UCL43C

RESOLUTION 2020-14

BE IT RESOLVED by authority of the Board of Supervisors of East Coventry Township, Chester County, and it is hereby resolved by authority of the same, that the Chairman of the Board of Supervisors of East Coventry Township be authorized and directed to sign the attached Agreement on its behalf and that the Township Manager of East Coventry Township be authorized and directed to attest the same.

Attest:

David G. Kraynik, Township Manager

East Coventry Township

BY

Anthony Duffy, Chairman

I, David G. Kraynik, Township Manager of East Coventry Township do hereby certify that the foregoing is a true and correct copy of the Resolution adopted at a regular Board of Supervisors meeting of East Coventry Township, held the 10th day of August, 2020.

Date: 8/10/2020

David G. Kraynik, Township Manager

Execution Copy

EFFECTIVE DATE_____
(PennDOT will insert)

AGREEMENT No. _____

FEDERAL I.D. No. _____

SAP VENDOR No._____

CUSTOMER No. _____

MASTER AGREEMENT FOR CASTING ADJUSTMENTS

This Master Agreement for Casting Adjustments ("Agreement") is made by and between the Commonwealth of Pennsylvania, Department of Transportation ("PennDOT"),

and

East Coventry Township, a *(authority, municipality, utility, etc.)* ("Utility").

BACKGROUND

PennDOT plans to perform one or both of general maintenance and reconstruction of section(s) of certain State Routes within the Counties of Bucks, Chester, Delaware and Montgomery, Pennsylvania ("Project").

The Project requires adjustments, replacements or both of the Utility's castings ("Utility Work").

PennDOT is willing to incorporate the Utility Work into PennDOT's third party contract for the Project ("Project Contract").

This Agreement outlines the process for incorporation of Utility Work into the Project Contract with reimbursement to PennDOT of Utility Work costs.

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

1. **Initiation of Process.** PennDOT will notify the Utility of the scheduled Project. If the Utility wants the Utility Work of all or a certain number of its castings to be incorporated in the Project Contract at the Utility's expense, the Utility shall initiate the execution of the Project Initiation Form ("PIF"), Exhibit A, which is attached to this Agreement. The PIF shall identify the requested Utility Work and the cost. If PennDOT agrees to incorporate the work the appropriate PennDOT representative shall countersign the PIF and return a copy to the Utility. When signed by both parties the PIF shall be incorporated into this Agreement. Any written change to the PIF must be done through a change order which is attached to this Agreement as Exhibit B. When a change order is signed by both parties it shall be incorporated into this Agreement.

2. **Designated Representative.** In the PIF, the parties will each identify the individual that has the full authority to execute the PIF and change orders, if any ("Designated Representative"). If the Utility is not a corporation, it must provide proof of the authority for the Designated Representative. The Designated Representative shall be available throughout the Project to confer as needed.

3. **Compliance with Federal and State Statutes.** All work performed pursuant to this Agreement shall comply with the Buy America provisions in 23 U.S.C. § 313 and 23 C.F.R. § 635.410, the Steel Products Procurement Act, 73 P.S. § 1881 et seq. and 67 Pa. Code Part 459.

4. **Purchase of Castings.** Prior to construction of the Project, the Utility shall deliver the necessary castings to the Project site for installation by PennDOT. If during construction of the Project additional castings are necessary, the Utility is entitled to provide the castings or authorize PennDOT to acquire the casting(s) on the open market. If PennDOT acquires castings on the open market, the Utility shall reimburse PennDOT the actual costs upon receipt

of invoice from PennDOT.

5. **Performance of Work.** PennDOT shall perform the Utility Work required to adjust the castings to the proper elevation, on a full brick and mortar bed, in accordance with the then current PennDOT's Publication 408, Section 104.03 titled "Extra Work". The Utility acknowledges that the costs for each item are identified in Exhibit C, which is attached to this Agreement. The items identified in Exhibit C will be set forth in the Project Contract. Exhibit C will be modified every three (3) years in the manner outlined in Section 16.

6. **Term of Agreement.** The term of this Agreement shall commence on the Effective Date (as defined below) or October 1, 2020, whichever is later, and shall remain in effect through September 30, 2029. The term of this Agreement shall not exceed a nine (9) year term. The Effective Date shall be the date that this Agreement is fully executed by the Utility and PennDOT and all approvals required by Commonwealth contracting procedures have been obtained, as indicated by the date of the last Commonwealth signature. Following full execution, PennDOT will insert the Effective Date at the top of Page 1.

7. **Termination.** PennDOT has the right to terminate this Agreement for its convenience if PennDOT determines termination to be in its best interest. The Utility shall pay for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Utility be entitled to recover loss of profit. Termination shall be effective upon written notice to the Utility.

8. **Cooperation of Parties.** If the Utility supplies materials to PennDOT, performs any additional work, either with its own contractor or its own forces, or both the Utility shall cooperate with PennDOT in such a manner as not to interfere with or hinder the progress of the Project. Any materials provided and additional work performed by the Utility will be at the Utility's sole expense.

9. **Invoicing and Payment.** Upon completion of the Utility Work by PennDOT to the satisfaction of the Utility, PennDOT shall certify to the Utility the costs in accordance with Exhibit C, and the Utility shall pay PennDOT within 60 days of receipt of PennDOT's invoice.

10. **Indemnification.** The Utility shall hold PennDOT harmless from and indemnify PennDOT against all claims, demands and actions based upon or arising out of any activities performed by the Utility and its employees and agents under this Agreement and shall, at the request of PennDOT, defend all actions brought against PennDOT base upon any such claims or demands.

11. **Highway Occupancy Permit.** Upon completion of the Project, the Utility facilities remaining in the State highway right-of-way continue to be subject to the terms and conditions of any applicable highway occupancy permit issued by PennDOT pursuant to 67 Pa. Code Part 459. The Utility shall maintain and keep the adjusted castings in good repair in accordance with applicable State laws and regulations.

12. **Public Utility Commission ("PUC").** Notwithstanding anything contained herein to the contrary, if the PUC assumes jurisdiction of the Project under the Public Utility Code of 1978, Act of July 1, 1978, P.L. 598, as amended, the parties shall be bound by any orders issued by the PUC or decisions of an appropriate tribunal after the exhaustion of all appeals.

13. **Withdrawal of Incorporated Work.** If the Utility withdraws its request for the incorporation of the Utility Work into the Project Contract after the award of the Project Contract, the Utility shall reimburse PennDOT for all actual costs, if any, incurred by PennDOT for necessary labor and materials performed for the Utility Work prior to the time of withdrawal. The Utility shall also be responsible for the cost of necessary materials for the Utility Work that were

ordered by PennDOT prior to Utility's withdrawal if the order for said materials cannot be cancelled and if the materials cannot be used elsewhere in the Project.

14. **Cancellation of Project.** If PennDOT decides to cancel the Project or delay the construction beyond the scheduled construction season, PennDOT will notify the Utility in accordance with Section 23 below. Upon notification, the PIF and any change order shall become null and void and neither party shall be responsible to the other for any further costs.

15. **Right-to-Know Law.** The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101—3104, applies to this Agreement. Therefore, this Agreement is subject to, and the Utility shall comply with, the clause entitled *Contract Provisions – Right to Know Law* attached as Exhibit D and made a part of this Agreement. As used in this Agreement, the term "Contractor" refers to the Utility.

16. **Amendments and Modifications.** No alterations or variations to this Agreement shall be valid unless made in writing and signed by the parties. Amendments to this Agreement shall be accomplished through a formal written document signed by the parties with the same formality as the original Agreement. However, the parties agree that Exhibit C will be modified every 3 years to reflect current pricing and that the parties will execute a letter of amendment that will include a revised Exhibit C . The letter of amendment is not effective until duly authorized representatives of the Utility, PennDOT and the Office of Chief Counsel sign and date the letter of amendment. A sample letter of amendment is attached as Exhibit E and made a part of this Agreement.

17. **Changes to Standard Provisions.** If there are changes to any Standard Provisions that need to be addressed at the time of a letter of amendment, as described in Section 16, the Parties can incorporate those revised or updated Standard Provisions by noting the incorporation and attachment of such

Standard Provisions to such letter of amendment. For the purposes of this section, Standard Provisions consist of those provisions or clauses required to be included in Commonwealth Agreements pursuant to federal or state law or Commonwealth Management Directives, including, but not limited to the Right to Know Law provision.

18. **Titles Not Controlling.** Titles of sections are for reference only, and shall not be used to construe the language in this Agreement.

19. **Severability.** The provisions of this Agreement shall be severable. If any phrase, clause, sentence or provision of this Agreement is declared to be contrary to the Constitution of Pennsylvania or of the United States or of the laws of the Commonwealth of Pennsylvania the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby.

20. **No Waiver.** Either party may elect not to enforce its rights and remedies under this Agreement in the event of a breach by other party of any term or condition of this Agreement. In any event, the failure by either party to enforce its rights and remedies under this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other term or condition of this Agreement.

21. **Independence of the Parties.** It is understood by and between the parties that nothing contained herein is intended or shall be construed to, in any respect, create or establish the relationship of partners between the Utility and PennDOT, or as constituting PennDOT as the representative or general agent of Utility for any purpose whatsoever.

22. **Assignment.** This Agreement may not be assigned by the Utility, either in whole or in part, without the written consent of PennDOT.

23. **No Third Party Beneficiary Rights.** The parties to this Agreement understand that this Agreement does not create or intend to confer any rights in or on persons or entities not a party to this Agreement.

24. **Notices.** All notices and reports arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, facsimile, e-mail, or delivery in person.

If to PennDOT:

Title: District Utility Manager

Address: PennDOT Engineering District 6-0, 7000 Geerdes Blvd, King of Prussia, PA 19406-1525

Fax: 610-205-6900

E-mail: malang@pa.gov

If to the Utility:

Title:

Address:

Fax:

E-mail:

25. **Integration and Merger.** This Agreement and, as applicable any attachments and exhibits, when executed, approved and delivered, shall constitute the final, complete and exclusive Agreement between the parties containing all the terms and conditions agreed on by the parties. All representations, understandings, promises and agreements pertaining to the subject matter of this Agreement made prior to or at the time this Agreement is executed are superseded by this Agreement unless specifically accepted by any

other term or provision of this Agreement. There are no conditions precedent to the performance of this Agreement except as expressly set forth herein.

[The remainder of this page is intentionally left blank.]

The Parties have executed this Agreement to be effective as of the date of the last signature affixed below.

ATTEST:

by _____ 8/10/2020
Signature Date

Township Manager
Title

by _____ 8/10/2020
Signature Date

President, Board of Supervisors
Title Chairman

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

by

_____
District Utility Manager Date

APPROVED AS TO LEGALITY
AND FORM

by _____
for Chief Counsel Date

by _____
Deputy General Counsel Date

by _____
Deputy Attorney General Date

PRELIMINARILY APPROVED

by_____
Senior Counsel in Charge Date

Former Preapproved form:
OGC No. 18-FA-52.1
Appv'd OAG 04/16/2014

Agreement No. _____
Vendor No. _____
Customer No. _____
FID No. _____
MPMS No. _____

PROJECT INITIATION FORM (PIF)

MASTER AGREEMENT FOR CASTING ADJUSTMENTS

2020-2029

1. Utility Name: _____

2. Project Initiation Form Number: _____ Date: _____

3. Project Name: _____

4. Location: _____

5. Description of Work to be Performed: _____

6. Project Funding: ☐ FHWA ☐STATE ☐LOCAL

7. Estimated Utility Cost: $_____ (Cost detail below)

PIF Number: _____ Date: _____

Estimated number of castings which are being incorporated into the Project by this Project Initiation Form (PIF).

Number of Castings	Bid Item	Unit Price	Total Cost
	9999-9950	$504.00	
	9999-9951	$474.00	
	9999-9952	$1335.00	
	9999-9953	$1028.00	
	9999-9954	$1257.00	
	9999-9955	$969.00	
	9999-9956	$897.00	
	9999-9957	$581.00	
	9999-9958	$1180.00	
	9999-9959	$955.00	
	9999-9960	$1236.00	
	9999-9961	$1537.00	
	9999-9962	$1215.00	
	9999-9963	$359.00	
	9999-9964	$438.00	
	9999-9965	$344.00	
	9999-9966	$512.00	
	9999-9967	$643.00	

PROJECT INITIATION FORM (PIF)

Designated Project Representatives

For PennDOT:	**For _____:**
_____	_____
Signature Date	Signature Date
Mary Ann Lang	_____
Name	Name
District Utility Manager	_____
Title	Title
MALANG@pa.gov	_____
Email	Email
610-205-6530	_____
Telephone	Telephone
7000 Geerdes Blvd. King of Prussia, PA 19406	_____
Address	Address

Close Out Data - For Internal Use Only

Completed on: _____ Final Cost: _____

Agreement No. _____
Vendor No. _____
Customer No. _____
FID No. _____
MPMS No. _____

CHANGE ORDER FORM Master Agreement for Casting Adjustments

1. P.I. F. No. _____ Change Order No.: _____Date: _____

2. Project Name:

_____

3. Department Bridge Number/DOT Number:

_____

4. Location:

_____

5. Description of Change:

_____
_____
_____
_____

6. Estimated Project Costs:

Prior Estimated Project Cost $_____

CO Estimated Project Cost $_____

New Total Estimated Project Cost $ _____

Agreement No. _____
Vendor No. _____
Customer No. _____
FID No. _____
MPMS No. _____

Designated Project Representatives

For Department:	For Utility:
Signature Date	Signature Date
Name	Name
Title	Title
Email	Email
Telephone	Telephone
Address	Address

Approval and Authorization

For Department:	For Utility:
Signature Date	Signature Date
Name	Name
Title	Title

Close Out Data~ For Internal Use Only

Completed on: _____ Final Cost: _____

Contract Provisions

Type A - One-step adjustment of casting – applies where change in grade:

(1) Does not exceed 3 inches or

(2) Exceeds 3 inches but protrusion into roadway of casting reset to proposed final grade does not present a hazard to vehicular traffic

ITEM 9999-9950 0 to 15 inch diameter Utility Casting Adjustment for Resurfacing - Type A - Concrete Base - $504.00 each

9999-9951 0 to 15 inch diameter Utility Casting Adjustment for Resurfacing - Type A - Flexible Base - $474.00 each

9999-9952 16 to 36 inch diameter Utility Casting Adjustment for Resurfacing - Type A - Concrete Base - $1,335.00 each

9999-9953 16 to 36 inch diameter Utility Casting Adjustment for Resurfacing - Type A - Flexible Base - $1,028 each

9999-9954 37 to 54 inch diameter Utility Casting Adjustment for Resurfacing - Type A - Concrete Base - $1,257.00 each

9999-9955 37 to 54 inch diameter Utility Casting Adjustment for Resurfacing - Type A - Flexible Base - $969.00 each

---

This work shall consist of the resetting or grade adjustment of an existing utility casting for a vertical height of 8 inches or less, in accordance with Section 606 (Grade Adjustment of Existing Miscellaneous Structures) and within reasonably close conformity to the lines and grades shown on the drawings or established by the engineer. The casting diameter shall be determined by measuring the diameter of the lid. The base course replaced shall be of the same type removed, either concrete or flexible.

The resetting or adjustment shall be completed in a one-step operation with no temporary work anticipated. Any other change to castings shall be the responsibility of the contractor and shall be repaired or replaced at his expense.

The existing castings shall be carefully removed and cleaned, the casting reset to the proper elevation on a brick and mortar bed in accordance with (the Utility Company's specifications if attached) Section 606. Inserts, extensions or risers are not acceptable under this item. Castings requiring replacement will be provided for and delivered to the site by the Utility Company for installation by the contractor.

This item will not include any adjustment to the conical section of a manhole. That work, if required, will be paid under Item 9999-9962 Utility Manhole Neck Rebuilding.

This work will be measured by the unit each, after completion and acceptance by the Utility and the Department.

This work will be paid for at the respective predetermined contract unit price each, which price will be indicated in the proposal by the Department, complete in place as specified.

Type B - Two-step adjustment of casting – applies where change in grade:
(1) Exceeds 3 inches and
(2) Protrusion into roadway of casting reset to proposed final grade presents a hazard to vehicular traffic.

ITEM 9999-9956 0 to 15 inch diameter Utility Casting Adjustment for Resurfacing - Type B - Concrete Base - $897.00 each
9999-9957 0 to 15 inch diameter Utility Casting Adjustment for Resurfacing - Type B - Flexible Base - $581.00 each
9999-9958 16 to 36 inch diameter Utility Casting Adjustment for Resurfacing - Type B - Concrete Base- $1,180.00 each
9999-9959 16 to 36 inch diameter Utility Casting Adjustment for Resurfacing - Type B - Flexible Base - $955.00 each
9999-9960 37 to 54 inch diameter Utility Casting Adjustment for Resurfacing - Type B - Concrete Base - $1,236.00 each
9999-9961 37 to 54 inch diameter Utility Casting Adjustment for Resurfacing - Type B - Flexible Base - $1,537.00 each

---

This work shall consist of the resetting or grade adjustment of an existing utility casting for a vertical height of 8 inches or less, in accordance with Section 606 (Grade Adjustment of Existing Miscellaneous Structures) and within reasonably close conformity to the lines and grades shown on the drawings or established by the engineer. The casting diameter shall be determined by measuring the diameter of the lid. The base course replaced shall be of the same type removed, either concrete or flexible.

The adjustment (resetting) will be completed in a two-step operation when a casting reset at the proposed final grade will protrude more than 3 inches and may cause damage to vehicular traffic or be a safety hazard prior to paving. The first adjustment will be to a temporary grade that will permit traffic to move safely over the casting. The second adjustment will be to the final grade for paving. The contractor is permitted to use steel plates in lieu of the temporary (first) adjustment for a period not exceeding five calendar days. The contractor shall be required to provide a means of access to each utility facility so that one man may enter the facility within 30 minutes without special equipment or tools. The facility location and name of utility shall be temporarily marked for emergency use. Any other change to the castings shall be the responsibility of the contractor and shall be repaired or replaced at his expense.

The existing castings shall be carefully removed and cleaned, the casting reset to the proper elevation on a brick and mortar bed in accordance with the utility specifications if attached or with Section 606. Inserts, extensions or risers are not acceptable under this item. Castings requiring replacement will be provided for and delivered to the site by the Utility Company for installation by the contractor.

This item will not include any adjustment to the conical section of a manhole. That work, if required, will be paid under Item 9999-9962 Utility Manhole Neck Rebuilding.

This work will be paid for at the respective predetermined contract unit price each, which price will be indicated in the proposal by the Department complete in place as specified.

ITEM 9999-9962 Utility Manhole Neck Rebuilding - $1,215.00 per vertical foot

---

This work shall consist of rebuilding manhole necks any size or type for a vertical distance in excess of eight inches and resetting the existing casting within reasonable close conformity to the lines and grades shown on the drawings or established by the engineer. Only those requiring rebuilding, as determined by the Utility Company and engineer, will be measured for payment.

The existing casting will be carefully removed and cleaned. The neck shall be adjusted using brick and mortar as required. The casting shall then be set and sealed with mortar on the neck at the proper elevation for paving. If the utility and the engineer determine that the existing manhole deck is in unsatisfactory condition or cannot be adjusted, then the neck shall be removed and rebuilt as required. Any exposed brick shall be parged. All work shall be in accordance with (the Utility Company's specifications if attached) Section 600 (Incidental Construction).

This work shall be measured by the vertical foot with a minimum measurement of one foot. Where a manhole is rebuilt for a height of more than one foot, the additional height will be measured and paid to the next foot.

This work will be paid for at the respective predetermined contract unit price each, which price will be indicated in the proposal by the Department, complete in place as specified.

<u>Type C - one piece fabricated adjustable riser with one turnbuckle for adjustments of 0 inch to 3 inches.</u>

ITEM 9999-9963 0 to 15 inch diameter Utility Casting
Adjustment for Resurfacing - Type C - $359.00 each

9999-9964 16 to 54 inch diameter Utility Casting
Adjustment for Resurfacing - Type C - $438.00 each

This work shall consist of the resetting or grade adjustment of an existing utility casting by means of a one-piece prefabricated adjustment riser for a vertical height of greater than 0 inches and less than 3 inches in accordance with Section 606 (Grade Adjustment of Existing Miscellaneous Structures) and within reasonable close conformity to the lines and grades shown on the drawing or established by the engineer. The casting diameter shall be determined by measuring the diameter of the lid.

The resetting or adjustment shall be completed in a one-step operation with no temporary work anticipated. Any other change to casting shall be the responsibility of the contractor and shall be repaired or replaced at his expense.

This work will be paid for at the respective predetermined contract unit price each, which price will be indicated in the proposal by the Department, complete in place as specified.

Type D - One piece fabricated adjustable riser with one turnbuckle for adjustments greater than 3 inches.

ITEM 9999-9965 0 to 15 inch diameter Utility Casting
Adjustment for Resurfacing - Type D - $344.00 each

9999-9966 16 to 54 inch diameter Utility Casting
Adjustment for Resurfacing - Type D- $512.00 each

This work shall consist of the resetting or grade adjustment of an existing utility casting by means of a one-piece prefabricated adjustment riser for a vertical height of greater than 3 inches and less than 4 inches in accordance with Section 606 (Grade Adjustment of Existing Miscellaneous Structures) and within reasonable close conformity to the lines and grades shown on the drawing or established by the engineer. The casting diameter shall be determined by measuring the diameter of the lid.

The resetting or adjustment shall be completed in a one-step operation with no temporary work anticipated. Any other change to casting shall be the responsibility of the contractor and shall be repaired or replaced at his expense.

This work will be paid for at the respective predetermined contract unit price each, which price will be indicated in the proposal by the Department, complete in place as specified.

Item 9999-9967 201 Box Adjustment for Resurfacing - $643.00 each

---

This work shall consist of the resetting or grade adjustment of an existing utility 201 Box casting, in accordance with Section 606 (Grade Adjustment of Existing Miscellaneous Structures) and within reasonably close conformity to the lines and grades shown on the drawings or established by the engineer. The base course replaced shall be of the same type removed, either concrete or flexible.

The adjustment (resetting) will be completed in a two-step operation when a casting reset at the proposed final grade will protrude more than 3 inches and may cause damage to vehicular traffic or be a safety hazard prior to paving. The first adjustment will be to a temporary grade that will permit traffic to move safely over the casting. The second adjustment will be to the final grade for paving. The contractor is permitted to use steel plates in lieu of the temporary (first) adjustment for a period not exceeding five calendar days. The contractor shall be required to provide a means of access to each utility facility so that one man may enter the facility within 30 minutes without special equipment or tools. The facility location and name of utility shall be temporarily marked for emergency use. Any other change to the castings shall be the responsibility of the contractor and shall be repaired or replaced at his expense.

The existing casting will be carefully removed and cleaned, the casting reset to the proper elevation in accordance with the utility specifications if attached or with PennDOT Publication 408, Section 606 (Grade Adjustment of Existing Miscellaneous Structures). Inserts, extensions or risers are not acceptable under this item. Castings requiring replacement will be provided for and delivered to the site by the Utility Company for installation by the contractor.

This work will be paid for at the respective predetermined contract unit price each, which price will be indicated in the proposal by the Department complete in place as specified.

Purchase of Sewer and Water Castings

Where it is determined prior to the Notice to Proceed Date, that the sewer and water castings are needed for adjustments due to type of resurfacing alternate selected, the contractor will be ordered to purchase the castings and will be reimbursed the amount of the invoice price plus ten percent for handling.

Where it is determined during construction, that the sewer and water castings are needed for adjustments, and upon concurrence by the Utility Company, the contractor will be ordered to purchase the castings in accordance with PennDOT Publication 408, Section 104.03 (Extra work).

The existing casting shall be carefully cleaned, the casting adjusted to the proper elevation by placing the riser over the cover for initial fit and 100% contact, then tighten the turnbuckle with wrench for swedge fit in accordance with (the Utility Company's specifications if attached) Section 606. Turnbuckle will be installed so as not to protrude into manhole crawl area.

Only one (1) riser will be applied to each casting adjustment and will not be applied to existing risers.

Units with two-piece risers, vertical elevating bolts, or with more than one (1) turnbuckle will not be accepted.

This item will not include any adjustment to the conical section of a manhole. That work, if required, will be paid under Item 9999-9962 Utility Manhole Neck Rebuilding.

This work will be measured by the unit each, after completion and acceptance by the Utility and the Department.

This work will be paid for at the respective predetermined contract unit price each, which price will be indicated in the proposal by the Department, complete in place as specified.

Contract Provisions – Right to Know Law

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.

b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:

1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and

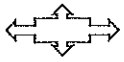
2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

EXHIBIT "D"

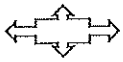


g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

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

EXHIBIT "D"



SAMPLE LETTER OF AMENDMENT

Date

Utility Name
ATTN: Contact
Address
City, State Zip

Re: Amendment **(Amendment Letter Designation)**
Agreement # **(Contract Number)**

Dear **(Mr./Ms. Name)**,

In accordance with the terms of the above-referenced Agreement, the Utility is willing to amend its reimbursement obligation to the Department of Transportation by increasing the cost of the materials as shown in the attached Exhibit "__." This amendment will become effective once all required signatures are affixed to this document.

We are requesting your concurrence with the amendment of the above-referenced Agreement. If you agree with the amendment, please sign below and date where indicated. Please attach a resolution or other documentation verifying your authorization to sign this amendment.

Your response is required no later than **(Date)**. Please mail your response to the following address:

PENNDOT
Attn: **Your Name**
Your Organization
Your Address

Since the date of the above-referenced Agreement, some standard provisions and accompanying exhibits have been updated; copies of these updated exhibits are attached and supersede and replace the corresponding exhibit attached to the Original Agreement. **[Remove paragraph if not applicable.]**

On behalf of the above-named Utility, I agree to the amendment of the above-referenced Agreement. I agree to all terms and conditions included in this Agreement and all previous amendments to it, if any.

Signature _____ Date _____

Indicate Title: ☐ Chairman ☐ President ☐ Vice-President ☐ Commissioner

or ☐ _____ ***(Indicate title)***

All terms and conditions of this Agreement and its amendments (if any) not affected by this letter of amendment remain in full force and effect.

This letter of amendment is not effective until it is signed and dated by an Authorized Representative of the Department and the Office of Comptroller Operations. The Department will forward a copy of the fully executed letter of amendment to you for your files.

Sincerely,

Pennsylvania Department of Transportation

FOR DEPARTMENT USE ONLY

Authorized Representative of the Department:

_____	_____
Print Name	Title
_____	_____
Signature	Date

Form and Legality Approval:

_____

for Chief Counsel Date

Comptroller Operations Approval:

Funds Commitment No. _____

Amount $_____

_____

for Comptroller Operations Date