CHAPTER 23
AGILITY

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23.1 AGILITY OVERVIEW

INTRODUCTION

Agility is a “way of doing business” that enables PennDOT and eligible partners to exchange services, equipment and staff instead of money. By doing this, PennDOT and the partner make the most of their limited resources; while developing strong and rewarding relationships. One of the biggest advantages of the Agility Program is the long-term relationships developed between PennDOT, other state agencies and local governments.

Presently, municipalities represent the majority of partners in the program, but others are eligible including: water, sewer, housing and municipal authorities, council of governments, metropolitan and rural planning organizations, public school districts and state universities, community colleges and vocational technical schools, volunteer fire and rescue companies, volunteer emergency medical transport companies, state and federal government agencies, and charitable hospitals. The Agility Program is available in all eleven engineering districts, which cover 67 counties in Pennsylvania.

Service exchanges must be reasonably equal in amount between the Department and its partner. To avoid the exchange of service that may have a negative effect on the workforce, PennDOT enters into Agility Work Plans in cooperation with the American Federation of State, County and Municipal Employees (AFSCME). In this way, the Department, AFSCME, and the eligible partner provide services that benefit everyone without the need to pay each other cash for the services rendered. A Work Plan can be implemented after a fully executed Agility Agreement is in place.

The County Agility Coordinator (CAC) is responsible for the proper completion and implementation of an Agility Agreement and Work Plan. The Work Plan can be developed for services that are specified and approved in Attachment B of the Agility Agreement. Each Work Plan contains PennDOT’s management, AFSCME’s and the partner’s signatures. Agility Agreements are valid for five years with one renewal period of three additional years for a total of eight years, but can be cancelled after the terms of the agreement and Work Plan have been met. A new Agility Agreement can also be executed if the partner and PennDOT want to exchange services beyond the eight years.

23.2 PURPOSE OF THIS AGILITY CHAPTER IS TO

• Provide broad and consistent direction to the District Agility Coordinators (DAC), CAC, County Managers, Assistant County Managers and others who engage in service exchanges with eligible partners.

• Ensure that the field staff and the Agility Division are working from the same information.

• Present factors to consider in making Agility business decisions as they relate to the exchange of services with eligible partners.

The guidelines are not intended to address every issue that may arise, nor are they intended to stifle creativity or new ideas. The chapter is made up of two kinds of information:

1. Requirements which must be followed and implemented in every service exchange.

2. Suggestions, which may be implemented by the District and County Maintenance Offices.

Finally, this document is a “work in progress” and will be continuously changed to show the evolution of service exchanges and relationships between PennDOT and its eligible partners, lessons learned from the field staff and AFSCME and our customers’ changing expectations. Updates will be provided to the field staff through such sources as the Agility Digest, a link to the Bureau of Municipal Services via the PennDOT website, at training sessions, etc.

23.3 THEORY OF “AGILITY”

Agility is an organizational strategy or a “way of doing business” that enables PennDOT to respond quickly to its customers, partners and continuously changing environment. PennDOT’s environment entails providing transportation services and products to more than 12.5 million citizens of all ages, cultures and geographic locations.

Some people define “Agility” as an attitude that shows PennDOT’s and AFSCME’s joint interest in building and maintaining relationships with internal and external customers. These relationships position PennDOT to make positive differences in a wide variety of situations.

Most agile relationships involve at least one or more of the following four principles:
Emphasizing People and Information - People and information determine the success of an organization, not technology, facilities, or equipment.

Organizing to Master Change and Uncertainty - Create a flexible organization that can quickly adapt its human and physical resources to a rapidly changing environment.

Enriching Customers - Involve customers in developing products and services, which are customized by them to meet their needs.

Cooperating to Enhance Competitiveness - Identify win-win relationships as the strategic justification for internal and external organizational cooperative ventures.

To varying degrees throughout PennDOT, employees at all levels are encouraged to apply these four principles at work.

23.4 APPLYING AGILITY AT WORK

The Agility Program is an innovative approach to conducting business that can greatly enhance efficiencies for PennDOT and its local communities. Given the rapid changes in our operating environment and the many diverse demands on our organization, PennDOT must be increasingly more innovative and proactive. Below are some examples of how to apply Agility at work.

Maintenance

- Consider Agility service exchanges first, before contracting out for services.
- District and County Agility Coordinators are responsible for entering into Agility Agreements and Work Plans so long as these transactions make good business sense. When needed, the CAC should refer to their district management for review and guidance when trying to develop agility partnerships.

Bridges

When performing preventive maintenance on bridges, such as flushing activities, consider the use of Agility with local volunteer fire departments based on the availability of the volunteer fire departments.

Transportation Systems Operations and Emergency Responses

Where practical, use the Agility Program to formalize Agility Agreements and Work Plans as “insurance policies” to access back-up crews, facilities, knowledge resources and equipment at the local level and across state-borders. The types of emergencies in which these service exchanges may be used include, but are not limited to: electrical outages, downed power lines, snow plowing, flooding, traffic control, etc.

Safety

Use Agility service exchanges as a way of meeting local governments’ needs for low-cost safety services. This could help reduce fatalities and crashes. For example, a local government could cut tree limbs and brush along our rights-of-way and in return, the Department could install rumble strips along dangerous curves on local roads.

Relationships

The Agility Division may survey AFSCME Council Directors, staff and local representatives using a standard survey to determine their level of satisfaction with the Agility Program. The survey results will be quantified and given to the Assistant District Executives for Maintenance and others to use in strengthening relationships and to make further improvements in the program.

23.5 WHEN TO ENTER INTO AN AGILITY PARTNERSHIP

Establishing an Agility partnership for the purpose of exchanging services between PennDOT and a partner is voluntary and optional for both parties. Each party must believe that it makes good business sense for their organization to be involved in a service exchange. The exchange of services is a good deal if: more work gets done quicker, more work gets done within the same time frame, the exchange allows PennDOT to keep cash in its budget for other needed projects, as well as retains work in PennDOT instead of contracting out services, etc.

23.6 WHAT SERVICE EXCHANGES ARE NOT

Service exchanges should not be confused with “giving away” services. The receiving partner must provide PennDOT with a reasonably equal amount of services.

PennDOT is required by law to preserve the allocations that are distributed from the MLF. These allocations are determined on a county-by-county basis through a formal legislative process, which can only be altered by additional legislation.
Furthermore, PennDOT is statutorily prohibited from diverting the Motor License Funds for proposals and activities that are contrary to Article VIII, Section 11 of the Pennsylvania Constitution of 1968 (relating to the use of proceeds from gasoline and other motor fuel excise taxes and motor vehicle registration and license fees). Reference to this anti-diversion requirement can be found at Section 2001.2 of the Administrative Code of 1929, as amended, 71 P.S. Section 511511.2. Any “consideration,” such as services or materials, funded from the MLF that is given to an Agility partner may result in offsetting the original formula allocations, which have been carefully established through legislation, or in diverting the funds contrary to the constitutional and statutory mandates. Therefore, when PennDOT uses its field staff, equipment and related materials to benefit a partner as part of a service exchange, PennDOT must receive a reasonably equal service back from that partner. Moreover, to ensure that the MLF is restored, the service or activity performed for PennDOT must be something on which it is permissible to spend MLF in the first place. To maintain the integrity of the MLF, the partner and PennDOT have up to eight years, or by the expiration date of the Agility Agreement, to complete one or more Work Plans to validate that the services received by PennDOT are reasonably equal in amount to the services provided to the partner, thereby ensuring the integrity of the MLF.

Service exchanges are not good business decisions if the County Maintenance Office fails to factor in the costs associated with using equipment beyond the planned time frame to “extend” a service to complete a project. For example, if the field staff must borrow equipment from an adjoining district to perform a task for its partner, the field staff should factor in the “extended cost” of mobilizing the borrowed equipment. If, after considering this cost factor, it is still feasible to complete the project, then the field staff should proceed to do so.

Service exchanges are not good business decisions if the CAC fails to coordinate with his/her county on the shared use of purchased and/or rented equipment for service exchanges. For example, if the county rents equipment for 20 days and it is left idle for five of those days, the CAC could have used that rented equipment for the five days to perform a service exchange if proper planning and scheduling occurred.

23.7 MANY BENEFITS OF SERVICE EXCHANGES

The most significant benefit of an Agility partnership is that it helps PennDOT build relationships with its local communities. Sharing information enables all parties to understand why decisions are made and brings to light factors which may influence those decisions as well.

Other benefits include, but are not limited to:

- Enabling PennDOT and partners to use funds more efficiently and effectively.
- Enabling PennDOT and its partners to provide smoother and safer roads by reducing the number of outstanding maintenance needs.
- Improving PennDOT’s and its partner’s response time on fixing road problems, preventing accidents, etc.
- Completing work that otherwise may not have been done.
- Enabling PennDOT to receive more timely and accurate information from its partners. This is because relationships formed under the Agility Program usually become strong relationships. In strong relationships, the quantity and quality of information communicated between both partners is greatly improved.
- Strengthening relationships between PennDOT and AFSCME union leaders at all levels.
- Strengthening relationships between PennDOT, other state agencies and local governments, including municipalities.
- Increasing PennDOT’s and government’s positive image with the public.
- Increasing opportunities for employees to work in greater leadership roles.
- Increasing the quality of life by balancing social, economic, and environmental concerns, which are all essential components of smart transportation.
23.8 ROLES AND RESPONSIBILITIES

PLANNING DEPUTATE

The Agility Division is located in a non-highway deputate and is one of three divisions in the Bureau of Municipal Services. See Attachment A for a copy of the organizational chart.

The Agility Division is a support and program office whose Agility Program Specialists provide technical guidance to field staff that work in the Highway Administration’s deputate.

The Agility Division’s key products and services that support field implementation include:

- Executing Agility Agreements that allow Work Plans to be developed between PennDOT and its partners,
- Assisting with outreach efforts by conducting on-site training for potential and current partners as well as training for AFSCME employees,
- Reviewing Agility documentation to ensure the County Maintenance Offices’ records are in proper order,
- Staffing the Agility Steering Committee,
- Maintaining an Agility Agreement database,
- Preparing an Agility Program Annual Report,
- Conducting Agility office based and on-site Agility Quality Assurance reviews and related training,
- Maintaining an Agility Partner Guide,
- Developing training tools such as the Plant Maintenance and Agility training course,
- Maintaining this chapter,
- Maintaining an Agility website
- Maintaining the Agility Work Plan Training Manual, and
- Issuing an Agility Digest and other items that directly support the CACs.

HIGHWAY ADMINISTRATION DEPUTATE

The Highway Administration’s field staff works daily to maintain our highway and bridge systems. Typically, each engineering district selects a DAC to be a liaison between the Agility Division and the County Maintenance Office staff. Some of the responsibilities of the DAC include serving as a single point of contact for the Agility Division, communicating information on Agility from any source to the Assistant District Executive for Maintenance, County Managers, CAC, and others, performing quality assurance reviews on Agility Agreements and Work Plans, conducting and/or coordinating training on the Agility Program, assisting with identifying marketing opportunities for the Agility Program, serving as requested on the Agility Steering Committee, attending meetings as requested by the Agility Division, coordinating the collection of data requested by the Agility Division, and assisting with the resolution of Agility issues.

Some of the CAC’s responsibilities include serving as the single point of county contact for the DAC, communicating information on Agility to the County Maintenance Manager and the entire organization, performing quality assurance reviews on Agility Agreements prior to their submission to the DAC, participating in the development, review, and implementation of Work Plans, conducting training at the county level and/or coordinating training on the Agility Program for others, identifying, developing and implementing marketing strategies for the county to current and potential partners, attending meetings as requested on the Agility Program, completing data requests on the Agility Program, ensuring Work Plan activities are accurately tracked and reported, maintaining accurate and auditable records on the Agility Program, soliciting input from and providing information to customers, and encouraging their employees’ participation in the program.

The District Municipal Services staff are also located in the Highway Administration deputate and have frequent contact with local governments who are current and potential Agility partners. This staff serves as a referral source for local governments who are interested in learning more about the Agility Program.

23.9 LEGAL FOUNDATION OF THE AGILITY PROGRAM

Chapter 19 of the Procurement Code (also referred to as Act 57) provides PennDOT with the statutory basis to enter into Agility Agreements. Although Chapter 19 does not specifically cite the word “agility,” it enables PennDOT to engage in intergovernmental contracts with various levels
and types of governmental bodies, as well as particular non-profit entities. Agility Agreements are one type of an intergovernmental contract.

Prior to Act 57, the Department’s statutory authority for Agility Agreements was Section 561 of the State Highway Law, relating to minor routine maintenance by municipalities. When the Procurement Code took effect, it gave PennDOT further authority for the Agility Program and broadened the types of services that the partners could provide to PennDOT.

The Agility Program can “respond quickly” to its partners because these intergovernmental contracts involve less paperwork and shorter processing times. Traditional contracts, which take longer, are not necessary because PennDOT and its partners exchange services, not money.

23.10 LEGAL ISSUES AND POLICIES
Throughout the Agility process, from drafting Agility Agreements to executing service exchanges, several legal issues may arise. One purpose of this chapter is to minimize the need to consult the Office of Chief Counsel and thus increase efficiency by providing accurate and coherent legal policies for the Agility Program.

Before specific legal and policy issues are discussed, it is important to state the five legal requirements that serve as the foundation of the Agility Program’s operations:

REQUIREMENTS OF THE AGILITY PROGRAM
There are five legal requirements that must be followed in the Agility Program.

1. First, PennDOT must enter into a formal, written agreement with each partner. A letter of cooperation is not acceptable because it is not a formal agreement.

2. Second, to be a partner in the Agility Program, the partner must be a public entity that conforms to the definition of a “local public procurement unit.” Partners must meet this definition because it is required by law (i.e., Act 57).

3. Third, no money can be exchanged between PennDOT and its partner. If money were involved in the Agility Program, then PennDOT would have to comply with the same lengthy and more involved Procurement Code requirements which apply to traditional contracts.

4. The MLF cannot operate in the red, or incur a deficit.

5. Materials can only be included in an Agility project if they are essential and incidental to performing the service. Materials alone cannot be exchanged between PennDOT and the partner, except for the following items: Road Signs, Salt Brine and Millings.

23.11 ELIGIBLE PARTNERS
PennDOT can only enter into Agility Agreements with entities that are classified as “local public procurement units” or others who provide “external procurement activities” (essentially out-of-state government agencies and agencies of the federal government) under the Procurement Code. One preliminary indicator that PennDOT uses to identify a potential Agility partner is whether they secure and spend public funds. Public funds are taxes, fees or government appropriations.

A second preliminary indicator is whether the partner’s agency is managed by a Board of Directors and if these directors are publicly elected officials. However, public authorities are eligible, even though their directors are not elected. A third preliminary indicator is that the entity must expend the public funds in accordance with statutory or regulatory provisions that address its functions and activities, including its spending powers.

A local public procurement unit is defined in Section 1901 of the Commonwealth Procurement Code (62 Pa. C.S. Section 1901) as “A political subdivision, public authority, tax–exempt, nonprofit educational or public health institution or organization, nonprofit fire company, nonprofit rescue company, nonprofit ambulance company and, to the extent provided by law, any other entity, including a council of governments or an area government, which expends public funds for the procurement of supplies, services and construction.”

PennDOT’s Office of Chief Counsel ultimately determines whether the potential partner meets the requirements to be a local public procurement unit. When in question, potential partners may be
asked to submit copies of their articles of incorporation, bylaws, annual audit report or other documentation concerning their organization and operation to the Office of Chief Counsel for review.

The following are examples of local public procurement units:

- Boroughs, Townships, Counties and Cities
- Council of Governments
- Water, Sewer, Housing and Municipal Authorities
- Metropolitan/Rural Planning Organizations
- Public School Districts
- State Universities, Community Colleges and Vocational Technical Schools
- Charitable Hospitals
- Volunteer Fire and Rescue Companies
- Volunteer Emergency Medical Transport Companies
- State and Federal Government Agencies

### 23.12 PROCESSING AGILITY AGREEMENTS AND WORK PLANS

Incorrectly completed Agility Agreements or Work Plans can cause significant delays in the processing of either of these documents. This section details policies and procedures to follow that helps the CAC and the partner avoid common mistakes.

### 23.13 AGILITY AGREEMENTS

An Agility Agreement (See Attachment B for a copy of an Agility Agreement) is a contract, which indicates PennDOT’s and the partner’s intent to exchange services with each other when and if an opportunity arises. Having an agreement in place does not obligate either party to perform a service. It provides the foundation and legal authority for exchanging services. The Agility Agreement also describes the potential service exchanges, the agreement time frame of eight years, and other general terms and conditions of the relationship. The Agility Agreement submitted to the Agility Division for processing, must have original signatures. A “copy” of the Agility Agreement from the CAC cannot be accepted by the Agility Division.

**WHO CAN SIGN THE AGILITY AGREEMENT**

The Agility Agreement must contain a valid signature. This means that the signatures on the Agility Agreement must be from people who have the proper legal authority to sign the document. An executed resolution is necessary to grant someone within the partner’s organization or its governing body the proper authority to sign the Agility Agreement. A resolution is a formal statement which allows a governing body to give an individual the authority to sign the Agility Agreement on behalf of the partner. As a matter of PennDOT policy, Agility Agreements must have a completed resolution.

If the agreement is with a nonprofit corporation, only one corporate officer needs to sign, provided that officer is a senior officer. Senior officers include:

- Chairman
- President
- Senior Vice-President
- Executive Vice-President
- Assistant Vice-President
- Chief Executive Officer
- Chief Operations Officer

If a senior officer signs the agreement for the corporation, then a junior officer may attest to the signature of the senior officer. To attest is to affirm the authenticity of the individual who has signed either the Agility Agreement or the resolution on behalf of the partner. The affirming individual is usually the secretary, treasurer, or other appointed individual.

**Signing an Agility Agreement on behalf of a Federal Agency**

Within the partner’s organization, for a person to sign an Agility Agreement on behalf of a federal agency, it has to have a citation to federal regulations, an internal agency memo delegating signature authority, or in the case of a contracting officer, an appointment certification.

**STAMPED SIGNATURES ON AN AGILITY AGREEMENT**

Stamped signatures on Agility Agreements are only valid in extenuating medical circumstances. For such a signature to be valid, it requires an attached letter from the municipal solicitor with an explanation for the absence of a manual signature.

**VALID DATES**

Agility Agreements must be submitted to the Office of Chief Counsel within sixty (60) days of the partner’s signature date on page 3 of the agreement. If the 60 days are exceeded, the agreement is considered “stale” and will need to
be resigned and re-dated, and the signature process will begin again.

The attest date must be either equal to or later than the signed date on the signature page. Agility Agreements or resolutions will not be accepted if the attest date is earlier than that of the signature.

**OBTAINING APPROVAL**

When processing an Agility Agreement with Attachments A, B, C and D, approval is required from the Agility Division and the Office of Chief Counsel. If activities other than what is listed on Attachment B of the Agility Agreement are added, the Agility Agreement must then be approved by the Office of the Attorney General.

The Office of Chief Counsel will review the Resolution Page and the Agility Agreement for form and legality, and the reviewing attorney will return the agreement to the Agility Division if problems exist.

When entering into an Agility Agreement with a Commonwealth Agency, a Letter of Understanding (LOU) must be used. No resolution is necessary with executive agencies—that is, those under the Governor’s jurisdiction. However, independent agencies, such as the Pennsylvania Game Commission, require an Agility Agreement.

When the Agility partner is an out of state agency, an Agility Agreement must be used. These Agility Agreements must be approved by the Office of General Counsel and the Office of the Attorney General.

The Agility Division is responsible for submitting Agility Agreements and LOUs to the Office of Chief Counsel as well as for entering all Agility Agreements and LOUs into the Legal Approved Tracking System.

**TERMINATION OF AGILITY AGREEMENTS**

An Agility Agreement may be terminated prior to the official termination of the agreement if PennDOT or the partner so desire. The terminating party must submit a letter of intent to this effect to the other party which references the thirty day termination notice.

If an Agility Agreement expires before work is completed under a Work Plan, the following actions must be taken immediately:

1. All work must cease until a new Agility Agreement is in place.
2. The new Agility Agreement must have a new and unique agreement number.
3. Indicate on the old Work Plan the “Balance still owed by either party at the end of the expired Agility Agreement” and reference the new Agility Agreement number.

**LEGALLY BINDING CONTRACT**

Signing an Agility Agreement does not obligate either party to perform any of the services listed on Attachment B of the Agility Agreement. The Agility Agreement becomes a legally binding contract only after a Work Plan is completed and signed by all parties: PennDOT, AFSCME, and the partner.

Since the Work Plan signed by all parties under an Agility Agreement is a legally binding contract, it would be a breach of contract if the partner or PennDOT did not perform the necessary work to the party’s satisfaction. Should the partner refuse to perform or re-perform the work for PennDOT, the situation should be communicated to the District Office who can ask for assistance, if applicable, from the Agility Division. The reverse is also true: if PennDOT does not perform work to the partner’s satisfaction, it would be a breach of contract.

**23.14 AGILITY AGREEMENT TERMS AND CONDITIONS**

The following section is a brief description of the Terms and Conditions as listed in the Agility Agreement.

**Part One** describes the partner’s responsibilities under the Agility Agreement. As a supplier of personnel and equipment, the activities specified on the individual Work Plan must be reasonably equal in amount to those supplied by PennDOT and meet the guidelines in the appropriate PennDOT publications.

**Part Two** outlines PennDOT’s responsibilities under the Agility Agreement. PennDOT’s activities specified on individual Work Plans must be reasonably equal in amount to those supplied by the partner and meet the guidelines in the appropriate PennDOT publications.
partner’s organization has stricter policies or standards regarding highway maintenance, PennDOT will perform those services accordingly.

**Part Three** states that the partner’s employees and lessors remain in the partner’s employ when performing services under this agreement for PennDOT. PennDOT’s employees and lessors remain in PennDOT’s employ when performing services for the partner’s organization. In addition, liability issues are addressed in the event an employee or lessor of either party commits negligent acts.

**Part Four** guarantees the right of inspection and remedies to both parties of the Agility Agreement. Inspections may be made by authorized representatives of either party within 60 days of the completion of work. Spot inspections can be performed at any time when activities are taking place under this agreement.

**Part Five** describes PennDOT’s Green Plan Policy to protect the environment, conserve resources and comply with environmental laws and regulations. It addresses the partner’s responsibility to ensure its personnel and subcontractors are aware of PennDOT’s commitment to protecting the environment and related obligations.

**Part Six** adds the Non-discrimination/Sexual Harassment Clause, Contractor Integrity Provisions, and the Provisions Concerning the Americans with Disabilities Act as attachments to the agreement.

**Part Seven** allows you to sign the different sections of the agreement separately.

**Part Eight** describes the conditions under which PennDOT can receive your services. There are circumstances where you can provide services under the agreement when those services are already under contract with a private vendor. It also addresses training, meals and materials that you use in the performance of a service.

**Part Nine** sets forth the conditions under which PennDOT can provide services to the partner’s organization. It addresses the materials used, signs provided and how to handle surplus.

**RECORD RETENTION**

All original Agility Agreements are maintained in the Agility Division and are kept for seven years after they expire. In addition, copies of all agreements are maintained in the Electronic Document Management System (EDMS). The Agility field staff is required to maintain all Agility Agreement documents which include the agreement, Work Plans and supporting documents for seven years after the expiration date of the Agility Agreement.

**INFORMATION DISCLOSURE**

Agility Agreements, Letters of Understanding and Work Plans that the Department is a party to are considered public information under the Right to Know Law. Therefore, the Department must provide to the public non-confidential partner information upon request.

### 23.15 LETTER OF UNDERSTANDING

A LOU is a document used by two state agencies that wish to exchange services, since the Commonwealth cannot formally contract with itself. LOUs are signed by each agency’s designated signatory, who is usually located in the Harrisburg area. Once approved, staff from each County Maintenance Office, which includes AFSCME, may develop a Work Plan with the other agency’s field or regional staff and their union representatives to exchange services. Documentation must be maintained to support the Work Plans that are completed as a result of having LOUs in place.

**GRANTS**

Under no circumstances can our Agility partner use grant funds to perform a service exchange for PennDOT.

However, Work Plans may be entered into with organizations that receive grant funding from PennDOT (such as publicly owned airports), as long as non-grant funding is used to pay for the grantee’s performance of a service exchange.

### 23.16 AGILITY WORK PLANS

A Work Plan specifically describes the nature of work that PennDOT and the partner will perform for each other under the Agility Agreement. The Work Plan also indicates the quantity, unit of measure, unit price of the Agility project, estimated and actual completion dates and contains signature lines for PennDOT, AFSCME and the partner, etc. It is important to note that the “cost” of the Agility project is indicated on the Work Plan not the value. Information related to...
the value of an Agility project may be kept in PennDOT’s files along with supporting rate information. See Attachment C for a copy of the Work Plan.

An unlimited number of Work Plans may be developed and signed over the life of one Agility Agreement. The quantity is governed by the capacity of either party to perform the work within the life of the agreement.

It is a good practice to expect our partners to complete their work for PennDOT within one or two work seasons from the date that PennDOT finished providing its services to the partner. This increases accountability and lowers the risk of a partner defaulting on a Work Plan. However, in all situations, the partner must provide services to PennDOT on or before the expiration date of the Agility Agreement.

MANAGING WORK PLAN SERVICE EXCHANGES AND RELATED ACTIVITIES

Work Plan activities must be properly managed, tracked, reported and an accurate and auditable record maintained. At a minimum, the CAC is required to perform the following tasks for each work plan:

Send a Work Plan Copy to the Agility Division within 10 business days from the last signature date on the document. If the executed work plan is amended, a copy of the amended work plan must also be submitted to the Agility Division within 10 business days of the transaction. The Agility Division will use the information to establish and maintain a statewide inventory of all work plans.

Create and Enter Notifications in SAP-Plant Maintenance for each service shown on the work plan. There are two types of work plan services. One service is the work performed by PennDOT or RP work. The second service is the work received by PennDOT from the partner or RR work. These transactions must be entered in SAP-Plant Maintenance within 10 business days from the date the work plan was executed. (See the training course entitled “Plant Maintenance & Agility” for details on how to perform these transactions and the required data elements for Agility notifications.) Note that one notification per agility service exchange must be created. That notification is valid for the life of the service even if the exchange continues beyond one fiscal year.

Document the Receipt of Partner or RR Services. Since the life of an Agility Agreement (if renewed) can last for eight years, our partners may take up to eight years to complete service exchanges for PennDOT. Therefore it is important to document the partner’s return of services as follows:

Request that the partner complete and return the Partner’s Agility Service form (PAS) every two weeks to show the nature of RR work and number of production units provided. (See Attachment E for a copy of the form.) There are two exceptions to this requirement. First, no form should be completed if the partner did not perform any work. The second exception is when the partner provides a service to PennDOT that “reoccurs” over a period of months like storage or parking. In these situations and for the partner’s convenience, one PAS form may be completed every six months, so long as the form contains the total amount of services provided for that time frame.

After the entire service exchange has been completed, the “receiving” party must initial and date the Work Plan column entitled “Completion Date/Initials/Date Work Approved” to signify that the job was accepted.

Create and Oversee the Processing of ZIPY Partner Payrolls using appropriate codes and PAS forms, similar to how work is processed by a paid contractor. ZIPY Partner Payroll information must be entered for all partner provided services or RR work twice a year in SAP-Plant Maintenance. Agility work received from the partner between July and December must be entered in Plant Maintenance by the fourth business day in January. Services received from all partners between January and June must be entered in Plant Maintenance by the fourth business day in July.

Ensure a Reasonably Equal Service Exchange Occurs. One legal premise of the Agility Program is that PennDOT must preserve the allocations that are distributed from the MLF. This means that the actual costs incurred by PennDOT to serve the partner in the Agility Program must be offset by the partner’s return of a comparable amount of services to PennDOT.

USE OF CONTRACTORS AND SUBCONTRACTORS

An Agility partner may repay PennDOT by using contractors or subcontractors to provide the services. However, AFSCME must agree to this arrangement by signing the Work Plan.
WORK PLANS WITH MULTIPLE PARTNERS

Some municipalities decide not to participate in the Agility Program because they may lack the resources to participate in an Agility exchange. Having multiple partners under an Agility Work Plan is allowable and may be especially helpful in enabling a group of municipalities to participate in the Agility Program. PennDOT could have three municipalities join together to “give something back” to the Department. Individually the three municipalities may have been excluded from the program due to their inability to compensate the Department for services rendered. For example: three municipalities could provide litter pickup to PennDOT in exchange for line painting on a roadway that runs through the three municipalities. By providing the service to all three municipalities at the same time, the mobilization costs would be reduced making the service more affordable to the municipalities.

WORK PLANS UNDER A THREE-WAY AGILITY WORK PLAN

A three-way Work Plan refers to a Work Plan that contains three parties on the face of the Work Plan – PennDOT and two eligible partners, whom all must sign a Work Plan as part of the agreement. In this scenario, PennDOT could complete an Agility project for Partner A but be compensated for doing so by partner B. Partner B would then receive a service from Partner A so that all three parties benefit in some way from being in the Agility partnership.

AMENDING WORK PLANS

If after work begins under a Work Plan, PennDOT or the partner wants to change the scope of the project all parties may re-negotiate and amend the costs and work activities in the Work Plan. The amended Work Plan should be initialed and dated by PennDOT, AFSCME and the partner.

BANKING

Banking is like a savings account where one party “saves up” dollar values by performing more than one service for their partner over an extended period of time. The cumulative value of these performed services is then paid back by the receiving partner within the time frame of the Agility Agreement. Note that the exchange of services under a banking arrangement must be fully documented and completed before the Agility Agreement expires between partners.

Although permissible, banking should be kept to a minimum and the nature of the service exchanges and estimated dates of completion for each service must be established when the Work Plan is being developed. A “to be determined” designation is not acceptable.

CLAIMS PROCESS

A dissatisfied partner can sue PennDOT in the Board of Claims, as long as the value of the disputed services is $300 or more. This is why PennDOT must view Work Plans signed under an Agility Agreement as legally binding documents. Conversely, if PennDOT has a claim against a partner, the available forums are either the Commonwealth Court or the Court of Common Pleas for the county where the partner is located (the choice of the forum rests with PennDOT); and there is no minimum dollar value. In the latter situation, the County Maintenance Office staff should first contact the Agility Division before taking any action.

LIABILITY

Work performed under an Agility Agreement should be viewed similar to the way that PennDOT views work performed by a contractor. Under Section 1911 of the Procurement Code, a partner that provides personnel, property, supplies or services to another partner shall be immune from liability for any damages which arise out of the use of such personnel, property, supplies or services. Also, Section 561(b) of the State Highway Law, 36 P.S. Section 670-561 (b), provides that a municipality which completes minor routine maintenance work on the roadway or shoulders of a state highway for PennDOT under a contract is relieved from any tort liability arising after the completion of the work so long as it conforms to the standards of the contract as agreed to by PennDOT.

Partners sometimes ask whether PennDOT would be liable if the partner’s employee was injured while working on an Agility project for PennDOT. The answer to this question is no, because the Procurement Code provides immunity. The injured person’s employer is responsible for providing him or her with worker’s compensation and related insurances. The same principle applies to PennDOT employees undertaking projects for partners—PennDOT is responsible for the worker’s compensation coverage, and the partner is immune from liability.
Further, Agility partners should be kept to the same safety standards as PennDOT employees. The standards can be found under the Terms and Conditions portion of the Agility Agreement (See Attachment A of the Agility Agreement), and are interpreted in an earlier section of the guidelines.

23.17 FINANCIAL MATTERS

“COSTING OUT” AN AGILITY PROJECT THAT WILL BE PROVIDED TO PENNDOT’S PARTNER

“Costing out” an Agility project can be a challenge. This is because the items that go into “making a business offer” to PennDOT’s partner often vary from one district to another and sometimes from county to county. There are also times when unforeseen circumstances arise as part of completing a Work Plan activity. For these reasons, costing out an Agility project is not an exact science.

Generally, PennDOT considers two or more items as part of costing out the service it will provide to the partner. These items are:

Direct or hourly cost of PennDOT’s field staff, who are involved in the Agility project plus the cost of their benefits.

Equipment cost.

Material cost (that is incidental to the service being provided).

Other Costs.

These four categories are defined below along with several places where the cost information can be obtained.

DIRECT COSTS AND BENEFITS

Direct costs include direct salaries, wages and overtime that are incurred by the Department’s district, and county staff in implementing the work included in the Work Plan. The direct cost of Central Office staff who works in the Agility Program should not be included in these calculations. The hourly cost of PennDOT’s staff to perform a service can be determined by looking at actual payroll costs. Actual payroll costs contain information on salaries, wages and overtime as well as the average, hourly cost of PennDOT’s field staff to perform a service, plus the cost of their benefits, payroll additives, etc.

EQUIPMENT COSTS

Plant Maintenance equipment costs refer to the cost to PennDOT to own, maintain, and operate equipment or the cost to PennDOT to rent and operate equipment. All County Maintenance Office staff maintains a list of these hourly equipment rates. Be sure to include costs for Department forces and equipment to mobilize for the service being provided. Also, the rates to use and operate outside rented equipment are usually maintained at the County Maintenance Office.

MATERIAL COSTS

Material costs refer to the cost of materials that PennDOT purchases or provides to the partner that are incidental to the service rendered. The word “incidental” means “something that is minor in nature…” when compared to the overall cost of the service. Material costs can be found on the Plant Maintenance system or by calling local suppliers and/or by researching Internet sources.

PennDOT is prohibited from providing only materials to a partner as part of an Agility project, with the exception of the materials listed on page 23-5. If materials are provided, the materials must be incidental to the service that PennDOT also provides to the partner. Note that PennDOT cannot exchange salt alone with a partner. In addition, district office staff has the discretion to provide only services to their partner.

OTHER COSTS

Other costs involved in an Agility project may result in additional expenses due to the local conditions in which the work is to be performed. For example, PennDOT’s lack of knowledge of a geographical area where the work is to be done may result in extending the time frames in which the job can be completed. Other costs to consider are the distance to the work site, nature of the work (cutting overgrown shoulder areas instead of regularly maintained areas), differences in the age and condition of equipment, need for flaggers, extensive work zone set-up and administrative costs incurred at the district/county offices.

By adding the costs in two or more of the four categories above, PennDOT arrives at a “business offer” or the amount of resources PennDOT believes it will need to complete an Agility project for its partner.

Some other thoughts to keep in mind when calculating and presenting PennDOT’s business offer to the partner are:
a. It is likely that PennDOT’s business offer to complete the partner’s Agility project may be marginally higher in amount than what PennDOT’s actual costs are. This is because PennDOT must factor in other costs that were described earlier.

b. PennDOT may, but is not required to, share its cost calculations with the partner. This is a business offer and PennDOT should keep in mind that had the partner procured a contractor to do the same work, it is unlikely that the contractor would itemize and share its costs with the partner.

c. When developing a Work Plan where a partner is to provide PennDOT with winter services, be sure that a municipal agreement is not already in place with PennDOT for the same areas being described in the Work Plan.

Developing the Agility Work Plan (See Agility Work Plan Training Manual for details)

23.18 MONITORING AGILITY ACTIVITIES

Since the life of an Agility Agreement is usually five years, with an option to renew for three years, our partners may take up to eight years to complete Agility projects for PennDOT. This is subject to arrangements made in the Work Plan. Therefore, it is important to monitor the quality and quantity of the services being provided to PennDOT over a number of years by the partner.

Two ways to do this include producing a written receipt of the quality and quantity of services provided by the partner to PennDOT. The receipt will indicate to the partner what the current balance due to PennDOT is and subsequently be maintained on file in the PennDOT County Maintenance Office. The written receipt can be the Work Plan if it is initialed and dated by all parties after the work has been performed and officially noted by the receiving party that the job was acceptable.

A second method is to capture this information on a computer system that will enable the CAC to electronically maintain such information. Regardless of the approach taken, the CAC is required to maintain documentation that supports the figures and information cited in the Work Plan for auditing purposes.

Of equal importance is PennDOT’s need to document, in writing, that the partner accepted the Department’s work as described in the Work Plan and the date this acceptance occurred. Likewise, the Department’s acceptance of the partner’s work and the date of acceptance should also be documented.

See Attachment D for a copy of the Agility File Checklist.

23.19 RELATED ACTIVITIES

AGILITY WORK PLANS WITH PENN STATE UNIVERSITY (PSU)

Developing Work Plans with PSU is a complicated issue, which needs to be considered on a case-by-case basis. Therefore, when completing Work Plans with PSU, there is an additional approval required. After the Work Plan has been signed off by PennDOT, the partner and AFSCME, it must then go to the Agility Division which will forward the Work Plan to the Office of Chief Counsel for final approval.

WORK VERSUS VOLUNTEER ACTIVITIES

Sometimes, in promoting the Agility Program and other Department initiatives, union-covered employees are recruited to represent PennDOT at state fairs, speak at customer advisory board meetings or otherwise promote some aspect of the Department in forums with partners, customers, and other employees. In these situations, the union-covered employees who carry out these approved Agility work tasks are to be compensated for their time even if the work is performed outside of their regular work hours.

Other paid work activities may include, but are not limited to, union-covered employees speaking on behalf of the Department at schools or other locations in order to educate people about transportation, or to carry out activities listed in the Department’s business plans. In these cases, an employee is not acting as a volunteer: he or she is acting as an employee of the Department.

In contrast and as defined by the U.S. Department of Labor, a volunteer is a person who offers his/her services “…freely and without pressure or coercion, direct or implied from an employer” (U.S. Department of Labor, 29 CFR 555.103).

Three examples in which an employee is acting as a volunteer and not entitled to compensation while performing activities associated with the Department are the following:
1. An employee who is a member of a volunteer fire company requests and is granted permission to drive a piece of Department equipment in a parade. In this case, while the Department may get some publicity by showcasing the equipment in the parade, the employee has requested to use the equipment in his role as a volunteer fireman.

2. The Department sponsors a sports team for youth and an employee volunteers to be a coach for the sports team. In this case the employee is acting as a volunteer.

3. As a union representative, an employee attends an evening meeting to develop and sign an Agility Work Plan.

For assistance and clarification on these matters, please contact your Labor Relations Officer.

GENERAL COMMONWEALTH INFORMATION REQUIREMENT

No PennDOT employee can use the information contained in this chapter for the purpose of superceding any Commonwealth or Department policies and procedures. Purchasing and contracting activities involving Commonwealth funds and all expenditures and practices must adhere to Commonwealth policies. Where applicable, this chapter incorporates such policies and procedures. Questions about the use of the Agility concept for activities that are not covered in this chapter should be directed to the Agility Division, the district office, or the responsible program area.

MARKETING THE AGILITY PROGRAM

Marketing is the process of planning and executing the conception, pricing, promotion, and distribution of ideas. This process creates exchanges of goods and services that satisfy individual and organizational objectives.

The following activities are just some of the ways that you can market the Agility Program. Union employees are an integral part of any outreach plan.

a. Personally contact every municipality and promote Agility with ENTHUSIASM.

b. Attend a municipality meeting to explain the concept of Agility.

c. Send a list of all active Agility projects to all municipalities each month.

d. Send Agility newsletters to municipalities.

e. Encourage media coverage where possible.

f. Send invitations to individuals and municipalities inviting them to attend Customer Advisory Board meetings.

g. Use advertising activities for the Agility Program as one immediate way for the partner to compensate PennDOT.

h. Do satisfaction surveys including telephone and person-to-person calls.

i. Directly mail letters to a targeted audience.

j. Use the Internet Web Page to advertise the program and encourage partners to “visit” the website regularly.
ATTACHMENT B

Effective Date: ____________________________ Agreement Number: __________________

(Federal ID will insert)

Federal ID Number: __________________

AGILITY AGREEMENT
(Attachments A, B, C and D)

1) THIS AGREEMENT is made and entered into by and between the Commonwealth of Pennsylvania, acting through the Department of Transportation, ("DEPARTMENT") and the following public procurement unit(s) as defined in the Commonwealth Procurement Code, 62 Pa. C.S. § 101, et seq., ("PARTNER(S)").

Partner: ____________________________ Federal ID Number: __________________

City: ____________________________ County: ____________________________

2) NOW, THEREFORE, in accordance with the Terms and Conditions of Attachment A, attached to and made a part of this Agreement, the parties, with the intention of being legally bound, agree to perform those activities to be set forth in the Agility Work Plan which, upon completion by the parties, will be attached to and made a part of this Agreement.

a. Attachment B, which lists the services that may be performed by the parties, is made a part of this Agreement.

b. Modifications to the services to be performed as identified in the Agility Work Plan may be made at any time in writing during the term of this Agreement or the renewal period described in Paragraph 3.

3) This Agreement shall be effective for an initial five- (5-) year period, beginning on the date noted in the upper left hand corner, unless terminated sooner for either cause or convenience upon thirty (30) days’ written notice by either party to the other, at which time all obligations shall cease; provided, further, that termination for convenience shall be subject to reconciliation of outstanding balances.

4) By renewal letter, not requiring approval by either the Office of Chief Counsel or Office of Comptroller Operations, the parties can extend the Agreement for one three- (3-) year term beyond the initial five- (5-) year term. The three- (3-) year renewal period shall begin on the termination date of the initial term. The three- (3-) year renewal period shall similarly be subject to termination for either cause or convenience upon thirty (30) days’ written notice by either party to the other, at which time all obligations shall cease; and, as during the initial period, termination for convenience shall be subject to reconciliation of outstanding balances. The PARTNER shall return the letter, signed by its duly authorized agent and accompanied by a resolution authorizing the agent to sign on the PARTNER’s behalf, to the DEPARTMENT’s appropriate county agility
coordinator at least sixty (60) days before the end of the initial term. A sample renewal letter is attached to and made a part of this Agreement as Attachment C. In any event, this Agreement shall not be effective after eight (8) years from the date noted in the upper left-hand corner.

5) The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, applies to this Agreement. Therefore, the Agreement is subject to, and the PARTNER shall comply with the clause entitled, Contract Provisions – Right to Know Law 8-K-1532, attached as Attachment D and made a part of this Agreement. As used in this Agreement, the term “Contractor” refers to the PARTNER.
Agreement Number: ______________________

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

BY: ____________________________
Secretary of Transportation or designee Date

______________________________ (Name of Partner)

ATTEST:

Title: __________________________ Date: __________________________

BY: __________________________ Date: __________________________

FOR COMMONWEALTH USE ONLY:

APPROVED AS TO LEGALITY AND FORM:

BY: __________________________ Date: __________________________
For Chief Counsel

OGC Form No. 18-FA-40.0
Approved OAG 5/6/2013

Funds Commitment Doc. No.: ______________________
Certified Funds Available Under
GL Account: ______________________
Amount $: ______________________ N/A
AGILITY AGREEMENT
TERMS AND CONDITIONS
Attachment A

This Agreement is subject to the following terms and conditions:

1. The PARTNER, using its own personnel and equipment owned or leased by it, or materials owned by it or supplied by others, shall provide the maintenance activities identified in the Agreement in quantities determined and specified on individual work orders to be of equal value to the maintenance activities provided by the DEPARTMENT under this Agreement. The PARTNER shall perform all maintenance activities in accordance with applicable provisions of the most current version of the DEPARTMENT’s Publication No. 408, Specifications, and its amendments and supplements; the policies and procedures set forth in the most current version of the DEPARTMENT’s Publication No. 113, Highway Foreman Manual, and its amendments and supplements; and all applicable provisions of the most current version of the DEPARTMENT’s Publication No. 213, Temporary Traffic Control Guidelines, and its amendments and supplements and Publication No. 212, Official Traffic Control Devices, and all amendments thereto. These publications and regulations are all incorporated by reference as though physically attached to this Agreement. The PARTNER’s (s’) provision of these maintenance activities on state highways shall serve as consideration for the DEPARTMENT’s provision of maintenance activities which it is providing under this Agreement on the PARTNER’s (s’) roads.

2. The DEPARTMENT, on state and local highways, shall provide the maintenance activities identified in the Agreement in quantities determined and specified on individual work orders to be of equal value to the maintenance activities provided by the PARTNER(s) under this Agreement in good workmanlike manner. The DEPARTMENT shall use its own personnel and equipment owned or leased by it, and/or materials owned by it or supplied by others and shall perform these maintenance activities in accordance with applicable provisions of the most current version of the DEPARTMENT’s Publication No. 408, Specifications, and its amendments and supplements; the policies and procedures set forth in the most current version of the DEPARTMENT’s Publication No. 113, Highway Foreman Manual, and its amendments and supplements; and all applicable provisions of the most current version of the DEPARTMENT’s Publication No. 213, Temporary Traffic Control Guidelines, and its amendments and supplements and Publication No. 212, Official Traffic Control Devices, and all amendments thereto. These publications and regulations are all incorporated by reference as though physically attached to this Agreement. In the alternative, if the PARTNER(s) has (have) its (their) own ordinances, specifications, standards, manuals, criteria, policies or procedures relating to highway maintenance, and the applicable provisions of these documents are stricter than those found in the DEPARTMENT’s publications listed above, the DEPARTMENT shall follow the municipal documents in providing the maintenance activities on highways under the jurisdiction of the affected PARTNER(s). The DEPARTMENT’s provision of these maintenance activities on municipal roads shall serve as consideration for the PARTNER’s(s’) provision of maintenance activities that it is providing under this Agreement on state highways.

3. The DEPARTMENT and the PARTNER(s) agree, acknowledge and understand that each party undertakes its responsibilities independently and that its employees or lessors shall not be
considered employees of the other party for the purposes of undertaking activities under this Agreement. The DEPARTMENT shall not be liable, nor shall it indemnify, defend, or save harmless the PARTNER(s) for the negligent acts of the DEPARTMENT’S employees or lessors during the undertaking of, or resulting from the undertaking of, activities under this Agreement. The PARTNER(s) shall not be liable, nor shall it (they) indemnify, defend, or save harmless the DEPARTMENT for the negligent acts of the PARTNER’S (s’) employees or lessors during the undertaking of, or resulting from the undertaking of, activities under this Agreement.

4. Activities undertaken by any party under this Agreement on another party’s roadways or other property shall be subject to inspection by the duly authorized representatives of the other party within sixty (60) days of completion. If the inspection establishes that certain activities are not in general conformance with the specifications, policies, and procedures, of the receiving party or have not been undertaken and completed in a good and workmanlike manner, the party that has performed the activity shall correct or re-perform it, as necessary, to the satisfaction of the other party. The parties are not obligated to conduct an inspection program. Any party, at its complete discretion, may conduct spot inspections or inspections of a particular maintenance activity being performed within its jurisdiction by another party.

5. PennDOT has implemented a Strategic Environmental Management Program (SEMP) which complies with the ISO 14001:2004 standard. As part of SEMP, PennDOT has established a Green Plan Policy that can be found at www.dot.state.pa.us and is also posted at PennDOT District and County Offices. The Green Plan Policy is designed to protect the environment, conserve resources and comply with environmental laws and regulations. The PARTNER shall ensure that its personnel (including the personnel of any of its subcontractors, if applicable) are aware of PennDOT’s commitment to protecting the environment, are properly trained about the environmental impacts of their work and are competent (through appropriate work experience, job training or classroom education) to perform the work that they do.

6. The following designated contract provisions are hereby incorporated by reference as if physically attached to this Agreement:

   - Commonwealth Nondiscrimination/Sexual Harassment Clause
   - Contractor Integrity Provisions
   - Provisions Concerning the Americans with Disabilities Act

7. This document may be executed by the parties’ signatory in counterpart. Execution in counterpart shall be deemed to have the same force and effect as simultaneous execution; and all counterparts shall together constitute a single Agreement.

8. The following conditions apply to services that the DEPARTMENT wishes to receive:

   a. Services – The DEPARTMENT cannot accept a service if there is a state-wide or local services contract with a private vendor for the service unless:
      1. The contract is amended, upon concurrence by all parties to the contract, with language to allowing the DEPARTMENT to obtain service/supply from another source; or
2. The vendor(s) cannot provide the service or equipment when requested. The vendors MUST be contacted at the time a work plan is generated to verify that the vendor(s) cannot provide the equipment/service requested.

b. Training – Training must be for appropriate maintenance related training or for subjects offered by Transportation University, but are not available when needed. Attach out service forms and approvals to Work Plan.

c. Training not allowed – The following training will not be allowed under any circumstances:
   • Computer training

d. Meals – If the other party is providing any meals in conjunction with meeting rooms, Form OS-58 (5-98), Donation of Excess Prepared Food, must be attached to the Agreement. However, if there is a local contract in place for provision of meals to the DEPARTMENT, the DEPARTMENT cannot accept meals from that party unless the conditions set forth above in 8.a. are met.

e. Materials – The DEPARTMENT can accept materials outright, except for materials that are under a statewide contract. However, if the materials are being provided incidentally to the performance of a service, the prohibition against accepting materials that are under a statewide contract does not apply. Furthermore, any materials provided incidentally to the performance of a service shall be considered part of the service.

9. The following conditions apply to services that the DEPARTMENT wishes to provide:

a. Materials – The DEPARTMENT cannot provide materials, other than salt brine and signs described below, outright. Materials may be included as part of a service normally performed with DEPARTMENT forces so long as the overall purpose of the activity is the performance of the service and the materials are being provided incidentally thereto.

b. Signs – The DEPARTMENT will provide signs within Plant Maintenance Group Number 16 outright. If the signs do not fall within this grouping, they would be considered surplus and must have the DGS green tag approval form attached.

c. Surplus – If materials being included as part of a service are surplus (e.g., guiderail or pipe), the DGS green tag approval form for surplus materials procedures must be attached and the Agreement must refer to the DGS surplus procedures.
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### Chapter 23: Agility PUB 23 - MAINTENANCE MANUAL

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- Repair Sink Holes/Slides - No Storms - Slope Removal
- Graffiti Removal

#### Damage and/or Disaster Restoration
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- Major Structure Damage

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- Clean/Flush - Bearing and Super Structure
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- Repair/Replace - Culverts
- Erosion Protection - Stream Bed/Rock/Defl
- Erosion Protection - Scour Hole Backfill
- Erosion Protection - Channel Cleaning
- Const/Install - Temporary Supports

#### Service
- Bridge Maintenance and Repair (continued)
  - Repair/Replace - Slabs/Box Culvert
  - Other - Bridge Activities

#### Tunnel Maintenance & Repair
- Wash/Clean - Various
- Traffic Service - Various
- Light System Service - Various
- Electro - Mechanical Equipment Maintenance
  - Other - Tunnel Activities

#### Special Charges
- Hauling Nondisabled Equipment-Lowboy Oper, Only

#### Agility Winter Traffic Service
- Snow Season Preparation, Snow Removal & Ice Control
  - Plow Snow, Spread Anti-Skid, Chemical or Plow/Spread
  - Anti-icing
  - Snow removal - Non-storm activities
  - Winter Services

#### Pavement Marking
- Traffic Line Painting - Mechanized
- Pavement Marking - Hand Operated Machine
- Raised Pavement Markers
- Eradicate Paint Lines
- Thermo Plastics
- Repair paint machines - Crew only
  - Other - Pavement Marking Activities

#### Signs
- Construction Detour & Other Temporary Signs
- Delineators, Hazard
- Sign Review
- Permanent Signs under 16 Square Feet
- Permanent Signs 16 Square Feet and over
- SR & Segment Markers
  - Other - Sign Activities

#### Guiderail, Median Barrier & Impact Attenuation Device
- Guiderail Repair - Mechanical - Cable
- Guiderail Repair - Mechanical - w/beam
- Guiderail Repair/Replace - Manual
- Guiderail Removal
## Chapter 23: Agility

### PUB 23 - MAINTENANCE MANUAL

**SERVICE**

<table>
<thead>
<tr>
<th>Category</th>
<th>Services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Lighting</strong></td>
<td>Service - Highway, Bridge &amp; Sign Lighting Systems</td>
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<tr>
<td><strong>Traffic Services – Incidental Services</strong></td>
<td>Sweeping</td>
</tr>
<tr>
<td></td>
<td>Other - Incidental Service Activities</td>
</tr>
<tr>
<td><strong>Special Payments</strong></td>
<td></td>
</tr>
<tr>
<td><strong>In-Service Training</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Administration</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Meeting Facilities</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Miscellaneous Services</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Inspection – Surveys – Etc. – Dept. Forces</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Material &amp; Construction Inspection &amp; Soils Testing</strong></td>
<td></td>
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<tr>
<td><strong>Surveys, Staking, etc.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Laboratory Tests</strong></td>
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<tr>
<td><strong>Agility Roadside – Vegetation Management</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Mowing</strong></td>
<td></td>
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<tr>
<td><strong>Mowing - Mechanized</strong></td>
<td></td>
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<tr>
<td><strong>Plant Growth Reg (PGR’s)</strong></td>
<td></td>
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<tr>
<td><strong>Herb Application - Non-select</strong></td>
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<tr>
<td><strong>Herb Application - Broadcast Foliage</strong></td>
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<tr>
<td><strong>Broadcast Growth Regulator (Fosamine)</strong></td>
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<tr>
<td><strong>Brush &amp; Select Tree Thin &amp; Removal – Manual</strong></td>
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<tr>
<td><strong>Brush &amp; Select Tree Thin &amp; Removal – Mechanical 1</strong></td>
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<tr>
<td><strong>Herbicide Basal Bark &amp; Dorman Stem</strong></td>
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<tr>
<td><strong>Seed &amp; Soil Supplement</strong></td>
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<td><strong>Wildflower Planting</strong></td>
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<tr>
<td><strong>Maintaining Beautification Plots</strong></td>
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<tr>
<td><strong>Other Vegetation Management &amp; Scenic Feature Act.</strong></td>
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<td><strong>Public Service Facilities</strong></td>
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<tr>
<td><strong>Maintenance of Interstate all Weather Roadside Rest</strong></td>
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<tr>
<td><strong>Maintenance of all Other Roadside Rests &amp; Table Sites</strong></td>
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<tr>
<td><strong>Roadside Litter Pickup &amp; Debris Removal</strong></td>
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<tr>
<td><strong>Tire Casting Removal</strong></td>
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<tr>
<td><strong>Other - Public Service Facility Activities</strong></td>
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<tr>
<td><strong>Maintenance and Operations of Buildings and Grounds</strong></td>
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<tr>
<td><strong>Maintenance of Building</strong></td>
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<tr>
<td><strong>Maintenance of Grounds</strong></td>
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<tr>
<td><strong>Repair or Alterations to Building</strong></td>
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<tr>
<td><strong>Repair or Alterations to Grounds</strong></td>
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**SERVICE**

<table>
<thead>
<tr>
<th>Category</th>
<th>Services</th>
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<tbody>
<tr>
<td><strong>Agility Special Charges</strong></td>
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<tr>
<td><strong>General Maintenance</strong></td>
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<td><strong>Services on Bonded Roads</strong></td>
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<td><strong>Inspect Bonded Roads</strong></td>
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<td><strong>Exchange Equipment</strong></td>
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<td><strong>Exchange Materials</strong></td>
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<td><strong>Engineering Services</strong></td>
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<td><strong>Inspection Services</strong></td>
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<tr>
<td><strong>Agility Equipment Maintenance</strong></td>
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<tr>
<td><strong>Service of Numbered Equipment</strong></td>
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<tr>
<td><strong>Labor, Equip &amp; Material for Dispersion of Fuel, Oil, Etc.</strong></td>
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<tr>
<td><strong>Homeland Security and Emergency Preparedness</strong></td>
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<tr>
<td><strong>Homeland Security</strong></td>
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<tr>
<td><strong>Design Services</strong></td>
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<td><strong>Engineering Graphics</strong></td>
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<td><strong>Other Costs</strong></td>
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<td><strong>Construction Congestion</strong></td>
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<tr>
<td><strong>Minor Construction or Reconstruction</strong></td>
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<tr>
<td><strong>Installation of Curbs</strong></td>
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<tr>
<td><strong>Intersection Safety and Improvement</strong></td>
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<tr>
<td><strong>SERVICE</strong></td>
<td></td>
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<tr>
<td><strong>Other:</strong></td>
<td></td>
</tr>
</tbody>
</table>
SAMPLE — Attachment C

Effective Date: ____________________________

Department will insert

Date

AGILITY PARTNER NAME

ATTN: Contact

Address

City, State, ZIP

Re: Renewal Notification - AGILITY AGREEMENT Number

Dear Mr./Ms. Name:

In accordance with Paragraph 4 of the above-referenced Agility Agreement, the Department of Transportation is interested in renewing this Agreement once for an additional period of three (3) years. The current termination date of this Agreement is [Date]. The renewal period will be effective [Date] and terminate [Date], unless terminated earlier for cause or convenience upon thirty (30) days’ written notice by either party to the other, at which time all obligations shall cease. Furthermore, termination for convenience shall be subject to reconciliation of outstanding balances.

We are requesting your concurrence to renew the above referenced Agreement. If you agree to the renewal, please indicate below by checking “Yes,” where indicated and sign your name, title and date. Please include a resolution authorizing the individual signing this letter to sign it on behalf of your organization. Your response is required no later than [Date], which is sixty (60) days before the current Agility Agreement termination date. Please complete this letter and return it along with the resolution to the following address:

PennDOT

Attn: Your Name

Your Organization

Your Address

Please keep a copy of this renewal letter for your files.

Sincerely,

Name, Title

Organization

I agree to the renewal of the above referenced Agility Agreement for the stated term of renewal. All terms and conditions shall remain the same as in the current Agility Agreement. □ Yes □ No

*Signature: ____________________________ Date: ____________________________

Title: ____________________________

*Only a person authorized to sign on behalf of the Agility Partner may sign.
Chapter 23: Agility

PUB 23 - MAINTENANCE MANUAL

The Pennsylvania Right-to-Know Law, 65 P. S. §71.33A, ("RTK") applies to this contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.

The Commonwealth needs the Contractor’s assistance in any matter arising out of the RTK related to this contract. It shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose. Upon written notification of any such change, the Commonwealth shall be notified of the change.

Proprietary information includes, but is not limited to, any oral or written communication, or any product, equipment, or software program that may be protected by patent, trademark, trade secret, or copyright law, and any procedures, inventions, know-how, or processes that are unique, non-obvious, and not generally known to the public.

Records of or otherwise provided by the Contractor, if the use of such Records would not constitute a public record in accordance with the RTK, shall be returned to the Contractor immediately upon completion or termination of work on this Contract or on request of the Contractor.

The Contractor shall be deemed an “agent” of the Commonwealth for purposes of the RTK.

The Contractor shall be held personally liable for all damages, costs, and penalties incurred by the Commonwealth under the RTK resulting from the Contractor’s or its employees’ failure to comply with the RTK.

If the Contractor fails to provide the requested information, the Contractor shall be deemed in default of this Contract and shall be liable for all damages, costs, and penalties incurred by the Commonwealth under the RTK.

The Commonwealth shall have the right to seek any remedies available under the RTK, including, without limitation, the right to recover all damages, costs, and penalties incurred by the Commonwealth under the RTK.

The Contractor shall be deemed an “agent” of the Commonwealth for purposes of the RTK.
RESOLUTION

BE IT RESOLVED, by the authority of the ________________
(Name of Governing Body)
of ____________________________________, in ________________ County, and it
(Agility Partner Name)
is hereby resolved by authority of the same, that the ____________________
(Designate official title)
of said Agility Partner be authorized and directed to sign the attached Agreement on behalf of the
Agility Partner.

The Agility Partner hereby certifies that the foregoing is a true and correct copy of the
Resolution adopted by its Governing Body on ____________________ .
(Date)

______________________________
(Name of Agility Partner)

ATTEST:

By: *

<table>
<thead>
<tr>
<th>Signature and official title</th>
<th>Date</th>
<th>Signature and official title</th>
<th>Date</th>
</tr>
</thead>
</table>

*If the Agility Partner is a political subdivision, an elected official needs to sign here. If the Agility Partner is another type of governmental entity, such as an authority, the signer needs to be the chair, vice chair or other member of the governing body. If the Agility Partner is a nonprofit entity, then a “senior officer” must sign. Senior officers consist of the following positions: board chair, president, any vice president, chief executive officer or chief operating officer.
# Agility Work Plan

**Agility Work Plan Number/Letter:**

**Agility Agreement:**

**Partner Name:**

**Agility Agreement Expiration Date:**

**Agility Agreement Renewal Letter Expiration Date:**

**WBS Element:**

**County:**

<table>
<thead>
<tr>
<th>Services/Resources Received from the Partner</th>
<th>Planned Production Units</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
<th>Estimated Date of Completion</th>
<th>Completion Date Initials/Date Work Approved</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

**TOTALS:**

<table>
<thead>
<tr>
<th>Services/Resources Received from PennDOT</th>
<th>Planned Production Units</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Total</th>
<th>Estimated Date of Completion</th>
<th>Completion Date Initials/Date Work Approved</th>
</tr>
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<tbody>
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</tbody>
</table>

**TOTALS:**

**Accepting:**

<table>
<thead>
<tr>
<th>Signature, PennDOT</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Signature, Partner</th>
<th>Title</th>
<th>Date</th>
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</thead>
<tbody>
<tr>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Signature, AFSCME</th>
<th>Title</th>
<th>Date</th>
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<tbody>
<tr>
<td></td>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Signature, AFSCME</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

Use the reverse side of this Agility Work Plan to document the scope of work for the services listed above. If necessary to amend the Work Plan, all parties must sign off on changes.
<table>
<thead>
<tr>
<th>Agility File Checklist</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Agility Agreement – fully executed</td>
</tr>
<tr>
<td>□ Work Plan – fully executed by PennDOT, partner and AFSCME</td>
</tr>
<tr>
<td>○ All signatures on Work Plan – PennDOT, Partner and 2 AFSCME</td>
</tr>
<tr>
<td>□ WBS Element obtained for Work Plan</td>
</tr>
<tr>
<td>○ Form completed and forwarded to District Office</td>
</tr>
<tr>
<td>○ WBS Element received from District Office</td>
</tr>
<tr>
<td>□ Cost Estimate Work Sheets completed by PennDOT</td>
</tr>
<tr>
<td>□ Supporting Documents on file</td>
</tr>
<tr>
<td>○ Plant Maintenance</td>
</tr>
<tr>
<td>○ Costing Work Sheets, District/County Costs, etc</td>
</tr>
<tr>
<td>□ Estimated Date of Work on Agility Work Plan</td>
</tr>
<tr>
<td>○ Estimated date of work included in yearly plan</td>
</tr>
<tr>
<td>□ Notification/Create Work Order</td>
</tr>
<tr>
<td>○ RP – Work Performed by PennDOT</td>
</tr>
<tr>
<td>○ RR – Work Received from partner</td>
</tr>
<tr>
<td>□ PennDOT contact partner when work is to begin</td>
</tr>
<tr>
<td>○ Documented on Communication Log</td>
</tr>
<tr>
<td>□ Date work was completed by PennDOT and included on Agility Work Plan</td>
</tr>
<tr>
<td>○ Partner accepted completed work by PennDOT</td>
</tr>
<tr>
<td>○ Notification of acceptance included in file</td>
</tr>
<tr>
<td>○ Print out from Plant Maintenance acceptance form</td>
</tr>
<tr>
<td>□ Partner notified PennDOT when work was to begin</td>
</tr>
<tr>
<td>○ Documented on Communication Log</td>
</tr>
<tr>
<td>□ Date work was completed by partner and included on Work Plan</td>
</tr>
<tr>
<td>○ PennDOT accepted completed work by Partner</td>
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<tr>
<td>○ Notification of acceptance included in file</td>
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<tr>
<td>□ ZIPY payroll completed and entered</td>
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<tr>
<td>□ Financial analysis of work completed by PennDOT</td>
</tr>
<tr>
<td>○ Services provided by PennDOT equal to or less than value by partner</td>
</tr>
<tr>
<td>○ Expenditure Analysis documented in file</td>
</tr>
<tr>
<td>□ Work Plan closed out with all supporting documents</td>
</tr>
<tr>
<td>□ SAP form to close out WBS Element</td>
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</table>
Partner's Agility Services (PAS) Form

<table>
<thead>
<tr>
<th>PARTNER NAME</th>
<th>WORK PLAN LETTER</th>
<th>AGREEMENT NUMBER</th>
<th>MEASURE OF WORK UNIT (Ex: hrs, miles)</th>
<th>TOTAL WORK UNITS PROVIDED</th>
<th>DATE SERVICES PROVIDED</th>
<th>FROM SEGMENT OFFSET</th>
<th>TO SEGMENT OFFSET</th>
<th>DATE</th>
<th>PARTNER'S SIGNATURE</th>
</tr>
</thead>
</table>

**Partner Note:** If applicable, each partner must complete the PAS form every two weeks to show the work performed for PennDOT. The form must be submitted to the county agility coordinator for verification and approval. If no work was provided, PennDOT do not sign in the box.

**Pennsylvania DEPARTMENT OF TRANSPORTATION**

[Logo]

_Pub 23 - Maintenance Manual_