

OHIOPYLE STATE PARK NATURAL-SURFACE TRAIL DEVELOPMENT PARTNERSHIP PROJECT



Issued by: Pennsylvania Environmental Council (PEC) in partnership with Pennsylvania Department of Conservation and Natural Resources (PADCNR)

Issue Date: March 21, 2025

Proposal Submission Deadline: 5PM EST, April 18, 2025

REQUEST FOR PROPOSALS (RFP)

Ohiopyle State Park Natural-Surface Trail Development Partnership Project

Issued by: Pennsylvania Environmental Council (PEC) in partnership with Pennsylvania Department of Conservation and Natural Resources (PADCNR)

Issue Date: March 21, 2025

Proposal Submission Deadline: 5PM EST, April 18, 2025

PURPOSE

The purpose of this project is to develop new and improve existing mountain-bike opportunities in Ohiopyle State Park while developing organizational capacity within DCNR and the Commonwealth to work effectively with professional natural-surface trail planners, designers, and builders. PEC, through a Coordination Agreement with PADCNR, seeks proposals from qualified firms to assess existing trail natural-surface trail infrastructure, provide conceptual design and planning services for a 10-20-mile trail system and conduct field design services upon completion of conceptual design.

PROJECT DESCRIPTION

This project will have two primary phases:

- 1) Planning, Design and Solicitation: Planning and design of a new natural-surface trail network in the Pressley Ridge area of Ohiopyle State Park, including connecting this network by trail to Ohiopyle Borough and Kentuck Campground; assessment and recommendation of improvements to existing multi-use trails in the park; preparation and delivery of an implementation package with all necessary planning, design, permitting, and construction contracting documents necessary for contracted professional implementation.
- 2) As a future component of the project, but not included the SOW covered by this RFP: Construction and Permit Oversight: Oversight and management of contracted construction of the designed trails, facilitated by an experienced qualified trail construction manager, and development and delivery of operations and maintenance plans.

VISION FOR TRAIL DEVELOPMENT

Ohiopyle State Park is a 'crown jewel' of Pennsylvania. Its dramatic landscape and adventurous recreation opportunities make it a driver of the regional economy through both tourism and its contribution to southwest PA's quality of life. We seek to develop high-quality and diverse half and full-day mountain-bike experiences that are:

- Commensurate to the exceptional boating, hiking, climbing, and other recreation and tourism experiences currently available in Ohiopyle State Park and the Laurel Highlands.
- Connected to Ohiopyle Borough, Ohiopyle State Park Visitor Center, Great Allegheny Passage and Kentuck Campground.
- Complement regional offerings for outdoor recreation.
- Balance DCNR's goals for preservation and conservation of natural resources while providing for recreation opportunities and access.

The mountain biking experiences developed through this project will be centered on the Pressley Ridge area of the park, incorporate improvement to existing trails, and be accessible by bike from Ohiopyle Borough and Kentuck Campground. They will accommodate opportunities for riders of all skill levels by facilitating excitement and skill building for beginner and novice riders, exploration and adventure for intermediate and advanced riders, and playful and entertaining experiences for expert riders.

While trails developed and improved through this project will be managed primarily for mountain biking, they will be open to and should provide high quality experiences for all human-powered trail users. Trail use restrictions (e.g., bike or pedestrian only, one-way travel) should be limited to only those segments where necessary for safety.

Expanded trail experiences will increase Ohiopyle's contributions to the communities of Southwestern PA by attracting visitors and encouraging them to extend their stays; enabling retention and recruitment of residents, workforce, and businesses; and promoting healthy lifestyles through outdoor recreation.'

SCOPE OF SERVICES

The selected consultant will provide the following services:

TASK 1: EXISTING TRAIL INFRASTRUCTURE ASSESSMENT

Conduct an assessment of the natural-surface trails within the areas highlighted in Attachment 1 as "area with existing mountain-bike trails" and "Pressley Ridge Tract" on which park visitors bike and make recommendations for:

- Improvement of both the quality of riding experience and multi-faceted sustainability.
- Integration of improved existing trails with those planned and designed in Tasks 2 & 4 of the project as well as key visitor infrastructure like parking, bathrooms, vistas, etc.

These trails include both system trails (i.e., those sanctioned by Ohiopyle State Park, 33 miles) and non-system trails (i.e., those not sanctioned by Ohiopyle State Park, estimated at 22 miles), and exclude the Great Allegheny Passage.

Expected recommendations from the trail assessment include those for maintenance, reroutes, construction of connectors, improvement of existing sections of trail, installation of

supporting infrastructure (e.g., culverts, puncheon, bridging; signage) and closure and naturalization of unsuitable sections of trail.

TASK 2: PRESSLEY RIDGE CONCEPTUAL PLANNING AND DESIGN

Pressley Ridge, highlighted in Attachment 1 as “Pressley Ridge Tract” is an approx. 1,000-acre tract of land in the southeast corner of Ohiopyle State Park. While legacy infrastructure exists in the area, it is largely undeveloped for recreation. Develop a plan and conceptual design for a trail network, expected to range from 10 to 20 miles, that realizes the vision for the trails outlined above. Expected plan elements include:

- Description of the recreational experiences, users, and infrastructure to be developed.
- Analysis of the natural, managerial, and experiential opportunities and challenges of the area for the project.
- Conceptual design for trail network; its connections to existing trails, Ohiopyle Borough, Kentucky Campground, and other key features; and incorporation of management, maintenance, and emergency response access and facilities.
- Outline and plan for permitting and other compliance needs.
- Engagement with local community and its leaders, area businesses, and recreational communities.
- Guidance for sustainable maintenance and operations.
- Cost estimates for construction and any other related costs.
- Compatibility with potential future connection(s) to adjacent lands and existing and regional recreational opportunities.

TASK 3: STAKEHOLDER ENGAGEMENT

The selected consultant should expect to:

- Facilitate at least two public and stakeholder meetings to gather input and document findings, including direct engagement with the Ohiopyle Biking Club who are actively engaged in trail development and maintenance in Ohiopyle State Park.
- Incorporate feedback into the conceptual design and provide a summary of the community engagement findings.

TASK 4: FIELD DESIGN

The design will transition recommendation and conceptual plans from Tasks 1 & 2 to a field designed 100' construction corridor (i.e., 50' on either side of the design centerline) flagged in the park, delineated in spatial data, and documented. Field design shall follow review and approval of the conceptual plan, and engagement with cultural and natural resource staff from the park and DCNR to streamline compliance, review and approval of a final trail design. A final “as designed” set of maps and tables shall accompany trail specifications and narrative descriptions, and be annotated with all anticipated permitting, natural and cultural resource, and other administrative necessities for implementation.

TASK 5: IMPLEMENTATION PACKAGE

The project will conclude with delivery of a shovel-ready implementation package that will allow DCNR to move directly to contracting for construction of the designed trails. Expected elements of this package include:

- Project implementation plan including, at a minimum:
 - Conceptual design maps and narratives
 - Construction cost estimate breakdown
- Materials suitable for submission to regional and state permitting offices.
- Plan for soliciting and evaluating proposals.
- Construction solicitation materials for a competitive bid for trail construction.

ANTICIPATED TIMELINE

The first primary phase of this project maintains a brisk timeline that delivers the implementation package Summer of 2025. With successful progress on the first primary phase described here we anticipate initiating the second primary phase in Spring 2026. Desired task execution is as follows:

1. Existing Trail Infrastructure Assessment – May-June 2025
2. Pressley Ridge Conceptual Planning and Design – May-June 2025
3. Field Design – June-July 2025
4. Implementation Package – June-July 2025

This tentative timeline is proposed to satisfy DCNR priority to execute agreements for the anticipated second primary phase of the project (construction and its management) in the second half of 2025. **Actual timeline to be established based on contract date and selected consultant availability.**

PROPOSAL FORMAT

Proposals should total not more than 15 pages and contain the following elements:

- Statement of project understanding.
- Approach: Proposed approach and timelines to deliver project tasks.
 - Overall timeline for project.
 - Describe timeline and resources/staff allocated to each task.
- Qualifications: Team qualifications including description of anticipated partnerships and subcontracts.
 - List staff that will perform details provided in the approach.
 - Provide qualifications for each staff listed.
 - List any partners or sub-contractors to be used.
- Past Performance: Provide 3-5 relevant project examples that demonstrate experience and successful project completion by the team and staff.
- References: Provide contact information for 3 references for recent relevant work.
- Budget: Detailed budget outlining wage and direct costs by task.
- Proposed schedule for delivering the work with a desired completion date of July 31, 2025

- A clear statement of the relationship that the firm and/or principal(s) of the firm have with, or knowledge of, any officials or employees of Pennsylvania Environmental Council and the nature of this relationship or knowledge.

Failure to state and fully disclose any of the information required in the letter of transmittal shall be grounds for Pennsylvania Environmental Council to reject the firm's proposals and will be grounds for immediate cancellation of any contract entered into between Pennsylvania Environmental Council and the firm without payment of work completed.

EVALUATION CRITERIA

The following table outlines the criteria across which proposals will be evaluated, including their relative weights.

| Evaluation Criteria | Relative Weight |
|--|-----------------|
| Relevant and demonstrated experience and past performance <ul style="list-style-type: none"> • Depth of experience working with public land management agencies on similar projects. • Regional experience in Pennsylvania and Appalachia. • Coverage of necessary expertise and capabilities. • Demonstration of ability to maintain project timelines. | 50 |
| Proposed approach <ul style="list-style-type: none"> • Demonstrated understanding of the project and its goals. • Quality, clarity and feasibility of the approaches described to each task and project overall. | 40 |
| Proposed timeline <ul style="list-style-type: none"> • Feasibility • Demonstration of inputs needed to meet timeline | 30 |
| References | 30 |
| Cost | 20 |

NOTIFICATION OF AWARD

Upon conclusion of final negotiations with the successful consultant, all consultants submitting proposals in response to this RFP will be informed, in writing, of the name of the successful consultant.

Pennsylvania Environmental Council will prepare a written agreement for execution between the consultant and Pennsylvania Environmental Council. The general provisions of this agreement, the final product and requirements placed on the project shall be made a part of this agreement. The

consultant shall have authorization to proceed upon a written notice from the Pennsylvania Environmental Council.

SUBMISSION INSTRUCTIONS

All prospective bidders must provide an email address to which responses to questions may be sent.

Should the consultant have questions concerning the RFP they must be in writing and received by the Pennsylvania Environmental Council (**ccorbran@pecpa.org**). All responses to questions will be in writing. Pennsylvania Environmental Council will make every effort to post questions and responses in a timely fashion here:

<https://pecpa.org/ohiopyle-mtb/>

Failure to do so will not affect the sole authority of Pennsylvania Environmental Council to complete the RFP process.

Proposals must be submitted electronically by 5pm EST on April 18,2025 to:

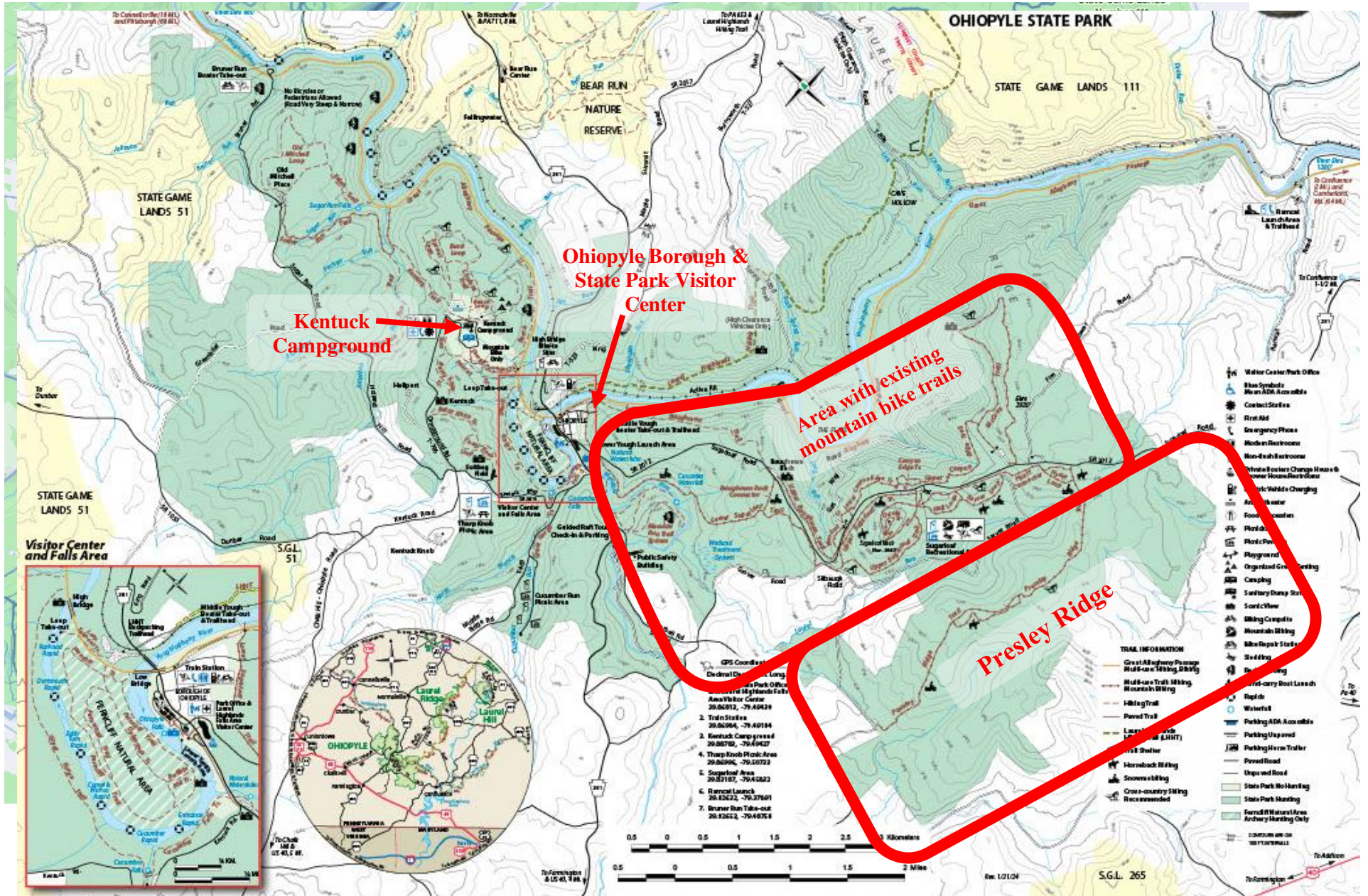
Chris Corbran
Program Manager,
Pennsylvania Environmental Council
Email: ccorbran@pecpa.org

-

APPENDECIES

1. Ohiopyle State Park Map
2. Strava Global Heat Map– Ohiopyle and Pressley Ridge Area
3. GIS Data (provided by DCNR Bureau of State Parks)
4. Sample Contract
5. PADCNr Cooperative Agreement – Terms and Conditions
6. Non-Discrimination Clause

APPENDIX 1. OHIO PYLE STATE PARK MAP



APPENDIX 2. STRAVA GLOBAL HEATMAP – OHIOPILE AND PRESSLEY RIDGE AREAS

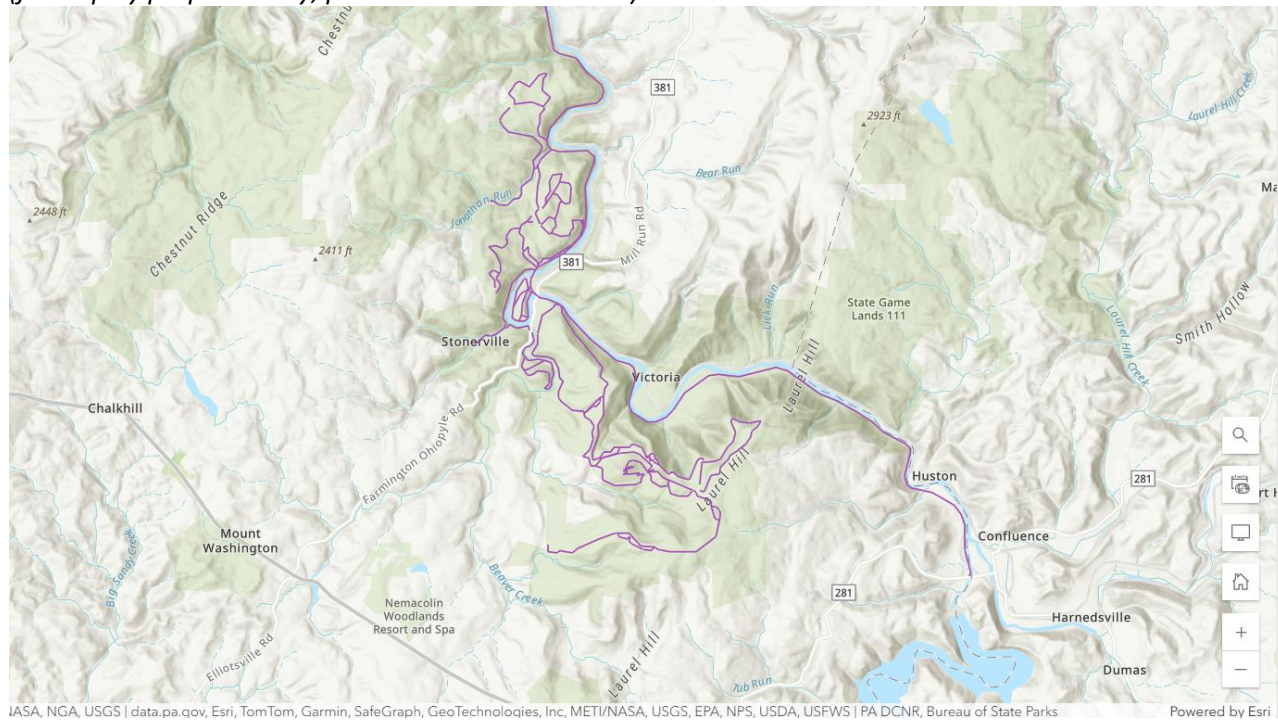


APPENDIX 3. DCNR OHIO PYLE STATE PARK GIS DATA

Existing Ohio Pyle Trail GIS data can be found here:

<https://arcg.is/1SPyuy0>

(for display purposes only, please visit the link above)



NOTE: This sample is shared for example purposes only. Any final contract may be modified as needed prior to execution.



Agreement for Independent Contract Services

Date:
Contract Number:
Term:
Total Amount:
Contractor:
Federal ID:

This is an Agreement for Independent Contract Services (“Agreement”) by and between the **Pennsylvania Environmental Council** (“PEC”), a registered Pennsylvania non-profit corporation, and **Name of Entity** (“Contractor”) (collectively, the “Parties”).

This Agreement includes the following Exhibits, attached hereto and made a part hereof by reference:

- 1) Exhibit A: Scope of Work / RFP Reference
- 2) Exhibit B: Pennsylvania Department of Conservation and Natural Resources (“PADCNR”) Cooperative Agreement Terms and Conditions

The terms and conditions of this Agreement constitute the entire agreement by and between the parties with respect to the subject matter hereof, and shall inure to the benefit of, and shall be binding upon, the parties, their respective successors and permitted assigns.

In consideration of the mutual covenants hereinafter set forth, PEC and Contractor agree to the following terms and conditions.

1. Term. Performance by Contractor shall begin on **START DATE** and shall be completed on or before **END DATE**, unless this Agreement is amended or terminated in accordance with the provisions of this Agreement.

2. Services

2.1 Scope of Work. Contractor shall provide the services and deliverables (“Services”) to PEC as described in Exhibit A.

A. Assurances; Professional Certification. Contractor warrants that performance of Services will

be in accordance with all applicable federal, state, and local laws, rules, and regulations. Without limiting the generality of the foregoing, it is Contractor's obligation to ensure that all personnel, including subcontractors, engaged in performing Services shall be fully qualified and authorized or permitted under State and local law to perform such Services.

2.2. Acknowledgement of Exhibit Provisions. Contractor specifically acknowledges that it has read and understands all additional terms and conditions contained in the Exhibits, and that by executing this Agreement, Contractor shall be legally bound by all of the terms and conditions of this Agreement, including, but not limited to, those set forth in Exhibit B.

2.3 Best Efforts and Performance; Time of the Essence. Contractor shall provide the Services in a professional manner in accordance with the current professional standards and with the diligence and skill expected for the performance of work of the type described. Both PEC and Contractor agree to satisfy their obligations under the Agreement on a prompt basis, time being of the essence of the Agreement.

2.4 Contractor's Responsibilities. Unless otherwise provided in the Agreement, Contractor shall provide and pay for all labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of Services.

2.5 Independent Capacity of Contractor

- A. The parties intend that an independent contractor relationship is created by the Agreement. Contractor is not an employee, partner, or agent of PEC. Contractor shall not hold itself out as, or claim to be, an officer, agent, or employee of PEC by reason hereof, nor shall Contractor make any claim of right, privilege or benefit that would accrue to such employee or agent of PEC or under law.
- B. Performance of Services will be solely with Contractor, in accordance with the terms and conditions of the Agreement.
- C. Contractor shall be solely responsible for, and PEC shall have no obligation with respect to, the withholding and payment of federal, state, and local taxes, fees, and assessments of every kind and nature with respect to the Services performed and the consideration payable under this Agreement.

2.6 Subcontracting

- A. Contractor shall not subcontract with any person or entity, other than those specified in the Agreement, to perform any or all of the Services without the prior written consent of PEC.
- B. Contractor shall be responsible to PEC for the acts and omissions of all subcontractors, agents, and employees of Contractor; in no event shall the existence of a subcontract operate to release or reduce the liability of Contractor to PEC for any breach in performance of Contractor's duties under the Agreement.
- C. No contractual relationships exist between PEC and any subcontractor, agent, or employee

of Contractor.

- D. Any agreement of the Contractor with a subcontractor must explicitly state that it is subject to, and must comply with, all of the relevant terms and conditions of this Agreement, including Exhibits.

3. Payment: Amount; Schedule; Conditions

3.1 Total Amount. The total compensation payable to Contractor for performance of Services under this Agreement shall not exceed \$X; said total amount is inclusive of all costs related to performance of Services, including expenses. PEC shall not be liable for any costs or expenses incurred by Contractor in excess of the Total Amount.

3.2 Schedule. PEC will pay Contractor upon approval of Services in accordance with the following schedule: [TBD]

3.3 Payment Conditions

- A. Payments to Contractor are contingent upon Contractor's satisfactory performance of Services, pursuant to the terms and conditions set forth in the Agreement, and are subject to PEC's approval and acceptance thereof. Said approval and acceptance shall not be unreasonably withheld.
- B. Payments shall be paid only to the extent that costs incurred by the Contractor are for performance of Services, in accordance with the terms and conditions of the Agreement.
- C. Contractor is solely responsible for the deduction and payment of all unemployment insurance, social security, State and Federal taxes, and any other taxes or payroll deductions required by law for its employees.
- A. Contractor shall submit invoices to PEC that describe and document, to PEC's satisfaction, Services performed and expenses incurred by Contractor. PEC retains the right to request additional or supplementary information from Contractor prior to payment, including, but not limited to, any relevant and appropriate expense receipts or statements. These records and documentation shall be provided to PEC in a prompt manner and at no additional cost.
- B. PEC reserves the right to withhold payments if, in PEC's sole opinion, Contractor has not satisfactorily performed Services or complied with the terms and conditions of the Agreement. Contractor is solely responsible for any audit exceptions or disallowed costs, including those incurred by its subcontractors.
- C. The Parties shall provide prompt notice of any dispute in regards to payment.

3.4 Release. The acceptance by Contractor of final payment shall release PEC from all claims and liability that the Contractor, its representatives and assigns might otherwise have relating to the Agreement.

4. Indemnification; Insurance

4.1 Indemnification. To the fullest extent permitted by law, Contractor agrees that it shall indemnify and hold harmless PEC, and PEC's officers, directors, agents, and employees, from any and all claims, liabilities, causes of action, or damages arising out of or related to acts, omissions, or negligence of Contractor, its officers, employees, agents, or subcontractors. The obligations of Contractor under this provision shall survive any expiration or termination of the Agreement.

4.2 Insurance. Contractor shall maintain, for the Term of the Agreement and at its own cost and expense, insurance of the types and in the amounts necessary, or as required by law, to cover its obligations under this Agreement including, but not limited to, the Indemnification provision in Section 4.1.

- A. Upon request of PEC, Contractor shall promptly provide to PEC certificates of insurance evidencing the insurance and payment of the premiums thereon, or accompanied by other evidence of such payment satisfactory to PEC.
- B. If the Contractor is self-insured, a letter to PEC stating such shall be provided.
- C. Contractor shall provide proof of coverage for the following policies:
 - (1) Commercial General Liability: At least \$1,000,000 Combined Single Limit coverage on occurrence basis covering all premises and operations and including Independent Contractor, Contractual Liability, and Products and Completed Operations.
 - (2) Professional Liability (Errors & Omissions): Professional Errors & Omissions Liability with a limit of no less than \$1,000,000 per claim.
 - (3) Commercial Automobile Liability: At least \$500,000 Combined Single Limit to include owned, non-owned and hired.
 - (4) Workers' Compensation: Statutory benefits as required by the Commonwealth of Pennsylvania or federal law.

5. Intellectual Property

5.1 Unless otherwise agreed to in writing by PEC, all work product, materials, documents, and data (collectively, "Agreement Work Product") created or produced pursuant to the Agreement shall be considered "works for hire" and shall be owned by PEC. Contractor hereby irrevocably assigns all right, title, and interest, including all intellectual property rights, to PEC effective from the moment of creation or production of such Agreement Work Product.

5.2 For materials, documents, and data that are delivered pursuant to the Agreement, but that incorporate pre-existing intellectual property not produced under the Agreement, Contractor hereby grants to PEC a perpetual, royalty-free, irrevocable license in such pre-existing intellectual property to translate, reproduce, distribute, publish, prepare derivative works, and publicly perform or display.

- A. Contractor warrants that it has all rights and permissions, including intellectual property rights and rights of publicity, necessary to grant such a license to PEC. Contractor shall indemnify PEC against all costs, damages, and attorney's fees that accrue as a result of any claim by a third party against PEC that the materials, documents, and data delivered by Contractor pursuant to the Agreement infringe upon or violate any patent, service mark, or copyright.

6. Suspension; Termination

6.1 PEC reserves the absolute right to suspend or terminate the Agreement, in whole or in part, for any reason or at any time, upon written notice to Contractor.

6.2 In the event of suspension or termination of the Agreement:

- A. Contractor shall immediately halt performance of Services under the Agreement on the date, and to the extent specified, in the suspension or termination notice. Contractor shall not incur any additional expenses after the date of suspension or termination, excepting those costs reasonably required to provide an accounting of Services and expenses incurred prior to the suspension or termination date.
- B. PEC shall only be liable for payment for Services satisfactorily performed, or authorized expenses reasonably incurred, prior to the date of suspension or termination. PEC may withhold from any amounts due Contractor such reasonable sum as PEC determines necessary to protect PEC against potential loss or liability.

6.3 If PEC terminates the Agreement for cause due to a material breach by Contractor, including but not limited to Contractor's failure to perform Services in accordance with the Agreement, Contractor shall be liable for damages as authorized by law. PEC may pursue any and all remedies available in law and in equity, including recovery of attorneys' fees and court costs.

7. Assignment. Neither the Agreement, nor any claim arising under the Agreement, shall be transferred or assigned by either party without the prior written consent of the other party. PEC reserves the right to withhold consent for any reason.

8. Confidentiality; Nondisclosure. Neither party shall disclose any information identified as privileged or confidential, except as may be required by law.

9. Records Maintenance. Contractor shall maintain and preserve, for a period of three years after the Term of the Agreement, full and detailed books, accounts, and records pertaining to the performance of Services, including without limitation, all bills, invoices, payrolls, subcontracting agreements, or other data evidencing, or in any material way related to, the direct and indirect costs and expenses incurred by Contractor in the course of such performance. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

10. Amendment. The Agreement may be amended by mutual consent of the Parties. Amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the Parties.

11. Severability. If any provision of the Agreement is held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision the Agreement would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

12. Waiver. Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms and conditions of the Agreement unless stated to be such in writing and signed by an authorized representative of PEC.

13. Force Majeure. Neither party shall be responsible for nonperformance, or delay in performance, of obligations set forth in the Agreement due to causes beyond its reasonable control.

14. Notice; Liaisons. All notices and communications required under this Agreement shall be in writing and deemed to have been sufficiently given when mailed by registered or certified mail, postage prepaid, or by overnight courier with tracking information retained. Communications relating to Services/Scope of Work authorizations and Invoices may be transmitted by electronic mail. The following individuals shall serve as the designated liaisons for notices and communications:

For Contractor:

Name, Title

Address 1

Address 2

Email

For PEC:

Name, Title

Address 1

Address 2

Email

15. Choice of Law. The Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.

16. Section Headings. Section headings used herein are inserted for convenience only and are not part of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the later of the dates as set forth herein below.

Acceptance:

For **NAME OF ENTITY:**

For **Pennsylvania Environmental Council:**

Name
Title

Name
Title

Date

Date

COORDINATION AGREEMENT FOR OHIOPYLE NATURAL SURFACE TRAIL DEVELOPMENT PARTNERSHIP PROJECT

This Coordination Agreement for Ohiopyle Natural Surface Trail Development Partnership Project is between the Commonwealth of Pennsylvania (“Commonwealth”), acting through the Department of Conservation and Natural Resources (“Department”), and Pennsylvania Environmental Council, Inc. (“Partner”).

Under Section 303(a)(1) of the CNRA (71 P.S. § 1340.303(a)(1)), the Department has the power and duty to supervise, maintain, improve, regulate, police, and preserve all parks belonging to the Commonwealth. Section 318(a) of the CNRA (71 P.S. § 1340.318(a)) provides that the Department may enter into agreements to exercise these powers and fulfill these duties. The Department has determined that it is in the best interest of the Commonwealth concerning the Department’s supervision, maintenance, improvement, regulation, policing, and preservation of the State Park to enter into this agreement.

The Department is an executive agency of the Commonwealth, the powers and duties of which are set forth in the Conservation and Natural Resources Act (“CNRA”), Act of June 28, 1995, P.L. 89, No. 18, *as amended* (71 P.S. § 1340.101 *et seq.*). The Partner is a nonprofit corporation.

The Commonwealth owns and the Department administers Ohiopyle State Park (“State Park”) in Fayette County. The Department and the Partner wish to develop new and improve existing mountain biking opportunities in the State Park (“Project”). The work will be divided into two phases. The first phase, authorized by this agreement, will consist of the planning and design work as well as the preparation of a bid package to be used for the second phase, which is the construction phase. The Department and the Partner, through grants and its own funds, have jointly agreed to work as partners to coordinate this work.

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

1. DEFINITIONS.

- a. “CNRA” means the Conservation and Natural Resources Act, Act of June 28, 1995, P.L. 89, No. 18, 71 P.S. § 1340.101 *et seq.*
- b. “Commonwealth” means the Commonwealth of Pennsylvania.
- c. “Department” means the Department of Conservation and Natural Resources.
- d. “Effective Date” means the date of the last required Commonwealth signature on this agreement.
- e. “Partner” means Pennsylvania Environmental Council, Inc.
- f. “Partner’s Parties” means the Partner’s officials, members, employees, agents, contractors, and subcontractors.
- g. “Project” means the first phase of the overall project, which includes the work described in Section 3 of this agreement.
- h. “Project Area” means the portion of the State Park property to be used by the Partner for the purposes of the Project as shown on Exhibit A.
- i. “State Park” means Ohiopyle State Park.

2. AUTHORITY TO ENTER. The Department grants to the Partner and the Partner’s Parties permission to enter upon and use the portions of State Park property identified as “Project Area” on Exhibit A for the Project.

3. SCOPE OF WORK.

- a. The Partner shall perform and the Project shall consist of the following work:
 - i. Conduct an assessment of the natural surface trails within the areas highlighted on Exhibit A. These trails include both system trails and non-system trails. The system trails consist of approximately 33 miles, and the non-system trails consist of approximately 22 miles. The Great Allegheny Passage shall be excluded from the trail assessment under this section.
 1. The Partner shall produce as part of the assessment recommendations for the following:
 - a. Maintenance;
 - b. Trail re-routes;
 - c. Construction of connectors;
 - d. Improvement of existing sections of trail;
 - e. Installation of supporting infrastructure such as culverts, puncheon, bridging, and signage;
 - f. Closure and naturalization of existing sections of trail.
 2. The Department shall provide the Partner the GIS data necessary to conduct the assessment in this subsection. The GIS data shall consist of, but not be limited to, State Park boundaries, road widths and locations, trail widths and locations, location of infrastructure, and elevations.
 - ii. Develop a plan and conceptual design for a trail network, expected to range between 10 to 20 miles, for the Pressley Ridge Tract identified in Exhibit A.
 1. The plan and conceptual design for the trail network shall include the following elements:
 - a. A description of the recreational experiences, users, and infrastructure to be developed;
 - b. Analysis of the natural, managerial, and experiential opportunities and challenges of the area for the Project;
 - c. A conceptual design for the new trail network, its connections to existing trails, Ohiopyle Borough, Kentuck Campground, and other key features, and incorporation of management, maintenance, and emergency response access and facilities;
 - d. An outline and plan for permitting and other compliance needs;
 - e. Engagement with local communities and their leaders, area businesses, and recreational communities;
 - f. Guidance for sustainable maintenance and operations;
 - g. Cost estimates for construction and related costs; and,
 - h. Compatibility with potential future connections to adjacent lands and existing regional recreational opportunities.
 - iii. Upon completion of the tasks in subsections i and ii above, the Partner shall complete a field design, which shall consist of the following elements:

1. The design corridor shall be 100 feet, which shall be 50 feet on each side of the design centerline and flagged, delineated in spatial data, and documented.
 2. Field design shall follow review and approval of the conceptual plan and engagement with cultural and natural resource staff from the State Park and the Department to streamline compliance, review, and approval of a final design plan.
 3. A final as designed set of maps and tables shall accompany trail specifications and narrative descriptions, and be annotated with all anticipated permitting, natural and cultural resources, and any other administrative requirements necessary for implementation.
- iv. The Partner shall produce an implementation package for the Project that will allow the Department to proceed to bidding and construction of the designed trails. The implementation package shall include the following:
1. A Project implementation plan;
 2. Materials suitable for submission to regional and state permitting offices;
 3. A plan for soliciting and evaluation construction proposals; and,
 4. Construction solicitation materials for a competitive bid
- b. The Partner shall contract with contractors and sub-contractors to perform its obligations under this agreement. The Partner shall procure such services consistent with the requirements of the Commonwealth's request for proposal process, the Procurement Code (62 Pa.C.S. §§ 101 *et seq.*), and all applicable policies and procedures, pursuant to the request for proposal process. Final acceptance of a proposal will be made by the Bureau of State Parks, the Office of Outdoor Recreation, and the Partner each with one vote. The Partner shall require all contractors and sub-contractors to comply with the terms and conditions of this agreement.
4. **REVIEW AND APPROVAL OF WORK.** The Department may review and approve all work prepared under this agreement to determine whether the work meets the Department's standards. This work includes drawings and technical specifications. The Department shall complete its review of the work and shall notify the Partner of any deficiencies within 30 days of the Department's receipt of the designs. The Partner shall correct any deficiencies and resubmit the designs within 30 days of the Partner's notice of the deficiencies.
5. **PROJECT COORDINATION.** The Partner shall coordinate closely with the Department on all aspects of the Project and shall notify the Department of scheduled work and their implementation dates. Prior to entering upon Department land to perform the Project, the Partner shall request permission from the Department's representative at least 14 days in advance. The Department may deny the request if the date or time conflicts with other scheduled events or activities in the State Park. If the Department denies permission, the Department's and the Partner's representatives must work together to determine an alternate, mutually acceptable date and time. The Department's representative has full authority to place further conditions on, suspend, or terminate the Project as deemed in the best interests of the Commonwealth.
6. **COMPLIANCE WITH LAWS.** The Partner shall know and comply and shall ensure that the Partner's Parties know and comply with all federal, state and local statutes, rules, regulations, and

ordinances applicable to the Project and shall procure all licenses, permits, and waivers necessary for the fulfillment of the Partner's obligations under this agreement. Prior to the commencement of any work by the Partner or the Partner's Parties, the Partner shall furnish the Department with copies of all state and federal licenses, permits, and approvals. Bureau of State Park rules, regulations, and permit requirements are available for review at the State Park office or at 17 Pa. Code Chapter 11.

7. **GENERAL LIABILITY INSURANCE.** The Partner shall maintain and cause its contractors and subcontractors to maintain in full force and effect at all times during the term of this agreement Commercial General Liability Insurance from a responsible insurance company licensed to do business in the Commonwealth in an amount not less than \$500,000 for each occurrence and \$1,000,000 in the aggregate. This coverage must protect the Partner from claims for personal injury, including accidental death, as well as from claims for property damage, including environmental damage, that may arise from any work under this agreement. The coverage must apply whether such work is by the Partner or the Partner's Parties. This insurance must be made payable to the Department. The "Department of Conservation and Natural Resources" must be named as a certificate holder and as an additional insured on the policy. The policy must be an occurrence rather than a claims-made policy and must not contain any endorsements or any other form designated to limit and restrict any action by the Department, as an additional insured, against the insurance coverage. The Department may periodically review, and adjust as appropriate, the insurance coverage carried by the Partner. Insurance coverage will be increased within six months after the Department provides written notice to the Partner. The Partner shall furnish the Department with a certificate of insurance when the Partner signs this agreement and thereafter at the beginning of each term that this agreement is in effect and prior to the expiration of a current policy. The Partner shall immediately notify the Department if the Partner or its insurance company cancels this insurance policy prior to the expiration date indicated on the certificate provided to the Department. The Department has the right to inspect the original policy. Upon the Department's request, the Partner shall furnish a copy of the required insurance policy to the Department.
8. **WORKERS' COMPENSATION INSURANCE.** The Partner shall maintain and cause its contractors and subcontractors to maintain in full force and effect at all times during the term of this agreement Workers' Compensation Insurance for their employees engaged in work on the Project Area in accordance with the Pennsylvania Workers' Compensation Act.
9. **PARTY REPRESENTATIVES.**
 - a. The Department designates the Park Manager of the State Park, having an office at 124 Main Street, Ohio, PA 15470 and a telephone number of (724) 329-8591, as its representative for all matters pertaining to the administration of this agreement.
 - b. Upon execution of this agreement, the Partner shall provide the Department's representative with the name, address, and telephone number of its representative for all matters pertaining to the administration of this agreement. The Partner shall immediately notify the Department of any change in the Partner's representative.
10. **EFFECTIVE DATE; TERMINATION DATE.**
 - a. This agreement takes effect on the date of the last required Commonwealth signature ("Effective Date"), but neither the Partner nor the Partner's Parties shall enter upon Department lands for purposes of the Project until the Partner receives permission from the

Department's representative under Section 5 (Project Coordination) and furnishes the Department with a certificate of insurance documenting the coverage required by Section 7 (General Liability Insurance).

- b. Unless terminated sooner in accordance with Section 11 (Termination), this agreement will continue in effect until for one year, or until the Partner completes the Project, whichever date is earlier.

11. TERMINATION.

- a. Convenience. Either party may terminate this agreement at any time by giving 30 days advance written notice to the other party of its intention to do so.
- b. Breach. The Department may terminate this agreement at any time upon written notice mailed to the address of the Partner for breach of any of the conditions of this agreement and subject to the requirements of Section 12 (Breach of Conditions).
- c. Non-appropriation. The Commonwealth's obligation to make payments during any Commonwealth fiscal year subsequent to the current fiscal year is subject to availability and appropriation of funds. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth may terminate this agreement.
- d. Responsibilities Upon Termination. Upon termination of this agreement, the Partner shall immediately vacate and, at its own cost and expense, shall remove all personal property placed on Department land, and restore the Department's land to a satisfactory condition to be determined by the Department.

- 12. **BREACH OF CONDITIONS.** The Department shall notify the Partner in writing of any breach of the conditions of this agreement. The Partner shall cure a breach of conditions involving issues of safety immediately and have at least 30 days from the date of notification to cure a breach of all other conditions. In the event the Partner determines, with the Department's concurrence, that the breach cannot be cured within 30 days, the Department, in its sole discretion, may grant the Partner such additional time as the Department deems necessary to cure the breach. In the event the Partner does not cure the breach of conditions to the satisfaction of the Department, the Department may terminate this agreement for breach.
- 13. **CONFLICT RESOLUTION.** The Department's representative will be the sole judge of any conflict between normal recreational activities carried on by the public within the State Park and the Project. The Department's representative will have the full authority to resolve the conflict in the best interests of the Commonwealth. The Partner shall abide by the decision of the Department's representative.
- 14. **AUDIT.** This agreement is subject to audit by the Department, its designated representatives, or both. The Partner shall maintain records that support the charges claimed and paid pursuant to this agreement. The Partner shall preserve books, documents and records sufficient to justify the charges billed to the Department for a period of three years after the termination date of this agreement. The Partner shall give full and free access to such records to the Commonwealth or its designees at mutually agreed upon times and locations.

15. **COMMONWEALTH STANDARD TERMS AND CONDITIONS.** The Partner shall comply with the Commonwealth Standard Terms and Conditions, attached as Exhibit B. All references to “Contractor” in Exhibit B mean the Partner.
16. **AMENDMENTS AND MODIFICATIONS.** No alterations or variations to this agreement will be valid unless made in writing and signed by the parties. Amendments to this agreement must be accomplished through a formal written document signed by the parties with the same formality as this original agreement.
17. **SEVERABILITY.** The provisions of this agreement are severable. If any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the Constitution of Pennsylvania or of the United States or to the laws of the Commonwealth, or if the applicability to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and its applicability to any government, agency, person, or circumstance will not be affected.
18. **NO WAIVER.** Either party may elect not to enforce its rights and remedies under this agreement in the event of a breach by other parties of any term or condition of this agreement. In any event, the failure by either party to enforce its rights and remedies under this agreement may not be construed as a waiver of any subsequent breach of the same or any other term or condition of this agreement.
19. **INDEPENDENCE OF THE PARTIES.** Nothing contained in this agreement is intended or may be construed to, in any respect, create or establish, the relationship of partners between the Partner and the Department, or as constituting the Department as the representative or general agent of the Partner.
20. **ASSIGNMENT.** This agreement may not be assigned, either in whole or in part, without the Department’s written consent.
21. **NO THIRD PARTY BENEFICIARY RIGHTS.** This agreement does not create or confer any rights in or on persons or entities not a party to this agreement.
22. **NOTICES.** All notices must be in writing and will be deemed to have been properly given if personally delivered or sent by certified mail, return receipt requested, postage prepaid, or by private overnight express carrier, such as Federal Express, next business day delivery, charges prepaid, addressed as follows:

To Department:

Department of Conservation and Natural Resources
Bureau of State Parks, Resource Management Section
Rachel Carson State Office Building
400 Market Street, 8th Floor
P.O. Box 8551
Harrisburg, PA 17105-8551

and

Park Manager, Ohiopyle State Park
124 Main Street

Ohiopyle, PA 15470

To Partner:

Pennsylvania Environmental Council, Inc.
810 River Avenue, Suite 201
Pittsburgh, PA 15212

23. **FORCE MAJEURE.** Neither party will be liable for failure to perform under this agreement if a failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision will become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision will not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.
24. **INTEGRATION AND MERGER.** The parties intend this statement of their agreement to constitute the complete, exclusive, and fully integrated statement of their agreement. As such, it is the sole expression of their agreement, and they are not bound by any other agreements of whatsoever kind or nature. The parties also intend that this agreement may not be supplemented, explained, or interpreted by any evidence of trade usage or course of dealing. In entering this agreement, the parties did not rely upon oral or written statements or representations not contained within the document itself.
25. **COUNTERPARTS.** This agreement may be executed in counterparts, each of which is deemed an original and has the full force and effect as an original but all of which constitute one and the same instrument.

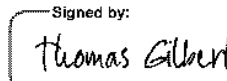
[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

The parties hereto have executed this agreement to be effective as of the date of the last signature affixed below.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CONSERVATION
AND NATURAL RESOURCES

 29 January 2025
John S. Hallas, Director Date
Bureau of State Parks

Pennsylvania Environmental Council, Inc.

Signed by:
 1/23/2025
1E5F71AAAC45435...
Tom Gilbert
President Date

Approved as to Legality and Form:

DCNR Chief/Assistant Counsel (date)

Office of Attorney General (date)

EXHIBIT A PROJECT AREA

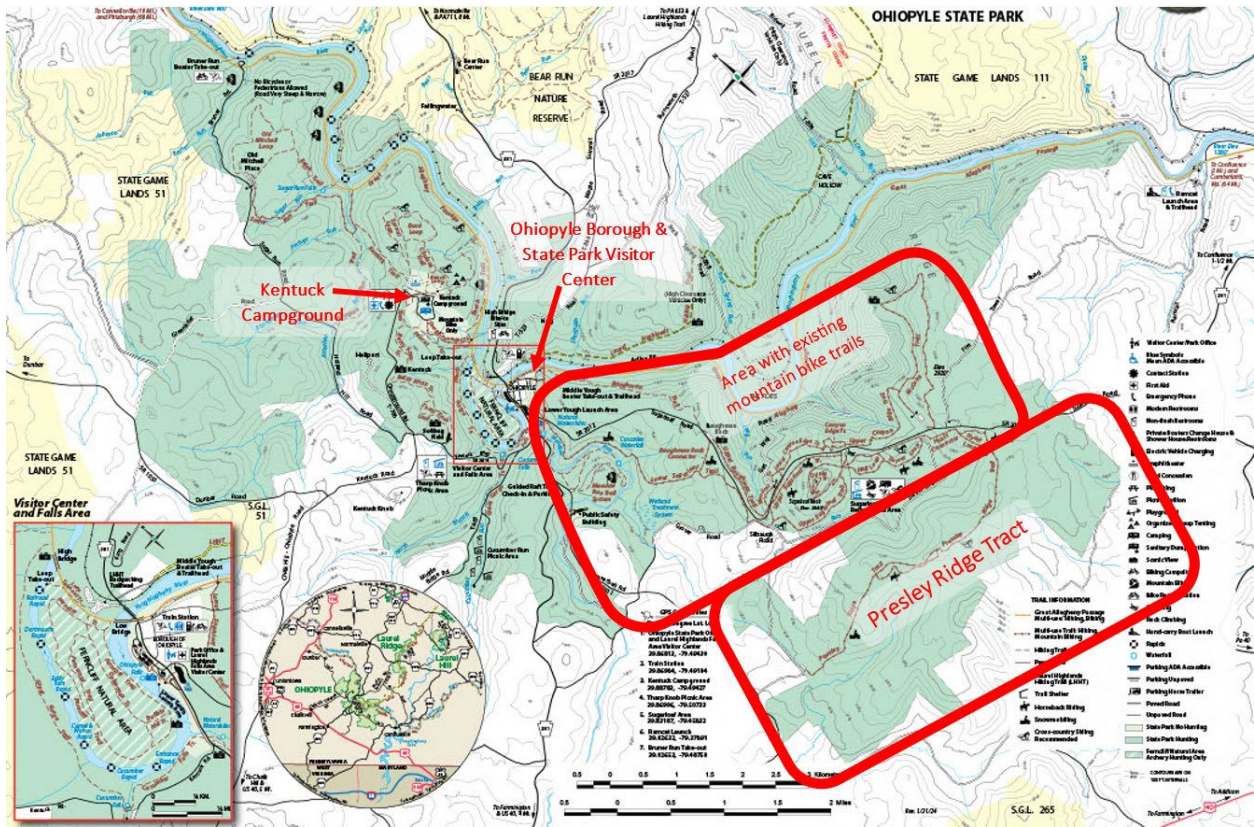


EXHIBIT B
COMMONWEALTH STANDARD TERMS AND CONDITIONS
(Revised - 10/1/2023)

1. DEFINITIONS.

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

2. ENHANCED MINIMUM WAGE.

- a. **Enhanced Minimum Wage.** Contractor shall pay no less than \$15.00 per hour to its employees for all hours worked directly performing the services called for in this contract/lease, and for an employee's hours performing ancillary services necessary for the performance of the services or lease when the employee spends at least 20% of their time performing ancillary services in a given work week.
- b. **Adjustment.** Beginning July 1, 2023, and annually thereafter, the minimum wage rate will be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The Commonwealth will publish applicable adjusted amount in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
- c. **Exceptions.** These Enhanced Minimum Wage Provisions do not apply to employees
 - i. Exempt from minimum wage under the Minimum Wage Act of 1968;
 - ii. covered by a collective bargaining agreement;
 - iii. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
 - iv. required to be paid a higher wage under any state or local policy or ordinance.
- d. **Notice.** The Contractor shall: (1) post this Enhanced Minimum Wage Provision for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed; or (2) for the entire period of the contract, provide electronic notice of this clause to its employees not less than annually.
- e. **Records.** The Contractor must maintain and, upon request and within the time periods requested by the Commonwealth, provide to the Commonwealth all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

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

3. INDEMNIFICATION.

- c. Partner Obligations. The Partner shall indemnify the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with the use or occupancy of the Project Area or the performance of work by the Partner or the Partner's Parties under this agreement, as determined by the Commonwealth in its sole discretion.
- d. Commonwealth Attorneys Act. The Commonwealth shall provide the Partner with prompt notice of any claim or suit of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, et seq.), the Office of Attorney General ("OAG") has sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Partner, the Commonwealth will cooperate with all reasonable requests of the Partner made in defense of such suits.
- e. Settlement. Notwithstanding the above, neither party may enter into a settlement of any claim or suit without the other party's written consent, which will not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Partner to control the defense and any related settlement negotiations.

4. NONDISCRIMINATION/SEXUAL HARASSMENT.

- a. **Representations.** The Contractor represents that it is presently in compliance with and will remain in compliance with all applicable federal, state, and local laws, regulations, and policies relating to nondiscrimination and sexual harassment for the term of the contract. The Contractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to its books, records, and accounts by the Commonwealth for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- b. **Nondiscrimination/Sexual Harassment Obligations.** The Contractor shall not:
 - i. in any manner discriminate in the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under this contract or any subcontract, by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania

Human Relations Act (“PHRA”) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

- ii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under this contract.
 - iii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under this contract.
 - iv. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which this contract relates.
 - v. in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act or National Labor Relations Act, as applicable and to the extent determined by entities charged with such Acts’ enforcement and shall comply with any provision of law establishing organizations as employees’ exclusive representatives.
- c. **Establishment of Contractor Policy.** The Contractor shall establish and maintain a written nondiscrimination and sexual harassment policy that complies with the applicable law and these Nondiscrimination/Sexual Harassment provisions and shall inform its employees in writing of the policy. The policy must contain a provision that states that sexual harassment will not be tolerated and employees who practice it will be disciplined. For the entire period of the contract, the Contractor shall: (1) post its written nondiscrimination and sexual harassment policy or these Nondiscrimination/Sexual Harassment provisions conspicuously in easily accessible and well-lit places customarily frequented by employees at or near where the contracted services are performed; or (2) provide electronic notice of the policy or this clause to its employees not less than annually.
- d. **Notification of Violations.** The Contractor’s obligations pursuant to these provisions are ongoing from the effective date and through the termination date of the contract. Accordingly, the Contractor shall notify the Commonwealth if, at any time during the term of this contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- e. **Cancellation or Termination of Contract.** The Commonwealth may cancel or terminate this contract and all money due or to become due under this contract may be forfeited for a violation of the terms and conditions of these Nondiscrimination/Sexual Harassment

provisions. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

- f. **Subcontracts.** The Contractor shall include these Nondiscrimination/Sexual Harassment provisions in its contracts with all subcontractors providing goods or services under this contract. The incorporation of these provisions in the Contractor's subcontracts does not create privity of contract between the Commonwealth and any subcontractor, and no third-party beneficiaries are created by those provisions. If the Contractor becomes aware of a subcontractor's violation of this clause, the Contractor shall use its best efforts to ensure the subcontractor's compliance with these provisions.

5. CONTRACTOR INTEGRITY.

- a. **Definitions.** For purposes of these Contractor Integrity Provisions, the following definitions apply:
 - i. "Affiliate" means two or more entities where (a) a parent entity owns more than 50% of the voting stock of each of the entities; (b) a common shareholder or group of shareholders owns more than 50% of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
 - ii. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.
 - iii. "Contractor Related Parties" means any Affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of five percent or more interest in the Contractor.
 - iv. "Financial Interest" means ownership of more than a five percent interest in any business or holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
 - v. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [Governor's Code of Conduct, Executive Order 1980-18](#), as may be amended, 4 Pa. Code §7.153(b), apply.
 - vi. "Non-bid Basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.
- b. **Representations and Warranties.**

- i. **Contractor Representation and Warranties.** The Contractor represents, to the best of its knowledge and belief, and warrants that within the last five years neither the Contractor nor Contractor Related Parties have:
 - 1. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 - 2. been suspended, debarred, or otherwise disqualified from entering into any contract with any governmental agency;
 - 3. had any business license or professional license suspended or revoked;
 - 4. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
 - 5. been, and are not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency or civil anti-trust investigation by any federal, state, or local prosecuting or investigative agency.
 - ii. **Contractor Explanation.** If the Contractor cannot make the representations and warranties set forth above at the time of its submission of its bid or proposal or if this contract is awarded on a non-bid basis at the time of the execution of the contract, the Contractor shall submit a written explanation outlining the reasons why it cannot make those representations and warranties. The Commonwealth may, based on its evaluation of the explanation provided, determine whether it is in the Commonwealth's best interest to execute the contract.
 - iii. **Further Representations.** By submitting any bills, invoices, or requests for payment pursuant to this contract, the Contractor further represents that it has not violated any of these Contractor Integrity Provisions during the term of the contract.
 - iv. **Notice.** The Contractor shall immediately notify the Commonwealth, in writing, if at any time during the term of the contract it becomes aware of any event that would cause the Contractor's certification or explanation to change. The Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made in these provisions are currently false or misleading due to intervening factual circumstances or were false or misleading or should have been known to be false or misleading when entering into the contract.
- c. **Contractor Responsibilities.** During the term of this contract, the Contractor shall:
- i. maintain the highest standards of honesty and integrity.
 - ii. take no action in violation of any applicable laws, regulations, or other requirements applicable to the Contractor that govern Commonwealth contracting and procurement.

- iii. establish and implement a written business integrity policy that includes, at a minimum, the requirements of these provisions as they relate to the Contractor's activity with the Commonwealth and Commonwealth employees and ensure that its employees comply with the policy.
- iv. not accept, agree to give, offer, confer, agree to confer, or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order, statement of policy, management directive, or bulletin applicable to the provision of goods or services under this contract.
- v. not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest. The Contractor must disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than the date the Contractor signs the contract. The Commonwealth shall be deemed to have consented if the required disclosure is received and all of the required Commonwealth signatures are affixed.
- vi. comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.) regardless of the method of award.
- vii. comply with the requirements of Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a) if this contract was awarded on a Non-bid Basis.
- viii. immediately notify the Commonwealth contracting officer or the Office of the State Inspector General, in writing, when the Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including, but not limited to, contact by a Commonwealth officer or employee, which, if acted upon, would violate the ethical standards.

d. **Investigations.** If a State Inspector General investigation is initiated, the Contractor shall:

- i. reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- ii. cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions and make identified Contractor employees available for interviews at reasonable times and places.

- iii. upon the inquiry or request of an Inspector General, provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. This information may include, but is not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract.
- e. **Termination.** For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Contractor Integrity provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one does not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or contract.
- f. **Subcontracts.** The Contractor shall include these Contractor Integrity Provisions in its contracts with all subcontractors providing goods or services under this contract. The incorporation of this provision in the Contractor's subcontracts does not create privity of contract between the Commonwealth and any subcontractor, and no third-party beneficiaries are created by the inclusion of these provisions. If the Contractor becomes aware of a subcontractor's violation of these provisions, the Contractor shall use its best efforts to ensure the subcontractor's compliance with these provisions.

6. CONTRACTOR RESPONSIBILITY.

- a. **Definition.** For the purpose of these provisions, the term "Contractor" means as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth. The term also includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.
- b. **Contractor Representations.**
 - i. The Contractor represents for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot make this representation, the Contractor shall submit, along with its contract, a written explanation of why such certification cannot be made.
 - ii. The Contractor represents that as of the date of its execution of this contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely

administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

- c. **Notification.** The Contractor shall notify the Commonwealth if, at any time during the term of this contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best of its knowledge, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. The Contractor shall provide this notification within 15 days of the date of suspension or debarment.
- d. **Default.** The Contractor's failure to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government constitutes an event of default of the contract with the Commonwealth.
- e. **Reimbursement.** The Contractor shall reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this contract or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. These costs include, but are not limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. **Suspension and Debarment List.** The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment list tab.

7. AMERICANS WITH DISABILITIES ACT.

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

8. APPLICABLE LAW AND FORUM.

This contract is governed by and must be interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania and waives any claim or defense that such forum is not convenient or proper. Any Pennsylvania court or tribunal has in personam jurisdiction over the Contractor, and the Contractor consents to service of process in any manner authorized by Pennsylvania law. This provision may not be interpreted as a waiver or limitation of the Commonwealth's rights or defenses.

9. RIGHT-TO-KNOW LAW.

- a. **Applicability.** The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this contract.
- b. **Contractor Assistance.** If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this contract, the Commonwealth shall notify the Contractor that it requires the Contractor's assistance, and the Contractor shall provide to the Commonwealth:
 - i. access to, and copies of, any document or information in the Contractor's possession ("Requested Information") arising out of this contract that the Commonwealth reasonably believes is a public record under the RTKL, within 10 calendar days after receipt of written notification; and
 - ii. any other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this contract.
- c. **Trade Secret or Confidential Proprietary Information.** If the Contractor considers the Requested Information to include a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor shall notify the Commonwealth and provide, within seven calendar days of receipt of the written notice a written statement, signed by a representative of the Contractor, that explains why the requested material is exempt from public disclosure under the RTKL. If the Commonwealth determines that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information to the Commonwealth within five business days of receipt of written notice of the Commonwealth's determination.
- d. **Reimbursement.**
 - i. **Commonwealth Reimbursement.** If the Contractor fails to provide the Requested Information and the Commonwealth is ordered to produce the Requested Information, the Contractor shall reimburse the Commonwealth for any damages, penalties, or costs that the Commonwealth may incur as a result of

the Contractor's failure, including any statutory damages assessed against the Commonwealth.

- ii. **Contractor Reimbursement.** The Commonwealth will reimburse the Contractor for any costs that the Contractor incurs as a direct result of complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL.
- e. **Challenges of Commonwealth Release.** The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts; however, the Contractor shall reimburse the Commonwealth for any legal expenses incurred by the Commonwealth as a result of the challenge, including any damages, penalties or costs that the Commonwealth may incur as a result of the Contractor's legal challenge, regardless of the outcome.
- f. **Waiver.** As between the parties, the Contractor waives all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- g. **Survival.** The Contractor's obligations contained in this Section survive the termination or expiration of this contract.

10. OFFSET.

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

11. AUTOMATED CLEARING HOUSE (ACH) PAYMENTS.

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

12. WORKER PROTECTION AND INVESTMENT.

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

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

APPENDIX 6 - NONDISCRIMINATION CERTIFICATION

Nondiscrimination Certification for Pennsylvania Environmental Council – Ohiopyle State Park Natural-Surface Trail Development Partnership Project

NONDISCRIMINATION

Nondiscrimination and equal opportunity are the policy of the Commonwealth/Pennsylvania Environmental Council in all its decisions, programs, and activities. The purpose is to achieve the aims of the United States and Pennsylvania Constitutions. Executive Order 1972-1, the Pennsylvania Human Relations Act, Act of October 27, 1955 (PL. 744), as amended, (43 P.S. & 951, et. seq.), and (43 P.S. & 153), by assuring that all persons are accorded equal employment opportunity without regard to race, color, religious creed, handicap, ancestry, national origin, age or sex.

During the term of this contract, the Contractor agrees as follows:

- A. Contractor shall not discriminate against any employee, applicant for employment, independent contractor, or any other person because of race, color, religious creed, ancestry, national origin, age, sex, or handicap. The contractor shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, sex, or handicap. Such affirmative action shall include but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. The contractor shall post in conspicuous places, available to employees, agents, applicants for employment, and other persons, a notice to be provided by the contracting agency setting forth the provision of this nondiscrimination certification.
- B. Contractor shall, in advertisements or requests for employment placed by it or on its behalf, state all qualified applicants will receive consideration for employment without regard to race, color, religious creed, handicap, ancestry, national origin, age, or sex.
- C. The contractor shall send each labor union or workers' representative with whom it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or worker's representative of its commitment to this nondiscrimination certification. Similar notice shall be sent to every other source of recruitment regularly utilized by the bidder.
- D. It shall be no defense to a finding of noncompliance with this nondiscrimination certification that the contractor has delegated some of its employment practices to any union, training program, or other sources of recruitment that prevents it from meeting its obligations. However, if the evidence indicates that the contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- E. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that contractor will be unable to meet its obligations under this nondiscrimination certification, the contractor shall then employ and fill vacancies through other nondiscriminatory employment procedures.

- F. The contractor shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of the contractor's noncompliance with the nondiscrimination certification or with any such laws, this contract may be terminated or suspended, in whole or part, and the contractor may be declared temporarily ineligible for further Pennsylvania Environmental Council contracts, and other sanctions may be imposed, and remedies invoked.
- G. The contractor shall furnish all necessary employment documents and records to, and permit access to its books, records, and accounts by Pennsylvania Environmental Council for purposes of investigation to ascertain compliance with the provisions of this certification if requested. If the contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by Pennsylvania Environmental Council.
- H. The contractor shall actively recruit minority and women subcontractors or subcontractors with substantial minority and women representation among their employees.
- I. The contractor shall include the provisions of this nondiscrimination certification in every subcontract so that such provisions will be binding upon each subcontractor.
- J. The contractor's obligations under this clause are limited to the contractor's facilities within Pennsylvania or, where the contract is for the purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are produced.

| | |
|-----------------------------|--|
| Name of Contractor | |
| Name of Authorized Official | |
| Title | |
| Date | |