

CITY OF JOHNSTOWN, PENNSYLVANIA

RESOLUTION NO. 10186

A RESOLUTION OF CITY COUNCIL OF THE CITY OF JOHNSTOWN, CAMBRIA COUNTY PENNSYLVANIA, AUTHORIZING THE CITY MANAGER AND FINANCE DIRECTOR TO SIGN ALL DOCUMENTS NECESSARY IN PURCHASE OF THREE (3) POLICE VEHICLES FROM SUPPES FORD AND MUNICIPAL LEASE PURCHASE OF SAID VEHICLES THROUGH FIRST CAPITAL EQUIPMENT LEASING CORP..

WHEREAS, the City of Johnstown Police Department requires replacement of three high mileage and aged police vehicles, and has budgeted for replacement with fully equipped police interceptor patrol vehicles; and

WHEREAS, through search for municipal lease purchase financing, First Capital Equipment Leasing Corp. has offered the lowest responsible quote; and

WHEREAS, through search for Police vehicles Suppes Ford offered the lowest quote with 2020 Police Interceptor Sport Utility vehicles at \$33,025 each and a total price of \$99,075 for three; and

NOW, THEREFORE, BE IT RESOLVED, by City Council of Johnstown, Cambria County, Pennsylvania, that the City Manager and Finance Director are hereby authorized to sign all documents necessary to accept the Suppes Ford price offer on said police vehicles and First Capital Equipment Leasing Corporation municipal lease purchase financing.

ADOPTED:

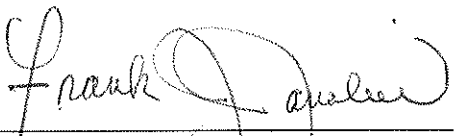
May 8, 2019

By the following Vote:

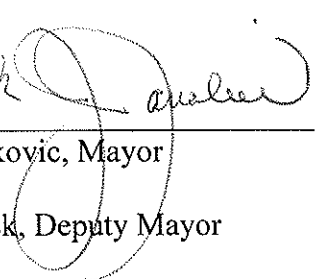
Yeas: Mr. Vitovich, Mayor Janakovic, Rev. King, Mrs. Mock, Mrs. Stanton. (5)

Nays: None (0)

Absent: Mr. Williams, Mr. Britt. (2)



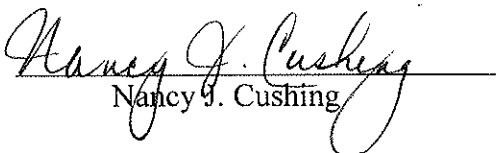
Frank Janakovic, Mayor



Marie Mock, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Resolution No. **10186** as the same by the City Council of the City of Johnstown, Pennsylvania.



Nancy J. Cushing



Suppes Ford
101 Main Street, Johnstown, Pennsylvania, 159011506
Office: 800-985-1597

Customer Proposal

Prepared for:

Robert Johnson
Chief of Police, City of Johnstown
401 Main Street
Johnstown, PA 15901
Office: 814-533-2075
Email: rjohnson@cojtw.com

Prepared by:

Joseph Cinko CoStars # 025-064
Office: 814-535-5531
Email: jcinko@suppesford.com

Date: 02/25/2019

Vehicle: 2020 Police Interceptor Utility Base
AWD

Quote ID: 2-25-19jpd





Suppes Ford
101 Main Street, Johnstown, Pennsylvania,
159011506
Office: 800-985-1597

2020 Police Interceptor Utility, Sport
Utility
AWD Base(K8A)
Price Level: 20 Quote ID: 2-25-19jpd

Pricing - Single Vehicle

	MSRP
<i>Vehicle Pricing</i>	\$38,725.00
<i>Pre-Tax Adjustments</i>	
Description	
Fleet and CoStars Discounts	-\$5,700.00
<hr/>	
Total	\$33,025.00

Customer Signature

Acceptance Date

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Robert Johnson, Chief of Police, City of Johnstown
By: Joseph Cinko CoStars # 025-064 Date: 02/25/2019



Suppes Ford
101 Main Street, Johnstown, Pennsylvania,
159011506
Office: 800-985-1597

2020 Police Interceptor Utility, Sport
Utility
AWD Base(K8A)
Price Level: 20 Quote ID: 2-25-19jpd

Pricing - Multiple Vehicles (3)

	MSRP
<i>Vehicle Pricing</i>	\$116,175.00
<i>Pre-Tax Adjustments</i>	
Description	
Fleet and CoStars Discounts	-\$17,100.00
<hr/>	
Total	\$99,075.00

Customer Signature

Acceptance Date

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

Prepared for: Robert Johnson, Chief of Police, City of Johnstown
By: Joseph Cinko CoStars # 025-064 Date: 02/25/2019

First Capital Equipment Leasing Corp.
LeaseExperts.comTM

Phone 800-541-0114 • Fax 800-403-3529 • Email: VPsales@LeaseExperts.com

April 11, 2019

George Hayfield, City Manager
 City of Johnstown, Pennsylvania (Police Department)
 Main PH: 814-533-2001 • Contact PH: 814-533-2001 • Email: ghayfield@cojtnw.com



CONFIDENTIAL

Municipal Fleet Lease-to-Own Financing Quotation & Terms #1
City of Johnstown, Pennsylvania

Fleet Equipment to Be Financed:	(3) New 2020 Ford Police Interceptor Utility's w/Police Upfits & Equipment <i>Exact descriptions required</i>	
Anticipated Vendor Delivery/Payment:	T.B.D.	
Net Amount to Finance:	\$106,575.00	Program: MUNIB

OPTIONS	3 Years	4 Years	5 Years
Payment Amount:	\$ 9,015.92 / Quarter	\$ 6,899.15 / Quarter	\$ 5,648.04 / Quarter
Fixed Interest:	5.033%	4.811%	4.811%

Contract Rates Locked for Closing By:	Apr 25, 2019	(After April 25, 2019, rates float until executed lease documents are received)
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Down Payment + Security Deposit:	Waived	(Due at Lease Signing)
Documentation & Legal:	\$687	(Due at Lease Signing)
First Quarterly Lease Payment Due:	Jun 01, 2019	(100% of lease funds are available for disbursements within 3 business days of closing*)

Questions? Please call me at 800-541-0114 x-22!

Regards,
Bob Arrowitt
 Vice President Government Finance
 Bob@LeaseExperts.com

Quotation Terms & Important Notes

I have circled the preferred Term & Payment Amount above and reviewed the Important Notes below. We're ready to go!

Approved By: _____

Title: _____ Date: _____

IMPORTANT NOTES:

This is a confidential, tax-exempt municipal fleet lease-to-own financing quotation for the City of Johnstown, Pennsylvania ("Lessee"), this is not a commitment to finance by First Capital Equipment Leasing Corp. ("FCELC") and supersedes all previous quotes. Final payment amounts and terms are subject to a credit-based review, vendor and equipment approval, federal, state and local laws, and are subject to change, correction or withdrawal by FCELC. State, county, municipal entities, special districts & authorities must qualify as issuers of tax-exempt debt under IRS Section 103 of 1986, as amended to be eligible. All vehicles & equipment herein are assumed to be new. Title/Ownership transfers to the Lessee upon vendor delivery subject only to our security interest during the lease term. NON-APPROPRIATION OF FUNDS LANGUAGE IS AUTOMATICALLY INCLUDED wherever required by law. THERE ARE NO MILEAGE RESTRICTIONS OR PENALTIES, NO USAGE or HOURS LIMITATIONS, NO MAINTENANCE OR CONDITION REQUIREMENTS (other than reasonable care). There are NO END-OF-LEASE BUYOUTS, RESIDUALS or "BALLOON" PAYMENTS, NO POINTS, ORIGINATION FEES or CLOSING COSTS other than shown above. An EARLY PAYOFF SCHEDULE is with the contract. The lease purchase contract will contain ALL applicable lease terms & conditions as approved for this transaction and will supersede this quotation should there be any variance. INTEREST quoted is the fixed, nominal annual rate. This quotation assumes that Lessee's total tax-exempt borrowing for the lease origination year will be under the IRS \$10 million "BQ" limit. (Other options available) TIME IS OF THE ESSENCE: FCELC must receive executed contracts prior to the April 25, 2019 closing date after which interest rates and payments may float with the market (at FCELC's sole discretion) until the actual closing date. FCELC reserves the right to adjust the payment and/or interest rates quoted based on changes in the transaction amount, timing, lease structure, equipment to be financed, FCELC's cost of funds after Wednesday, April 25, 2019 or in the event of material omissions or inaccuracies in the information provided to FCELC for this quotation, or any adverse changes in Lessee's financial status or credit rating after approval and prior to funding. (Adjustments, if necessary, will favor retaining the quoted payment amount.) Lease payments do not include required insurance, title fees, taxes, tags, maintenance, consumables, vendor usage/click charges, delivery or installation unless included above. Vendor deposits, advances or progress payments are not included unless previously approved in writing. * VENDORS ARE PAID DIRECTLY BY OUR BANK ON YOUR BEHALF, THREE BUSINESS DAYS AFTER DELIVERY and LESSEE'S ACCEPTANCE, at Lessee's direction, via bank wire transfer or bank cashier's check, SUBJECT TO our prior receipt of Lessee's executed contract AND our concurrent receipt of 1) Lessee's unqualified acceptance of the equipment, 2) Lessee's Payment Request/Authorization, 3) proper vendor invoices, 4) evidence of insurance and documentation as specified in the "Vendor Prompt Payment Notes" (included with the lease contract). THE INFORMATION IN THIS DOCUMENT IS NOT INTENDED TO BE AND SHOULD NOT BE CONSTRUED AS "ADVICE." FCELC DOES NOT ACT AS A MUNICIPAL ADVISOR, municipal financial consultant, fiduciary or an agent for any person or entity pursuant to Section 15B of the Securities Exchange Act of 1934 and the municipal advisor rules of the SEC. FCELC acts for its interest only. FCELC IS NOT RECOMMENDING that Lessee take an action with respect to this quotation. Lessee should review this quotation and all FCELC documentation with such independent financial, tax and legal advisors as it deems appropriate.

CITY OF JOHNSTOWN, PENNSYLVANIA

RESOLUTION NO. 10187

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JOHNSTOWN, PENNSYLVANIA, AUTHORIZING AND DIRECTING THE CITY MANAGER TO SIGN A GRANT AGREEMENT FOR A PENNSYLVANIA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT KEYSTONE COMMUNITIES PROGRAM GRANT IN THE AMOUNT OF \$230,000.00 TO BE USED FOR PROJECTS SUCH AS CONSTRUCTION AND ENGINEERING COSTS ASSOCIATED FOR THE DEVELOPMENT OF THE BICYCLE-PEDESTRIAN ROUTE TO THE CAMBRIA IRON TRAIL TO THE PATH OF THE FLOOD TRAIL (THE "PROJECT") LOCATED IN THE CITY OF JOHNSTOWN, CAMBRIA COUNTY, PENNSYLVANIA AND FURTHER AUTHORIZING THE CITY MANAGER TO TAKE ANY/ALL ACTIONS NECESSARY TO EFFECTUATE SAME.

WHEREAS, the Department of Community and Economic Development (DCED) of the Commonwealth of Pennsylvania makes available grants-in-aid for projects such as construction and engineering costs associated for the development of the bicycle-pedestrian route from the Cambria Iron Trail to the Path of the Flood Trail; and

WHEREAS, the City Council of the City of Johnstown approved the grant application submittal on March 26, 2018; and

WHEREAS, the City of Johnstown is desirous of entering into Contract No. C000071026 for the grant of Johnstown Urban Connectivity for the grant amount of \$230,000.

NOW, THEREFORE, BE IT RESOLVED, that the City Manager is hereby authorized and directed to sign a grant agreement for a Pennsylvania Department of Community and Economic Development of Johnstown Urban Connectivity Implementation Path of the Flood Linkage Project, for two hundred thirty thousand dollars (\$230,000.00) for Contract No. C000071026 and further authorizing the City Manager to take any/all actions necessary to effectuate same.

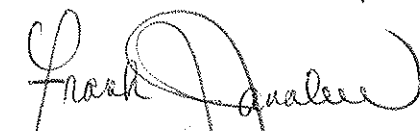
Adopted: May 8, 2019

By the following votes:

Yeas: Mayor Janakovic, Rev. King, Mrs. Mock, Mrs. Stanton, Mr. Vitovich. (5)

Nays: None (0)

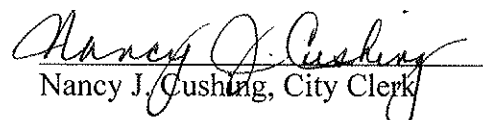
Absent: Mr. Williams, Mr. Britt. (2)



Frank J. Janakovic, Mayor
Marie Mock, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Resolution No. 10187 as the same adopted by the City Council of the City of Johnstown, Pennsylvania.



Nancy J. Cushing, City Clerk

**COMMONWEALTH OF PENNSYLVANIA
COMMONWEALTH FINANCING AUTHORITY**

MULTIMODAL TRANSPORTATION FUND GRANT CONTRACT

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

**CITY OF JOHNSTOWN
401 Main Street
Johnstown, PA 15801**

(the "Grantee").

BACKGROUND:

Section 2104(A)(4) of the Act of November 25, 2013 (P.L. 974, No. 89) authorizes the Commonwealth Financing Authority to make grants for any of the following eligible programs: (1) a project which coordinates local land use with transportation assets to enhance existing communities; (2) a project related to streetscape, lighting, sidewalk enhancement and pedestrian safety; (3) a project improving connectivity or utilization of existing transportation assets; or (4) a project related to transit-oriented development, defined in Section 103 of the act of December 8, 2004 (P.L. 1801, No. 238), known as the Transit Revitalization Investment District Act, as "development concentrated around and oriented to transit stations in a manner that promotes transit riding or passenger rail use. The term does not refer to a single real estate project but represents a collection of projects, usually mixed use, at a neighborhood scale that are oriented to a transit node."

The General Assembly of the Commonwealth has appropriated funds to the Grantor 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 THIRTY THOUSAND DOLLARS (\$230,000.00) 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, 2021, 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 MARCH 26, 2019 and JUNE 30, 2021 (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 workmen's compensation insurance where the same is required and shall accept full responsibility for the payment of premiums for workmen's 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-lit 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 subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term Contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

- (1) The Contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth contract, that neither the Contractor, nor any subcontractors, nor any suppliers 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 the bid/proposal, a written explanation of why such certification cannot be made.
- (2) The Contractor must also certify, in writing, that as of the date of its execution, of any Commonwealth contract it has no tax liabilities or other Commonwealth obligations.
- (3) The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Grant through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Grantor if, at any time during the term of the Grant, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or 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 Grantor of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Grant 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, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- (6) The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at http://www.dgsweb.state.pa.us/DebarmentList_portlet/ or contacting the:

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

- (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:

Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. §35.101 et seq., the Grantee understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Grant or from activities provided for under this Grant. As a condition of accepting and executing this Grant, the Grantee agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. §35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to the

benefits, services, programs and activities provided by the Commonwealth through contracts with outside contractors.

The Grantee 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 Grantee's failure to comply with the provisions of the above paragraph.

(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, 2008 (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.