



# HIGHWAY VEGETATION MANAGEMENT AGREEMENT

Agreement No.: \_\_\_\_\_

Federal Tax I.D. No.: \_\_\_\_\_

SAP No.: \_\_\_\_\_

State Route \_\_\_\_\_

County \_\_\_\_\_

This agreement is made on \_\_\_\_\_, 20 \_\_\_\_\_, by and between the Commonwealth of Pennsylvania, acting by and through the Pennsylvania Department of Transportation (hereinafter referred to as "PennDOT"), and \_\_\_\_\_, its agents and contractors (hereinafter referred to as the "APPLICANT"),

### WITNESSETH:

WHEREAS, certain public highways have been adopted and taken over as part of the State highway system, to be constructed, improved, and maintained by the Commonwealth pursuant to the Act of June 1, 1945, P.L. 1242, the Act of September 18, 1961, P.L. 1389, and the Act of May 29, 1945, P.L. 1108, as amended; and,

WHEREAS, PennDOT has been granted by State and Federal law with jurisdiction over vegetation within and along State-designated highways; and,

WHEREAS, the APPLICANT has requested a permit to trim, remove and maintain vegetation within the right of way of a limited access State highway; and

WHEREAS, the work to be performed under this Agreement (hereinafter referred to as "Scope of Work") shall consist of the vegetation maintenance activities (including the initial work under the M-688L permit as well as the replacement plantings and continuing maintenance requirements) set forth in Exhibits "A" and "B" attached hereto and incorporated herein by reference.

NOW THEREFORE, for and in consideration of the foregoing premises and the mutual promises set forth below, with the intention of being legally bound, agree as follows:

### 1) SCOPE OF WORK.

- a) The scope of work performed under this Agreement shall consist of those activities set forth in Exhibit "A" (the M-688L permit) and Exhibit "B" (addressing replacement plantings and continuing maintenance requirements).
- b) The work site within which the Scope of Work will take place is along State Route \_\_\_\_\_, \_\_\_\_\_ bound, from Segment \_\_\_\_\_ to Segment \_\_\_\_\_.

- c) All work under this Agreement shall be accomplished in accordance with the Scope of Work (Exhibits “A” and “B”) and all other the terms of this Agreement, as well as the latest PENNDOT vegetation management procedures (Publications 23 and 461), design criteria (Publication 13M), construction and materials specifications (Publications 408 and 450), and maintenance and protection of traffic (Publication 213 and the MUTCD).

## **2) OBLIGATIONS OF THE APPLICANT.**

- a) The APPLICANT agrees to furnish, at no cost to PENNDOT, a complete set of the Plans and Specifications in a timely manner for review and approval by PENNDOT and, if necessary, the FHWA. The APPLICANT agrees to cooperate with PENNDOT and, where necessary, the FHWA in obtaining the approval of the Plans and Specifications by all necessary parties.
- b) The APPLICANT agrees to pay the entire cost of activities under this Agreement including, but not limited to, construction, inspection, supervision, sampling and testing, and landscape maintenance, as detailed in the Plans and Specifications and in subsequent change orders. As used herein, “cost” means that total initial contract price adjusted upward or downward for change orders and claims made under the Pub 408 Highway Specifications or under this Agreement.
- c) The APPLICANT agrees to provide PENNDOT an executed copy of any contract between the APPLICANT and any other person or entity for any part of the work to be performed pursuant to this Agreement.
- d) The APPLICANT and all contractors performing work authorized by this Agreement shall maintain comprehensive general liability insurance, property damage insurance and automobile liability insurance throughout the term of this Agreement in the minimum amounts of \$250,000 per person and \$1,000,000 per occurrence for bodily injury, including death, and \$250,000 per person and \$1,000,000 per occurrence for property damage. These coverages shall be occurrence-based. The policy(ies) shall name the Commonwealth as an additional insured and shall contain a provision that the coverages afforded there under shall not be cancelled or changed unless at least thirty (30) days prior written notice has been given to the Commonwealth. Certificates of insurance reflecting the requirement coverages shall be provided to PENNDOT prior to the commencement of work.
- e) The APPLICANT shall provide security in a form acceptable to PENNDOT in the amount of \$10,000 or the cumulative replacement cost of all desirable vegetation as determined by PENNDOT, whichever amount is higher, to run concurrently with the term of this Agreement, unless sooner released or permitted to be reduced by PENNDOT.
- f) The APPLICANT shall insure that any contractor performing work authorized by this Agreement strictly abides by the terms of the M-688L and this Agreement.
- g) The APPLICANT shall comply with all federal, state and local laws, regulations, ordinances or rules in performing the proposed work, including but not limited to all state and federal environmental requirements, in particular those relating to threatened or endangered species, wetlands and historic and archeological elements.

- h) The APPLICANT shall reimburse PENNDOT all costs associated with inspecting any work performed under this Agreement.

### **3) OBLIGATIONS OF PENNDOT.**

PENNDOT agrees to grant to the APPLICANT M-688L Permit No. \_\_\_\_\_ to use and occupy the work site for purposes of vegetation management activities as set forth therein. The permit is hereby incorporated into this Agreement as Exhibit "A."

### **4) LANDSCAPING REQUIREMENTS.**

- a) Work under the Agreement will be performed in accordance with the terms of this Agreement and the Plans and Specifications by contract or by the APPLICANT's own forces.
- b) The APPLICANT shall prepare Plans and Specifications for any change orders required for satisfactory completion of the work, which change orders will be subject to the review and approval of PENNDOT.
- c) The Plans and Specifications shall include a certification that the landscaping is completed in accordance with the provisions of the Agreement and in accordance with the current PENNDOT Pub 408 Highway Specifications and other appropriate and applicable specifications.
- d) If the APPLICANT does anything contrary to the approved Plans and Specification and after due notice, fails to correct such action, PENNDOT may take those measures contained in the Pub 408 Highway Specifications to ensure full restitution and compliance.
- e) Highway property disturbed by the APPLICANT shall be restored using materials, design and workmanship in conformance with Pub 408 Highway Specifications, Pub 13M, chapter 8–Landscape Planting Design or other existing Department Standards.
- f) Access to the work site is only allowed as designated on the Plans and Specifications; access will only be granted be from existing access points along the travelled way of the limited access highway.
- g) Work requiring personnel or vehicles on the shoulders shall comply with all of the work zone traffic control requirements of the MUTCD and PENNDOT Pub 213, as well as any additional special work zone provisions that may be made applicable. Failure to comply with these requirements will be cause for immediate suspension of contract work until the proper traffic controls have been provided.
- h) The APPLICANT, upon completion of the work, shall leave the highway right of way clean of all rubbish, excess materials, temporary structures and equipment and all parts of the highway right of way disturbed by the PROJECT shall be left in acceptable condition.

**5) NOTICE.**

Notice under this Agreement shall be directed as follows:

Applicant's Name: \_\_\_\_\_ PennDOT: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

\_\_\_\_\_

Attn: \_\_\_\_\_ Attn: \_\_\_\_\_

Telephone: \_\_\_\_\_ Telephone: \_\_\_\_\_

**6) TERM AND COMMENCEMENT OF WORK.**

- a) The term of this Agreement shall be from the date first above written until \_\_\_\_\_ years following the planting of the replacement vegetation identified on Exhibit "B", unless otherwise extended by mutual agreement of both parties by written amendment to this Agreement.
- b) No work may commence under the M-688L affiliated with this Agreement until PENNDOT issues a notice to proceed following the date first above written.

**7) TERMINATION AND DEFAULT.**

- a) PENNDOT may terminate this Agreement for any reason by giving the APPLICANT ninety (90) days written notice. Partial or complete forfeiture of the bond may be required in order for PENNDOT to continue maintaining the affected area for what would have been the remaining duration of this Agreement.
- b) Neglect or failure of the APPLICANT to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, shall be an event of default, unless such failure or misrepresentation are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or Commonwealth of Pennsylvania or any of their departments or political subdivisions, or any other cause not reasonably within the APPLICANT's control. The APPLICANT, however, shall remedy as soon as possible each cause preventing its compliance with this Agreement.

- c) If notified by PENNDOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred, the APPLICANT shall have thirty (30) days or a time negotiated with PENNDOT from the date of such notification to remedy the causes preventing its compliance and curing the default situation. Expiration of the thirty (30) days or negotiated time and failure by the APPLICANT to remedy the default shall result in termination of this Agreement by PENNDOT.
- d) Upon a termination of this Agreement by PENNDOT, PENNDOT shall conduct an inspection of the work site to determine whether or not the Scope of Work has been completed to a degree acceptable to PENNDOT. If the Scope of Work is not completed to a degree and condition acceptable to PENNDOT, then PENNDOT may take any measures necessary to complete the Scope of Work. The APPLICANT shall be held responsible for full restitution of all expenses incurred in completing the Scope of Work.

## **8) MAINTENANCE.**

- a) Access to the work site is only allowed as designated on the Plans and Specifications; access will only be granted from existing access points along the travelled way of the limited access highway.
- b) The APPLICANT shall not impede traffic on the highway in performing the permitted work. No permit work or staging is allowed within the travelled way of the limited access highway. Staging is allowed within shoulders of the highway. Work requiring personnel or vehicles on the shoulders shall comply with all of the work zone traffic control requirements of the MUTCD and PENNDOT Pub 213, as well as any additional special work zone provisions that may be made applicable. Failure to comply with these requirements will be cause for immediate suspension of contract work until the proper traffic controls have been provided.
- c) APPLICANT agrees to notify PENNDOT forty-eight (48) hours in advance of any maintenance activities under this Agreement.
- d) The APPLICANT agrees to perform all maintenance activities required by industry practices to maintain work site in an attractive manner. "Maintenance activities" can include, but shall not be limited to: on-going landscape maintenance; repair or replacement of any dead trees or plants; repair, mowing or replacement of ground cover; herbicidal spraying; litter removal; and any other special work required. See Exhibit "B" (delineating the maintenance activities that are required, how often and when they will take place and any other specifics concerning maintenance under this Agreement).
- e) The APPLICANT agrees to make ample financial and other provisions for such maintenance under this Agreement after its completion.
- f) The APPLICANT agrees to submit any additional landscaping plans to PENNDOT for prior approval or to submit changes, additions, or deletions to existing landscaping to PENNDOT for prior approval in a timely manner.

## 9) GENERAL PROVISIONS.

- a) The signing of the Agreement does not in any way limit the rights of PENNDOT in its jurisdiction over the State highway system.
- b) This Agreement and M-688L Permit No. \_\_\_\_\_ constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement.
- c) Neither this Agreement nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party. Any change to the provisions of this Agreement must be made in a written amendment executed by both parties.
- d) This Agreement shall be construed and interpreted and the rights of the parties determined in accordance with the laws of the Commonwealth of Pennsylvania.
- e) The District Maintenance Office shall have full authority to ensure the full compliance of the provisions of this Agreement.
- f) The signing of the Agreement or the doing of any work thereunder shall constitute an agreement by the APPLICANT to comply with all of the conditions and restrictions of this Agreement and the M-688L Permit No. \_\_\_\_\_ attached hereto as Exhibit "A."
- g) The APPLICANT shall indemnify and save harmless (and defend if requested) the Commonwealth of Pennsylvania and all of its representatives from all suits, actions or claims of any character brought on account of any injuries or damages sustained by any person or property in consequence of any neglect or on account of any wrongful act or omission on the part of the APPLICANT as a result of the construction or maintenance of the PROJECT.
- h) The APPLICANT shall comply with the Contractor Integrity Provisions and the Provisions Concerning the Americans with Disabilities Act, both of which are incorporated by reference as though physically attached to this Agreement.
- i) No remedy herein conferred upon or reserved by PENNDOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to PENNDOT upon any default by the APPLICANT shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by PENNDOT.
- j) In the event that any dispute arises between the APPLICANT and PENNDOT concerning interpretation of or performance pursuant to this Agreement, such dispute shall be resolved in a mutually acceptable manner by PennDOT and the APPLICANT.

**10) SIGNATURES.**

Any person executing this Agreement in a representative capacity hereby warrants that they have been duly authorized by their principal to execute this agreement on such principal's behalf.

**IN WITNESS WHEREOF**, the parties have executed this Agreement.

\_\_\_\_\_  
Date: \_\_\_\_\_  
**Permittee**

**DO NOT WRITE BELOW THIS LINE -- FOR COMMONWEALTH USE ONLY**

\_\_\_\_\_  
Date: \_\_\_\_\_  
**Commonwealth of Pennsylvania  
Department of Transportation  
District Executive**

\_\_\_\_\_  
Date: \_\_\_\_\_  
**BOMO Roadside Manager**

APPROVED AS TO LEGALITY  
AND FORM

BY \_\_\_\_\_  
For Chief Counsel Date

BY \_\_\_\_\_  
Deputy General Counsel Date

BY \_\_\_\_\_  
Deputy Attorney General Date

RECORDED NO. \_\_\_\_\_  
CERTIFIED FUNDS AVAILABLE UNDER  
ACTIVITY PROGRAM \_\_\_\_\_  
SYMBOL \_\_\_\_\_  
AMOUNT \_\_\_\_\_

BY \_\_\_\_\_  
Signature Date

Comptroller  
Title