



PROPOSED AGENDA ITEM

Meeting Date: May 25, 2017

Subject: PA Department of Transportation Emissions Inspector
Certification (EIC) and Emissions Inspector Recertification (EIR)
Training Program Performance Agreement

Initiated By: Susan Tatalone, RCTC Supervisor

DESCRIPTION:

The PennDOT Emissions Inspector Certification and Recertification Training Program
Performance Agreements are due for renewal with PennDOT.

Attached is a copy of this renewal performance agreement.

RECOMMENDATION:

Motion to approve the renewal and execution of the Pennsylvania Department of
Transportation Emissions Inspector Certification (EIC) and Emissions Inspector
Recertification (EIR) Training Program Performance Agreement

Agreement No. _____
Federal ID No. 25

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
EMISSIONS INSPECTOR CERTIFICATION (EIC) AND
EMISSIONS INSPECTOR RECERTIFICATION (EIR)
TRAINING PROGRAM PERFORMANCE AGREEMENT

This Agreement, made and entered into this _____ day of _____, 201____
(Do not enter date. The date will be completed by the Department when it signs the Agreement) by and between the Commonwealth of Pennsylvania, acting through the Department of Transportation ("Department"), and

ERIE COUNTY TECHNICAL SCHOOL

a _____ with offices located at

8500 OLIVER ROAD, ERIE, PA 16509
("Educational Provider").

_____ and _____
("Educational Provider email address") ("Educational Provider Fax number")

WHEREAS, the Department is responsible for the development, implementation and operation of the Emissions Inspector Certification ("EIC") and Emissions Inspector Recertification ("EIR") Training Program as set forth in 67 Pa. Code Chapter 177 ("Enhanced Emissions Inspection Program");

WHEREAS, to fulfill this responsibility, the Department is utilizing public and private Educational Providers and other entities as appropriate, which meet the Department's standards in order to provide a formal presentation of this instruction and possible certification testing;

WHEREAS, the Educational Provider agrees to be bound and to comply with the Terms and Conditions set forth below;

WHEREAS, the Department may solicit assistance from the Bureau of Vocational Education, Pennsylvania Department of Education, in reviewing the selection of public vocational and post-secondary institutions to carry out this program;

WHEREAS, to provide for a standardized EIC and EIR Training Program, the Department is requiring specific services, standards, and overall instruction performance requirements; and

WHEREAS, the Department has determined that the Educational Provider is qualified to provide the necessary instruction and if applicable, testing services.

NOW, THEREFORE, the parties hereto agree, and intend to be legally bound, as follows:

GENERAL TERMS AND CONDITIONS

INCORPORATION BY REFERENCE

1. The foregoing recitals are incorporated by reference as a material part of this Agreement.

AUTHORITY TO PROVIDE FORMAL PRESENTATION OF THE DEPARTMENT OF TRANSPORTATION'S EIC AND EIR TRAINING PROGRAMS

Program Content and Certification

2. The Department will provide the Educational Provider with the EIC and EIR Training Program content. The Department shall be the sole authority able to certify Emissions Inspection Instructors and Emissions Inspectors.

Class Administration

3. The Educational Provider agrees that all classes or testing, where applicable, shall be administered by a certified instructor who has attended and passed all requirements of the Emission Instructor Training Program prescribed by the Department.

Instructor Requirements

4. The Educational Provider shall provide the Department with instructor transcripts and resumes containing automotive and teaching credentials and work experience for each certified instructor who wishes to participate in this program.

5. Technical Assistance

Technical assistance will be available to the Educational Provider through the Department's Bureau of Motor Vehicles.

Technical Assistance (Department of Education)

6. The Department may be assisted by the Department of Education in providing technical assistance to the Educational Provider.

Program Instruction

7. The Educational Provider agrees that the EIC and EIR Training Programs shall be presented by the method as indicated in the official instruction outline. Changes in presentation shall be approved by the Department before they can be implemented. Materials may be web-based and accessible through

<https://www.pattrainingportal.com/>, or provided in hard-copy form by the Department.

FACILITIES

Facility Maintenance

8. The Educational Provider shall at all times maintain a facility which is acceptable in appearance to the Department and is in compliance with all applicable federal, state, and local laws, including, but not limited to, local zoning ordinances and building codes, and is fully accessible to persons with disabilities in accordance with the provisions of Title II of the Americans with Disabilities Act.

Facility Security

9. The Educational Provider's facility shall include secure storage for instructional supplies, testing materials, and student records, subject to approval by the Department. The Department expressly reserves the right to amend this Agreement to provide for the implementation of additional security measures as shall be determined to be required by the Department at its discretion.

Adequate Classroom Facilities

10. The Educational Provider shall provide adequate classroom facilities, which must comply with all applicable state and federal laws and regulations to accommodate the group size of participating students.

Required Teaching Supplies

11. The Educational Provider shall provide necessary teaching supplies for training purposes, including, but not limited to, computer access with internet connectivity, seating, white boards, and audio/visual aids.

Satellite Locations

12. The Educational Provider may hold training at satellite locations only if the facilities are conveniently located for accessibility for students. The Educational Provider must request a site visit by a Department representative or submit a formal request on letterhead for a change in the approved-facility to be approved by the Department. Approval must be sought thirty (30) days prior to planned use. Once approved, the Educational Provider shall notify the Department prior to conducting a class or testing at the approved, off-campus site.

PERSONNEL

Personnel Criminal Record Check Requirements

13. Prior to execution of this Agreement, and annually thereafter, the Educational Provider shall provide a list of all personnel to be engaged in executing or administering the terms of this Agreement and in providing training under it. The Educational Provider shall, prior to execution of this Agreement, obtain a criminal record check for each of the

Educational Provider's owners, officers, administrators, certified instructors, and employees involved in executing or administering the terms of this Agreement and in providing training under it. Criminal record checks shall be obtained from the Pennsylvania State Police and shall be made available to the Department. Subsequent criminal record checks shall be required upon request by the Department. The Department shall review the criminal history of all personnel involved in executing or administering the terms of this Agreement and may refuse execution of this Agreement based on past criminal activity of such personnel if it is determined that execution of this Agreement is not in the best interest of the Commonwealth or the EIC and EIR Training Programs. The Educational Provider shall provide timely written notification to the Department of all personnel changes, as they occur, and criminal record checks for new personnel.

Personnel Violation Disclosures

14. The Educational Provider shall disclose to the Department, in writing, any violations by the Educational Provider, any of its owners, officers, administrators, certified instructors, or employees of the Enhanced Emissions Inspection Program. Such violations shall be considered by the Department and, at the Department's discretion, may be cause to refuse execution of this Agreement if it is determined that execution of this Agreement is not in the best interest of the Commonwealth or the EIC and EIR Training Programs.

Instructor Certification

15. The Educational Provider shall request certification of emissions inspection instructor candidates by submission of a letter of intent on the Educational Provider's letterhead. The Department shall be the sole authority for approval of instructor candidates, regardless of whether the instructor candidates' relationship to the Educational Provider is that of employee, subcontractor, independent contractor, or otherwise. The Educational Provider shall provide each instructor candidate's educational transcripts, a copy of the instructor candidate's current emissions inspector certification card and resume containing automotive and teaching credentials, and work experience for each instructor candidate who wishes to participate in this program. Any violations of the Enhanced Emissions Inspection Program shall be disclosed to the Department by the instructor candidate and Educational Provider and may be cause for disapproval of an instructor candidate. In addition, the Educational Provider shall obtain criminal record checks for each instructor candidate from the Pennsylvania State Police and make them available to the Department. The Department may solicit assistance from the Bureau of Vocational Education, Pennsylvania Department of Education, in reviewing the instructor approval process for public vocational and post-secondary Educational Providers.

Selection of Educational Provider

16. The Department may solicit information from the Educational Provider regarding the Department's preference of an Educational Provider to provide instruction and evaluation of the instructor candidates. The Department shall be the sole authority for selecting the Educational Provider to provide instruction and evaluation of instructor candidates. Educational Providers shall not provide instruction and evaluation of instructor candidates employed or expected to be employed by the requesting Educational Provider.

Instructor Candidates' Course Hour Requirements

17. Instruction and evaluation of instructor candidates shall consist of a minimum of sixteen and one-half (16.5) hours of classroom observation and testing with a certified Emissions Inspection Instructor. The EIC course must consist of the following: fifteen (15) hours of classroom training, one (1) hour for the final written exam, and no less than one-half (0.5) hour, but no more than one (1) hour, for the certification tactile exam. Instructor candidates shall participate in teaching the classroom instruction in order to be evaluated by the certified Emissions Inspection Instructor. Instructor candidates shall participate in a minimum of a one (1) hour question and answer session with a certified Emissions Inspection Instructor to show proficiency and knowledge of this Agreement, the Instructor Course Outline, demonstrate a sufficient knowledge of Pennsylvania's Emissions Inspection Program requirements, automotive technology, testing criteria and completion of Forms MV-501 and MV-502. No fee shall be charged for certification of instructor candidates. Qualified instructor candidates will receive an Emissions Inspection Instructor Certification from the Department upon successful completion of the Emissions Inspection Instructor Training, receipt of a favorable recommendation from the evaluating certified Emissions Inspection Instructor, and final approval from the Department.

License Requirements for Certified Instructors Authorized to Teach Programs

18. The Department's Emissions Inspection Instructor Certification authorizes certified instructors to teach the EIC and EIR Training Programs. Certified instructors shall have a valid Pennsylvania photo driver's license. Out-of-state resident certified instructors shall have a valid out-of-state driver's license.

Affidavits

19. The Educational Provider shall, at the time of hiring and annually thereafter, secure an affidavit from each person engaged in activities under this Agreement indicating that he or she has reviewed the terms of this Agreement and is properly certified as required by the Department. Completed affidavits shall be made available to the Department upon request. The Educational Provider shall be responsible for the conduct of all personnel engaged in activities under this Agreement.

Certification Validity

20. Emissions inspection instructor certification will remain valid as long as a certified instructor continues to teach the program in accordance with this Agreement and the provisions of the Enhanced Emissions Inspection Program. If a certified instructor does not teach the EIC and EIR Training Programs within a three- (3-) year period, violates provisions of the Enhanced Emissions Inspection Program, or fails to remedy deficiencies in instruction as required by the Department, the Department reserves the right to revoke the certified instructor's certification. Emissions inspector certifications obtained in conjunction with certification as an instructor (without course instruction and testing) may also be revoked, at the discretion of the Department.

Certified Instructor Identification Number

21. Each certified instructor shall have an instructor identification number in addition to his or her emissions certification number. This number shall be assigned by the Department.

This number shall be used to identify the certified instructor on all documents submitted to the Department.

Instructor Clinics

22. Periodic instructor clinics may be required to provide program updates and information to the Educational Provider, and its administrators and instructors. When feasible, these clinics may be held in conjunction with the annual curriculum workshop held by the Department of Education.

Program Performance Standards

23. The Educational Provider agrees that its certified instructor(s) shall meet program performance standards as previously stated. Special attention must be given to student identification and course/certification categories.

Substitute Instructor

24. The Department reserves the right to require the Educational Provider to substitute a certified instructor if the current certified instructor is in violation of any of the Terms and Conditions of this Agreement, is under any civil or criminal investigation, or engages in unethical conduct. The Educational Provider shall provide the Department the name of any substitute instructor for approval prior to the Educational Provider conducting a class.

SECURITY

Record Maintenance

25. The Educational Provider, its administrators, supervisors, and instructors shall maintain proper program records and materials in a secure location, under lock and key, to prevent unauthorized access to student information. Where electronic data relating to training offered through this Agreement is stored or transmitted by the Educational Provider, the Educational Provider shall comply with all Commonwealth IT Bulletins relative to contractor personnel and records. Commonwealth IT Bulletins can be found at http://www.portal.state.pa.us/portal/server.pt/community/policies_and_procedures/416/information_technology_policies/.

Testing Materials

26. The Educational Provider agrees that testing materials, if applicable, shall not be provided to any unauthorized personnel or to any student for purposes other than testing. Tests shall be secured at the conclusion of each class.

Test Completion

27. The Educational Provider shall collect all tests and scoring sheets after the completion of each test, if applicable.

Public Test Scoring Prohibited

28. The Educational Provider shall not score tests in the presence of students, if applicable.

Test Chronology

29. The Educational Provider shall number all exams in chronological order, if applicable.

Scoring Sheet Identification Requirements

30. The Educational Provider agrees that all scoring sheets shall have space provided for identification purposes, if applicable (Educational Provider number, test number, exam number, student's name, and date).

Maintenance of Test Scoring Sheets

31. The Educational Provider shall maintain all test scoring sheets and records from audit period to audit period or until authorized by the Department to destroy same, whichever occurs later, if applicable. When authorized by the Department, an official from the Educational Provider shall properly destroy records and tests in a manner to protect the student's identity and the Department's interests.

Breached Record Requirements

32. The Educational Provider agrees that any breach in record keeping, testing, or security, including problems involving student information, "master" tests, answer and scoring sheets, and other security items, as specified in this Agreement, shall be reported immediately to the Bureau of Motor Vehicles, Vehicle Inspection Division of the Department at (717) 787-2895.

STUDENT REQUIREMENTS AND ELIGIBILITY

Who May Register

33. Any interested person may register and apply for the EIC and EIR Training Programs. Registration is for all students with or without previous mechanical training.

Requirements to Become a Certified Emissions Inspector

34. A person must successfully complete the EIC and EIR Training Programs in order to become a certified Emissions Inspector.

Age Requirement

35. The Educational Provider shall insure that all applicants are at least eighteen (18) years of age to be eligible to apply for certification from the Department. An applicant shall provide proof of age by presenting a current driver's license which shall be verified by the Educational Provider prior to beginning instruction. Information for students less than eighteen (18) years of age shall be entered on Forms MV-501 and MV-502, and submitted to the Department. When the student becomes eighteen (18) years of age, the Educational Provider or the student may notify the Department so certification can be processed. If the student does not meet the age requirement within one (1) year of successfully completing the Initial Certification Base-Line test, the Educational Provider may be required to re-register the student to take the course and waive all relevant fees.

Program Requirements Made Known Prior to Admission

36. All students shall be made aware of program requirements and responsibilities prior to admission through written material published by the Educational Provider. The Educational Provider shall inform all students prior to admission that the required training materials must be read before instruction begins and the student shall bring all training materials to class.

Initial Certification and Recertification

37. An Initial Certification, Form MV-501/502, shall be submitted by the Educational Provider on behalf of each student for registration purposes. Registration for Recertification may be completed on-line if an on-line system is available.

Student Identity Verification

38. The Educational Provider, its certified instructors, and any personnel involved in registering students entering the EIC and EIR Training Programs shall verify the identification (ID) of every student requesting registration.

Driver's License Requirement

39. The Educational Provider or certified instructor shall verify the ID of every registered student entering the EIC and EIR Training Programs during the initial class period and at all written examinations and tactile test periods. All students shall provide their valid Pennsylvania photo driver's license secured from the Department. Out-of-state students shall provide a valid out-of-state driver's license and a copy of the license must be attached to Form MV-501. In addition, students applying for the Recertification Program must also present prior Inspector EIC Certification ID or proof of certification, issued by the Department. Students failing to provide required ID shall not be allowed to participate in the instruction or take the required tests. If the student presents a driver's license which is not valid, or does not have valid driving privileges upon successful completion of all course examinations, no certification credentials shall be issued. The Educational Provider or certified instructor shall contact the Department prior to beginning instruction to determine the eligibility of any applicant who is unable to present a valid driver's license or any applicant with restricted driving privileges that may make them ineligible for certification, i.e., Occupational Limited License (OLL), Probationary License (PL), or Ignition Interlock (II). If the student presents proof of valid driving privileges within one (1) year of successful completion of all course examinations, certification credentials will be issued. If unable to provide proof of valid driving privileges within the specified time frame, the exam results shall become invalid.

Driver's License Restrictions

40. The Educational Provider shall notify students with driver's license restrictions 3 (automatic transmission) and 4 (special equipment) that they may register for the course and, upon satisfactory completion, apply for certification. However, course completion and application will not guarantee certification; each application with any of the above restrictions shall be reviewed by the Department on a case-by-case basis, as either of these restrictions may affect the student's ability to perform the requisite road test as part of being a certified inspector. Applicants with restrictions may have their application rejected by the Department and are urged to determine their eligibility for certification prior to

registering for the course.

Educational Provider Restrictions

41. Unless otherwise approved by the Department in writing, Educational Providers that are private licensed schools or seminar providers may not instruct, test, and apply for certification for employees of the Educational Provider.

INSTRUCTIONAL AND TESTING MATERIALS

Materials and Supplies

42. Materials and supplies may consist of emissions regulation textbooks, "master" tests, answer sheets, program report forms and any other reference material the Department deems necessary. Training materials and exams may also be made available on-line through <https://www.patrainportal.com/>. Tests and answers sheets, as well as program report forms, shall remain the property of the Department.

Training Material Availability

43. Training materials may be made available on-line or in hard copy form. On-line instructor materials will be provided free of charge to the Educational Provider. Orders for textbooks shall require payment by the Educational Provider. Master answer sheets and tests shall not be reproduced without prior written approval from the Department. All other materials may be reproduced as needed. Requests for additional master materials may require payment.

Textbooks

44. The regulation textbooks may be purchased from the Educational Provider or may be made available on-line, by the Department. Textbooks may be ordered in any amount necessary. The number of textbooks maintained should be reasonable in order to avoid excessive processing of periodic changes. Periodic changes to the textbook will be required by the Department because of regulation changes. The Department will provide the Educational Provider with one copy of the required changes which must be reproduced for insertion into the textbooks. The Educational Provider may charge the student a reasonable fee for these changes. These changes may be in addition to current textbook price allowances until the old textbooks requiring changes are sold.

Textbook Availability On-line

45. Textbook materials may be made available on-line for the student for a fee. The Educational Provider shall not charge for materials provided by the Department on-line.

CLASSROOM INSTRUCTION, TESTING AND CERTIFICATION

Educational Provider and Certified Instructor Identification Numbers

46. The Educational Provider and each certified instructor shall have an identification number. The identification number for the Educational Provider shall be the Vocational Education Management Information System (VEMIS) number or a number assigned by the Department. The certified instructor number shall be a number assigned by the

Department and shall not be the same as the certified instructor's emissions inspector number. These numbers shall be used to identify the Educational Provider and certified instructor(s) on all documents submitted to the Department.

Program Content

47. The Educational Provider agrees that the EIC and EIR Training Programs shall cover all required program content listed in the official instruction outline as designated by the Department.

Minimum Training Hours Requirement

48. The Educational Provider agrees that the initial EIC Training Program shall require a minimum of sixteen and one-half (16.5) hours class work, to include testing, if applicable. Additional time may be required, at the certified instructor's discretion.

Scheduled Training

49. The Educational Provider officials shall work to their best ability to schedule students for the training course as soon as possible. Applicants must be notified of all open classes.

Adequate Classroom Facilities

50. The Educational Provider shall provide adequate classroom facilities to accommodate the group size of participating students and which must comply with all applicable local, state, and federal laws and regulations.

Minimum Instruction Weeks Requirement

51. The Educational Provider agrees that the instruction shall be offered for a minimum of forty (40) weeks per year, provided a minimum number of students are available. The Department encourages participation of fifty (50) weeks per year.

Less-Than-Required Participation

52. The Educational Provider agrees that if demand or other circumstances, such as conditions in rural areas, require participation of less than forty (40) weeks per year, the Department shall be notified. Considerations may be made to allow for less participation at the Department's discretion.

Instruction Cancellation Prohibited

53. The Educational Provider agrees that once instruction has officially begun, it shall not be cancelled because of student dropouts.

Class/Test Administration

54. The Educational Provider agrees that all classes, and testing, if applicable, shall be administered by an instructor certified by the Department.

Failure of Written Test

55. Failure to pass the written test within one (1) hour shall require the student to retake the written test at the time of another regularly scheduled exam period. The Educational Provider may charge a fee for each additional written test taken. A student who fails the

final written exam twice shall retake the entire EIC course of instruction and testing.

On-line Training for Recertification

56. On-line training materials and an on-line exam may be made available to students who are recertifying. All initial certifications must occur in a classroom setting.

Training Content and Minimum Classwork/Testing Requirements

57. The Emissions Inspector Certification (EIC) and the Emissions Inspector Recertification (EIR) content covered in the classroom shall meet program objectives listed in the Instructor Guides and these Terms and Conditions. No modifications or deviations from these materials shall be made without the express written approval of the Department. The Educational Provider shall provide a total of at least sixteen and one-half (16.5) hours of class work and testing for initial Inspector Certification. The EIC course must consist of fifteen (15) hours of classroom training, one (1) hour for the final written exam, and no less than one-half (0.5) hour but no more than one (1) hour for the certification tactile exam.

Passing Score

58. The initial certification "Base Line Course" test and the category-specific written test shall be individually passed with a grade percentage of eighty percent (80%) or more correct answers.

Written Test Timeframe

59. Failure to pass the written test within one (1) hour shall require the student to retake the written test at the time of another regularly scheduled exam period. The Educational Provider may charge a fee for each additional written test taken. A student who fails the final written exam twice may either retake the entire EIC course of instruction and testing or take an on-line remedial course and exam.

Recertification Passing Score

60. The Educational Provider shall require students applying for recertification to pass the written test with eighty percent (80%) or more correct answers.

Open Book Testing Prohibited

61. The Educational Provider agrees that open book testing shall be prohibited.

Pre-Test Review Prohibited

62. The Educational Provider agrees that pre-test reviews of certification test questions shall be prohibited.

Program Completion

63. Upon successful completion of the Emissions Inspector Training Program, the instructor and responsible Educational Provider official shall complete and sign Forms **MV-501** and **MV-502**. A date of instruction completion shall also be entered. These forms shall be mailed to the vendor by the Educational Provider as soon as possible but not more than seven (7) days from the classroom completion date.

FEES

Permissible Tuition Fees

64. To offset financial requirements for the purchase of equipment, instruction materials, and instructor and administrative processes, the Educational Provider may secure revenues through tuition fees.

Notification of Tuition Fees

65. The Educational Provider shall notify all students that a tuition fee may be required for the instruction. Pennsylvania State Police Officers assigned as Vehicle Fraud Investigators and Department employees or authorized representatives of the Department assigned as Quality Assurance Officers are not required to pay a tuition fee for the instruction.

Government Monies

66. The Educational Provider shall use available federal, state and local monies that can be applied for this specific program to offset costs of presenting the instruction.

Tuition Variance

67. Students enrolling in the EIC and EIR Training Programs residing in a non-participating district (non-sponsored student) may be required to pay additional tuition fees (tuition variance).

AUDITS AND OVERSIGHT

Audit Visits

68. The Department reserves the right to make visits for the audit, observation, and evaluation of the Educational Provider's facilities and certified instructor presentation (this includes both secondary and adult education courses.) The visit may include the examination of the records which are subject to the record keeping requirements of this Agreement and Department regulations. The Educational Provider may be notified prior to the visit(s). The Educational Provider shall make every reasonable effort to make records available to the Department upon demand.

Audit-Ready Status Required

69. The Education Provider shall maintain an audit-ready status at all times, as audits may be unannounced.

Program Implementation Assistance

70. Periodic visits may be arranged to meet with the Educational Provider administrators and certified instructors to review and assist in the implementation and presentation of the program.

Periodic Bulletins

71. The Department will periodically send bulletins to the Educational Provider, its certified instructors, and administrators concerning the Training Program.

Department of Education Audits

72. The Department of Education may make periodic audits of EIC and EIR Training Program

records maintained at public vocational and post-secondary Educational Providers.

COMPLIANCE WITH LAWS AND REGULATIONS

73. The Educational Provider shall comply with all applicable federal and state laws and regulations and local ordinances in carrying out its obligations under this Agreement.

INDEMNIFICATION

74. The Educational Provider shall indemnify, save harmless and defend (if requested) the Commonwealth of Pennsylvania, the Department of Transportation, its officers, agents and employees, from all suits, actions or claims of any character, name or description, brought for or on account of any injuries to or damages received or sustained by any person(s), or property by or from the Educational Provider and its administrator, certified instructors, employees, servants, agents, as a result of any obligations under this Agreement or resulting from the instruction provided for, or performed under, this Agreement.

CONFLICT OF LAWS

75. Regardless of any provision to the contrary found elsewhere in the provisions of this Agreement, the laws of the Commonwealth of Pennsylvania shall be used in the interpretation of this Agreement.

CONFLICT BETWEEN AGREEMENT AND ATTACHMENTS

76. In the event of conflict between the provisions of this Agreement and any attachment hereto, the provisions of this Agreement shall control.

TERMINATION

Termination for Good Cause

77. The Department reserves the right to terminate this Agreement for good cause shown. Good cause shall include, but not be limited to, nonperformance or inadequate performance; activity or conduct engaged in by the Educational Provider, any of its owners, officers, administrators, certified instructors, or employees involved in executing or administering the terms of this Agreement, that is not in the best interest of the Department, demonstrates a failure to exercise due care or an appropriate degree of responsibility, or is contrary to the Terms and Conditions of this Agreement; misrepresentation or fraud on the part of the Educational Provider, any of its owners, officers, administrators, certified instructors, or employees involved in executing or administering the terms of this Agreement; or the existence of circumstances after execution of this Agreement that would have caused the Department to refuse execution of this Agreement.

Department's Right to Suspend, Cancel, or Revoke This Agreement

78. If a certified instructor or member of the Educational Provider acts in a manner in violation of the goals and mission of the Department, the Department reserves the right to suspend, cancel, or revoke this Agreement as well as the inspector certifications of any of the individuals in question.

Educational Provider's Notice of Termination

79. The Educational Provider may terminate this Agreement by providing a written notice thirty (30) days prior to the proposed termination date.

Department's Notice of Termination

80. The Department may terminate this Agreement for good cause as provided above in Paragraph 76, by providing a written notice of termination. The written notice shall state that termination of the Agreement shall be effective in thirty-one (31) days from the mail date specified in the notice, unless the Educational Provider appeals the notice of termination under 2 Pa. C.S. §§ 501-508 (relating to general rules of administrative practice and procedure of administrative agencies); 1 Pa. Code Part II (relating to general rules of administrative practice and procedure); and 67 Pa. Code Chapter 491 (relating to administrative practice and procedure) by filing a written request for a hearing within thirty (30) days of the mail date to:

Administrative Docket Clerk
Office of Chief Counsel
400 North Street, 9th Floor
Harrisburg, PA 17120-0096

A copy of the termination notice must accompany the request for a hearing.

Suspension of Educational Provider Operations

81. The Department reserves the right to suspend the Educational Provider's operations under this Agreement on an interim basis prior to the termination date or a hearing, where it determines that the Educational Provider's conduct presents an immediate and substantial threat of harm to the public or the Department's interests. Any such interim suspension shall be subject to review as provided in 67 Pa. Code Chapter 491 (relating to administrative practice and procedure).

INCORPORATION OF EXHIBITS

Standard Provisions

82. The Educational Provider shall comply with and be bound by the Contractor Integrity Provisions, Contractor Responsibility Provisions, Commonwealth Non-Discrimination/Sexual Harassment Clause, Offset Provisions, and the Provisions Concerning The Americans With Disabilities Act which are attached to and made part of this Agreement as Exhibits "A," "B," "C," "D," and "E," respectively. The term "Contractor" as used in these Exhibits shall mean the Educational Provider.

INFORMATION TECHNOLOGY BULLETINS

83. The Educational Provider shall comply with all applicable IT standards and policies issued by the Governor's Office of Administration. These standards and policies are contained in the Information Technology Bulletins (ITBs), and are posted at: http://www.portal.state.pa.us/portal/server.pt/community/policies_and_procedures/416/information_technology_policies/. The ITBs are incorporated herein by reference as though set forth at length.

RIGHT-TO-KNOW LAW

84. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101- 3104, applies to this Agreement and is attached to and made part of this Agreement as Exhibit "F." The Educational Provider shall abide by the requirements in Exhibit "F." The term "Contractor" as used in this Exhibit shall mean the Educational Provider.

SEVERABILITY

85. Should any one or more of the provisions of this Agreement be termed illegal or unenforceable, all remaining provisions shall nevertheless remain effective.

TERM

86. Unless terminated pursuant to the terms of this Agreement, this Agreement shall continue in force from the date the Agreement is fully executed.

AMENDMENTS

87. Any changes, corrections, or additions to the Agreement shall be in writing in the form of a letter agreement signed by both parties, setting forth the proposed change, correction, or addition. The letter amendment shall be considered fully executed when signed by representatives of the Department's Office of Chief Counsel and the Office of Comptroller Operations.

NOTICE

88. Any written notice to any party under this Agreement shall be deemed sufficient if delivered personally; or by certified or registered United States mail, postage prepaid, return receipt requested; or by a recognized overnight courier service (e.g., Federal Express, United Parcel Service or DHL) with confirmed receipt; or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), and sent to the Educational Provider at the address appearing on Page 1 and to the Department at the following address:

Pennsylvania Department of Transportation
Vehicle Inspection Division

ATTN: Schools and Instructors Unit Manager
PO Box 69003
Harrisburg, PA 17106-9003
RA-PDSCHOOLINSTRUCT@pa.gov
Fax: 717-705-6990

or to such other address as a party may designate in writing to the other party. Except for the notices to be given under the "Termination" section above, notice shall be deemed given when received.

ENTIRE AGREEMENT

89. Upon execution, this document, together with all exhibits and attachments hereto, shall constitute the entire Agreement between the parties and completely expresses their intent. All prior or contemporaneous agreements are hereby merged into this document. No amendment or modification of this document shall be valid unless it is in writing and duly executed and approved by the parties, as provided above in Paragraph 87.

[The remainder of this page intentionally left blank.]

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

ATTEST:

COMMONWEALTH OF
PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

Title:
Date:

BY _____
Deputy Secretary of Transportation
Date:

ERIE COUNTY TECHNICAL SCHOOL
EDUCATIONAL PROVIDER

ATTEST:

Title: DIRECTOR
Date:

BY _____
Title: JOC CHAIR PERSON
Date:

APPROVED AS TO LEGALITY
AND FORM

PRELIMINARILY APPROVED

BY _____
Office of General Counsel Date

Assistant Counsel Date

APPROVED AS TO LEGALITY
AND FORM

PRELIMINARILY APPROVED

BY _____
Chief Counsel Date

Assistant Counsel Date

Recorded No. _____
Certified Funds Available Under
Activity Program _____
Symbol _____
Amount _____

BY _____
Deputy Attorney General Date

BY _____
for Office of Comptroller Operations Date

BY _____
Office of General Counsel Date

RESOLUTION

BE IT RESOLVED, by authority of the JOINT OPERATING COMMITTEE
(Name of governing body*)

_____ of the ERIE COUNTY TECHNICAL SCHOOL
(Name of Educational Provider)

ERIE County, and it is hereby resolved by authority of the same,

that the JOINT OPERATING COMMITTEE by authorized and directed to sign the
CHAIR PERSON attached
(Designate official title)

agreement on its behalf and that the _____ be authorized and
directed to attest the same. DIRECTOR
(Designate official title)

ATTEST ERIE COUNTY TECHNICAL SCHOOL
(Name of Educational Provider)

By: _____
(Signature and designation of official title) (Signature and designation of office title)

I TERRI BIRCHARD, SECRETARY
(Name) (Official Title)

of the JOINT OPERATING COMMITTEE, do hereby certify
(Name of governing body and Educational Provider) that

the foregoing is a true and correct copy of the Resolution adopted at a regular meeting of the

JOINT OPERATING COMMITTEE held on the _____ day of _____, 20 _____.
(Name of governing body)

DATE: _____, 20 _____. _____
(Signature and designation of official title)

*Governing Body- Board of Trustees, Board of Directors, etc.

CONTRACTOR INTEGRITY PROVISIONS

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

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

- a. **"Affiliate"** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- b. **"Consent"** means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.
- c. **"Contractor"** means the individual or entity, that has entered into this contract with the Commonwealth.
- d. **"Contractor Related Parties"** means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
- e. **"Financial Interest"** means either:
 - (1) Ownership of more than a five percent interest in any business; or
 - (2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- f. **"Gratuity"** means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.
- 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.

EXHIBIT A

- b.** Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
- c.** Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.
- d.** Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.
- e.** Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
 - (1)** been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 - (2)** been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
 - (3)** had any business license or professional license suspended or revoked;
 - (4)** had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
 - (5)** been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

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

EXHIBIT A

- 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.

EXHIBIT A

Contractor Responsibility Provisions

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

- 1.** The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- 2.** The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- 3.** The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- 4.** The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- 5.** The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- 6.** The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at **<http://www.dgs.state.pa.us/>** or contacting the:

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

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Contracts]

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate in violation of the PHRA and applicable federal laws against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
4. The Contractor and each subcontractor shall not discriminate in violation of PHRA and applicable federal laws against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each 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 Contractor and each 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 Contractor and each 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 contracting agency and the Bureau of Small Business Opportunities (BSBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

Exhibit C

6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The Contractor's and each subcontractor'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 and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
8. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

Exhibit C

Offset Provision

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

PROVISIONS CONCERNING THE *AMERICANS WITH DISABILITIES ACT*

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

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

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

EXHIBIT E

Contract Provisions – Right to Know Law

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
 1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor 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 the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor 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, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.

EXHIBIT F

g. The Commonwealth will reimburse the Contractor 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.

h. The Contractor 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, the Contractor 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 the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor 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.

i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

EXHIBIT F