follow-up reports and any and all other information relative to the Grant as may be requested. The Grantor or its representative shall have the right to make reasonable inspections to monitor the Grantee's performance under this Grant.

In the event that the Grantor determines that the Grantee or its subcontractor(s) has not furnished such reports as required by the Grantor, the Grantor, by giving written notice to the Grantee, may suspend payments under this Grant until such time as the required reports are submitted.

ARTICLE XIII ACKNOWLEDGMENT OF COMMONWEALTH ASSISTANCE

Any publication concerning a project financed by the Grantor will acknowledge Commonwealth financial assistance as follows:

“This Project was financed *[in part]* by a grant from the Commonwealth of Pennsylvania, Commonwealth Financing Authority.” Signs acknowledging said Commonwealth financial assistance or administrative participation will be erected in the project area as soon as possible after the effective date of this Grant. Acknowledgment of Commonwealth financial assistance may be combined with acknowledgment of other funding sources on project signs or in project publications.

ARTICLE XIV CONTRACT CLOSEOUT REQUIREMENTS

Unless otherwise directed in writing by the Grantor, the Grantee shall, within 45 days of the Grantee's receipt of the final payment of grant funds under this Contract, submit copies of cancelled checks verifying the payment of eligible project costs incurred in accordance with the terms of this Contract and copies of cancelled checks verifying the expenditure of any required matching funds.

All terms and conditions of this Contract will remain in effect and be binding upon the parties thereto until all cancelled checks, totaling the entire amount of grant funds received by the Grantee under this Contract and the entire amount of required matching funds, are submitted and accepted by the Grantor.

The Commonwealth reserves the right for state agencies or their authorized representative to perform audits of a financial or performance nature if deemed necessary. The costs for any such work performed by the state or federal agencies will be borne by those agencies at no additional expense to the Grantee. In the event that the Commonwealth audits this Contract, all costs deemed unallowable in any audit report are required to be returned by the Grantee to the Grantor.

ARTICLE XV TEMPORARY SUSPENSION OF THE CONTRACT

Upon written notice and at any time during the period covered under this Grant, the Grantor may suspend payments and/or request suspension of all or any part of the Grant activities. The Grantor may give such notice to suspend for the following reasons:

- (a) Violations of laws and regulations, audit exceptions, misuse of funds, failure to submit required reports or when responsible public officials or private citizens make allegations of mismanagement, malfeasance or criminal activity.

- (b) When, in the opinion of the Grantor, the activities cannot be continued in such manner as to adequately fulfill the intent of statute or regulations due to act of God, strike or disaster.

During the term of suspension, the Grantor and Grantee shall retain and hold available any and all funds previously approved for application to the activities. During this period all such funds held by the Grantee shall be placed in an interest bearing program expenditures account. The Grantee may not expend any such funds during the period that the Grant is suspended except pursuant to order of a court of competent jurisdiction. The Grantee shall have the right to cure any default or other circumstance that is the basis for suspension of this Grant within a reasonable period of time.

This Grant is also conditioned upon complete performance by the Grantee of past agreements or contracts between the Grantor and the Grantee. Complete performance includes the Grantee's timely submission of the required final audit of past agreements or contracts to the Grantor. In the event that the Grantor determines that there has been incomplete performance of past agreements or contracts by the Grantee, the Grantor, by giving written notice to the Grantee, will suspend payments under this Grant until such time as the Grantee has fulfilled its obligations under past agreements or contracts to the satisfaction of the Grantor. When the Grantee has fulfilled its obligation under past agreements or contracts to the Grantor's satisfaction, the Grantor will resume payments under this Grant.

ARTICLE XVI TERMINATION OF THE CONTRACT

The Grantor may terminate this Grant at any time for its convenience or for any other reason if it determines that termination is in its best interests, or is otherwise appropriate, by giving written notice to the Grantee of such termination and specifying the effective date thereof. Termination pursuant to this section shall not be applicable to funds that the Grantee is legally or contractually obligated to pay as a result of project activities entered into prior to the date that it receives written notice of termination. All grant monies not legally or contractually obligated, plus accrued interest, shall be returned to the Grantor on or before the effective date of termination and all project records shall be made available to the Grantor.

ARTICLE XVII ENTIRE AGREEMENT

This Grant, when signed by all the parties hereto, constitutes the full and complete understanding and agreement of the parties of its express terms as provided above.

No provision of this Grant shall be construed in any manner so as to create any rights in third parties not party to this Grant. It shall be interpreted solely to define specific duties and responsibilities between the Grantor and the Grantee and shall not provide any basis for claims of any other individual, partnership, corporation, organization or municipal entity.

ARTICLE XVIII AMENDMENTS AND MODIFICATIONS

A properly executed Grant amendment is required to change the termination date of this Grant, to change the Grant Activity Period, to amend the grant amount or to make major changes in the approved program scope, objectives or methods. Such an amendment must be executed if there is a significant change in the activities to be conducted under this Grant. Other revisions to the Project Description or Budget may be made upon written approval from the Grantor after prior written request of the Grantee; provided, the request is made by the Grantee and approved by the Grantor prior to the termination or expiration of the Grant.

ARTICLE XIX SEVERABILITY

Should any section or any part of any section of this Grant be rendered void, invalid or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other section or part of any section of this Grant.

ARTICLE XX CONSTRUCTION

This Grant shall be interpreted and construed in accordance with federal law, where applicable, and with the laws of the Commonwealth. All of the terms and conditions of this Grant are expressly intended to be construed as covenants as well as conditions. The titles of the sections and subsections herein have been inserted as a matter of convenience and reference only and shall not control or affect the meaning or construction of any of the terms or provisions herein.

ARTICLE XXI NONWAIVER OF REMEDIES

No delay or failure on the part of the Grantor in exercising any right, power or privilege hereunder shall affect such right, power or privilege; nor shall any single or partial exercise thereof or any abandonment, waiver, or discontinuance of steps to enforce such a right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies of the Grantor hereunder are cumulative and concurrent and not exclusive of any rights or remedies which it might otherwise have. The Grantor shall have the right at all times to enforce the provisions of this Grant in accordance with the terms hereof notwithstanding any conduct or custom on the part of the Grantor in refraining from so doing at any time or times. The failure of the Grantor at any time or times to enforce its rights under such provisions, in accordance with the same, shall not be construed as having created a custom in any way or manner contrary to specific provisions of this Grant or as having in any way or manner modified or waived the same.

[Remainder of page left intentionally blank.]

IN WITNESS WHEREOF the parties hereunto have set their hands and seals on:

WITNESS:

LANCASTER CONSERVANCY

For Authority signatures only



Commonwealth Financing Authority

GRANTEE: Please sign & complete at "X's" only



X “[Signature Affixed Electronically – see last page]”

“[Signature Affixed Electronically – see last page]”
Executive Director

X “[Signature Affixed Electronically – see last page]”

For Commonwealth signatures only



Approved as to Legality and Form

“[Signature Affixed Electronically – see last page]”
Authority Counsel

“[Signature Affixed Electronically – see last page]”
Office of Attorney General



Commonwealth Financing Authority
Harrisburg PA, 17120

September 26, 2022

Phil Wenger, President
Lancaster Conservancy
117 South West End Avenue
Lancaster, PA 17603

RE: Greenways, Trails, and Recreation Program (\$250,000)
Shenk's Ferry Wildflower Preserve

Dear Council President Wenger:

I am pleased to inform the Lancaster Conservancy (*the "Applicant"*) that the Commonwealth Financing Authority (*the "CFA"*), at its meeting held September 20, 2022, approved your application (*the "Application"*) for a grant in an amount up to TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) (*the "Grant"*). The Application has been approved based upon and in accordance with the terms and the representations made therein and in no event will the grant amount exceed 85% of the total project cost.

The grant will be used by the Applicant for construction and engineering costs associated with the Shenk's Ferry Wildflower Preserve Project (*the "Project"*) at the property located in Conestoga Township, Lancaster County, Pennsylvania. The following conditions shall apply to the Grant award:

1. The Applicant must provide the CFA with copies of all executed contracts for all Project-related work to be performed. All contracts must contain the nondiscrimination/sexual harassment provision as set forth in the Grant Agreement and a certificate of insurance.
2. Prevailing wage requirements are generally applicable to projects using grant funds toward construction, demolition, reconstruction, alteration, repair work, renovations, build-out, and installation of machinery and equipment in excess of \$25,000. Any questions as to prevailing wage obligations and whether they apply to your project should be directed to the Bureau of Labor Law Compliance at (717) 787-0606. Please refer to Exhibit A of this commitment letter for further information regarding the Pennsylvania Prevailing Wage Act.

3. The Applicant must provide the CFA with copies of all approved permits, if applicable.
4. Receipt by the CFA of satisfactory evidence that all taxes and other monies due and owing to the Commonwealth of Pennsylvania are paid current, unless any of said taxes or other payments are being contested, in which case, the CFA may require that funds be escrowed to pay said taxes or other payments in the event of any adverse decision.
5. Compliance with the program guidelines.
6. The Applicant is responsible for seeking competitive bids for all work conducted with the Grant funds. In addition, the Applicant must comply with all applicable federal, state and local laws and regulations dealing with bidding and procurement.
7. The CFA reserves the right to approve or reject contracts between the Applicant and consultants or contractors for work that will be paid for with Grant funds.
8. The Applicant may not make or authorize any substantial change in an approved project without first obtaining the consent of the CFA in writing.
9. The Applicant will maintain full and accurate records with respect to the Project. The CFA shall have free access to such records and to inspect all project work, and other relative data and records. The Applicant must furnish upon request of the CFA all data, reports, contracts, documents, and other information relevant to the Project as may be requested.
10. The Project must be completed prior to the expiration of the grant agreement.
11. This commitment is contingent upon the availability of funds for the program identified on page one of this commitment letter, which program was established under the Act of February 14, 2012 (P.L. 87, No. 13) (58 Pa.C.S. §2315) and upon the balance of the financing being finalized as outlined in your Application.
12. The Applicant will be required to submit a copy of any reports prepared with the assistance of Grant funds to the CFA before final payment of the Grant is made.

Exhibit B further describes the procedure to access the Grant funds after all of the necessary conditions are met.

If you should have any questions regarding this Grant, please contact the Office of Business Financing at (717) 787-6245.

Sincerely,

A handwritten signature in black ink that reads "Mandy L. Book". The signature is written in a cursive, flowing style.

Mandy L. Book
Executive Director
Commonwealth Financing Authority

EXHIBIT A

PREVAILING WAGE ACT

In the event that grant funds will be used for a public work project, the Prevailing Wage Act (PWA) may apply. The PWA requires that not less than the prevailing minimum wages be paid to all workmen employed on “public work” as defined in the PWA. Information on the PWA and the definition of “public work” may be found at www.dli.state.pa.us/laborlaw by clicking on the link to Prevailing Wage Act.

The Act’s definition of “public work” has been applied to projects undertaken by private entities, but receiving government assistance.

The PWA does not apply to the installation of equipment or machinery that is not a fixture, although any building construction/renovations to accommodate the equipment/machinery could be covered.

The PWA also does not apply to work performed by the project-owner’s in-house employees, as opposed to work done by contractors or subcontractors.

The full PWA can be found at 43 P.S. sections 165-1 through 165-17.

Please contact L&I’s Bureau of Labor Law Compliance (717-787-0606) with questions about the PWA and/or if you would like L&I’s assistance in determining if the PWA applies to this project.

Information on applying for prevailing wage rates can be found at www.dli.state.pa.us/laborlaw. From that webpage, click the links to Prevailing Wage or Prevailing Wage Act. You will see a link for “Online Prevailing Wage Application & Rate Search.” Follow that link to Prevailing Wage Rates Determination Request Form to submit the request electronically or print Prevailing Wage Rates Determination Request Form to submit by mail or fax.

Information on applying for prevailing wage rates can be found at:

<http://www.dli.pa.gov/Individuals/Labor-Management-Relations/lrc/prevailing-wage/Pages/default.aspx>.

EXHIBIT B

INSTRUCTIONS FOR RECEIVING GRANT FUNDS

The grant award is contingent upon receipt and execution of documents as stated in this letter. Failure to accomplish this may result in the rescindment of your Grant, as required by applicable law. Listed below are the steps you must follow.

GRANT AGREEMENT

The Grant Agreement will be received electronically. Upon receipt, complete the electronic signature process within the allotted timeframe. A fully executed copy of the grant agreement will be emailed to you with a copy of a payment request form for requesting payment.

PAYMENT OF FUNDS

The CFA requires the Applicant to provide completed payment request forms, as indicated in the provided sample, and supporting backup documentation verifying the costs incurred to include executed construction contracts with the required nondiscrimination/sexual harassment provision, invoices, and any other applicable documents. Funds will not be disbursed until the CFA receives copies of all required permit approvals.

The Applicant will provide a payment request form requesting **reimbursement** of any eligible costs after the receipt of the fully executed grant agreement. Funds will be disbursed at 85% of actual approved costs incurred.

Where applicable, comply with the Pennsylvania Prevailing Wage Act which requires that the specifications for every contract for public work to which a public body is a party contain a provision that the prevailing wage rate be paid to workmen employed in the performance of the contract.

The Applicant agrees to provide general liability, property damage and workmen's compensation insurance, against any and all claims arising out of the activities undertaken pursuant to the grant which are to any extent financed by the funds from this Grant. The Applicant agrees to maintain such insurance and to name the CFA as an additional insured on such policies of insurance. Further, the Applicant agrees to notify the CFA of any change or cancellation of such insurance policies.

The payment request will take from 2-3 weeks to process.

NOTE: Fees for securing other financing, as well as interest charges on borrowed funds, are not eligible for reimbursement.

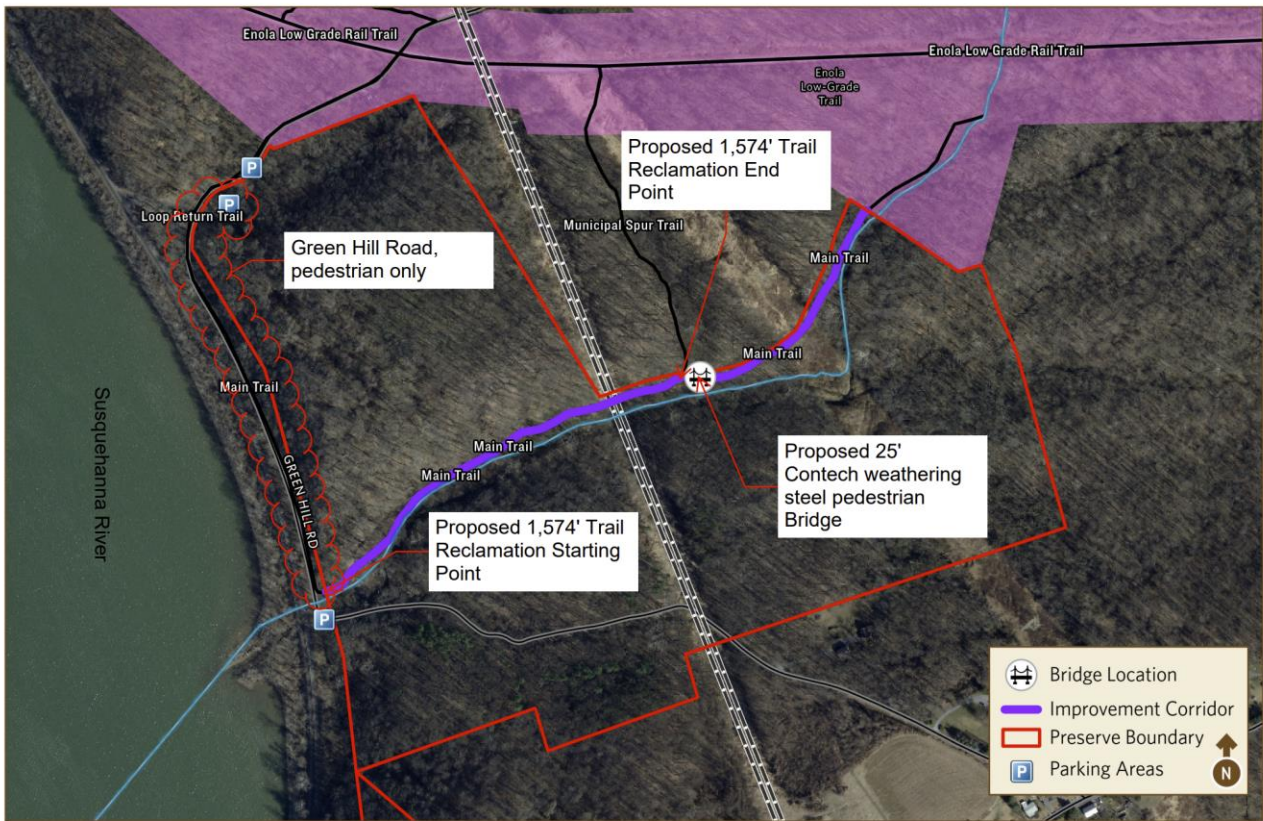
FINAL INSTRUCTIONS

Final invoices must be submitted following the completion of the Project for **costs incurred prior to the expiration of the grant agreement. Costs incurred after the expiration date are not eligible for reimbursement.** All payment requests and invoices must be submitted no later than the 1st day of the second month after the expiration date.

Contract: C000083594 - Signature Log

	<u>Date</u>	<u>Name</u>	<u>Title</u>
Grantee	09/30/2022	Brandon Tennis	Senior Vice President
Grantee	09/30/2022	Phil Wenger	President
Chief Counsel	10/03/2022	Souder, Sarah	CWOPA Employee
Executive	10/03/2022	Book, Mandy	CWOPA Employee
OAG	10/25/2022	David E. Stover	OAG

APPENDIX B: Shenks Ferry Wildflower Preserve Main Trail Access Improvement Project Plan



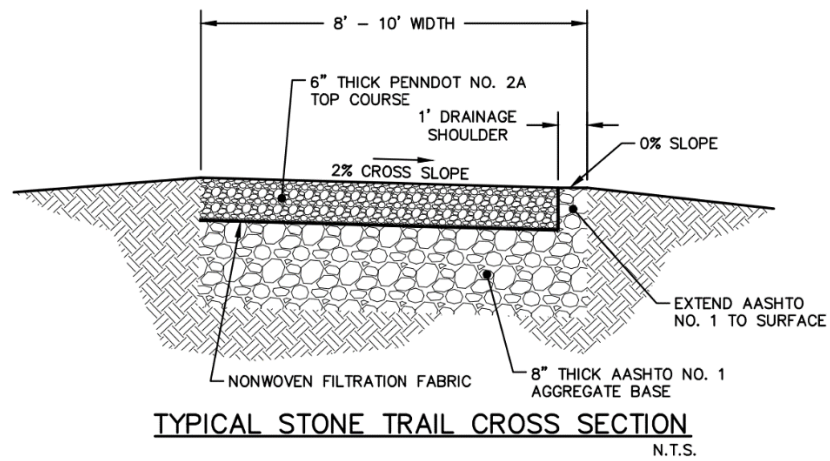
Shenks Ferry Wildflower Preserve Main Trail Access Improvement Project

0 0.05 0.1 0.15 0.2
Miles

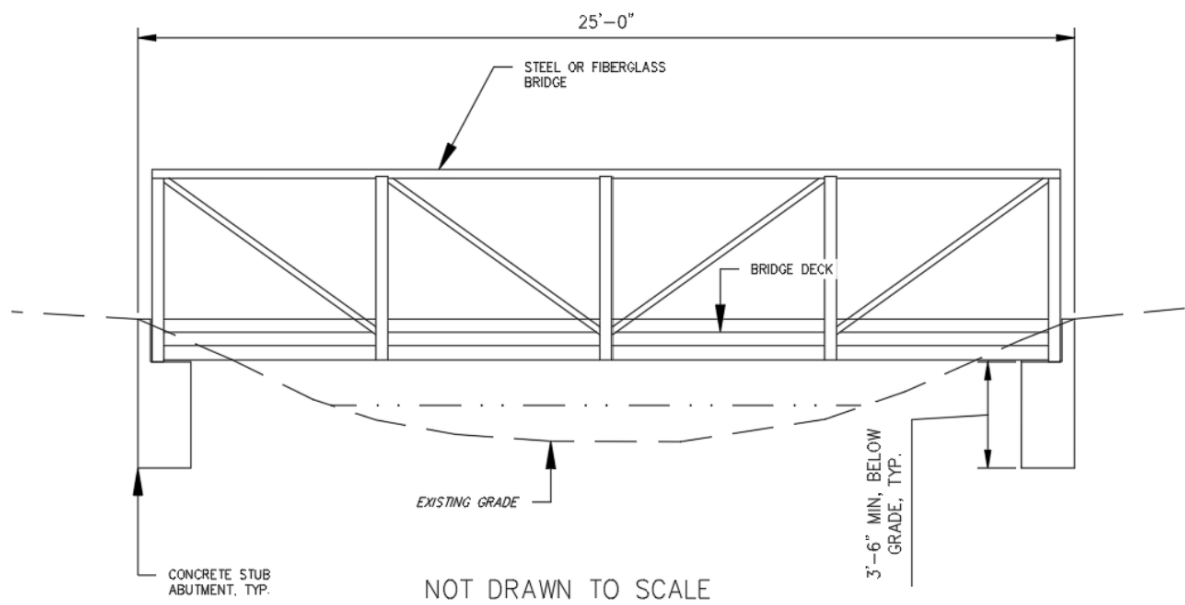
Scale 1:5,000

Maps are for graphical purposes only. They do not represent a legal survey. While every effort has been made to ensure the data are accurate and reliable, The Lancaster Conservancy cannot assume liability for any damages caused by any errors or omissions in the data, nor as a result of the failure of the data to function on a particular system. The Lancaster Conservancy makes no warranty, expressed or implied, nor does the fact of distribution constitute such a warranty.

APPENDIX C: Typical Stone Trail Cross Section



APPENDIX D: Engineered Permanent Pedestrian Bridge Concept Elevation



APPENDIX E: NON-DISCRIMINATION/SEXUAL HARASSMENT CLAUSE

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 represent 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 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 Grantee'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.

APPENDIX F: SAMPLE CONTRACT

This is a proposed draft contract. The final contract will include specific deadlines and deliverables.

CONTRACT FOR PROFESSIONAL SERVICES

This Contract is made and entered into this _____ day of _____, 2023, by and between the **Lancaster County Conservancy**, a Pennsylvania non-profit corporation, 117 South West End Avenue, Lancaster Pennsylvania 17603 (“**Conservancy**”), and _____ (“**Consulting Firm**”).

WHEREAS, the Conservancy desires to have certain one-time professional consulting work to provide design, engineering, permitting and construction bidding and observation services for implementing a trail system revitalization and bridge placement at the Shenk’s Ferry Wildflower Preserve in the Lancaster River Hills Conservation Area, Conestoga Township, Lancaster County, PA.

WHEREAS the Conservancy desires to enter into a contract for this work pursuant to a Request for Proposals and all Appendices and other attachments thereto (“RFP”) issued by the Conservancy;

WHEREAS the Consulting Firm desires to perform the work in accordance with the proposal it submitted in response to the RFP;

WHEREAS the Consulting Firm is fully equipped and staffed in house to perform the work;

NOW, THEREFORE, the parties, intending to be legally bound, agree as follows:

1. Services to be Performed: Consulting Firm shall provide professional consulting services in accordance with the RFP including, but not limited to, all requirements of the Department of Community and Economic Development, all Appendices and all other attachments, and the Consulting Firm’s proposal in response to the RFP, all of which when taken together form this agreement (“Contract”).
2. Contract Price: The total contract price is not to exceed _____. This includes all costs and expenses of Consulting Firm and any reimbursables.
3. Consulting Firm Staff: Consulting Firm shall obtain prior written approval from the Conservancy of any changes to the staffing stated in its proposal. Consulting Firm shall submit a written request to substitute staff with sufficient written documentation to permit the Conservancy to determine whether the proposed staff replacement is of equal ability or experience. The Conservancy shall communicate their acceptance or rejection of a substitute staff person in writing within ten (10) days of receipt of the written request. In no event shall any changes in staffing involve an increase in per hour rates for an approved substitute staff person.
4. Subcontractors Prohibited: Other than qualified consultants to complete the Section 106 archaeological review process as outlined in the RFP, said consultants to be approved in advance in writing by the Conservancy, no subcontractors shall be utilized in the performance of this Contract. This Contract is with the Consulting Firm. The Consulting Firm is solely, totally, and absolutely responsible for any and all actions of its archaeological consultants and compliance with all DCED requirements.
5. Payments:

- a. Invoices for completed work should be submitted to the Conservancy no more than monthly and upon completion of the project. The Conservancy may request additional data substantiating the Consulting Firm's right to payment.
 - b. Upon approval of these invoices the Conservancy will issue payment no later than thirty (30) days from receipt thereof. If for any reason any item submitted is not approved the Conservancy shall provide Consulting Firm with an outline of the reasons for their denial and an opportunity to cure the defect or defects.
 - c. With submission of the full final report the Consulting Firm may submit to the Conservancy itemized invoices for up to ninety percent (90%) of the total Contract price. The invoices shall separately itemize work completed in accordance with the RFP, Consulting Firm's proposal in response to the RFP. The Conservancy may request additional data substantiating the Consulting Firm's right to payment.
 - d. The Conservancy shall make final payment of 10% of the funds available to the Consulting Firm under this Contract within 30 days.
 - e. Acceptance of final payment by the Consulting Firm shall constitute a waiver of any and all claims by Consulting Firm.
6. **Insurance:** Consulting Firm, at Consulting Firm's sole cost and expense, shall maintain: (1) commercial general liability insurance and automobile liability (if such exposure exists) against any claims for bodily injury, death or property damage, (2) worker's compensation insurance to the extent necessary under applicable law, (3) professional liability insurance (if such exposure exists) in such amounts to afford minimum protection per occurrence as described below, and for such risks as the Conservancy may from time to time deem reasonably necessary, and (4) such other insurance, in such amounts and against such risks, as is commonly obtained in the case of providers of services in Pennsylvania similar to the services provided by Consulting Firm. All Policies of Insurance, including policies for any amount carried in excess of the required minimum, shall be written by companies of recognized financial standing legally qualified to issue such insurance and shall be maintained continuously in full force and effect.

Minimum Liability Insurance Requirements:

General Liability:	\$2,000,000 General Aggregate
	\$2,000,000 Products Completed Operations Aggregate
	\$1,000,000 Personal & Advertising Injury
	\$1,000,000 Each Occurrence
	\$5,000 Medical Expense (any one person)

Auto Liability:	\$1,000,000 Combined Single Limit
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Workers' Compensation:	Statutory
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Employers Liability: Bodily Injury by Accident \$100,000.00 Each Accident

Bodily Injury by Disease \$100,000.00 Each Employee

Bodily Injury by Disease \$500,000.00 Policy Limit

Umbrella Liability: \$1,000,000 – 10,000,000

7. Requirements for Insurance: Except as otherwise approved by the Conservancy in writing, the following provisions shall apply to each and every policy of insurance which Consulting Firm is required hereunder to carry:
- a. The form, amount and coverage of each policy, and the insurer under each policy (which must be duly licensed by Pennsylvania), shall be subject to the Conservancy's approval;
 - b. Consulting Firm shall cause each insurance carrier to deliver its certificate of insurance to the Conservancy and to any other party designated by the Conservancy, certifying the applicable insurance provisions herein required (i) upon the execution hereof, and (ii) at any other time upon the Conservancy's request;
 - c. At least thirty (30) days prior to the expiration of each policy, Consulting Firm shall provide the Conservancy with certificates (or copies of policies) of renewal or replacement policies; in the event of non-renewal or cancellation or material change in coverage a sixty (60) days' notice of such action shall be sent via certified mail to the the Conservancy.
 - d. Consulting Firm shall not permit any condition to exist and shall not commit any act or omission, which would wholly or partially invalidate any insurance.
 - e. The Conservancy shall be endorsed as an additional insured on all policies, except workers' compensation and professional liability.

The requirements described above are also applicable to any and all other employees or archaeological consultants hired by the Consulting Firm and approved by the Conservancy to perform work under this Contract.

8. Compliance with Law. The Consulting Firm shall comply with all federal, state, and local laws and regulations, and with any and all terms of required licenses and permits.
9. Required Resolution. If Consulting Firm is a Corporation, Partnership, Limited Liability Company or other legal entity, execution of this Contract is contingent on the Conservancy receiving a fully executed Resolution authorizing the execution of this Contract on behalf of the Consulting Firm.
10. Termination by the Conservancy for Convenience: The Conservancy may, at any time, terminate this Contract for the Conservancy's convenience and without cause. The Consulting Firm shall receive written notice and shall be entitled to receive payment for work executed, and costs incurred as of the date of written termination.
11. Access: The Conservancy shall provide the Consulting Firm with reasonable access to Conservancy personnel, facilities, and information necessary to properly perform the work

required under this Contract.

12. Copyright: All copyright interests in work created under this Contract are solely and exclusively the property of Conservancy. The work shall be considered work made for hire under copyright law; alternatively, if the work cannot be considered work made for hire, the Consulting Firm agrees to assign and, upon the creation of the work, expressly and automatically assigns, all copyright interests in the work to the Conservancy. In the performance of services under this Contract, there shall be no violation of the right of privacy or infringement upon the copyright or any other proprietary right of any person or entity.
13. Indemnification: To the fullest extent permitted by law, the Consulting Firm shall indemnify and hold harmless the Conservancy, its principals, directors, officers, agents, employees, volunteers, coordinators, sponsors, and partners, Grantors and all their successors and assigns from and against any and all claims, suits, actions, causes of action, liabilities, fines, penalties, costs, expenses, damages, and losses, including but not limited to attorneys' fees and costs, arising out of or resulting from performance of the work, and any activities of the Consulting Firm, its employees, agents, contractors, invitees, and guests, but only to the extent caused by the negligent acts or omissions of the Consulting Firm or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by the Conservancy.
14. Assignment: Consulting Firm shall not be entitled to assign this Contract without the prior written consent of the Conservancy.
15. Gender and Number: Whenever the context so requires, the singular shall include the plural and the plural the singular, and the use of any gender shall include all genders.
16. Entire Contract: This Contract contains the complete and entire Contract between the parties respecting the transaction contemplated herein, and supersedes all prior negotiations, Contracts, representations, and understandings, if any, between the parties respecting such matters.
17. Counterparts: This Contract may be executed in any number of original counterparts, all of which evidence only one Contract, and only one of which need be produced for any purpose.
18. Modifications: This Contract may not be modified, discharged, or changed in any respect whatsoever, except by a further Contract in writing duly executed by Consulting Firm and the Conservancy. However, any consent, waiver, approval, or authorization shall be effective if signed by the party granting or making such consent, waiver, approval or authorization.
19. Notices: Any notice, demand, consent, authorization, or other communication (collectively a "Notice") which either party is required or may desire to give to, or make service upon the other party pursuant to this Contract shall be effective and valid only if in writing, signed by the party giving such Notice, and delivered (a) personally (upon an officer of the other party if such party is not an individual) to the other party; or (b) by next-day express courier or delivery service; providing for a receipt; or (c) by registered or certified mail of the United States Postal Service, return receipt requested, addressed to the other party as follows (or to each other address or person as either party or person entitled to Notice may by Notice to the other specify):

To the Conservancy:
Lancaster County Conservancy
Attn: Kathie Shirk Gonick, General Counsel
117 South West End Avenue
Lancaster, PA 17603

Unless otherwise specified, notices shall be deemed given when received. If delivery is not accepted, said Notice shall be deemed given on the earlier of the date delivery is refused or the third day after the same is deposited with the United States Postal Service.

20. Recitals: All recitals referred to in this Contract are incorporated herein by reference and shall be deemed part of this Contract for all purposes as if set forth at length herein.
21. Governing Law: This Contract shall be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania without regard to its conflict of law's provisions. Venue for all actions shall be in the Lancaster County Courts.
22. Captions: The captions of this Contract are for convenience and reference only and in no way define, describe, extend, or limit the scope, meaning or intent of this Contract.
23. Severability: The invalidity or unenforceability in any particular circumstance of any of the provisions of this Contract shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.
24. No Joint Venture, Partnership, Agency, etc.: This Contract shall not be construed as in any way establishing a partnership, joint venture, express or implied agency, or employer-employee relationship between Consulting Firm and the Conservancy.
25. Third Party Beneficiaries: This Contract is for the sole benefit of the parties hereto, their respective successors and permitted assigns, and no other person or entity shall be entitled to rely upon or receive any benefit from this Contract or any term hereof.
26. No Waiver: No consent or waiver, express or implied, by LCC to or of any breach of any representation, covenant or warranty of Consulting Firm shall be construed as a consent or waiver to or of any other breach of the same or any other representation, covenant or warranty.
27. Remedies: All of the rights and remedies of either party under this Contract are intended to be distinct, separate and cumulative and no such right or remedy herein or therein mentioned is intended to be in exclusion of or a waiver of any of the others except as otherwise provided herein.

28. Survival: The covenants, warranties, representations and indemnities contained herein shall survive the Contract.

29. Execution: The submission of this Contract for examination does not constitute an offer by or to either party. This Contract shall be effective and binding only after execution and delivery by the parties hereto, which execution by all parties shall constitute the Execution Date.

This Contract may be executed in several counterparts, which when taken together shall be deemed to be an original. Each executed copy hereof shall be deemed an original.

In witness thereof, the parties hereto have executed this Contract on the day and date set forth above.

WITNESS:

LANCASTER COUNTY CONSERVANCY:

Philip R. Wenger, President & CEO