

DATE: October 30, 2024

DEPARTMENT OF GENERAL SERVICES  
BUREAU OF CAPITAL PROJECT DESIGN MANAGEMENT  
1800 HERR STREET  
HARRISBURG, PENNSYLVANIA

**ADDENDUM NO. 3**

on

**PROJECT NO. DGS C-0016-P001 PHASE 001**

**PROJECT TITLE - Thaddeus Stevens College - Strategic Facilities Planning Consulting Services**

**PROFESSIONAL:**

General Services

18th and Herr Streets

Harrisburg, PA, 17125

**If you submitted a bid prior to this Addendum being issued, your bid has been discarded and you must re-submit your bid(s) prior to the bid opening date and time.**

**ADMINISTRATIVE CHANGES – ALL CONTRACTS**

Item 1 - A revised version of the AGREEMENT FOR STRATEGIC FACILITY PLANNING CONSULTING SERVICES is attached and will be uploaded to the Bidding Documents. Note that square footages in Attachment 2 have been updated. Actual square footages to be included in the scope of services, whether for condition, or operational assessments, or for planning purposes, may be subject to adjustment and/or verification during the course of contract negotiations and prior to finalizing the Basic Services fee.

Item 2 - Regarding underground utilities: Plans for their improvement, repair, replacement or abandonment, as the case may be, as well as review of any existing documentation, shall be included as part of basic services. Any physical subsurface investigations required will be performed as an additional service.

Item 3 - It is anticipated that CAD drawings will be available for all buildings included in this study. For any buildings for which no documentation exists in digital or paper format, additional services for producing them may be authorized as required.

**SPECIFICATION CHANGES – ALL CONTRACTS**

Item 1 - N/A

**DRAWING CHANGES – ALL CONTRACTS**

Item 1 - N/A

**AGREEMENT  
FOR  
STRATEGIC FACILITY PLANNING CONSULTING SERVICES  
(Contract No. DGS 2024-TSCOT-SFP-1, Project DGS C-0016-P001)**

This agreement for strategic facility planning consulting services is between the Commonwealth of Pennsylvania (“Commonwealth”), acting through the Department of General Services (“DGS”) with its principal offices located at Room 515 North Office Building, Harrisburg, Pennsylvania 17125, and Consultant (Click or tap here to enter text.), Strategic Facility Planning Consultant, having its principal place of business located at Consultant Address (Click or tap here to enter text.) (“SFP Consultant”).

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

1. **Services.** The SFP Consultant shall perform the services described in Attachment 1, Negotiated Project Services, and Attachment 2, the Matrix of Included Facilities (“SFP Consulting Services”) for Project DGS C-0016-P001 (“Project”).
2. **Time Schedule.** The time schedule established for approval of the final Strategic Facility Plan is Duration (Click or tap here to enter text.) calendar days after the effective date of the agreement.
3. **Adherence to Time Schedule.** Time is of the essence with regard to the Time Schedule in paragraph 2 of this agreement and the SFP Consultant shall maintain and adhere to it.
  - a. If the SFP Consulting Services are delayed, the SFP Consultant shall immediately notify DGS in writing within ten calendar days of the event of issue that caused the delay. The SFP Consultant shall include in the written notice the reason(s) for the SFP Consultant’s inability to meet the date(s) and a request that DGS extend the Time Schedule.
  - b. DGS shall review the SFP Consultant’s request to extend the Time Schedule and determine whether to approve the request. The Time Schedule may only be extended in writing by the Director of the Bureau of Capital Project Planning and Procurement.
  - c. If DGS determines that the SFP Consultant caused the delay, DGS will do one of the following:
    1. approve the extension request in full or in part and extend the Time Schedule to reflect the accepted date(s).
    2. deny the extension request. DGS may hold the SFP Consultant responsible for any costs attributable to the delay and may provide a negative performance evaluation.
    3. deny the extension request and terminate the agreement for default of the SFP Consultant, in which case DGS may hold the SFP Consultant responsible for any costs attributable to the delay and may provide a negative performance evaluation.
  - d. The SFP Consultant’s failure to provide the required prior written notice of delay or failure to meet the Time Schedule will constitute a failure to perform and may result in one or more of the following:
    1. termination of this agreement;
    2. a negative performance evaluation, which may result in the loss of future projects with DGS and entry into the Contractor Responsibility Program; or

- 3. an assessment of the SFP Consultant’s fee.
- e. If DGS determines that the SFP Consultant did not cause the delay, DGS may extend the Time Schedule as necessary. The extension of the Time Schedule is the SFP Consultant’s exclusive remedy for a delay and the SFP Consultant may not file a claim against DGS for increased costs due to the delay.

4. **Compensation.**

The SFP Consultant’s compensation for all tasks in each phase (“Basic Services Compensation”) consists of the following negotiated lump sum amounts:

SOP Table (Click or tap here to enter text.)

Schedule of Payments*			Fee
Phase	Task		Fee
Phase 1 Understand	1	Project Kickoff	\$0.00
	2	Review Documentation / Data	\$0.00
	3	Visioning Workshop	\$0.00
	4	Stakeholder Interviews	\$0.00
	5	On-site Operational Assessments	\$0.00
	6	Desktop Operational Assessments	\$0.00
	7	Facility Condition Assessments	\$0.00
	8	Facility Ratings & Deliverables	\$0.00
Phase 2 Define	1	Overall Functional Assessment	\$0.00
	2	Benchmarking	\$0.00
	3	Phase 2 Workshop	\$0.00
Phase 3 Analyze	1	Gap Analysis	\$0.00
	2	Gap Analysis Workshop	\$0.00
	3	Evaluate Alternatives	\$0.00
	4	Scenario Workshop	\$0.00
	5	Finalize scenario options	\$0.00
Phase 4 Plan	1	Develop / Submit Draft Report	\$0.00
	2	Develop / Submit Final Report	\$0.00
	3	Prepare / Present Plan	\$0.00
	4	Final Workshop	\$0.00
Phase 5 Act	1	Post Engagement Evaluation Workshop	\$0.00
	2	Post Engagement Evaluation Report	\$0.00
<b>Total</b>			<b>\$0.00</b>
*The above table is an example only. Tasks and fee breakdown shall be as ultimately negotiated to reflect the actual project scope and may be accompanied by a ‘List of Project Deliverables’ associated with each phase and component thereof.			

- 5. **Invoices.** The SFP Consultant may invoice monthly for the percent complete in one or more of the phases listed in paragraph 4. All invoices must be submitted through e-Builder and must include an itemized listing of each task performed with the date the task was performed and the amount charged per task, and the total invoice amount. The SFP Consultant may not be paid on any outstanding invoices above 90% of the fee for the respective task until work is satisfactory completed, as determined by DGS in its sole discretion.
- 6. **Additional Services.** No additional services beyond those identified in Attachment 1 may be performed without the prior written approval of DGS. No additional monies, fees or compensation will be paid by DGS without an approved work order. The SFP Consultant is not entitled to payment for additional services performed without the prior written approval of DGS. Additional services performed by the SFP Consultant, or its consultants will be

- calculated using the billing rates and terms in Exhibit A. The SFP Consultant shall comply with the reimbursable expenses' terms in Exhibit B.
7. **Changes.** DGS, without invalidating this agreement, may direct changes in the SFP Consulting Services within the general scope of the agreement, consisting of addition of services, deletion of services, or other revisions by work order.
  8. **Small Diverse Business (SDB) and Veteran Business Enterprise (VBE) Participation.** The SFP Consultant shall meet and maintain its 13% commitment to utilize SDBs and its 3% commitment to utilize VBEs made in its Small Diverse Business participation submittal and associated required documents and its Veteran Business Enterprise participation submittal and the associated required documents. The SDB and VBE commitments are based on the total Basic Services Compensation paid to the SFP Consultant for this agreement. The SFP Consultant will complete the SDB and VBE payment information in the Department's compliance management software, or as otherwise directed by the Department. The SFP Consultant shall comply with the Small Diverse Business and Veteran Business Enterprise Participation terms in Exhibit C.
  9. **Agreement Documents.** This agreement consists of this agreement for Strategic Facility Planning Consulting Services, the request for proposal for Strategic Facility Planning Consulting Services for Thaddeus Stevens College of Technology, the SFP Consultant's entire proposal, the SFP Consultant's SDB participation submittal and VBE participation submittal and their associated required documents, and all issued addenda. To the extent that any of these documents are amended by statute, the statutory language will control.
  10. **SFP Consultant Records.** The Commonwealth, DGS or their designee may, at reasonable times and places, examine the SFP Consultant's books and records. The SFP Consultant shall maintain, on its own property, all books and records related to this agreement for a minimum of three years from the date of final payment for the last work order issued under this agreement. The SFP Consultant shall include an identical record-keeping requirement in all agreements with its subcontractors or consultants.
  11. **Related Agreements.** Subcontracting, assignment, or transfer of all or part of the interests of the SFP Consultant related to this agreement is prohibited without DGS's prior written consent. If DGS consents to any assignment or transfer, the terms and conditions of this agreement will apply to and bind the successor party or parties including any work orders or amendments executed prior to the assignment or transfer.
  12. **Approval of Key Personnel.** The SFP Consultant shall submit to DGS the names and relevant experience of all key personnel, including any subcontractors and consultants, to be used for the SFP Consulting Services. If the SFP Consultant intends to replace any personnel assigned to a work order, the SFP Consultant shall notify DGS prior to the change, except in emergencies involving death or disability, in which instance the SFP Consultant shall notify DGS as soon as possible. All non-emergency changes are subject to the prior written approval of DGS. DGS shall review any emergency change upon receipt of the SFP Consultant's notification.
  13. **Ownership of Work Product.** All documents, data, records, samples, or materials the SFP Consultant produces in carrying out its SFP Consulting Services ("Work Product"), are and will remain the sole property of DGS.
    - a. DGS has the right to use all Work Product without restriction or limitation and without additional compensation to the SFP Consultant. The SFP Consultant has no right or interest in the Work Product.

- b. The SFP Consultant may not make available to any third party any Work Product or any materials, documents, or data DGS may provide to the SFP Consultant, without DGS's prior written approval. The SFP Consultant must keep as confidential any information the SFP Consultant secures from DGS its designee in connection with its SFP Consulting Services unless DGS gives written approval to the disclosure of the information, or if the disclosure is ordered by a court of law having competent jurisdiction. The SFP Consultant shall immediately notify DGS of any judicial proceeding related to this agreement and, provide DGS electronic copies of any court or administrative orders upon receipt.
14. **Conflict of Interest.** The SFP Consultant may not have any public or private interest, direct or indirect, which does or may conflict with the performance of the SFP Consultant's services or obligations. The SFP Consultant may not acquire any public or private interest, direct or indirect, while this agreement remains in effect.
- a. The SFP Consultant shall disclose any potential conflicts including, but not limited to, representation of a client in connection with a claim against DGS related to any DGS project, to DGS. If DGS determines any conflict exists, DGS may terminate this agreement for cause.
  - b. The SFP Consultant may not employ any person or entity with any interest that may conflict with the terms of this agreement.
  - c. The SFP Consultant, or any of their affiliates or consultants, may not provide any work or services (e.g., design, construction management, construction) on any future project resulting from the SFP Consultant Services.
15. **Inability to Perform.** If, because of death or any other occurrence beyond the SFP Consultant's control, it becomes impossible for any principal(s) or key personnel assigned to this agreement to render the SFP Consulting Services, the SFP Consultant shall immediately notify DGS in writing. These occurrences may not relieve the SFP Consultant or its surviving principals of any obligations to complete performance under this agreement unless DGS notifies the SFP Consultant in writing of its intention to terminate this agreement. These terminations will be considered a termination for cause.
16. **Termination for Convenience.** DGS may, at its sole option, terminate this agreement for convenience, upon written notice to the SFP Consultant. If DGS elects a termination for convenience, the SFP Consultant is entitled to payment for satisfactory SFP Consultant Services rendered up to the time of termination.
17. **Termination for Cause.** DGS shall provide the SFP Consultant written notice of any deficiency in its performance under this agreement. If within 15 days of its receipt of the notice the SFP Consultant does not correct the deficiency or take all steps reasonable and practical to correct the deficiency to the satisfaction of DGS, DGS may terminate this agreement for cause. DGS may take legal action against the SFP Consultant for damages or any other appropriate remedy if this agreement is terminated as a result of the SFP Consultant's nonperformance or unsatisfactory performance.
18. **Employment Status.** The SFP Consultant is not an employee or agent of the Commonwealth and payments to the SFP Consultant do not constitute compensation or wages. The SFP Consultant is an independent contractor and DGS assumes no liability for the SFP Consultant's actions under this agreement.
19. **Commonwealth Standard Terms and Conditions.** The SFP Consultant shall comply with, and shall include in all contracts between the SFP Consultant and any contractor or consultant

hired by the SFP Consultant to perform work related to the Project, all of the Commonwealth Standard Terms and Conditions included in Exhibit E. Where the terms and conditions in Exhibit E refer to “contract,” it means this agreement and where it refers to “contractor,” it means the SFP Consultant.

20. **Notices.** Any written notice to DGS under this agreement must be sent to the Director, Bureau of Capital Project Planning and Procurement, Department of General Services, 3<sup>rd</sup> Floor Arsenal Building, 1800 Herr Street, Harrisburg, Pennsylvania 17103.

Any written notice DGS may send under this agreement will be sent to the authorized representative of the SFP Consultant at the address provided in the proposal, with a copy emailed to the email address provided by the SFP Consultant.

21. **Dispute Resolution and Claim Process.** The SFP Consultant will adhere to the dispute resolution and claim process described in Exhibit D.

22. **Insurance.** The SFP Consultant shall, at its expense, purchase and maintain the following types of insurance, issued by companies authorized to do business in the Commonwealth by the Pennsylvania Insurance Department or by the Department of Labor and Industry, as applicable:

- a. Worker’s Compensation insurance sufficient to cover all of the employees of the SFP Consultant working to fulfill this agreement.
- b. Comprehensive General Liability insurance and motor vehicle liability insurance in amounts the Commonwealth deems sufficient which shall not exceed \$1,000,000 for bodily injury or death and \$500,000 for property damage. The policy must be occurrence based and must name the Commonwealth of Pennsylvania, Department of General Services, as an additional insured.
- c. Unmanned Aircraft Systems/Unmanned Aerial Vehicles/Drones insurance, if the SFP Consultant chooses to use such a drone device, must have, or its Subcontractor must have, specific UAS/UAV/Drone insurance and must adhere to all Federal Aviation Administration (FAA) regulations and all Federal, State, and Local laws, ordinances, and regulations regarding their use on the Project site. The SFP Consultant shall notify DGS of its intended use of this device and provide the insurance certificate to DGS prior to its use. The SFP Consultant shall be responsible for all damages caused by the use of these devices and shall notify DGS of any claims of damage associated with this paragraph at the time of claim.
- d. Prior to commencement of work under this agreement, the SFP Consultant shall provide the Commonwealth with current, valid certificates of insurance reflecting the requirements stated in this paragraph. These certificates must contain a provision that DGS will be notified at least 30 days prior to any change in or cancellation of coverage afforded under the policies.

23. **Compliance.** The SFP Consultant shall perform all services under this agreement in compliance with all applicable Federal, Commonwealth, and local laws, regulations, and ordinances.

24. **Non-Appropriation.** The Commonwealth’s obligations to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth will have the right to terminate the agreement. The SFP Consultant will 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 agreement. Such reimbursement may not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid for any appropriations available for that purpose.

25. **Effective Date.** This agreement will become effective on the date of the last Commonwealth signature. This agreement will not be binding in any way on the Commonwealth or the DGS until it has been signed by all required Commonwealth agencies and DSG has provided a fully executed copy of this agreement to the SFP Consultant.
26. **Integration.** The parties intend this statement of their agreement to constitute the complete, exclusive, and fully integrated statement of their agreement. As such, it is the sole expression of their agreement, and they are not bound by any other agreements of whatsoever kind or nature. The parties also intend that this agreement may not be supplemented, explained, or interpreted by any evidence of trade usage or course of dealing. In entering this agreement, the parties did not rely upon oral or written statements or representations not contained within the document itself.
27. **Counterparts.** This agreement may be executed in any number of counterparts, each of which when executed and delivered constitute the entire agreement. This agreement will be considered duly executed and delivered by any party affixing its electronic signature to an electronic file of the agreement or when the signature of a party is delivered by facsimile transmission or delivered by scanned image as an attachment to electronic mail (email).

[SIGNATURE PAGE FOLLOWS]

The parties, through their authorized representatives, have signed this agreement below.

\_\_\_\_\_  
Strategic Facility Planning Consultant

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES

\_\_\_\_\_  
Title: \_\_\_\_\_ Date

\_\_\_\_\_  
Secretary of General Services \_\_\_\_\_ Date

Vendor No. \_\_\_\_\_

Federal ID No. \_\_\_\_\_

APPROVED AS TO FORM OF LEGALITY:

DEPARTMENT OF GENERAL SERVICES

OFFICE OF GENERAL COUNSEL

\_\_\_\_\_  
Office of Chief Counsel, DGS \_\_\_\_\_ Date

\_\_\_\_\_  
Office of General Counsel \_\_\_\_\_ Date

OFFICE OF ATTORNEY GENERAL

\_\_\_\_\_  
Office of Attorney General \_\_\_\_\_ Date

I hereby certify that funds in the amount of \_\_\_\_\_ are available under  
Appropriation Symbol

\_\_\_\_\_  
Comptroller Operations \_\_\_\_\_ Date

**THIS CONTRACT WILL BE CONSIDERED FULLY EXECUTED WHEN IT HAS BEEN ELECTRONICALLY APPROVED VIA SAP.**

**Vendor will receive a copy of the Executed agreement in the mail.**



**EXHIBIT A**  
**MAXIMUM HOURLY BILLING RATES**

**Rates shown below are maximum billing rates, not actual billing rates.**

Category	Max. Rate
Vice President or Project Executive	
Associate Vice President	
Senior Program Manager I	
Senior Program Manager	
Senior Associate	
Program Manager I	
Associate I	
Program Manager	
Associate	
Project Manager	
Senior Designer	
Senior Planner	
Production/Editing	
Planner	
Project Specialist	
Designer	
ACAD Operator/Draftsperson	
Executive Assistant	
Administrative Assistant	
Right-to-Know Law requests (all personnel)	\$35.00/hour

Compensation for the SFP Consultant and subconsultants will be based on each individual employee's hourly rate times a maximum multiplier of 3.0 up to the established maximum hourly rate allowed for each labor category listed above. The total labor multiplier includes labor overhead, general and administrative overhead, and profit. These are the maximum billing rates for the staff positions listed in each category and cannot be exceeded.

1. Partner and Principal Billing Rates. Partners, Principals, Executive and Senior Vice Presidents are considered part of home office overhead and as such do not have separate billing rates. If a partner or principal participates on the SFP Consulting Services, their hourly rate will be commensurate with the hourly rate for the employee category in which the partner or principal is functioning.
2. Right-to-Know Law. Billing for Right-to-Know Law requests cannot exceed thirty-five dollars per hour, regardless of the employee category of the person performing the work.
3. Markup on Subconsultants. The Proposer may not add any markup to the cost of each subconsultant.
4. Overtime. Overtime is defined as more than 40 hours in a week. SFP Consultant staff and subconsultants are expected to assign personnel and complete tasks during normal working hours without overtime. With DGS' prior written approval, overtime hours may be billed for short periods to recover from an unplanned delay, if required to maintain schedule or other reason pre-approved by DGS. Salaried personnel shall not be billed for more than eight (8) hours per day. The billing rate for

overtime billed to the Commonwealth will not be increased, regardless of whether the employee or consultant is paying their employee for premium time, time and a half, double time, etc.

## **EXHIBIT B**

### **REIMBURSABLE EXPENSES**

#### **Travel and Lodging and Subsistence:**

Reimbursement for travel, lodging, and subsistence is detailed in:

- Management Directive 230.10 ‘Commonwealth Travel Policy’ (found at: [https://www.oa.pa.gov/Policies/md/Pages/Management\\_AdministrativeSupport\(205-260\).aspx](https://www.oa.pa.gov/Policies/md/Pages/Management_AdministrativeSupport(205-260).aspx))
- Manual 230.1 ‘Commonwealth Travel Procedures Manual’ (found at: <https://www.oa.pa.gov/Policies/Pages/manual.aspx>).

The SFP Consultant is considered a “Commonwealth Traveler” under the directives and reimbursables for Commonwealth Travelers as outlined in the directives apply.

Commonwealth travelers will exercise good stewardship of funds when traveling on official commonwealth business. Commonwealth travelers on official commonwealth business will receive reimbursement of actual expenses incurred in the performance of their duties within prescribed maximums. Complete justification for travel expenses is required for reimbursement. Justification includes matching receipts, approved expense verification methods, and when required, detailed explanations must be submitted.

#### **Reimbursable expenses will be minimized. Examples of allowed reimbursables:**

- Air Travel
- Vehicle mileage in excess of 100 miles roundtrip
- Lodging and meal costs when traveling in excess of 100 miles roundtrip
- Tolls

#### **The following expenses are included in overhead and are not reimbursable:**

- All copying/printing/reproduction costs
- Mail, Express Mail, shipping, etc.
- Vehicle mileage less than 100 total miles roundtrip
- Lodging and meal costs when traveling less than 100 miles roundtrip
- Phone services
- Pictures
- CADD, BIM and software in general
- Electronic devices

#### **NOTE:**

- All reimbursables are capped at the allowable state rate in effect on the date of the event.
- All reimbursables must be supported by detailed receipts (except travel mileage)
- Meal receipts must be itemized and include no more than 20% gratuity
- Alcohol will not be reimbursed
- Flat per diem rates are not acceptable
- Non-itemized credit card receipts are not acceptable
- Reimbursable restrictions apply to the SFP Consultant and all team members and subconsultants
- Reimbursement for subconsultants is at direct cost without mark-up

**EXHIBIT C**  
**SMALL DIVERSE BUSINESS and**  
**VETERAN BUSINESS ENTERPRISE PARTICIPATION**

- A. **General Information.** The SFP Consultant shall meet or exceed the participation percentages provided in the agreement for Small Diverse Businesses (SDB) and Veteran Business Enterprises (VBE). The SFP Consultant acknowledges that the total percentages committed to Small Diverse Businesses and Veteran Business Enterprises are contractual obligations and are calculated based upon the total Basic Services Compensation paid to the SFP Consultant, and cannot be altered without written approval from the Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO).
- B. **SFP Consultant's Duty.** The SFP Consultant shall meet or exceed the participation percentages for the SFP Consulting Services. The SFP Consultant's compliance with this contractual obligation will be tracked through the SFP Consultant's submission of SDB/VBE payment information to BDISBO.
- C. **Small Diverse Business / Veteran Business Enterprise Utilization Report.**
1. The SDB/VBE payment information submitted in the Department's Compliance Management Software will be used to track and confirm the actual dollar amount paid to SDB/VBE consultants and will serve as a record of fulfillment of the contractual commitment.
  2. The SFP Consultant shall submit an updated the SDB/VBE payment information in the Department's Compliance Management Software at least every thirty (30) days or prior to every invoice, whichever is more frequent. A SFP Consultant invoice may not be processed if payment information is not submitted according to this Article.
- D. **Calculation and Credit of the SFP Consultant's Payments Toward the Submitted Participation Percentages.**
1. The participation percentages will be calculated by adding the dollar values of payments to Commonwealth self-certified and verified SDB/VBE consultants and dividing the payment sum by the total Basic Services Compensation paid to the SFP Consultant.
  2. Only the DGS verified SDB/VBE SFP Consultant and its consultants can be credited toward satisfying the participation percentage provided in the agreement. For any additional SDB/VBE firms not listed in the SFP Consultant's proposal but hired by the SFP Consultant, those SDB or VBE consultants must be a DGS-verified SDB or VBE as of the date of the execution of the consultant agreement for the SFP Consultant to receive credit.
  3. For the SDB/VBE SFP Consultant providing services associated with this agreement, the SDB/VBE SFP Consultant, through their own employees, must perform at least 50% of the dollar amount of the SFP Consultant agreement. If this occurs, **100 percent of the consultant agreement payments will be credited towards the SDB/VBE participation percentage.**
- E. **Remedies.**
1. The SFP Consultant's compliance with the Small Diverse Business / Veteran Business Enterprise participation requirements, including the fulfillment of any Small Diverse Business / Veteran Business Enterprise commitments in all consultant agreements, is material to the agreement between the SFP Consultant and the DGS. Any failure to comply with these requirements constitutes a substantial breach of the agreement. It is further understood and agreed that in the

event the DGS determines that the SFP Consultant has failed to comply with these requirements, DGS may, in addition to any other rights and remedies DGS may have under the agreement or at law or in equity, impose remedies as applicable on the SFP Consultant. Remedies for breach of this component may include but are not limited to, withholding of payments; termination of the contract along with consequential damages; revocation of the SFP Consultant's SB, SDB, and/or VBE status; a determination that the SFP Consultant's SDB or VBE participation submittal be deemed non-responsible in future procurements; and any actions under the Commonwealth's Contractor Responsibility Program, up to and including suspension or debarment from future contracting opportunities with the Commonwealth. The remedies enumerated herein are for the sole benefit of DGS and DGS's enforcement of any provision or DGS's indulgence of any non-compliance with any provision shall not operate as a waiver of any of DGS's rights in connection with the agreement, nor shall it give rise to actions by any third parties, including any SDBs or VBEs.

**EXHIBIT D**  
**DISPUTE RESOLUTION PROCESS**

- A. **SFP Consultant Must Carry on Work during Dispute.** The SFP Consultant may note that they are performing the Work under protest and may keep records of costs during the dispute resolution process but the SFP Consultant may not refuse to perform as directed by DGS. The SFP Consultant must meet the Time Schedule unless otherwise agreed to by DGS. If the SFP Consultant fails or refuses to perform as directed, this action will constitute a breach of contract and DGS may terminate the SFP Consultant or default the SFP Consultant or both.
- B. **Dispute Resolution is a 3-Step Process.** Any and all disputes arising out of this agreement are subject to a 3-step resolution process described in this Exhibit. The SFP Consultant and DGS will participate in each preceding step as a condition precedent to the SFP Consultant’s right to pursue any unresolved disputes in the next step.
- C. **STEP 1: SFP Consultant Dispute Review Request.** The SFP Consultant Field Dispute Review Request is the initial step in identifying and attempting to reach a timely and equitable resolution of the variety of issues that arise on any project. The Field Dispute Review Request process will be started in e-Builder by DGS at the project intervals listed below. The SFP Consultant must take action on the FDR process by declaring any disputes or indicating that they have no disputes at this time.
1. **Project Intervals:** A SFP Consultant Field Dispute Request (“FDR”) will occur at the following intervals of the project:
    - a. Approximately one-third through the established Time Schedule;
    - b. Approximately two-thirds through the established Time Schedule;
    - c. Within thirty (30) days after approval of the final Strategic Facility Plan; and
    - d. At any time deemed necessary by DGS.
  2. **Procedure:**
    - a. The SFP Consultant will see and take action on the Field Dispute Review process in e-Builder. If the SFP Consultant does not have any disputes at the above project interval, the SFP Consultant will indicate “no disputes at this time” and submit. Any submitted information regarding disputes will be available to DGS and the SFP Consultant. The SFP Consultant must upload documentation in support of its contentions and may not advance a claim in the absence of such documentation or use or attempt to use any verbal conversation with any parties against DGS, or in prosecuting any claim against DGS. At a minimum, the SFP Consultant will provide with its FDR Request:
      - 1) A factual background of the disputed issue(s);
      - 2) Time schedule impacts, which may only be presented using the current Time Schedule in the agreement; and
      - 3) A proposed solution to the dispute, including but not limited to:
        - i. Time Schedule modifications;
        - ii. Damages attributed to the dispute;
        - iii. If applicable, identify the party the SFP Consultant believes is responsible for creating the dispute.
    - b. The DGS Strategic Facility Planner, after the SFP Consultant submits its FDR, will also provide the following:

- 1) Their understanding of the disputed issue(s);
  - 2) A response to the dispute(s) raised by the SFP Consultant, including:
    - i. DGS's view of the Time Schedule impact;
    - ii. DGS's response to the proposed solution(s); and
    - iii. If applicable, the identity of the party/parties DGS believes is responsible for creating the dispute.
- c. The Director of the Bureau of Capital Project Planning and Procurement, or designee, will review the FDR request and all documentation provided by the SFP Consultant and the DGS Strategic Facility Planner. The Director, or designee, may request additional information from the SFP Consultant, the DGS Strategic Facility Planner, or any other party that may have relevant information regarding the disputed issue(s).
- d. If necessary, DGS may schedule a mutually convenient date and time for a meeting to discuss the dispute(s). The nature of such a meeting shall be flexible and consist of an informal, good faith discussion of the issues raised in the initial FDR request. If possible, the FDR meeting will be convened through video conference or at Public Works. DGS's Designated Representative will chair the meeting.
- e. Within two weeks of the FDR Request, the Director, or designee, will render a decision on the issues raised. The decision will be uploaded to e-Builder. The decision is not binding upon any party if the SFP Consultant proceeds to Step 2.
- f. If the SFP Consultant is dissatisfied with the decision reached, they may appeal the decision to the second step in the dispute process.
- g. If the SFP Consultant is satisfied with the decision reached, they must notify the DGS Strategic Facility Planner and then the Bureau of Capital Project Planning and Procurement and the SFP Consultant will proceed as the FDR decision states.
- h. Any issue or dispute arising on the project must be presented at the first FDR Request interval after the dispute arose. If a SFP Consultant fails to raise an issue at the appropriate FDR Request interval, then the SFP Consultant is deemed to have waived the issue**
- i. Only claims raised during an FDR Request may be appealed to the Claim Settlement Conference stage.**
- D. STEP 2: Claim Settlement Conference.** The second step in the dispute resolution process is a Claim Settlement Conference, which is a more formal step in the process and is described in general in §1712.1 of the Commonwealth Procurement Code. To the extent that this language conflicts with §1712.1, the statutory language controls.
1. Time to File A Claim: Under this second step of the process, a SFP Consultant may appeal the FDR Meeting decision by submitting a written claim to the Deputy Secretary for Public Works, 1800 Herr Street, Harrisburg, Pennsylvania 17103.
    - a. **Any issue or dispute arising on the project that is not mutually resolved at the FDR stage may only be appealed to the Claim Settlement Conference stage. If the SFP Consultant fails to pursue any unresolved FDR issue to a Claim Settlement Conference within the 6-month time frame set forth below, then the SFP Consultant is deemed to have waived the issue.**
    - b. **A claim accrues upon the date of the Director's, or designee's, written decision in Step 1. If the SFP Consultant decides to appeal the decision reached as a result of the FDR**

**Request, the SFP Consultant must file an appeal of the decision to the Deputy Secretary within six months of the date of the Director's, or designee's, written decision by requesting a Claim Settlement Conference. If the SFP Consultant fails to file a written request within this time period, the SFP Consultant is deemed to have waived its right to assert the claim in any forum. The Deputy Secretary will disregard untimely claims.**

2. Contents of the Claim: The claim filed by the SFP Consultant with the Deputy Secretary will state **all grounds** upon which the SFP Consultant asserts a controversy exists. The claim must contain, at a minimum:
  - a. The documentation submitted by the SFP Consultant to DGS during the FDR Meeting to substantiate the SFP Consultant's view of the issue; and
  - b. The Director's, or designee's, decision.
3. Date of the Claim Settlement Conference: The Deputy Secretary, or a designee, may schedule a mutually convenient date and time for the Claim Settlement Conference.
4. Attendees: All parties identified in the Claim Packet or deemed necessary by DGS will attend the Claim Settlement Conference. At a minimum, the SFP Consultant and the Bureau of Capital Project Planning and Procurement personnel assigned to the project will attend the Claim Settlement Conference.
5. Procedure: If the Deputy Secretary deems the Claim Settlement Conference is necessary, the Deputy Secretary, or a designee, may convene the Claim Settlement Conference.
  - a. The Claim Settlement Conference is not subject to 2 Pa. C.S. (relating to administrative law and procedure).
  - b. Neither audio recording nor videotaping will be allowed during the Claim Settlement Conference.
  - c. No transcripts will be taken but attendees are free to take their own notes.
  - d. The Deputy Secretary, or a designee, may allow all parties a reasonable time to present and discuss the issues.
  - e. The SFP Consultant's representative will present a description of the issue, including:
    - 1) the factual background of the issue;
    - 2) the Time Schedule impacts, which may only be presented using the current Time Schedule in the agreement; and
    - 3) the proposed solution to the dispute, including:
      - i. Time Schedule modifications;
      - ii. Damages attributed to the dispute; and
      - iii. If applicable, identify the party the SFP Consultant believes is responsible for creating the dispute.
  - f. DGS's representative will present a description of:
    - 1) a response to the dispute(s) raised by the SFP Consultant, including:
      - i. DGS's view of the Time Schedule impact, which may only be presented using the current Time Schedule; and
      - ii. DGS's response to the SFP Consultant's proposed solution(s); and
      - iii. the identity of the party DGS believes is responsible for creating the dispute.
  - g. The Deputy Secretary may render a final determination on the contents of the Claim within 120 days of the receipt of the claim by the Deputy Secretary. The parties may, during the



120-day period, mutually agree to extend the 120-day deadline. DGS will confirm all agreements to extend the 120-day deadline in writing. If no decision is rendered within the 120 days of the receipt of the claim by the Deputy Secretary, and DGS has not confirmed in writing the parties agreement to extend the 120-day deadline, the claim is deemed to be denied on the 120<sup>th</sup> day. The determination of the Deputy Secretary shall be the final order of DGS with regard to the contents of the Claim.

E. **STEP 3: Filing a Claim at the Board of Claims.** The third step in the dispute resolution process is filing a Statement of Claim with the Board of Claims, which is a more formal step in the process and is described in general in §1712.1 and §1721 *et seq.* of the Commonwealth Procurement Code. To the extent that this language conflicts with §1712.1 or §1721 *et seq.*, the statutory language controls.

1. Time to File a Statement of Claim. The SFP Consultant may proceed to the third stage of the dispute resolution process by filing a claim with the Board of Claims either:
  - a. Within fifteen (15) days of the mailing date of the Deputy Secretary's final determination denying a claim; or
  - b. Within (135) days of the SFP Consultant filing the claim with the Deputy Secretary if no final determination has been received and no agreement to extend the 120-day deadline has been confirmed in writing by DGS;whichever occurs first.

**Only claims that were raised during a Claim Settlement Conference may proceed to the Board of Claims.**

**EXHIBIT E**  
**COMMONWEALTH STANDARD TERMS AND CONDITIONS**

**1. DEFINITIONS**

Capitalized terms used in these Commonwealth standard terms and conditions that are not otherwise defined in these provisions have the meanings specified in the contract to which it is attached.

**2. ENHANCED MINIMUM WAGE.**

- a. **Enhanced Minimum Wage.** Contractor shall pay no less than \$15.00 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 services or lease when the employee spends at least 20% of their time performing ancillary services in a given work week.
- b. **Adjustment.** Beginning July 1, 2023, and annually thereafter, the minimum wage rate will 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 Commonwealth will publish applicable adjusted amount in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
- c. **Exceptions.** These Enhanced Minimum Wage Provisions do not apply to employees
  - i. Exempt from minimum wage under the Minimum Wage Act of 1968;
  - ii. covered by a collective bargaining agreement;
  - iii. 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
  - iv. required to be paid a higher wage under any state or local policy or ordinance.
- d. **Notice.** The Contractor shall: (1) post this Enhanced Minimum Wage Provision 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; or (2) for the entire period of the contract, provide electronic notice of this clause to its employees not less than annually.
- e. **Records.** Contractor must maintain and, upon request and within the time periods requested by the Commonwealth, provide to the Commonwealth all employment and wage records necessary to document compliance with these Enhanced Minimum Wage

Provisions.

- f. **Sanctions.** Contractor's failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but are not limited to, termination of the contract or lease, nonpayment, debarment, or referral to the Office of General Counsel for appropriate civil or criminal referral.
- g. **Subcontractors.** The Contractor shall include these Enhanced Minimum Wage Provisions in its subcontracts under this contract or lease to ensure that these provisions are binding on its subcontractors.

### 3. INDEMNIFICATION.

- a. **Contractor Obligations.** The Contractor shall indemnify the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with any activities performed by the Contractor or its employees and agents that are related to this contract, as determined by the Commonwealth in its sole discretion.
- b. **Commonwealth Attorneys Act.** The Commonwealth shall provide the Contractor with prompt notice of any claim or suit 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 any 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.
- c. **Settlement.** Notwithstanding the above, neither party may enter into a settlement of any claim or suit without the other party's written consent, which will not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

### 4. NONDISCRIMINATION/SEXUAL HARASSMENT.

- a. **Representations.** The Contractor represents that it is presently in compliance with and will remain in compliance with all applicable federal, state, and local laws, regulations, and policies relating to nondiscrimination and sexual harassment for the term of the contract. The Contractor 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 its books, records, and accounts by the Commonwealth for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

- b. **Nondiscrimination/Sexual Harassment Obligations.** The Contractor shall not:
- i. in any manner discriminate in the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under this contract or any subcontract, 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.
  - ii. 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 this contract.
  - iii. 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 this contract.
  - iv. in any manner 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 this contract relates.
  - v. 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.
- c. **Establishment of Contractor Policy.** The Contractor shall establish and maintain a written nondiscrimination and sexual harassment policy that complies with the applicable law and these Nondiscrimination/Sexual Harassment provisions and shall inform its employees in writing of the policy. The policy must contain a provision that states that sexual harassment will not be tolerated and employees who practice it will be disciplined. For the entire period of the contract, the Contractor shall: (1) post its written nondiscrimination and sexual harassment policy or these Nondiscrimination/Sexual Harassment provisions conspicuously in easily accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed; or (2) provide electronic notice of the policy or this clause to its employees not less than annually.
- d. **Notification of Violations.** The Contractor’s obligations pursuant to these provisions are ongoing from the effective date and through the termination date of the contract.

Accordingly, the Contractor shall notify the Commonwealth if, at any time during the term of this contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

- e. **Cancellation or Termination of Contract.** The Commonwealth may cancel or terminate this contract and all money due or to become due under this contract may be forfeited for a violation of the terms and conditions of these Nondiscrimination/Sexual Harassment provisions. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.
- f. **Subcontracts.** The Contractor shall include these Nondiscrimination/Sexual Harassment provisions in its contracts with all subcontractors providing goods or services under this contract. The incorporation of these provisions in the Contractor's subcontracts does not create privity of contract between the Commonwealth and any subcontractor, and no third-party beneficiaries are created by those provisions. If the Contractor becomes aware of a subcontractor's violation of this clause, the Contractor shall use its best efforts to ensure the subcontractor's compliance with these provisions.

## 5. CONTRACTOR INTEGRITY.

- a. **Definitions.** For purposes of these Contractor Integrity Provisions, the following definitions apply:
  - i. "Affiliate" means two or more entities where (a) a parent entity owns more than 50% of the voting stock of each of the entities; (b) a common shareholder or group of shareholders owns more than 50% of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
  - ii. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.
  - iii. "Contractor Related Parties" means any Affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of five percent or more interest in the Contractor.
  - iv. "Financial Interest" means ownership of more than a five percent interest in any business or holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
  - v. "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](#), as may be

amended, 4 Pa. Code §7.153(b), apply.

- vi. “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.

**b. Representations and Warranties.**

- i. **Contractor Representation and Warranties.** The Contractor represents, to the best of its knowledge and belief, and warrants that within the last five years neither the Contractor nor Contractor Related Parties have:
  - 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 are not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency or civil anti-trust investigation by any federal, state, or local prosecuting or investigative agency.
- ii. **Contractor Explanation.** If the Contractor cannot make the representations and warranties set forth above at the time of its submission of its bid or proposal or if this contract is awarded on a non-bid basis at the time of the execution of the contract, the Contractor shall submit a written explanation outlining the reasons why it cannot make those representations and warranties. The Commonwealth may, based on its evaluation of the explanation provided, determine whether it is in the Commonwealth’s best interest to execute the contract.
- iii. **Further Representations.** By submitting any bills, invoices, or requests for payment pursuant to this contract, the Contractor further represents that it has not violated any of these Contractor Integrity Provisions during the term of the contract.
- iv. **Notice.** The Contractor shall immediately notify the Commonwealth, in writing, if at any time during the term of the contract it becomes aware of any event that would cause the Contractor's certification or explanation to change. The Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made in these provisions are currently false or misleading due to intervening factual

circumstances or were false or misleading or should have been known to be false or misleading when entering into the contract.

- c. **Contractor Responsibilities.** During the term of this contract, the Contractor shall:
- i. maintain the highest standards of honesty and integrity.
  - ii. take no action in violation of any applicable laws, regulations, or other requirements applicable to the Contractor that govern Commonwealth contracting and procurement.
  - iii. establish and implement a written business integrity policy that includes, at a minimum, the requirements of these provisions as they relate to the Contractor's activity with the Commonwealth and Commonwealth employees and ensure that its employees comply with the policy.
  - iv. not accept, agree to give, offer, confer, 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, statement of policy, management directive, or bulletin applicable to the provision of goods or services under this contract.
  - v. 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. The Contractor must 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 date the Contractor signs the contract. The Commonwealth shall be deemed to have consented if the required disclosure is received and all of the required Commonwealth signatures are affixed.
  - vi. comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.) regardless of the method of award.
  - vii. comply with the requirements of Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a) if this contract was awarded on a Non-bid Basis.
  - viii. immediately notify the Commonwealth contracting officer or the Office of the State Inspector General, in writing, when the 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 the ethical standards.

- d. **Investigations.** If a State Inspector General investigation is initiated, the Contractor shall:
- i. 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. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
  - ii. 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 and make identified Contractor employees available for interviews at reasonable times and places.
  - iii. upon the inquiry or request of an Inspector General, 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. This information may include, but is not to be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract.
- e. **Termination.** For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Contractor Integrity provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one does 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 contract.
- f. **Subcontracts.** The Contractor shall include these Contractor Integrity Provisions in its contracts with all subcontractors providing goods or services under this contract. The incorporation of this provision in the Contractor's subcontracts does not create privity of contract between the Commonwealth and any subcontractor, and no third-party beneficiaries are created by the inclusion of these provisions. If the Contractor becomes aware of a subcontractor's violation of these provisions, the Contractor shall use its best efforts to ensure the subcontractor's compliance with these provisions.

## 6. CONTRACTOR RESPONSIBILITY.



- a. **Definition.** For the purpose of these provisions, the term “Contractor” means 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. The term also includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.
- b. **Contractor Representations.**
- i. The Contractor represents for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this 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 make this representation, the Contractor shall submit, along with its contract, a written explanation of why such certification cannot be made.
  - ii. The Contractor represents that as of the date of its execution of this 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.
- c. **Notification.** The Contractor shall notify the Commonwealth if, at any time during the term of this contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best of its knowledge, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. The Contractor shall provide this notification within 15 days of the date of suspension or debarment.
- d. **Default.** The Contractor’s failure to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government constitutes an event of default of the contract with the Commonwealth.
- e. **Reimbursement.** The Contractor shall 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 contract or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. These costs include, but are not 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.

- f. **Suspension and Debarment List.** The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment list tab.

## 7. AMERICANS WITH DISABILITIES ACT.

- a. **No Exclusion.** Pursuant to the Americans with Disabilities Act, 42 U.S. Code § 12101, et seq., no qualified individual with a disability may, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract.
- b. **Compliance.** For all goods and services provided pursuant to this contract, the Contractor shall comply with Title II of the Americans with Disabilities Act, the "General Prohibitions Against Discrimination" set forth in 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act that apply to state and local governments.
- c. **Indemnification.** The Contractor shall indemnify the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with the Contractor's failure or its employee's or agent's failure to comply with the provisions of paragraph a, as determined by the Commonwealth in its sole discretion.

## 8. APPLICABLE LAW AND FORUM.

This contract is governed by and must be 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, and waives any claim or defense that such forum is not convenient or proper. Any Pennsylvania court or tribunal has in personam jurisdiction over the Contractor, and the Contractor consents to service of process in any manner authorized by Pennsylvania law. This provision may not be interpreted as a waiver or limitation of the Commonwealth's rights or defenses.

## 9. RIGHT TO KNOW LAW.

- a. **Applicability.** The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this contract.
- b. **Contractor Assistance.** If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this contract, the Commonwealth shall notify the Contractor that it requires the Contractor's assistance, and the Contractor shall provide to the Commonwealth:
  - i. access to, and copies of, any document or information in the Contractor's possession (Requested Information) arising out of this contract that the

Commonwealth reasonably believes is a public record under the RTKL, within ten calendar days after receipt of written notification; and

- ii. any other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this contract.
- c. **Trade Secret or Confidential Proprietary Information.** If the Contractor considers the Requested Information to include 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 shall notify the Commonwealth and provide, within seven calendar days of receipt of the written notice a written statement, signed by a representative of the Contractor, that explains why the requested material is exempt from public disclosure under the RTKL. If the Commonwealth determines that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information to the Commonwealth within five business days of receipt of written notice of the Commonwealth's determination.
- d. **Reimbursement.**
- i. **Commonwealth Reimbursement.** If the Contractor fails to provide the Requested Information and the Commonwealth is ordered to produce the Requested Information, the Contractor shall reimburse the Commonwealth for any damages, penalties, or costs that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
  - ii. **Contractor Reimbursement.** The Commonwealth will reimburse the Contractor for any costs that the Contractor incurs as a direct result of 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.
- e. **Challenges of Commonwealth Release.** 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 reimburse the Commonwealth for any legal expenses incurred by the Commonwealth as a result of the challenge, including any damages, penalties or costs that the Commonwealth may incur as a result of the Contractor's legal challenge, regardless of the outcome.
- f. **Waiver.** As between the parties, the Contractor waives 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.
- g. **Survival.** The Contractor's obligations contained in this Section survive the termination or expiration of this contract.

## 10. OFFSET.

The Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor, or its subsidiaries, owed to the Commonwealth against any payments due the Contractor under any contract between the Commonwealth and Contractor.

## 11. AUTOMATED CLEARING HOUSE (ACH) PAYMENTS.

- a. **Payment Method.** The Commonwealth shall make contract payments through the Automated Clearing House (ACH). Within 10 days of award of the contract or purchase order, the Contractor must submit or must have submitted its ACH information within its user profile in the Commonwealth's procurement system (SRM).
- b. **Unique Identifier.** The Contractor must submit a unique invoice number with each invoice submitted. The Commonwealth shall list the Contractor's unique invoice number on its ACH remittance advice to enable the Contractor to properly apply the state agency's payment to the invoice submitted.
- c. **ACH Information in SRM.** The Contractor shall ensure that the ACH information contained in SRM is accurate and complete. The Contractor's failure to maintain accurate and complete information may result in delays in payments.

## 12. WORKER PROTECTION AND INVESTMENT.

The Contractor shall comply with all applicable Pennsylvania state labor laws and worker safety laws including, but not limited to, the following:

- a. Construction Workplace Misclassification Act;
- b. Employment of Minors Child Labor Act;
- c. Minimum Wage Act;
- d. Prevailing Wage Act;
- e. Equal Pay Law;
- f. Employer to Pay Employment Medical Examination Fee Act;
- g. Seasonal Farm Labor Act;
- h. Wage Payment and Collection Law;
- i. Industrial Homework Law;
- j. Construction Industry Employee Verification Act;
- k. Act 102: Prohibition on Excessive Overtime in Healthcare;

- l. Apprenticeship and Training Act; and
- m. Inspection of Employment Records Law.

### 13. TRADE PRACTICES ACT.

1. **Prohibition.** The *Trade Practices Act* prohibits the Commonwealth from specifying, purchasing or permitting to be furnished or used, in any public works, aluminum or steel products made in a foreign country which has been determined as “discriminating” by the court. It is also unlawful for any importer to sell or offer for sale to any person for use in any public works, aluminum or steel products made in a foreign county which has been determined as “discriminating.”
2. **Requirement.** In accordance with the Trade Practices Act (71 P.S. § 773.101, et seq.) the Contractor shall not specify, or permit to be used, in the Work any aluminum or steel products made in a foreign country that discriminates against aluminum or steel products manufactured in Pennsylvania. The countries of Brazil, South Korea, Spain, and Argentina have been found to discriminate against certain products manufactured in Pennsylvania. Therefore, the specification, purchase or use of those countries' products, as listed below, is not permitted for a project.
  - a. **Public Works** means any structure, building, highway, waterway, street, pier, transit car or system, airport or other betterment, work or improvement, whether for governmental or proprietary use contracted for by any public agency or financed in whole or in part by any public agency.
  - b. **Aluminum or Steel Products** means aluminum or steel products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two or more of such operations, from aluminum or steel not made in the United States.
  - c. **Discriminating Countries.**
    - i. **Brazil:** Welded carbon steel pipes and tubes; carbon steel wire rod; tool steel; certain stainless steel bar; stainless steel wire rod and cold form stainless steel bar; pre-stressed concrete steel wire strand; hot-rolled carbon steel plate in coil; hot- rolled carbon steel sheet, and cold-rolled carbon steel sheet.
    - ii. **Spain:** Certain stainless steel products, including stainless steel wire rod, hot- rolled stainless steel bars and cold-formed stainless steel bars; pre-formed stainless steel bars; pre-stressed concrete steel wire strand; certain steel products including hot rolled steel plate, cold-rolled carbon steel plate, carbon steel structural shapes, galvanized carbon steel sheet, hot-rolled carbon steel bars, and cold-formed carbon steel sheet.
    - iii. **South Korea:** Welded carbon steel pipes and tubes hot-rolled carbon steel place; hot-rolled carbon steel sheet and galvanized steel sheet.
    - iv. **Argentina:** Carbon steel wire rod and cold-rolled carbon steel sheet.

Penalties for violation of this paragraph may be found in the Trade Practices Act. Penalties

include becoming ineligible for Public Works projects for a period of three years.

**14. PA PREVAILING WAGE PROVISION.**

a. It shall be the duty of every public body that proposes the making of a contract for any project of public work to determine from the secretary the prevailing minimum wage rates which shall be paid by the contractor to the workmen upon such project. Reference to such prevailing minimum rates shall be published in the notice issued for the purpose of securing bids for such project of public work. Whenever any contract for a project of public work is entered into, the prevailing minimum wages as determined by the secretary shall be incorporated into and made a part of such contract and shall not be altered during the period such contract is in force.

b. Not less than the prevailing minimum wages as determined hereunder shall be paid to all workmen employed on public work.

c. Every contractor and subcontractor shall keep an accurate record showing the name, craft and the actual hourly rate of wage paid to each workman employed by him in connection with public work, and such record shall be preserved for two years from the date of payment. The record shall be open at all reasonable hours to the inspection of the public body awarding the contract and to the secretary.

**ATTACHMENT 1**  
**NEGOTIATED PROJECT SERVICES**

**\*(This section to be completed as an outgrowth of the negotiations process)**

1. **Basic Services:** Basic Services shall consist in the development of an approved Strategic Facilities Plan listing all discrete capital improvements projects, including their respective estimated costs and optimal sequencing of implementation, needed to realign and optimize the agency’s physical plant portfolio to best support the agency’s anticipated future operational state, inclusive of all necessary components of services identified and more clearly defined in the Request for Proposal for Strategic Facility Planning Consulting Services (RFP No. DGS DGS 2024-TSCOT-SFP-1), including all incorporated Appendices and, any Addenda issued as part of the solicitation, the Strategic Facility Planning Consultant’s Technical Submission dated Tech. Submission Date Click or tap here to enter text., and the Agreement for Strategic Facilities Planning Services and any Amendments, except modified as follows:
  - A. Negotiated Basic Services Click or tap here to enter text.
  - B. Basic Services fees are inclusive of all project expenses, and no project expenses are billable under the provisions of Exhibit B.
  - C. Creation of existing and planned space utilization graphic documents are a Basic Service.
  
2. **Anticipated Additional Services:** The following is an additional service under paragraph 6 of the agreement:
  - A. Creation of scaled digital schematic floor plans of existing facilities, where either no digital copies exist, or such documents exist in a format unsuitable for the preparation of space utilization plans compatible with TRIRIGA uploading requirements. Existing and planned space utilization graphic overlays are included as a basic service, however, and only the creation of digital base plans in the specified format will be an additional service.

**ATTACHMENT 2**

**MATRIX OF INCLUDED FACILITIES**

**Services shall be provided for each facility included within Thaddeus Stevens College of Technology's real estate portfolio as indicated on the attached Matrix**

Thaddeus Stevens College of Technology Strategic Facilities Plan Roster of Campus Facilities - Buildings										
Tag	Facility	Primary Use (current)	Tenure		Stories	Area (NSF)	Year Built	FCA*	OA*	SFP*
			Owned	Leased						
1	Mellor Building	Gen Ed Classes, Conference Rm, Administration Offices, Storage	X		4	43996	1908	yes	yes	yes
2	Kreider Classroom Building	Electro Mech., Electronics, CNSA	X		2	25000	1908	yes	yes	yes
3	Leonard Building (recently renovated successfully)	Carpentry Program	X		1	22,070	1948	no	yes	yes
4	Woolworth Classroom Building	Electrical, Plumbing	X		2		1989	yes	yes	yes
5	Snyder Classroom Building	Cabinet Making, Carpentry, Electrical, Res. Remodel., Plumbing	X		2	25300	1968	yes	yes	yes
6	Multipurpose Activity center (MAC)	Gym, BB Courts, Offices, Health Classes	X		3	36400	1938	yes	yes	yes
7	Brenner Hall	Offices, Dormitory, Nurse	X		3	95200	1930	yes	yes	yes
8	Schuler Learning Resource center (LRC)	Library, Gen Eds, Tutors, Academic Coach, Meeting Space, Study Rooms, Computer Lab	X		3	5787	1995	yes	yes	yes
9	Bourne Hall	Dormitory	X		3	41625	1949	yes	yes	yes
10	Metzger Hall	Dormitory	X		3	5787	1949	yes	yes	yes
11	Armstrong Hall	Dormitory	X		4	5787	1976	yes	yes	yes
12	Herrington Hall	Offices, Dormitory	X		4	24600	1976	yes	yes	yes
13	Schwalm Student Center	Other Resources Unknown	X		3	24600	1913	yes	yes	yes
14	Hartzell Building	Offices (Admissions, Fin. Aid, Registrar, Counselor, Career Serv.,	X			7395		yes	yes	yes
15	Jones Dining Hall	Conference Room, Cafeteria, Food Equipment	X		1	121155	1978	yes	yes	yes
16	Maintenance Building	Offices, Storage, Warehouse, Maint Equip.	X		2	19680	1972	yes	yes	yes
17	Bevilacqua Field	Athletic Field	X					yes	yes	TBD
18	Alumni Association & Thaddeus Stevens Foundation/College Store	Offices, Meeting Space, Store		X	2			yes	yes	yes
20	Greiner Advanced Manufacturing Center - South Bldg.	Computer Integrated Machine, HVAC	X		1	58800	2018	yes	yes	yes
21	Thaddeus Stevens College Griscorn Education Center	Architect Tech., Bus. Admin., Carpentry, CSET, ECAD, ECM, Graphics, MET, Res Remodel., WET, Gen Eds, Career Prep, Counseling,	X		6	529000	1920	yes	yes	yes
22	Colonial Village Lane (Greenfield Corporate Center)	Civil Eng., Masonry, Welding		X	1	27846		no	yes	no
23	Transportation Center (Greenfield Corporate Center)	Automotive, Collision Repair, Diesel Tech.		X	1	85894		no	yes	no
24	Alms House	Multiple Programs	X		3	18620	1700's	yes	yes	yes
25	Greiner Advanced Manufacturing Center - North Bldg.	Welding	X		1	33950	2018	yes	yes	yes
26	1054 East Orange Street with Garage	Storage	X		2	3200/760**	1950's	yes		yes
27	54 Cottage Avenue		X		2.5	2850		yes	yes	yes
28	117 Parkside Avenue	Heritage Press Museum	X		1	2700		yes	yes	yes
<b>Roster of Campus Facilities - Grounds &amp; Infrastructure</b>										
1	Bevilacqua Field	Sports & Recreation	X		n/a			yes	yes	yes
2	Parking Lot	Parking	X					yes	no	yes
3	Campus Steam Distribution System	Heating Plant	X		n/a			yes	no	yes
<b>*NOTES</b>										
FCA	Designates facility to receive <b>Facility Condition Assessment</b>									
OA	Designates facility to receive <b>Operational Assessment</b>									
FSP	Designates facility to be included in the <b>Strategic Facilities Plan</b>									