

**CONTRACT  
FOR  
FAIRLESS HILLS (BUCKS COUNTY) – PHOTO LICENSE CENTER CO-LOCATION**

This Contract for the Provision of **Fairless Hills (Bucks County) – Photo License Center Co-Location** ("Contract") is entered into by and between the Commonwealth of Pennsylvania ("Commonwealth"), acting through the **Pennsylvania Department of Transportation (PennDOT)**, ("Agency") and **AAA Club Alliance, Inc. dba AAA Mid-Atlantic** ("Contractor").

The Agency issued a Request for Proposals for the provision of **Fairless Hills (Bucks County) – Photo License Center Co-Location**, RFP No. **3520R07**, ("RFP") and the Contractor submitted a proposal in response to the RFP.

The Agency determined that the Contractor's proposal was the most advantageous to the Commonwealth after taking into consideration all of the evaluation factors set forth in the RFP and selected Contractor for contract negotiations; and

The parties have negotiated this Contract as their final and entire agreement in regard to providing **Fairless Hills (Bucks County) – Photo License Center Co-Location** to the Commonwealth.

The parties, intending to be legally bound, agree as follows:

1. The Contractor shall, in accordance with the terms and conditions of this Contract, which is attached hereto as Exhibit A and made a part hereof, provide **Fairless Hills (Bucks County) – Photo License Center Co-Location** as more fully defined in the RFP, to the Commonwealth.
2. The Contractor shall provide the [**Fairless Hills (Bucks County) – Photo License Center Co-Location**] listed in its Cost Submittal, which is attached hereto as Exhibit B and made a part hereof, at the prices listed for those items in Exhibit B.
3. This Contract is comprised of the following documents, which are listed in order of precedence in the event of a conflict between these documents:
  - a. the Contract document contained herein;
  - b. the Contract Terms and Conditions, which is attached hereto as Exhibit A and made part of this Contract;

c. the RFP, including all of the referenced Appendices and as revised by all Addenda issued thereto, which is attached hereto as Exhibit B and made a part hereof; and

d. the Contractor's Technical Submittal, which is attached hereto as Exhibit C and made a part hereof

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]**

The parties have signed this Contract below. Execution by the Commonwealth is described in the Contract Terms and Conditions, paragraph V.5 CONTRACT 003.1b Signatures-Contract (July 2015).

Witness:

**CONTRACTOR:**

By: Lisa Kucharski

By:   
Contractor Signature

Title: President

Lisa Kucharski / 10-18-21  
Printed Name / Date

Lynn S. Miller / 10-18-21  
Printed Name / Date

23-0758010  
Federal I.D. Number

**COMMONWEALTH OF PENNSYLVANIA  
Department of Transportation**

By: To be obtained electronically  
Contract Administrator Date

APPROVED AS TO FORM AND LEGALITY:

To be obtained electronically  
Office of Chief Counsel Date

To be obtained electronically  
Office of General Counsel Date

To be obtained electronically  
Office of Attorney General Date

APPROVED:

To be obtained electronically  
Comptroller Date

## Description

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**1. Purpose.** This request for proposals (RFP) provides information to enable potential Offerors to prepare and submit proposals for the Commonwealth of Pennsylvania's consideration.

**2. Determination to use Competitive Sealed Proposal Method.** As set forth in [Bureau of Procurement Policy Directive 2018-1](#), the Secretary of General Services has determined that the competitive sealed proposals process generally is the most practical and advantageous method for awarding contracts to obtain the best value for the Commonwealth. There are no features of this particular Project that are inconsistent with the rationale set forth in BOP Policy Directive 2018-1 and the justification for the use of competitive sealed proposals set forth in BOP Policy Directive 2018-1 is hereby adopted for this Project.

**3. Issuing Office.** The Pennsylvania Department of Transportation (PennDOT) ("Issuing Office") has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be the Contact listed above, who is the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror's proposal. Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror who shares information contained in its proposal with other Commonwealth personnel and/or competing Offeror may be disqualified.

**4. Project Description.** Co-Location of Photo License Centers with qualified business partners located in Fairless Hills (Bucks County) and McConnellsburg (Fulton County). Information about these locations can be found within the **Technical Submittal** file under the **Buyer Attachments** section. The Offeror will have to add a submittal for each location they are proposing an offer to. No fees may be charged for photo license services.

**5. Type of Contract.** If the Issuing Office enters into a contract as a result of this RFP, it will be a No-Fee contract and will contain the **Contract Terms and Conditions** attached to this RFP in the **Buyer Attachments** section.

**6. Rejection of Proposals.** The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposal received as a result of this RFP.

**7. Incurring Costs.** The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

**8. Questions & Answers.** Questions must be submitted using the Q&A Board within this event. Questions must be submitted as individual questions. Questions must be submitted by the posted deadline. All questions and responses are considered an addendum to and part of this RFP. The Issuing Office shall not be bound by any verbal information, nor shall it be bound by any written information that is not either contained within the RFP or formally issued by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or the solicitation.

**9. Addenda to the RFP.** Any revisions to this RFP will be made electronically within this site.

**10. Response Date.** To be considered for selection, electronic proposals must be submitted on or before the time and date specified. The Issuing Office will reject any late proposals.

**11. Proposal Submission:** To be considered, Offerors must submit a complete response to this RFP by the due date and time from an official authorized to bind the Offeror to its provisions. Clicking the submit button within this site constitutes an electronic signature. A proposal being timely submitted and electronically signed by the Offeror are the two (2) mandatory responsiveness requirements and are non-waivable. The Issuing Office reserves the right, in its sole discretion, to (1) waive any other technical or immaterial nonconformities in an Offeror's proposal, (2) allow the Offeror to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Offeror's proposal. The proposal must remain valid for **120 days** or until a contract is fully executed, whichever is later. If the Issuing Office selects the

Offeror's proposal for award, the contents of the selected Offeror's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

**12. Proposal Format:** To be considered, the proposal must respond to all proposal requirements. Each proposal consists of the Technical Submittal. Offerors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as attachments. The Issuing Office reserves the right to request additional information which, in the Issuing Office's opinion, is necessary to assure that the Offeror's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the RFP. The Issuing Office may make investigations as deemed necessary to determine the ability of the Offeror to perform the Project, and the Offeror shall furnish to the Issuing Office all requested information and data.

**13. Alternate Proposals.** The Issuing Office has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Issuing Office will not accept alternate proposals.

**14. Discussions for Clarification.** Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.

**15. Prime Contractor Responsibilities.** The contract will require the selected Offeror to assume responsibility for all services offered in its proposal. Further, the Issuing Office will consider the selected Offeror to be the sole point of contact with regard to all contractual matters.

## **16. Proposal Contents.**

**A. Confidential Information.** The Commonwealth is not requesting confidential proprietary information or trade secrets to be included as part of Offerors' submissions. Accordingly, except as provided herein, Offerors should not label proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its proposal must submit the signed written statement described in subsection c. below. After contract award, the selected Offeror must additionally provide a redacted version of its proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.

**B. Commonwealth Use.** All material submitted with the proposal shall be considered the property of the Commonwealth of Pennsylvania. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained in proposals, the Commonwealth shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure **requirements** under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.

**C. Public Disclosure.** After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. Refer to the **Additional Required Documentation** section for a **Trade Secret Confidential Proprietary Information Notice Form** that may be utilized as the signed written statement, if applicable. If financial capability information

is submitted, such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

**17. Best and Final Offers (BAFO).** The Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining “best and final offers” in one or more of the following ways, in any combination and order: schedule oral presentations, request revised proposals, conduct an online auction, and enter into pre-selection negotiations.

The following Offerors will **not** be invited by the Issuing Office to submit a Best and Final Offer: those Offerors which the Issuing Office has determined to be not responsible or whose proposals the Issuing Office has determined to be not responsive; those Offerors which the Issuing Office has determined in accordance with the **Offeror Responsibility** subsection from the submitted and gathered financial and other information, do not possess the financial capability, experience or qualifications to assure good faith performance of the contract; and those Offerors whose score for their technical submittal of the proposal is less than 75 % of the total amount of technical points allotted to the technical criterion.

The Issuing Office may further limit participation in the best and final offers process to those remaining responsible Offerors which the Issuing Office has determined to be within the top competitive range of responsive proposals. The Evaluation Criteria shall also be used to evaluate the Best and Final offers.

**18. News Releases.** Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with the Issuing Office.

**19. Term of Contract.** The term of the contract will commence on the Effective Date and will be for five (5) years, with one (1) - five (5) year renewal option, for a total of 10 years. The Issuing Office will fix the Effective Date after the contract has been fully executed by the selected Offeror and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The selected Offeror shall not start the performance of any work prior to the Effective Date of the contract.

The Commonwealth reserves the right, upon notice to the selected Offeror, to extend the term of the Contract for up to three (3) months upon the same terms and conditions. This will be used to prevent a lapse in Contract coverage and only for the time necessary, up to three (3) months, to enter into a contract.

**20. Notification of Selection for Contract Negotiations.** The Issuing Office will notify all Offerors in writing of the Offeror selected for contract negotiations after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office. Prior to execution of the contract resulting from the RFP, the selected Offeror must be registered in the Commonwealth of Pennsylvania’s Vendor Master file. In order to register, Offerors must visit the Pa Supplier Portal at <https://www.pasupplierportal.state.pa.us/> or call the Customer Support Center at 877-435-7363.

**21. Notification of Award.** Offerors whose proposals are not selected will be notified when contract negotiations have been successfully completed, and the Issuing Office has received the final negotiated contract signed by the selected Offeror.

**22. Debriefing Conferences.** Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Issuing Office will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror’s proposal in relation to all other Offeror proposals. An Offeror’s exercise of the opportunity to be debriefed does not constitute nor toll the time for filing a protest.

**23. RFP Protest Procedure.** The RFP Protest Procedure is on the DGS website at [click here](#). A protest by a party that has not or has not yet submitted a proposal must be filed no later than the proposal submission deadline. Offerors may file a protest within seven days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event may an Offeror file a protest later than seven days after the date the notice of award of the contract is posted on the DGS website. The date of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office. To be timely, the protest must be received by 4:00 p.m. on the seventh day.

**24. Attachments to the RFP.** All attachments to the RFP, including those contained in the **Buyer Attachments** and **Additional Required Documentation** sections, are incorporated into and made part of the RFP.

**25. Evaluation Criteria.** The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. The following criteria will be used in evaluating each proposal:

**A. Technical:** The Issuing Office has established the weight for the Technical criterion for this RFP as 100% of the total points. The final Technical scores are determined by giving the maximum number of technical points available to the proposal(s) with the highest raw technical score. The remaining proposals are rated by applying the Technical Scoring Formula set forth at the following webpage: [click here](#).

**B. Domestic Workforce Utilization:** Any points received for the Domestic Workforce Utilization criterion are bonus points in addition to the total points for this RFP. The maximum amount of bonus points available is 3% of the total points for this RFP. To the extent permitted by the laws and treaties of the United States, each proposal will be scored for its commitment to use domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those Offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. The Domestic Workforce Utilization Formula is at the following webpage: [Click here](#)

**26. Offeror Responsibility.** To be responsible, an Offeror must submit a responsive proposal and possess the capability to fully perform the contract requirements in all respects and the integrity and reliability to assure good faith performance of the contract. In order for an Offeror to be considered responsible for this RFP and therefore eligible for selection for best and final offers or selection for contract negotiations:

The total score for the technical submittal of the Offeror's proposal must be greater than or equal to **75%** of the available technical points and the Offeror must demonstrate the financial capability to assure good faith performance of the contract.

An Offeror who fails to demonstrate sufficient financial capability to assure good faith performance of the contract as specified herein may be considered by the Issuing Office, in its sole discretion, for Best and Final Offers or contract negotiation contingent upon such Offeror providing contract performance security for the first contract year proposed by the Offeror in a form acceptable to the Issuing Office. Based on the financial condition of the Offeror, the Issuing Office may require a certified or bank (cashier's) check, letter of credit, or performance bond conditioned upon the faithful performance of the contract by the Offeror. The required performance security must be issued or executed by a bank or surety company authorized to do business in the Commonwealth. The cost of the required performance security will be the sole responsibility of the Offeror.

Further, the Issuing Office will award a contract only to an Offeror determined to be responsible in accordance with the most current version of [Commonwealth Management Directive 215.9, Contractor Responsibility Program](#).

**27. Final Ranking and Award.** After any best and final offer process is conducted, the Issuing Office will combine the evaluation committee's final technical scores and the domestic workforce utilization scores. The Issuing Office will rank responsible Offerors according to the total overall score assigned to both in descending order. The Issuing Office must select for contract negotiations the Offeror with the highest overall score. The Issuing Office has the discretion to reject all proposals or cancel the request for proposals at any time prior to the time a contract is fully executed when it is in the best interests of the Commonwealth. The reasons for the rejection or cancellation shall be made part of the contract file.



1 ★ **Instructions To Supplier :**

Responsibility to Review.

**Prerequisite Content:**

**Responsibility to Review RFP**

The Offeror acknowledges and accepts full responsibility to ensure that it has reviewed the most current content of the RFP including any amendments to the RFP.

**Certification**

I certify that I have read and agree to the terms above.

**Supplier Must Also Upload a File:**

No

## Buyer Attachments

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<b>TECHNICAL SUBMITTAL</b>	Tech. Subm. Draft 1.docx	../Attachments/Tech. Subm. Draft 1.docx
<b>TERMS AND CONDITIONS</b>	Terms and Conditions Co-Loc.pdf	../Attachments/Terms and Conditions Co-Loc.pdf
<b>Appendix A- PLC Co-location Prog</b>	Appendix A- PLC Co-location Program Requirements.pdf	../Attachments/Appendix A- PLC Co-location Program Requirements.pdf
<b>Appendix B - Minimum Space Req</b>	Appendix B-Min Space Req Co-Loc.pdf	../Attachments/Appendix B-Min Space Req Co-Loc.pdf
<b>Appendix C - Safe Information</b>	Appendix C-Safe Info Co-Loc.pdf	../Attachments/Appendix C-Safe Info Co-Loc.pdf
<b>Appendix D - Standards for Eligibl</b>	Appendix D-Facility Info Co-Loc.pdf	../Attachments/Appendix D-Facility Info Co-Loc.pdf

## Questions

★ Supplier Response Is Required

### RFP Questions

#### Group 1.1: Technical Questions

- 
- |       |  |   |
|-------|--|---|
| 1.1.1 | Please download, complete, and upload the attached Technical Submittal from Buyer Attachments.<br>File Upload  | ★ |
| 1.1.2 | Any additional attachments in support of the technical submittal can be uploaded here. If multiple files are needed combine into a single document or create a .zip file combining the files into a single .zip file.<br>File Upload |   |

### Additional Required Documentation

#### Group 2.1: Standard Forms

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- |       |   |   |
|-------|---|---|
| 2.1.1 | Please download, sign and attach the Domestic Workforce Utilization Certification Form.<br>File Upload<br>Domestic Workforce Form - ../Attachments/QuestionAttachments/DWU Form.doc | ★ |
|-------|---|---|

#### Group 2.2: Terms and Conditions

- 
- |       |  |   |
|-------|--|---|
| 2.2.1 | By submitting a proposal, the Offeror does so on the basis of the attached contract terms and conditions contained in Buyer Attachments.<br>Yes/No | ★ |
|-------|--|---|

#### Group 2.3: Offeror's Representation

- 
- |       |  |   |
|-------|--|---|
| 2.3.1 | By submitting a proposal, each Offeror understands, represents, and acknowledges the attached representations and authorizations.<br>Yes/No<br>Offerors Representations - ../Attachments/QuestionAttachments/Offerors Representations and  | ★ |
| 2.3.2 | By submitting a proposal, you represent that: (1) you are making a formal submittal in response to a procurement issued by the Commonwealth pursuant to the Procurement Code (62 Pa.C.S. Section 101 et seq.); (2) you are authorized to submit the information on behalf of the person or entity identified; (3) this electronic submittal is deemed signed by you and you are authorized to bind the person or entity identified to the terms of the solicitation and this submittal; and (4) all of the information submitted is true and correct to the best of your knowledge, information, and belief. Any false statements made by you in this submittal are subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).<br>Yes/No | ★ |

**TECHNICAL SUBMITTAL**  
**RFP 3520R07 Fairless Hills & Fulton County Co-Location of Photo License Center**

The Pennsylvania Department of Transportation (PennDOT) is seeking a qualified business to provide a site for the co-location of a photo license center (PLC) in Fairless Hills when the current contract expires. PennDOT prefers that the site be within 3 miles of the current co-location site.

Additionally, PennDOT is seeking a qualified business to provide a site for the co-location of a photo license center (PLC) in Fulton County. PennDOT prefers that the site be within 3 miles of the current photo license center that will be closing upon success of this procurement. PennDOT is seeking to establish PLCs at the following locations:

- Fairless Hills- (Bucks County) – The current co-location site location is at 516 North Oxford Valley Road, Langhorne PA 19047. PennDOT prefers the co-location site to be relocated within three (3) miles of the existing site.
- McConnellsburg- (Fulton County) – The current Photo License Center location is at 665 Lincoln Way East, McConnellsburg PA, 17233. PennDOT seeks to establish a co-location site within three (3) miles of the existing site. If there are no qualified businesses in a 3 mile radius of our existing site, we are willing to expand our search throughout Fulton County.

**Background of the Photo License Center Program.** Section 2409.1 of the PA Administrative Code of 1929, Act of April 9, 1929, P.L. 177, added by Section 1 of Act of July 29, 1953, P.L. 1443, as amended, 71 P.S. Section 639.1 provides, in relevant part, that notwithstanding other provisions of the Act, handicapped-made products and services shall be purchased by the Commonwealth.

UniqueSource Products & Services (formerly PA Industries for the Blind and Handicapped, PIBH) has provided services for the photo license program since January 1984. UniqueSource currently provides photo license services to the Commonwealth pursuant to Contract 4400004695, which expires on March 31, 2024. It is expected that these services will be provided beyond this expiration date via contract with UniqueSource or another service provider contracted by PennDOT. All photo license operations shall remain PennDOT's responsibility and be provided either by PennDOT or by a contracted photo licensed service provider.

PennDOT cannot be charged for the successful completion of the tasks described in Task I-6 and the work covered under this RFP. The Selected Offeror will be benefited by increased traffic to their business. The Selected Offeror will be responsible for all the deliverables/work specified in this RFP and any and all associated costs.

**I-1. Requirements.** The Selected Offeror(s) must have experience servicing walk-in customers in a retail setting for a continuous period of five years immediately prior to the date

that responses to this RFP are due. PennDOT reserves the right to approve the facility as set forth in the program requirements. To become a PennDOT-authorized PLC Co-Location, prospective Offeror(s) shall not have been previously sanctioned by PennDOT for violations within the last two (2) years and meet all other applicable program requirements including: Appendix A, “Photo License Center (PLC) Co-Location Program Requirements”, Appendix B, “Minimum Space Requirement Diagram”, Appendix C, “Safe Information”, and Appendix D, “Standards for Eligible Co-Locations Facilities”.

- A. Emergency Preparedness.** To support continuity of operations during an emergency, including a pandemic, the Commonwealth needs a strategy for maintaining operations for an extended period of time. One part of this strategy is to ensure that essential contracts that provide critical business services to the Commonwealth have planned for such an emergency and put contingencies in place to provide needed goods and services.
1. Describe how you anticipate such a crisis will impact your operations.
  2. Describe your emergency response continuity of operations plan. Please attach a copy of your plan, or at a minimum, summarize how your plan addresses the following aspects of pandemic preparedness:
    - a. Employee training (describe your organization’s training plan, and how frequently your plan will be shared with employees);
    - b. Identified essential business functions and key employees (within your organization) necessary to carry them out;
    - c. Contingency plans for:
      - i. How your organization will handle staffing issues when a portion of key employees are incapacitated due to illness; and
      - ii. How employees in your organization will carry out the essential functions if contagion control measures prevent them from coming to the primary workplace.
    - d. How your organization will communicate with staff and suppliers when primary communications systems are overloaded or otherwise fail, including key contacts, chain of communications (including suppliers), etc. and;
    - e. How and when your emergency plan will be tested, and if the plan will be tested by a third-party.

**Offeror Response**

**I-2. Statement of the Project.** State in succinct terms your understanding of the project presented or the service required by this RFP.

**Offeror Response**

**I-3. Qualifications.**

**A. Company Overview.** Please list relevant certifications, licenses, third-party ratings etc. that would apply to this contract.

**Offeror Response**

**B. Prior Experience.** Include experience servicing walk-in customers in a retail setting. Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

**Offeror Response**

**C. Personnel.** Describe in narrative form the number of executive and professional personnel who will be engaged in the work and indicate where these personnel will be physically located during the time they are engaged in the Project. For key personnel, include the employee's name, and through a resume or similar document, the Project personnel's education and experience in managing a retail setting. Indicate the responsibilities everyone will have in this Project and how long each has been with your company.

**Offeror Response**

**I-4. Training.** If appropriate, indicate recommended training of agency personnel. Include agency personnel to be trained, the number to be trained, duration of the program, place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.

**Offeror Response**

**I-5. Financial Capability.** Describe your company's financial stability and economic capability to perform the contract requirements. The Commonwealth reserves the right to request additional information to evaluate an Offeror's financial capability.

**Offeror Response**

**I-6. Tasks.** Describe in narrative form your technical plan for accomplishing the work using the task descriptions set forth below as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of person hours allocated to each task. Include a Program Evaluation and Review Technique (PERT) or similar type display, time related, showing each event. If more than one approach is apparent, comment on why you chose this approach.

Task A Comply with Appendix A – Photo License Center (PLC) Co-location Program Requirements

Task B Provide and be financially responsible for facility space, facility maintenance, facility utilities, facility furnishings, and facility security for a Photo License Center in accordance with Appendix B – Minimum Space Requirement Diagram and Appendix C – Safe Information.

Task C Provide an eligible co-location facility which complies with Appendix D – Standards for eligible Co-Location Facilities.

**I-7. Reports and Project Control.** Upon being given a Notice to Proceed, the Selected Offeror(s) shall meet whenever necessary with PennDOT’s Project Manager to assess the status of the tasks included in Section I-6 above. PennDOT’s Project Manager will schedule all meetings and select meeting locations. It is anticipated that most meetings will take place at the Riverfront Office Center, 1101 South Front Street, Harrisburg, PA.

**A. Status Report.** A periodic progress report covering activities, problems and recommendations. This report should be keyed to the work plan the Offeror(s) developed in its proposal, as amended or approved by the Issuing Office.

***Offeror Response***

**B. Problem Identification Report.** An “as required” report, identifying problem areas. The report should describe the problem and its impact on the overall project and on each affected task. It should list possible courses of action with advantages and disadvantages of each, and include Offeror(s) recommendations with supporting rationale; and

***Offeror Response***

**I-8. Objections and Additions to Standard Contract Terms and Conditions.** The Offeror(s) will identify which, if any, of the terms and conditions contained in the **Buyer Attachments** section that it would like to negotiate and what additional terms and conditions the Offeror(s) would like to add to the standard contract terms and conditions. The Offeror’s failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office’s sole discretion, would be in the best interest of the Commonwealth. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The

Offeror(s) shall not request changes to the other provisions of the RFP, nor shall the Offeror(s) request to completely substitute its own terms and conditions for this RFP. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

Regardless of any objections set out in its proposal, the Offeror(s) must submit its proposal, including the cost proposal, on the basis of the terms and conditions set out in the **Terms and Conditions** contained in the **Buyer Attachment** section. The Issuing Office will reject any proposal that is conditioned on the negotiation of the terms and conditions set out in the **Terms and Conditions** contained in the **Buyer Attachment** section or to other provisions of the RFP as specifically identified above.

***Offeror Response***



# TERMS and CONDITIONS

## PART V - CONTRACT TERMS and CONDITIONS

### **V.1 CONTRACT-001.1a Contract Terms and Conditions (Nov 30 2006)**

The Contract with the selected offeror (who shall become the "Contractor") shall include the following terms and conditions:

### **V.2 CONTRACT-002.1d Term of Contract – Contract (May 2012)**

The initial term of the Contract shall be 05 year(s) and 00 month(s).

The term of the Contract shall commence on the Effective Date (as defined below) and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract.

The Effective Date shall be: a) the Effective Date printed on the Contract after the Contract has been fully executed by the Contractor and the Commonwealth (signed and approved as required by Commonwealth contracting procedures) or b) the "Valid from" date printed on the Contract, whichever is later.

### **V.3 CONTRACT-002.2a Renewal of Contract Term (Nov 30 2006)**

The Contract may be renewed for a maximum of 1 additional 5 year term(s), so long as Commonwealth provides written notice to Contractor of its intention to extend the Contract by letter prior to the expiration of the term of the agreement, or any extension thereof. The Commonwealth may exercise the renewal as individual year or multiple year term(s). Any renewal will be under the same terms, covenants and conditions. No further document is required to be executed to renew the term of the contract.

### **V.4 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006)**

The Commonwealth reserves the right, upon notice to the Contractor, to extend any single term of the Contract for up to three (3) months upon the same terms and conditions.

### **V.5 CONTRACT-003.1b Signatures – Contract (July 2015)**

The Contract shall not be a legally binding contract until the fully-executed Contract has been sent to the Contractor. No Commonwealth employee has the authority to verbally direct the commencement of any work or delivery of any supply under this Contract prior to the Effective Date. The Contractor hereby waives any claim or cause of action for any service or work performed prior to the Effective Date.

The Contract may be signed in counterparts. The Contractor shall sign the Contract and return it to the Commonwealth. After the Contract is signed by the Contractor and returned to the Commonwealth, it will be processed for Commonwealth signatures and approvals. When the Contract has been signed and approved by the Commonwealth as required by Commonwealth contracting procedures, the Commonwealth shall create a Contract output form which shall: 1) clearly indicate "Fully executed" at the top of the form; 2) include a printed Effective Date and 3) include the printed name of the Purchasing Agent indicating that the document has been electronically signed and approved by the Commonwealth. Until the Contractor receives the Contract output form with this information on the Contract output form, there is no legally binding contract between the parties.

The fully-executed Contract may be sent to the Contractor electronically or through facsimile equipment. The

electronic transmission of the Contract shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Contract shall constitute receipt of the fully-executed Contract.

The Commonwealth and the Contractor specifically agree as follows:

- a. No handwritten signature shall be required in order for the Contract to be legally enforceable.
- b. The parties agree that no writing shall be required in order to make the Contract legally binding, notwithstanding contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine Contract or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine Contract or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of a genuine Contract or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Contract or acknowledgement were not in writing or signed by the parties. A Contract or acknowledgement shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.
- c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

#### **V.6 CONTRACT-004.1a Definitions (Oct 2013)**

As used in this Contract, these words shall have the following meanings:

- a. Agency: The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".
- b. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- c. Days: Unless specifically indicated otherwise, days mean calendar days.
- d. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.
- e. Documentation: All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.
- f. Services: All Contractor activity necessary to satisfy the Contract.

#### **V.7 CONTRACT-005.1b Agency Purchase Orders (July 2015)**

The Agency may issue Purchase Orders against the Contract. These orders constitute the Contractor's authority to make delivery. All Purchase Orders received by the Contractor up to and including the expiration date of the Contract are acceptable and must be performed in accordance with the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract.

Purchase Orders may be electronically signed by the Agency. The electronically-printed name of the purchaser represents the signature of that individual who has the authority, on behalf of the Commonwealth, to authorize the Contractor to proceed.

Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Purchase Order shall constitute receipt of an order. Orders received by the Contractor after 4:00 p.m. will be considered received the following business day.

The Commonwealth and the Contractor specifically agree as follows:

- a. No handwritten signature shall be required in order for the Contract or Purchase Order to be legally enforceable.
- b. The parties agree that no writing shall be required in order to make the Purchase Order legally binding. The parties hereby agree not to contest the validity or enforceability of a Purchase Order or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any Purchase Order or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of Purchase Orders or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Purchase Order or acknowledgement were not in writing or signed by the parties. A Purchase Order or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.
- c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

Purchase Orders under ten thousand dollars (\$10,000) in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. Contractors agree to accept payment through the use of the Commonwealth Purchasing Card.

#### **V.8 CONTRACT-006.1 Independent Prime Contractor (Oct 2006)**

In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth. The Contractor will be responsible for all services in this Contract whether or not Contractor provides them directly. Further, the Contractor is the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

#### **V.9 CONTRACT-007.01b Delivery of Services (Nov 30 2006)**

The Contractor shall proceed with all due diligence in the performance of the services with qualified personnel, in accordance with the completion criteria set forth in the Contract.

#### **V.10 CONTRACT-007.02 Estimated Quantities (Nov 30 2006)**

It shall be understood and agreed that any quantities listed in the Contract are estimated only and may be increased or decreased in accordance with the actual requirements of the Commonwealth and that the Commonwealth in accepting any bid or portion thereof, contracts only and agrees to purchase only the materials and services in such quantities as represent the actual requirements of the Commonwealth. The Commonwealth reserves the right to purchase materials and services covered under the Contract through a separate competitive procurement procedure, whenever Commonwealth deems it to be in its best interest.

#### **V.11 CONTRACT-008.1a Warranty (Oct 2006)**

The Contractor warrants that all items furnished and all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the Contract, all items are warranted for a period of one year following delivery by the Contractor and acceptance by the Commonwealth. The Contractor shall repair, replace or otherwise correct any problem with the delivered item. When an item is replaced, it shall be replaced with an item of equivalent or superior quality without any additional cost to the Commonwealth.

#### **V.12 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2013)**

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report, document or other material provided to the Commonwealth under the contract.

The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Contract.

This is upon condition that the Commonwealth shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same.

As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action.

If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization.

The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract.

If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing.

If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

#### **V.13 CONTRACT-009.1d Ownership Rights (Oct 2006)**

The Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the Commonwealth as part of the performance of the Contract.

#### **V.14 CONTRACT-010.1a Acceptance (Oct 2006)**

No item(s) received by the Commonwealth shall be deemed accepted until the Commonwealth has had a reasonable opportunity to inspect the item(s). Any item(s) which is discovered to be defective or fails to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the item(s) or the noncompliance with the specifications were not reasonably ascertainable upon the initial inspection. It shall thereupon become the duty of the Contractor to remove rejected item(s) from the premises without expense to the Commonwealth within fifteen (15) days after notification. Rejected item(s) left longer than fifteen (15) days will be

regarded as abandoned, and the Commonwealth shall have the right to dispose of them as its own property and shall retain that portion of the proceeds of any sale which represents the Commonwealth's costs and expenses in regard to the storage and sale of the item(s). Upon notice of rejection, the Contractor shall immediately replace all such rejected item(s) with others conforming to the specifications and which are not defective. If the Contractor fails, neglects or refuses to do so, the Commonwealth shall then have the right to procure a corresponding quantity of such item(s), and deduct from any monies due or that may thereafter become due to the Contractor, the difference between the price stated in the Contract and the cost thereof to the Commonwealth.

#### **V.15 CONTRACT-011.1a Compliance With Law (Oct 2006)**

The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

#### **V.16 CONTRACT-013.1 Environmental Provisions (Oct 2006)**

In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations, including, but not limited to: the Clean Streams Law Act of June 22, 1937 (P.L. 1987, No. 394), as amended 35 P.S. Section 691.601 et seq.; the Pennsylvania Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, No. 97), as amended, 35 P.S. Section 6018.101 et seq.; and the Dam Safety and Encroachment Act, Act of November 26, 1978 (P.L. 1375, No. 325), as amended, 32 P.S. Section 693.1.

#### **V.17 CONTRACT-014.1 Post-Consumer Recycled Content (June 2016)**

Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified by the Environmental Protection Agency in its Comprehensive Procurement Guidelines, which can be found at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

#### **V.18 CONTRACT-014.3 Recycled Content Enforcement (Feb 2009)**

The Contractor may be required, after delivery of the Contract item(s), to provide the Commonwealth with documentary evidence that the item(s) was in fact produced with the required minimum percentage of post-consumer and recovered material content.

#### **V.19 CONTRACT-015.1A Compensation/Expenses (May 2008)**

The Contractor shall be required to perform the specified services at the price(s) quoted in the Contract. All services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for work performed to the satisfaction of the Commonwealth. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.

#### **V.20 CONTRACT-015.2 Billing Requirements (February 2012)**

Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall include in all of its invoices the following minimum information:

- Vendor name and "Remit to" address, including SAP Vendor number;
- Bank routing information, if ACH;
- SAP Purchase Order number;
- Delivery Address, including name of Commonwealth agency;
- Description of the supplies/services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);

- Quantity provided;
- Unit price;
- Price extension;
- Total price; and
- Delivery date of supplies or services.

If an invoice does not contain the minimum information set forth in this paragraph, the Commonwealth may return the invoice as improper. If the Commonwealth returns an invoice as improper, the time for processing a payment will be suspended until the Commonwealth receives a correct invoice. The Contractor may not receive payment until the Commonwealth has received a correct invoice.

Contractors are required to establish separate billing accounts with each using agency and invoice them directly. Each invoice shall be itemized with adequate detail and match the line item on the Purchase Order. In no instance shall any payment be made for services to the Contractor that are not in accordance with the prices on the Purchase Order, the Contract, updated price lists or any discounts negotiated by the purchasing agency.

#### **V.21 CONTRACT-016.1 Payment (Oct 2006)**

- a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the 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.
- b. The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or Purchase Order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or Purchase Order.

#### **V.22 CONTRACT-017.1 Taxes (Dec 5 2006)**

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 23-23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

#### **V.23 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006)**

The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of this Contract.

#### **V.24 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006)**

- a. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, et seq.), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.
- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

#### **V.25 CONTRACT-020.1 Audit Provisions (Oct 2006)**

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, documents and records that relate to costs or pricing data for the Contract for a period of three (3) years from the date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

#### **V.26 CONTRACT-021.1 Default (Oct 2013)**

a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:

- 1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
- 2) Failure to perform the work with sufficient labor, equipment, or material to ensure the completion of the specified work in accordance with the Contract or Purchase Order terms;
- 3) Unsatisfactory performance of the work;
- 4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
- 5) Improper delivery;
- 6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;
- 7) Delivery of a defective item;

- 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
- 9) Discontinuance of work without approval;
- 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
- 11) Insolvency or bankruptcy;
- 12) Assignment made for the benefit of creditors;
- 13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
- 14) Failure to protect, to repair, or to make good any damage or injury to property;
- 15) Breach of any provision of the Contract;
- 16) Failure to comply with representations made in the Contractor's bid/proposal; or
- 17) Failure to comply with applicable industry standards, customs, and practice.

b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, items similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.

c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Contracting Officer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth against loss.

d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.

f. Following exhaustion of the Contractor's administrative remedies as set forth in the Contract Controversies Provision of the Contract, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

#### **V.27 CONTRACT-022.1 Force Majeure (Oct 2006)**

The Contractor shall notify the Commonwealth orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect to cancel the Contract, cancel the Purchase Order, or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.



In the event of a declared emergency by competent governmental authorities, the Commonwealth by notice to the Contractor, may suspend all or a portion of the Contract or Purchase Order.

#### **V.28 CONTRACT-023.1a Termination Provisions (Oct 2013)**

The Commonwealth has the right to terminate this Contract or any Purchase Order for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

- a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.
- b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.
- c. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for Contractor default under the Default Clause upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract or a Purchase Order for other cause as specified in the Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract or a Purchase Order for cause, then, at the Commonwealth's discretion, the Contract or Purchase Order shall be deemed to have been terminated for convenience under the Subparagraph a.

#### **V.29 CONTRACT-024.1 Contract Controversies (Oct 2011)**

- a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.
- b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is

unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

### **V.30 CONTRACT-025.1 Assignability and Subcontracting (Oct 2013)**

a. Subject to the terms and conditions of this paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.

b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

e. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.

f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.

g. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

### **V.31 CONTRACT-026.1 Other Contractors (Oct 2006)**

The Commonwealth may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors and Commonwealth employees, and coordinate its work with such additional work as may be required. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees. This paragraph shall be included in the Contracts of all contractors with which this Contractor will be required to cooperate. The Commonwealth shall equitably enforce this paragraph as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

## V.32 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (August 2018)

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 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. Neither the 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, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. Neither the 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 contract.
4. Neither the 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 Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
6. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or 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.
7. 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, regulations and policies 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 Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
8. 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.
9. 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.

**10.** 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.

### **V.33 CONTRACT-028.1 Contractor Integrity Provisions (Jan 2015)**

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.

**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 the 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.

**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 is 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.

#### **V.34 CONTRACT-029.1 Contractor Responsibility Provisions (Nov 2010)**

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

**V.35 CONTRACT-030.1 Americans with Disabilities Act (Oct 2006)**

- a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. Section 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of Subparagraph a. above.

**V.36 CONTRACT-032.1 Covenant Against Contingent Fees (Oct 2006)**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Commonwealth shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

**V.37 CONTRACT-033.1 Applicable Law (Oct 2006)**

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

**V.38 CONTRACT-034.1a Integration – RFP (Dec 12 2006)**

This Contract, including the Request for Proposals, Contractor's Proposal, Contractor's Best and Final Offer, if any, all referenced documents, and any Purchase Order constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Commonwealth or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its

terms shall be valid or binding unless accomplished by a written amendment signed by both parties.

#### **V.39 CONTRACT-034.2a Order of Precedence - RFP (Dec 12 2006)**

In the event there is a conflict among the documents comprising this Contract, the Commonwealth and the Contractor agree on the following order of precedence: the Contract; the RFP, the Best and Final Offer, if any; the Contractor's Proposal in Response to the RFP.

#### **V.40 CONTRACT-034.3 Controlling Terms and Conditions (Aug 2011)**

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. All quotations requested and received from the Contractor are for obtaining firm pricing only. Other terms and conditions or additional terms and conditions included or referenced in the Contractor's quotations, invoices, business forms, or other documentation shall not become part of the parties' agreement and shall be disregarded by the parties, unenforceable by the Contractor and not binding on the Commonwealth.

#### **V.41 CONTRACT-035.1a Changes (Oct 2006)**

The Commonwealth reserves the right to make changes at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the services within the scope of the Contract; 3) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the Contractor in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required by any notification of change shall be handled through Contract Controversies Provision.

#### **V.42 CONTRACT-036.1 Background Checks (February 2016)**

- a. The Contractor must, at its expense, arrange for a background check for each of its employees, as well as the employees of any of its subcontractors, who will have access to Commonwealth facilities, either through on-site access or through remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.state.pa.us/psplib/psp/sp4-164.pdf> . The background check must be conducted prior to initial access and on an annual basis thereafter.
- b. Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that a Contractor employee has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Commonwealth consents to the access, in writing, prior to the access. The Commonwealth may withhold its consent in its sole discretion. Failure of the Contractor to comply with the terms of this Section on more than one occasion or Contractor's failure to appropriately address any single failure to the satisfaction of the Commonwealth may result in the Contractor being deemed in default of its Contract.
- c. The Commonwealth specifically reserves the right of the Commonwealth to conduct background checks over and above that described herein.
- d. Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the contracting agency and DGS set forth in [Enclosure 3 of Commonwealth Management Directive 625.10 \(Amended\) Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings](#). The requirements, policy and procedures include a processing fee payable by the Contractor for contracted personnel photo identification or access badges.



#### **V.43 CONTRACT-037.1a Confidentiality (Oct 2013)**

a) The Contractor agrees to protect the confidentiality of the Commonwealth's confidential information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party (notice may be communicated by describing the information, and the specifications around its use or disclosure, in the SOW). Neither party may assert that information owned by the other party is such party's confidential information. The parties agree that such confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of such confidential information shall be marked by the party making the copy with any notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only, and which will remain subject to this Contract's security, privacy, data retention/destruction and confidentiality provisions (all of which shall survive the expiration of this Contract). Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default pursuant to the DEFAULT provision of this Contract, in addition to other remedies available to the non-breaching party.

(b) Insofar as information is not otherwise protected by law or regulation, the obligations stated in this Section do not apply to information:

- (1) already known to the recipient at the time of disclosure other than through the contractual relationship;
- (2) independently generated by the recipient and not derived by the information supplied by the disclosing party.
- (3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
- (4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
- (5) required to be disclosed by law, regulation, court order, or other legal process.

There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

(c) The Contractor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:

- (1) Prepare an un-redacted version of the appropriate document, and
- (2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret, and
- (3) Prepare a signed written statement that states:
  - (i) the attached document contains confidential or proprietary information or trade secrets;
  - (ii) the Contractor is submitting the document in both redacted and un-redacted format in accordance with 65 P.S. § 67.707(b); and
  - (iii) the Contractor is requesting that the document be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.

(4) Submit the two documents along with the signed written statement to the Commonwealth.

**V.44 CONTRACT-041.1 Contract Requirements-Small Diverse Business and Small Business Participation (July 2016)**

The provisions contained in the RFP concerning Contract Requirements - Small Diverse Business and Small Business Participation are incorporated by reference herein.

**V.45 CONTRACT-045.1 Insurance - General (Dec 12 2006)**

The Contractor is required to have in place during the term of the Contract and any renewals or extensions thereof, the following types of insurance, issued by companies acceptable to the Commonwealth and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania:

- A. **Worker's Compensation Insurance** for all of the Contractor's employees and those of any subcontractor, engaged in work at the site of the project as required by law.
- B. **Public Liability and Property Damage Insurance** to protect the Commonwealth, the Contractor, and any and all subcontractors from claims for damages for personal injury (including bodily injury), sickness or disease, accidental death and damage to property including the loss of use resulting from any property damage, which may arise from the activities performed under the Contract or the failure to perform under the Contract, whether such performance or non-performance be by the Contractor, by any subcontractor, or by anyone directly or indirectly employed by either. The minimum amounts of coverage shall be \$250,000 per person and \$1,000,000 per occurrence for bodily injury, including death, and \$250,000 per person and \$1,000,000 per occurrence for property damage. Such policies shall be occurrence rather than claims-made policies and shall not contain any endorsements or any other form designated to limit and restrict any action by the Commonwealth, as an additional insured, against the insurance coverage in regard to work performed for the Commonwealth.

Prior to commencement of the work under the Contract and at each insurance renewal date during the term of the Contract, the Contractor shall provide the Commonwealth with current certificates of insurance. These certificates or policies shall name the Commonwealth as an additional insured and shall contain a provision that the coverage's afforded under the policies will not be cancelled or changed until at least thirty (30) days written notice has been given to the Commonwealth.

The Commonwealth shall be under no obligation to obtain such certificates from the Contractor(s). Failure by the Commonwealth to obtain the certificates shall not be deemed a waiver of the Contractor's obligation to obtain and furnish certificates. The Commonwealth shall have the right to inspect the original insurance policies.

**V.46 CONTRACT-051.1 Notice (Dec 2006)**

Any written notice to any party under this Contract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to following:

- a. If to the Contractor: the Contractor's address as recorded in the Commonwealth's Supplier Registration system.
- b. If to the Commonwealth: the address of the Issuing Office as set forth on the Contract.

#### **V.47 CONTRACT-052.1 Right to Know Law (Feb 2010)**

- 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.
- 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.

**V.48 CONTRACT-053.1 Enhanced Minimum Wage Provisions (July 2018)**

- 1. Enhanced Minimum Wage.** Contractor/Lessor agrees to pay no less than \$12.00 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.
- 2. Adjustment.** Beginning July 1, 2019, and annually thereafter, the minimum wage rate shall be increased by \$0.50 until July 1, 2024, when the minimum wage reaches \$15.00. Thereafter, the minimum wage rate would be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
- 3. Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
  - a.** exempt from the minimum wage under the Minimum Wage Act of 1968;
  - b.** covered by a collective bargaining agreement;
  - c.** required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
  - d.** required to be paid a higher wage under any state or local policy or ordinance.
- 4. Notice.** Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
- 5. Records.** Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
- 6. Sanctions.** Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
- 7. Subcontractors.** Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

## **APPENDIX A**

# **PHOTO LICENSE CENTER (PLC) CO-LOCATION PROGRAM REQUIREMENTS**

## **PHOTO LICENSE CENTER (PLC) CO-LOCATION PROGRAM REQUIREMENTS**

Within the framework of the Photo License Center (PLC) Co-location Program, Qualified Businesses will provide facilities for PennDOT PLC Co-Location Services.

Given the potential for fraudulent issuance of license documents, the selected Contractor will be required to meet a set of performance standards contained herein for facility security.

### 1.1 General Requirements

#### 1.1 Experience:

1.1.1 Applicants shall not have been previously sanctioned by PennDOT for violations within the last two years. In addition, the applicant shall not have any pending investigations or be on probationary status with the Department.

1.1.2 Applicants must have experience servicing walk-in customers in a retail setting for a continuous period of five years immediately prior to the date that responses to this RFP are due.

#### 1.2 Contract:

Applicants will be required to enter into a contract with the Department for the PLC Co-Location Program.

#### 1.3 Departmental Performance Requirements:

Contractors shall remain bound by the provisions of their PLC Co-Location contract, PLC Co-Location Program Requirements and/or additional contractual requirements provided in writing by the Department. When such requirements are provided in writing by the Department, the Contractor is contractually bound to adhere to those standards. The Contractor will provide a written response to the Department: 1) Acknowledging receipt of the revised or additional requirement, and 2) acceptance of the revised or additional requirement. Failure to provide written acknowledgement and acceptance shall constitute grounds for terminating the co-location contract, at the discretion to the Department.

### 1.2 Facility Requirements:

#### 1.2 Location:

1.2.1 The Contractor shall provide space for a PLC within its place of business and must meet the approval of the Department.

1.2.2 Each selected site must be able to support at least 100 face-to-face retail transactions a day in addition to the transactions conducted by the PLC.

1.2.3 Each PLC Co-Location facility shall have an acceptable appearance to the Department and must comply with all applicable federal, state and local laws. The PLC must be fully accessible to persons with disabilities in accordance with Title II of the Americans with Disabilities Act (ADA) requirements.

1.3 Parking:

1.3.1 Each PLC Co-Location facility shall have a minimum of 10 customer reserved, off-street parking spaces for the PLC in addition to the parking spaces needed for the Contractor's Business. Any adjustment made to the parking requirements must first be justified by the applicant and approved by the Department.

1.3.2 Each PLC Co-Location facility shall have at least two additional parking spaces designated for customers with disabilities, in accordance with the Americans with Disabilities Act. Contractor employees shall not use these spaces. Any adjustment made to the parking requirements must first be justified by the applicant and approved by the Department.

1.3.3 Each PLC Co-Location facility shall have adequate parking as determined by the Department to support the transaction volume.

1.3.4 Should local parking ordinances prohibit the proposer from meeting these requirements a copy of those ordinances should be made part of the proposal in answer to these parking requirements. Limited parking could become a factor for the selection committee to consider while reviewing proposals to this RFP.

1.4 Interior:

1.4.1 Layout/Requirements:

The interior of each PLC Co-Location facility shall provide in its design and physical layout the following:

1.4.1.1 An area designated for the PLC. The PLC, at minimum, shall be large enough to accommodate all PLC employee workstations, customer service counters, customer waiting area, and secure storage area. Refer to **Appendix B** for a footprint outlining the minimum space requirements for the secure storage area and employee workstations. The footprint includes a suggested layout for a one-camera/workstation PLC. Sites with more than one camera/employee workstation shall be big enough to accommodate all camera/workstations. Applicants shall include a floor plan with their proposals. This floor plan will be clearly marked indicating the Contractor's business area, the PLC area, and a secure storage area for the PLC.

- 1.4.1.1 The Contractor shall provide an ADA-accessible restroom for customer and employee use.
- 1.4.1.2 The Contractor shall provide a break room or refreshment area for PLC employee use. The break room or refreshment area is not needed exclusively for the PLC and may be shared by the Contractor's employees.
- 1.4.1.3 Within the PLC Co-Location facility, the Contractor shall designate a separate area for PLC customer service counters and employee workstations. Customers entering the PLC shall not have access to the employee workstations behind the PLC customer service counter area. Employee workstations shall be behind the PLC customer service counter area and accessible from the public service area only through a gate or a door. The number of workstations required is listed in **Appendix B**.
- 1.4.1.4 The PLC customer service area shall include a counter, located directly in front of the employee workstations, and a picture chair situated in front of a Department-provided backdrop needed for customer photos. Also, the Department may require an additional chair at the PLC service counter area, where the customer may sit to answer questions before moving to the picture chair.
- 1.4.1.5 The Contractor shall provide a designated PLC customer waiting area. The customer waiting area shall be conveniently located to the PLC service counter. If the PLC area is located within the same room as the Contractor's service area, the waiting area may be shared by both the Contractor and the PLC. The customer service area shall be large enough to accommodate customer traffic moving about the PLC Co-Location facility and include ten waiting chairs per camera system, a mirror for customer use, a take-a-number system, and an information/ publications rack.
- 1.4.1.6 The Contractor shall provide adequate floor space in relation to waiting customers and anticipated transaction volumes.
- 1.4.1.7 Applicants must provide a description and photos of their processing area, waiting area and their queue management plan for the PLC Co-Location facility.
- 1.4.1.8 Adjustments may be made in layout requirements, if deemed desirable by the Department.



## 1.4.2 Storage Requirements:

1.4.2.1 At the PLC Co-Location facility the Contractor shall provide a Department-approved secure storage area for the PLC, which includes a safe for storing sensitive materials needed to produce driver license/ID card products, and space for storing forms and other non-sensitive supplies and equipment. The PLC secure storage area shall, at minimum, be 64 square feet (8ft. x 8ft.), containing a solid core door construction, secured hinges, a solid wall construction, no windows, secured ceiling, and a deadbolt lock requiring key access. Interior construction of the secure storage area must accommodate the following:

1.4.2.1.1 Department-approved safe containing a security device.

1.4.2.1.2 Storage of consumables and form inventory.

1.4.2.2 The Department, in writing, may waive minimum floor space requirements for PLC secure storage area if the Contractor justifies a departure from the minimum requirements and the Department accepts the justification.

1.4.2.3 At the PLC Co-Location Facility the Contract shall provide a Department-approved secure data room for the PLC. The PLC data room shall, at minimum, be sixty (60) square feet.

## 1.5 Utilities:

1.5.1 The Contractor's facility must have adequate heating and air conditioning and maintain a 68-degree temperature in the winter and a 75-degree temperature in the summer.

1.5.2 Each Contractor facility must have a telephone provided by the Contractor dedicated for their business operations. The telephone must be equipped with an answering machine or voice mail for use after hours containing a prerecorded message stating business and PLC hours of operation and any other pertinent information identified by the Department.

1.5.3 All photo license facilities must have a telephone provided by the Contractor dedicated to the photo license operation within the photo license center.

1.5.4 The Contractor shall publish telephone numbers for photo centers in phone directories and other publications only at the Department's discretion. Department discretion includes reserving the option of maintaining unpublished telephone numbers.

- 1.5.5 Each PLC photo workstation requires a 20 amp circuit and a minimum of five (5) three-prong duplex electrical outlets to meet program needs. These outlets must operate on a dedicated 20 amp circuit, 110 volt, 60 hertz AC and meet National Electric Code Standards.
- 1.5.6 The Contractor will be responsible for utilities including security alarms; however, the Department reserves the right to order, install, and maintain telecommunication lines necessary for the operation of phones, faxes, and photo equipment communications within the PLC. The Department's photo license service contractor and the Department's photo license equipment contractor will be responsible for PLC telecommunication lines and costs.

1.6 Facility Maintenance:

- 1.6.1 The Contractor must provide the following repair/maintenance services at minimum. The Department reserves the right to require additional repair/maintenance services, if needed, to ensure a clean, safe and professional atmosphere is maintained at all times.
  - 1.6.1.1 Office cleaning shall be performed during non-business hours for each business day the facility is open.
  - 1.6.1.2 Site refuse disposal (weekly).
  - 1.6.1.3 Electricity, lighting, heating, air-conditioning, and plumbing as needed.
  - 1.6.1.4 Repair damage due to vandalism, break-in, water, fire, wind, or extreme deterioration.
  - 1.6.1.5 Repair damage (intentional or unintentional) caused by a customer who is using the Photo License Center Co-Location services.
  - 1.6.1.6 Repair damage caused by Photo License Center staff. If it can be proven that damage was caused by deliberate action of the photo license center staff, the PennDOT project manager must be notified of the damage within 24 hours of the occurrence with supporting photo and/or video of the incident and subsequent damage.
  - 1.6.1.7 Snow and ice removal and grounds maintenance.
  - 1.6.1.8 Pest control, as needed.
  - 1.6.1.9 Entry floor mats cleaned every other week in fair weather and weekly in winter months.
  - 1.6.1.10 Recharging of fire extinguisher, as required by law.
  - 1.6.1.11 Alarm system maintenance, or replacement, as needed.
  - 1.6.1.12 Restroom maintenance.

- 1.6.2 Repair work must be completed in a reasonable amount of time. The Department will determine what constitutes a “reasonable amount of time.”
- 1.6.3 The Contractor is required to report, by telephone or email to the Department within 30 minutes, when a photo license center cannot serve customers, regardless of the reason the photo center cannot serve the customers.

1.7 Furnishings:

- 1.7.1 The Contractor will ensure that each PLC Co-Location facility is furnished with the following items for the PLC:
  - 1.7.1.1 One picture chair per camera system.
  - 1.7.1.2 Ten matching waiting chairs per camera system.
  - 1.7.1.3 One mirror.
  - 1.7.1.4 Entry floor mats.
  - 1.7.1.5 Sufficient fire extinguishers to meet State and local requirements.
  - 1.7.1.6 Automatic Queue Management System.
  - 1.7.1.7 One information rack, as approved by the Department.
  - 1.7.1.8 One “Opened/Closed” sign or other appropriate signage approved by the Department.
  - 1.7.1.9 One fax machine
  - 1.7.1.10 The safe provided by the Contractor shall be the same or equivalent as the safe currently used in the Department's Photo License Centers. The current safe used in the Department's Photo License Centers is the Gardall safe, model 1818/2. Features of this safe are attached in **Appendix C**. The safe shall be raised an approximate 20" via pedestal, and the safe shall be bolted through the pedestal to the floor. All PLC safes and placement of the safes shall be approved by the Department.
  - 1.7.1.11 One Department-approved workstation per camera system. See **Appendix A** for the number of workstations.
  - 1.7.1.12 One shredder per workstation.
  - 1.7.1.13 One Department-approved customer service counter.
- 1.7.2. The Department's photo equipment contractor, not the Contractor, shall be responsible for relocation, repair, and replacement of the photo license computer and mechanical equipment used to produce photo license products. The

Contractor will be responsible to provide repairs and replacement, if necessary, of all Department-required PLC furnishings including the take-a-number system.

2.1 Hours of Operation:

- 2.2 The PLC will be open for business in accordance with **Appendix A**. The Department reserves the right to increase or decrease the days and/or hours of PLC operations based on customer demand and Departmental need. The Department reserves the right to decide holiday hours for the Photo License Center.
- 2.3 It is not necessary for the Contractor business area of the PLC Co-Location site to maintain the same hours as the Photo License Center.
- 2.4 PennDOT reserves the right to move Image Capture Workstations temporarily, or permanently, within the same Photo License Center or to another Photo License Center location.

3.1 Service Personnel and Staffing Requirements:

- 3.2 The Department reserves the right to require the removal of all individuals who are employed in any capacity by the Contractor for this Contract.
- 3.3 The Contractor will designate one manager who directs the operations and will be the Department contact person. The Contractor shall provide, as a condition of the contract, competent, continuous supervision and instruction to ensure that each PLC Co-Location facility is properly operated. A designated site supervisor must be available during all hours of PLC operation.
- 3.4 The Contractor shall be required to provide to the Department for approval within four (4) weeks of notice to proceed, a detailed organizational chart clearly describing the chain of command from the site supervisor to the Business Owner/President.
- 3.5 The Department reserves the right to make unannounced center visits to observe and inspect the Contractor's facility operations.
- 3.6 The Contractor will designate a 24-hour primary contact for calls, in case of an emergency. In addition to the primary contact, a secondary contact is also required in case the primary contact is not available.

4.1 Distribution of Materials:

- 4.2 Only materials approved by the Department may be displayed, or disseminated within the designated PLC Co-Location facility.
- 4.3 All advertising (television, radio, Internet, billboard, newspaper, magazine, yellow pages, etc.) for PLC services must have prior approval of the PennDOT Photo License Program Manager.

5.1 Signs and Postings:

- 5.2 The following signs may be required by the Department. The Contractor shall display and install Department-approved signs as directed by the Department.
  - 5.2.1 An on-site identification sign and/or façade signage. Sign shall indicate “PennDOT PHOTO LICENSE CENTER.” Signs must be clearly visible and recognizable by the customers.
  - 5.2.2 PLC parking and persons with disabilities parking signs;
  - 5.2.3 Signs displaying an arrow showing direction to the entrance;
  - 5.2.4 Signs displaying days and hours of operation;
  - 5.2.5 Signs displaying days and hours of operation for the Photo License Center.
  - 5.2.6 Department-provided Holiday closings for the Photo License Center.
  - 5.2.7 “Opened” and “Closed.”
  - 5.2.8 Emergency contact information (must be displayed at all times).
  - 5.2.9 Maintenance of a clear and unobstructed view of all signs and postings will be the responsibility of the Contractor.
- 5.3 The Contractor shall provide the following Department-approved interior signs and postings at the PLC Co-Location facility:
  - 5.3.1 Emergency information and instructional postings;
  - 5.3.2 Exit and Emergency Exit signs;
  - 5.3.3 “Right-to-Know” postings;
  - 5.3.4 No smoking signs;
  - 5.3.5 Program posters or photos as required by the Department.
- 5.4 The Contractor shall not place any additional signs in the PLC unless approved by the Department.
- 5.5 At no time shall handwritten signs be posted.
- 5.6 Sign replacement due to vandalism, mutilation, or extreme deterioration is the responsibility of the Contractor. The Contractor will replace indoor signs and postings periodically if deterioration occurs.

6.1 Equipment/Hardware/Telecommunications:

6.2 The Contractor is required to have an e-mail address to facilitate communication.

7.1 Security/Safety:

7.2 Applicants shall submit a security plan with their proposal. The security plan must describe the method of security which it intends to employ at each location for safeguarding all equipment and supplies. Specific and comprehensive security plans for the PLC Co-Location facility shall be required. Such plans shall serve to maximize the security potential and minimize the security risk at each site. The Department shall approve all initial security plans and modifications made to security plans. Department approval on routine maintenance is not required.

7.3 The PLC Co-Location facility shall have and use an electronic security system that is in good working order.

7.4 Theft or loss of photo license stock due to lack of proper security, may result in the immediate termination of the PLC Co-Location's contract.

7.5 Upon the Contractor's receipt of a report or information of any kind, which indicates that a PLC/Business Partner employee or any person responsible for the operation, supervision or management of PLC Co-Location operations may be party to the fraudulent use of equipment, materials, or information, the Contractor shall notify the Department in writing within 24 hours. Written notice to the Department shall be by fax, registered mail, e-mail, or receipted delivery to the PennDOT Co-Location Program Manager.

Proper notice shall contain but not be limited to, the following information:

- The names, addresses, social security numbers and dates of birth of all suspected personnel;
- A list of all times at which the suspected personnel has been or will be scheduled to perform his/her job duties;
- The names, addresses, and telephone numbers of the direct supervisor of the suspected personnel;
- A description of the nature of the suspected fraudulent activity;
- A statement of the manner in which the Business Partner gained knowledge of the alleged fraudulent activity;
- The names, addresses, and telephone numbers of all informants and other persons having knowledge of the alleged fraudulent activity;
- Copies of all the reports, logs or other written information, which could document, clarify or in any manner assist in the investigation.

7.5.1 The Department shall, upon receipt of proper written notice, request an official investigation of the reported activity. The PLC Co-Location Program Manager shall be the key point of contact for the effective coordination of the investigation effort.

- 7.5.2 Upon the Department's receipt of a report or information of any kind which indicates that a PLC Business Partner employee or any person responsible for the operation, supervision or management of the PLC Co- Location operations may be party to the fraudulent use of equipment, materials or information, the Contractor's authorization to operate the PLC Co-Location facility may be suspended until the completion of an official investigation. If it is determined that such activity occurred, the Department may terminate the contract.
- 7.6 In the event of any incident of a break-in, theft, fire, or vandalism, the Contractor shall immediately notify the Department by telephone or fax, and shall additionally provide to the Department, in writing, within twenty-four hours, a detailed account of the incident.
- 7.7 The Contractor's facility must include a functioning Department-approved alarm system which must notify the responsible law enforcement agency immediately should any unauthorized entry to the PLC Co-Location facility occur. The Contractor must have separate alarms specific to the PLC footprint. In addition to the alarm monitoring company notifying the Contractor of any alarm notifications, the monitoring company must also directly notify PennDOT at email and /or phone numbers provided by PennDOT.

At a minimum, the alarm system must include:

- 7.7.1 A silent alarm in the PLC area for operator notification to the responsible law enforcement agency should any robbery attempt occur during operating hours.
  - 7.7.2 A functioning cellular back-up system that will ensure that alarm notification will occur in the event that telephone line service is interrupted.
  - 7.7.3 A 36-hour battery back-up system that will ensure that alarm notification will occur in the event of an electrical power outage.
  - 7.7.4 A mechanism to protect Central Processing Units (CPUs) and printers.
  - 7.7.5 Assignment of unique security access codes for designated PLC employees
- 7.8 The Contractor is responsible for providing functioning alarm service at its PLC Co-Location 24 hours a day, 7 days a week. In the event there is no functioning security alarm system at a site, the Contractor must provide security guard coverage until the alarm is repaired. In addition, the Contractor shall immediately notify the PennDOT Co-Location Program Manager and provide written confirmation within 5 calendar days of the alarm malfunction and the name of the security firm providing security guard coverage.
    - 7.8.1 Modifications to alarm systems and security may be required by the Department and shall be performed by the Contractor at the Department's request.

- 7.8.2 The Contractor shall provide alarm activity reports at the request of the Department. Reports shall include ID information, time and date of alarm sets and disarms. Additionally, upon the request of the Department, the Contractor's alarm provider shall provide information regarding alarm calls, responder conversations, and notifications to police.
- 7.9 The Contractor will have at least three responders on the call list. Notifications will be forwarded to the PennDOT Co-Location Program Manager for each alarm activation within seven business days of occurrence. The report will identify the reason or reasons why the alarm was activated, who responded to the call, action taken and any suggestions as to improve security or steps to prevent similar occurrences. Contractor will be accountable for all costs associated with occurrences of false alarms.
- 7.10 The employee's security alarm code shall be deleted within two hours of an employee's termination for either the PLC or Contractor's business. The Contractor shall delete the employee's security alarm code within two hours of notification that an employee is terminated. Notification may come from the Department or the Department's Photo License Service contractor. Additionally, if the terminated employee is a key holder, the Contractor has 48 hours to retrieve the key(s).
- 7.11 The PLC Co-Location facility shall have and use security cameras that are in good working order in the PLC. PennDOT must approve all hardware, software, and locations of devices. All security cameras will need to be viewed through PennDOT's Internal Network. All security cameras must be IP (Internet Protocol) digital cameras. The cost and installation of security cameras and supporting systems in the PLC will be the responsibility of the Contractor. With your proposal, describe the security camera hardware and software proposed.
- 7.12 All packages and deliveries addressed to the PLC shall be made to the PLC directly. Only PLC staff may sign for PLC deliveries, unless approved by the Department.
- 7.13 The Contractor shall be responsible for coordinating same day maintenance on all safes or replacement of safes not repairable. Safe repair or replacement shall be accomplished within 12 hours of malfunction. Immediately upon knowledge that the safe is malfunctioning, the Contractor will contact the PennDOT Co-Location Program Manager.
- 7.14 Other than as provided in this Agreement, the Contractor agrees that it shall not sell, assign, or otherwise transfer any information or portions of information obtained pursuant to the Agreement to any other party. The Contractor shall not use any record information so obtained pursuant to this Agreement for any purpose other than those as specifically authorized by this Agreement; Title 75, Section 6114 of the Vehicle Code, 75 Pa. C.S. § 6114, Limitation on Sale, publication and disclosure of records; Title 67, Pennsylvania Code, Chapter 95, Sale, Publication or Disclosure of Driver,



Vehicle and Accident Records and Information; the Federal Driver's Privacy Protection Act, 18 U.S.C. §§2721 et seq.; and the Federal Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.

- 7.15 The Department expressly reserves the right to require the Contractor to implement additional security measures determined to be necessary in the sole discretion of the Department. The Contractor will provide a written response to the Department: 1) Acknowledging receipt of the revised or additional requirement; and 2) acceptance of the revised or additional requirement. Failure to provide written acknowledgement and acceptance shall constitute grounds for terminating the co-location contract, at the discretion of the Department.

#### 8.1 Bond:

The Contractor shall maintain with the Department a Performance Bond in the amount of \$100,000 for the approved PLC Co-Location facility and \$50,000 for each additional site. If a Contractor is approved to automate more than three sites, it shall maintain with the Department a bond not to exceed \$200,000. The Performance Bond shall be executed by a surety company authorized (by law) to transact business (with) in this Commonwealth. After notification of selection, the Selected Offeror must secure a Performance Bond prior to execution of the contract. The Department will not issue a Notice to Proceed until the appropriate bond is in place.

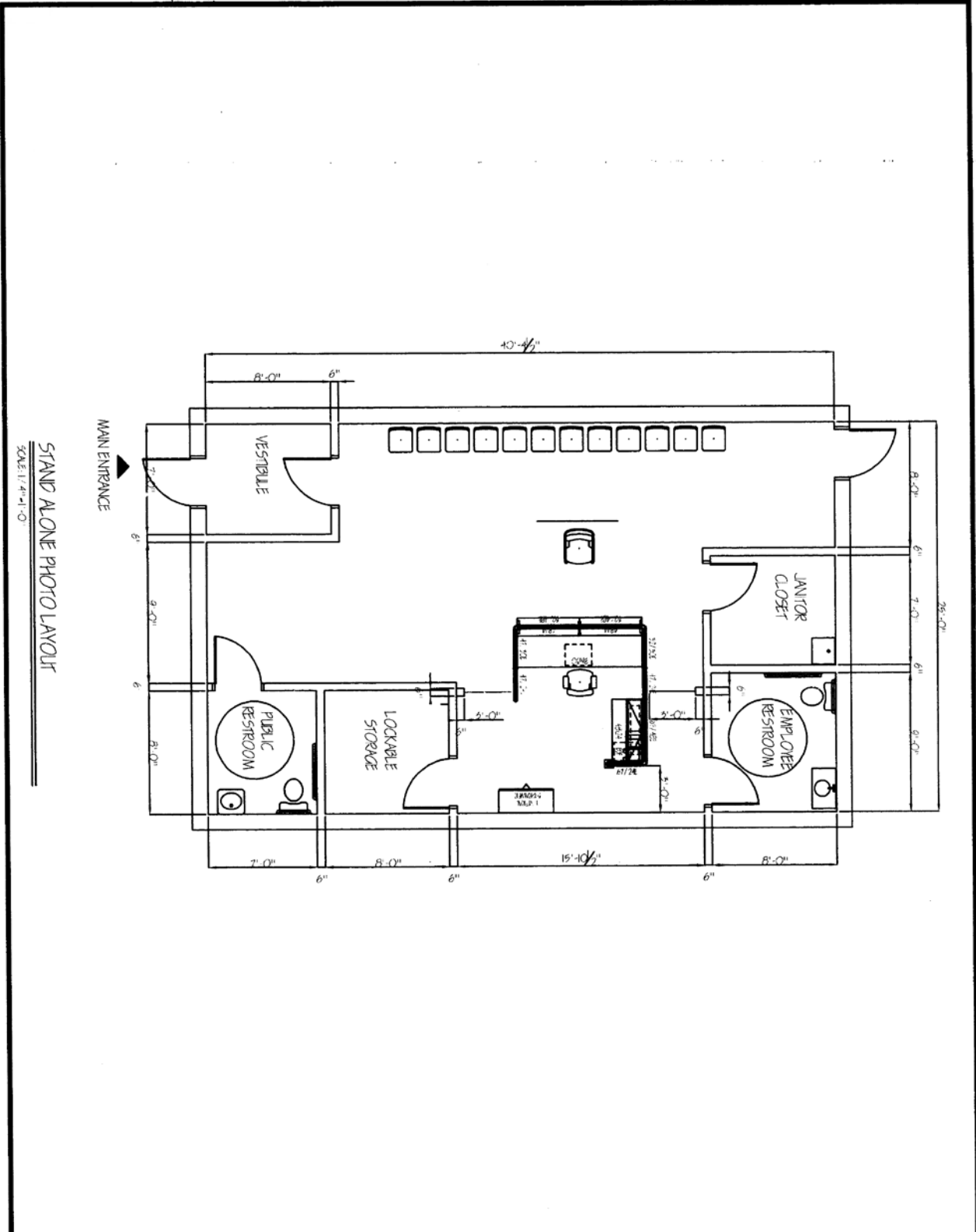
- 8.2 The Performance Bond shall be for the use and benefit of the Department and persons who have sustained a monetary loss within the limitations of the Performance Bond attributable to the intentional or negligent conduct of the Contractor or its employees.
- 8.3 If the Performance Bond is terminated or becomes unsatisfactory for any reason, the authorization to operate the PLC facilities will be suspended or terminated until the Contractor furnishes the Commonwealth with a satisfactory substitute Performance Bond in the amount required by the Department. If the Contractor does not furnish the Commonwealth with a satisfactory substitute bond in the amount required by the Department within 15 days from the time the bond is terminated or becomes unsatisfactory for any reason, the Contractor's contract will be terminated in its entirety.
- 8.4 The Department reserves the right to accept additional or alternative forms of security, as deemed appropriate by the Department.

9. Site Relocation

In order to ensure the continuity of services, the Department requires no less than 180 days written notice of a planned or unplanned move. Notice of the relocation must include but will not be limited to a proposed timeline and affirmation of ability to provide uninterrupted service in an eligible co-location facility that complies with Appendix B, “Minimum Space Requirement Diagram”, Appendix C, “Safe Information”, and Appendix D, “Standards for Eligible Co-Locations Facilities”. Final approval of the location’s suitability to continue program services is at the discretion of the Department following inspection of the new location. To this end, site relocation will be planned in cooperation with the Department.

## **APPENDIX B**

# **MINIMUM SPACE REQUIREMENT DIAGRAM**



STAND ALONE PHOTO LAYOUT  
 SCALE: 1/4" = 1'-0"

NO.	REVISION	DATE
1	ISSUED FOR PERMITS	1/29/04
2	REVISED TO SHOW CHANGES	1/29/04
3	REVISED TO SHOW CHANGES	1/29/04
4	REVISED TO SHOW CHANGES	1/29/04
5	REVISED TO SHOW CHANGES	1/29/04
6	REVISED TO SHOW CHANGES	1/29/04
7	REVISED TO SHOW CHANGES	1/29/04
8	REVISED TO SHOW CHANGES	1/29/04
9	REVISED TO SHOW CHANGES	1/29/04
10	REVISED TO SHOW CHANGES	1/29/04

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION  
 STAND ALONE PHOTO CENTER

**SPRINGSUITE**  
**office interiors**

528 WYOMING STREET  
 SUITE 200  
 WILKES BARRE, PA 18201  
 717.854.5282  
 WWW.SPINGSUITE.COM

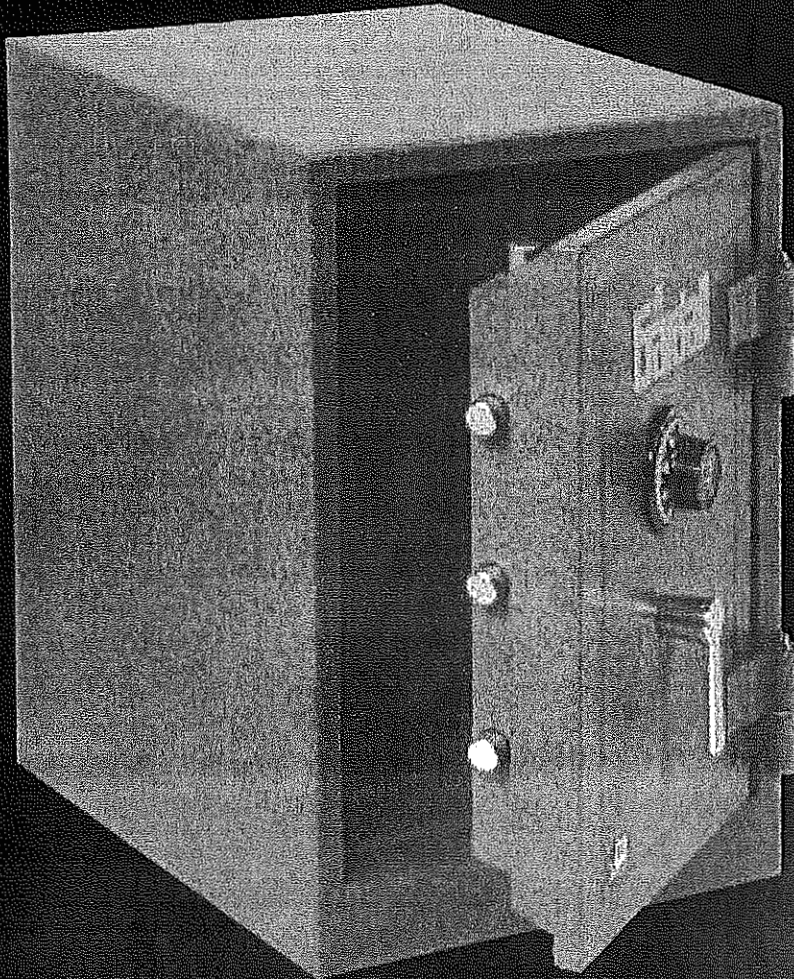
ALL DRAWINGS ARE THE PROPERTY OF SPRINGSUITE. NO PART OF THIS DRAWING OR ANY INFORMATION CONTAINED HEREIN IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF SPRINGSUITE.

# **APPENDIX C**

## **SAFE INFORMATION**

## Gardall's New Two-Hour 2-Hour Series With the Most Features in the Industry

The 2-Hour Series safes use the latest in design engineering. This new technology allows Gardall to manufacture the 2-Hour Series with fewer parts, meaning less welding and more security. Our laser cut manufacturing creates a very repeatable manufacturing process. With this, a greater number of parts are interchangeable and the consumer truly gets a better designed product.



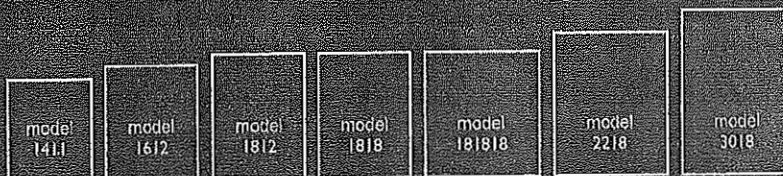
### Standard Features

- Thick 4/4" door with recessed anti-pry design. Safe walls are 2 1/2" thick
- Five active bolts that lock in 3 directions, massive 1" diameter round bolts that extend deep into the safe's body (models 1812-3018)
- Center bolt down hole with hardware included for easy installation
- Bolt detent, allowing all bolts to remain retracted until closed, preventing bolt scars on the body as well as damage to the boltwork (models 1812-3018)
- Push carpeted quality interior to protect jewelry and valuables (models 1812-3018)
- UL listed Group II high security lock, mechanical or electronic are available
- 2-hour fire label, furnace-tested to 1,850°, safe's interior temperature was less than 350°
- Solid chrome-plated handle with shear point to prevent the safe from being forced open by handle attack
- Independent re-locker and hardplate to prevent drilling attack on locking mechanism
- Lifetime replacement guarantee

### Optional Features

- Key locking dial
- Gold trim with rich color exteriors (Black, Burgundy, Hunter Green)

Model	Inside Dimensions H x W x D	Outside Dimensions H x W x D	Cubic Inches	Shipping Weight	# of Shelves
1411/2	14 x 11 x 11	21 x 16 1/4 x 18 3/4	1693	230 lbs.	0
1612/2	16 x 12 x 12	23 x 17 1/4 x 19 1/4	2304	275 lbs.	1
1812/2	18 x 12 x 12	25 x 17 1/4 x 19 1/4	2592	305 lbs.	1
1818/2	18 x 12 x 18	25 x 17 1/4 x 25 1/4	3888	360 lbs.	1
181818/2	18 x 18 x 18	25 x 23 1/4 x 25 1/4	5832	475 lbs.	2
2218/2	22 x 18 x 18	29 x 23 1/4 x 25 1/4	7120	550 lbs.	2
3018/2	30 x 18 x 18	37 1/4 x 23 1/4 x 25 1/4	9720	620 lbs.	3



[www.gardall.com](http://www.gardall.com)

  
**PREMIUM QUALITY SAFES**

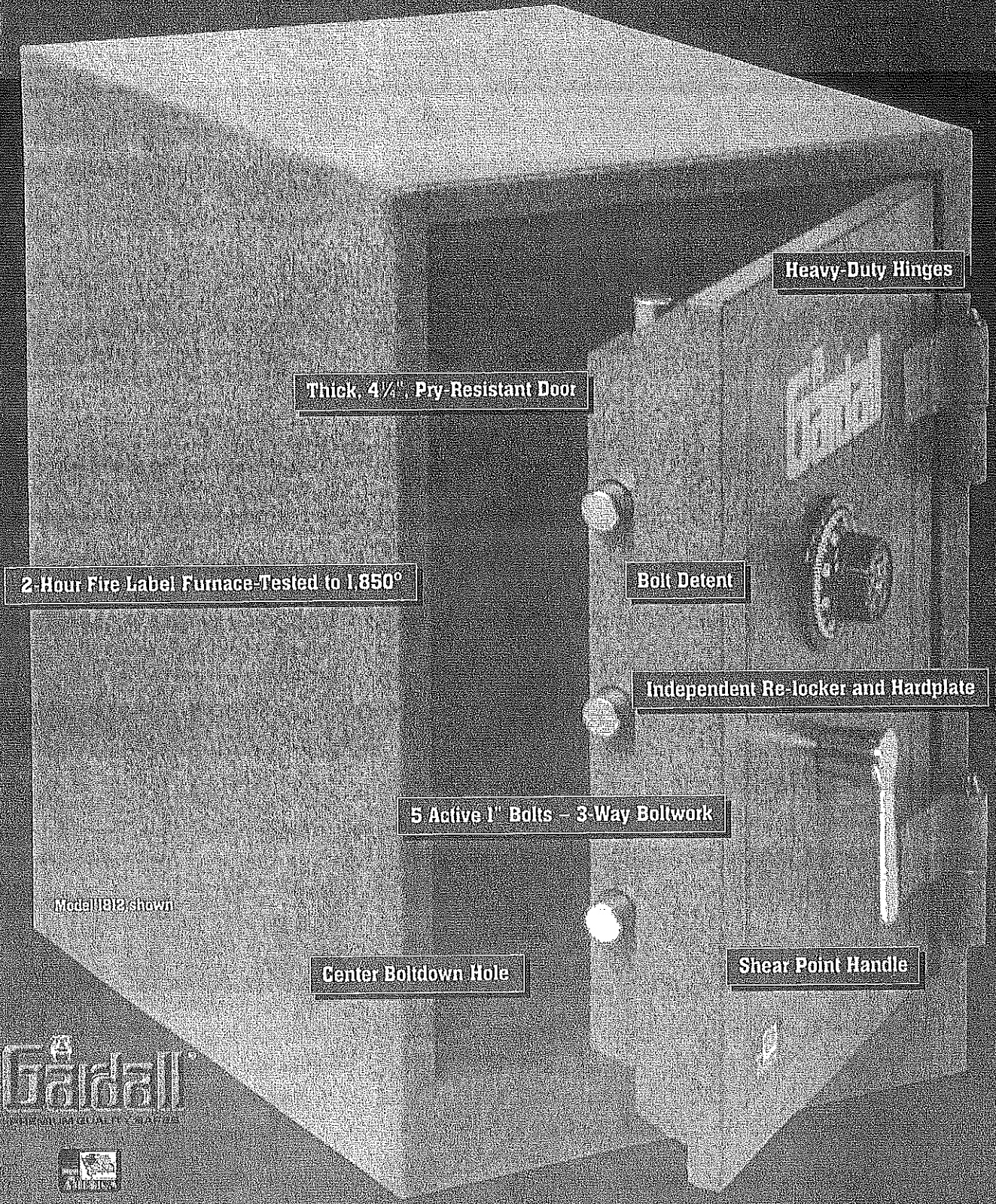
PO Box 240  
 Syracuse, New York 13206

(800) 722-7233



# Gardall's New 2-Hour Series

## The Finest in the Industry



Heavy-Duty Hinges

Thick, 4 1/4", Pry-Resistant Door

2-Hour Fire Label Furnace-Tested to 1,850°

Bolt Detent

Independent Re-locker and Hardplate

5 Active 1" Bolts - 3-Way Boltwork

Model 11812 shown

Center Boltdown Hole

Shear Point Handle



## **APPENDIX D**

# **STANDARDS FOR ELIGIBLE CO-LOCATION FACILITIES**



## **APPENDIX D**

### **COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION**

#### **Standards for Eligible Co-Location Facilities**

The proposed Photo License Center shall meet the following requirements:

1. The proposed Photo License Center shall not co-locate within a business which derives a majority of its gross revenues and receipts from the sale of illegal materials or activities, obscene or pornographic material, tobacco, alcohol, firearms, or licensed or unlicensed gaming activities.
2. The proposed Photo License Center shall not co-locate within a business which promotes, supports or advocates any position that is discriminatory, profane or derogatory to any group, or any position that promotes a particular political or religious position.
3. The proposed Photo License Center shall at all times abide by this Policy, and provide immediate notice to PennDOT of any instance where it is not in strict compliance.