

EXHIBIT B

SPECIAL CONTRACT TERMS AND CONDITIONS

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ITQ #3514T02, "Traffic Engineering Data Count"

- A. Term of the Contract:** The term of the Contract shall commence on the effective date of the Notice-to-Proceed and shall end on **September 7, 2020**, subject to other provisions of the Contract. A contractor shall not perform any work until a Contract has been fully executed, and a Request for Quote (RFQ) has been issued and awarded through a fully executed Purchase Order to the contractor by PennDOT.

This Contract, when accepted by PennDOT, shall constitute a Contract that is binding on the contractor, his/her executors, administrators, successors, and/or assignees.

Although the term of this Contract extends to September 7, 2020, issuance of a Purchase Order for a shorter period of time does not mean that a contractor is entitled to work above and beyond the effective dates of any Purchase Order which is issued under a RFQ.

The Issuing Officer may renew this contract upon the same terms and conditions, incrementally or in one step, for a period of up to five (5) years. Renewal(s) shall be accomplished via a letter sent to all contractors qualified under the ITQ renewing the contract at PennDOT's option signed by PennDOT's Issuing Officer.

- B. Changes Affecting the Status of the Contract:** It is the responsibility of the contractor to notify the Issuing Officer in writing of any changes that affect the status of the Contract including, but not limited to:
- i. Addition and/or removal of personnel assigned work under an RFQ;
 - ii. Equipment unavailability or breakdown; and,
 - iii. Any issue which may negatively affect the performance of the service.

Refer to **Exhibit A - Standard Contract Terms and Conditions, paragraph 30**, for additional requirements.

- C. Existing Contracts:** All existing contracts for this service may continue until the end of their current term, in accordance with the terms and conditions of the existing Contract.
- D. Procurement of Alternate Services:** PennDOT reserves the right to procure services under this Contract through another source, where PennDOT concludes that it is in the Commonwealth's best interest to do so. PennDOT reserves the right to conduct work with its own workforce.
- E. Prime Contractor Responsibilities:** Each Contractor who is successfully qualified shall be considered a prime contractor with respect to PennDOT's Traffic Engineering Data

Count Contract. Each selected Contractor shall be required to assume responsibility for delivery of all services specified. Further, PennDOT shall consider the selected Contractor to be sole point of contact with regard to contractual matters, including payment of any and all charges.

- F. Permits, Fees and Notices:** The Contractor shall obtain and pay for all permits, licenses, and certifications required by law for proper execution and completion of its work. The Contractor shall furnish proof of payment for permits, licenses or certificates, or proof that no permits, licenses or certificates are required. This proof must be furnished prior to starting work.

The Contractor shall give all notices and comply with all applicable laws, ordinances, regulations, rules and orders of any public authority bearing on the performance of the work. If the Contractor observes that any of the Contract documents are at variance therewith in any respect, it shall promptly notify the Issuing Office, in writing. Any necessary modifications shall be made by the Issuing Office.

If the Contractor performs any work knowing it to be contrary to such applicable laws, ordinances regulations, rule of orders, and without such written notice to the Issuing Office, it assumes full responsibility therefore and shall bear all cost attributable thereto.

- G. Contractor Performance:** During the Contract period, Contractors who perform poor or unsafe work, do not provide services on time, or engage in other unacceptable conduct (i.e. violation of Contract terms and conditions), may be entered into the Commonwealth's Contractor Responsibility Program (CRP), and may be removed from the list of Qualified Contractors and be restricted from performing Traffic Engineering Data Count services. Furthermore, entry into the CRP may affect the contractor's ability to obtain future contracts with all Commonwealth agencies.

- H. Order of Precedence:** If any conflicts or discrepancies should arise in the terms and conditions of this Contract, or the interpretation thereof, the order or precedence shall be:

- i. The Contract, subject to its internal order of precedence as follows: (1) Exhibit B, "Special Contract Terms and Conditions"; (2) Exhibit A, "Standard Terms and Conditions"; and (3) all other documents referenced in this ITQ.
- ii. Purchase Order and any attachments thereto, including: (1) the Contractor's quote as accepted by the Commonwealth; and (2) the RFQ.

- I. Protests:** Any protest arising from the award or non-award of a Contract by PennDOT as a result of this ITQ (or subsequently issued RFQ) must be filed in writing with the Secretary of the Department of Transportation and follow the procedures set forth in Section 1711.1 of the Procurement Code, 62 Pa.C.S. § 1711.1.

- J. News Releases:** Contractors shall not issue news releases, internet postings, advertisements or any other public communications pertaining to this Project without

written approval of the Issuing Office, and then only in coordination with the Issuing Office.

- K. Lost Profits:** In the event of termination of a Purchase Order or Contract, the Contractor shall not be entitled to lost profits or any payments beyond the payments due for work satisfactorily completed. This prohibition shall apply to instances of termination for cause, non-appropriation, or convenience.
- L. Notice:** 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:
- i. If to the contractor – the contractor’s address as recorded in the Commonwealth’s Supplier Registration system.
 - ii. If to PennDOT – the address for the Issuing Office as set forth on this ITQ in the Calendar of Events.
- M. Lobbying Certification and Disclosure of Lobbying Activities.** Purchase Orders executed as the result of RFQ’s will be funded, in part, with federal monies. Public Law 101-121, Section 319, prohibits federal funds from being expended by the recipient or by any lower tier sub-recipients of a federal contract, grant, loan, or a cooperative agreement to pay any person for influencing, or attempting to influence a federal agency or Congress in connection with the awarding of any federal contract, the making of any federal grant or loan, or entering into any cooperative agreement. All parties who submit applications in response to this ITQ must sign the Lobbying Certification Form attached in **Exhibit F – Lobbying Certification Form** and, if applicable, complete the Disclosure of Lobbying Activities form attached in **Exhibit G – Disclosure of Lobbying Activities**.
- N. Domestic Workforce Utilization Certification.** Complete and sign the Domestic Workforce Utilization Certification contained in **Exhibit C – Domestic Workforce Utilization Certification** of this ITQ. Contractors who seek consideration for this criterion must submit in hardcopy the signed Domestic Workforce Utilization Certification Form in the same sealed envelope with the application for qualification.
- O. Liquidated Damages:** If any item is not delivered or performed within the Purchase Order specified time limits, the delay will interfere with the proper implementation of the Commonwealth’s programs and utilizing the item, to the loss and damage of the Commonwealth. From the nature of the case it would be impractical and extremely difficult to fix the actual damage sustained in the event of any such action.

The Commonwealth and the Contractor, therefore presume that in the event of any such delay the amount of damage which will be sustained from a delay will be fifteen-percent (15%) of the total cost under the Purchase Order and they agree that in the event

of any such delay, the Contractor will pay such amount as liquidated damages and not as a penalty. The Commonwealth, at its option, for amounts due the Commonwealth as liquidated damages, may deduct such from any money payable to the Contractor or may bill the Contractor as a separate item. The Commonwealth will notify the Contractor in writing of any claims for liquidated damages pursuant to this paragraph before the date the Commonwealth deducts such sums from money payable to the Contractor. Delivery of an item, which is rejected by the Commonwealth, will not toll the running of the days for purposes of determining the amount of liquidated damages.

The PennDOT Project Manager, at its discretion, may enforce and apply liquidated damages for failure to comply with the following performance measures, upto the maximum amount of fifteen percent (15.0%) of the total Purchase Order value:

Requirement:	Description:	Performance Measure Specification:	Damage Assessment:
Number of Acceptable Counts	Total number of accepted counts (total counts minus counts not taken and rejected counts).	Contractor will submit 95% or more of counts requested per awarded Purchase Order by the second Friday of December of same calendar year.	Fifteen percent (15.0%) of the total PO value
Data Collection	Initiation of data Collection	Contractor to initiate data collection 7 calendar days (or less) from receipt of PO	One percent (1%) of the total PO value per day late
Data Submission	Initiation of data submission	Contractor to initiate data submission no later than Thursday the following week of data collection (e.g., all traffic counts collected the week of July 28, 2016 will be submitted through the iTDUS website no later the Thursday August 7, 2016).	Data is unacceptable and payment is forfeited.
Data Collection (Annual Cycle Counts)	Data collection of annual cycle counts.	Contractor to collect and submit annual cycle counts within four (4) weeks of validity date on purchase order.	Fifteen percent (15.0%) of the total PO value.