

Resolution 2010-23

Municipality: Radnor Township  
Federal ID #: X063-194-L400  
SAP Vendor #: 138597

Agreement #: 068391  
Project (SR & Sec): 0030-CLR  
MPMS #: 14767

**MAINTENANCE & INDEMNIFICATION AGREEMENT**

THIS AGREEMENT, made and entered into this 28<sup>th</sup> day of June, 2010,  
by and between the Commonwealth of Pennsylvania, acting through the Pennsylvania  
Department of Transportation (PennDOT), hereinafter called the COMMONWEALTH,  
and

Radnor Township, a political subdivision duly and properly formed under the laws of the  
Commonwealth of Pennsylvania, acting through its proper officials, hereinafter called the  
MUNICIPALITY.

**WITNESSETH:**

WHEREAS, the COMMONWEALTH has under its jurisdiction State Route (SR) 0030,  
located in Radnor Township, Lancaster County; and,

WHEREAS, the COMMONWEALTH plans to improve SR 0030, from Segment 0680  
Offset 2820 to Segment 0110 Offset 0250, through roadway alterations or resurfacing,  
hereinafter referred to as the PROJECT, as more fully described in the Construction Special  
Provision Item 9676-0001 Cement Concrete Sidewalk Modified and the listed locations, called  
Exhibit "A," which is attached hereto and made part of this Agreement; and,

WHEREAS, the Federal Highway Administration (FHWA) has determined that all curb  
ramps affected by a roadway alteration or construction project shall be updated to current  
accessibility standards required by the Americans with Disabilities Act (ADA); and,

WHEREAS, the COMMONWEALTH in consultation with and with the agreement of the  
MUNICIPALITY, is willing, as necessary, to update existing curb ramp(s) at the intersection(s)

of State Route 0030 and various streets and alleys, and /or install new curb ramps as part of the PROJECT; and,

WHEREAS, the new curb ramps will be installed to serve pedestrian traffic and shall meet the design guideline standards for pedestrian accessibility required by the Americans with Disabilities Act Accessibility Guidelines (ADAAG), 28 CFR Part 36, as amended; and,

WHEREAS, the MUNICIPALITY has concerns about the proposed design of some curb ramps, specifically those planned for the following intersection: Lancaster Avenue as it crosses North and South Wayne Avenues (collectively, the STREETSCAPE RAMPS); and

WHEREAS, the MUNICIPALITY wishes to take responsibility for updating the STREETSCAPE RAMPS in order to ensure that the design and construction of new ramps in those locations is consistent with existing beautified streetscapes in those locations; and,

WHEREAS, the MUNICIPALITY is willing to assume responsibility for design and construction of the STREETSCAPE RAMPS and affirm its ongoing responsibility for maintenance of these ramps; and,

WHEREAS, the MUNICIPALITY is willing to assume all financial and legal responsibilities and liabilities related to design and construction of the STREETSCAPE RAMPS and affirm its ongoing legal and financial responsibility and liability for maintenance of these ramps; and,

WHEREAS, upon completion of construction of the STREETSCAPE RAMPS, the MUNICIPALITY shall assume year-round responsibility for maintenance of said STREETSCAPE RAMPS in accordance with the MUNICIPALITY's maintenance responsibilities as defined by the State Highway Law, Act of June 1, 1945, P.L. 1242, as amended, 36 P.S. § 670-101 et seq., and the Act of September 18, 1961, P.L. 1389, No. 615, as amended, 36 P.S. § 1758-101 et seq.; and,

WHEREAS, the COMMONWEALTH's legal responsibility for maintenance beyond the curb face or curb lines is summarized by Appendix C, Chapter 7, of PENNDOT Publication #23 – *Maintenance Manual*, a copy of which is attached hereto as a material part of this Agreement as Exhibit "B;" and,

WHEREAS, the Parties wish to enter into this Agreement to set forth the financial obligations and maintenance responsibilities for the STREETSCAPE RAMPS.

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

1. The recitals set forth above are incorporated by reference as a material part of this Agreement.
2. The MUNICIPALITY, by contract or with its own forces, shall construct the STREETSCAPE RAMPS. The design and construction of the STREETSCAPE RAMPS shall comply with all state and federal regulations, including applicable ADAAG requirements.
3. The MUNICIPALITY shall be responsible for all costs of design and construction of the STREETSCAPE RAMPS.
4. The MUNICIPALITY shall, at its sole cost and expense, be responsible for the year-round maintenance and repair of the STREETSCAPE RAMPS, which include, without limitation, clearing and removal of snow and ice and application of anti-skid or de-icing materials. Additionally, the MUNICIPALITY, at its sole cost and expense, shall be responsible for all future alterations to the STREETSCAPE RAMPS required by the ADAAG. Nothing contained in this Agreement shall be construed as an assumption or acknowledgement by the COMMONWEALTH of responsibility for the maintenance and future repair of the STREETSCAPE RAMPS.

5. If the MUNICIPALITY fails to perform any of the terms, conditions or provisions of this Agreement, including, but not limited to, any default of payment for a period of forty-five (45) days, the MUNICIPALITY authorizes the COMMONWEALTH to withhold so much of the MUNICIPALITY's Liquid Fuels Tax Fund allocation as may be necessary to reimburse the COMMONWEALTH in full for all costs due hereunder; and the MUNICIPALITY does hereby and herewith authorize the COMMONWEALTH to withhold such amount and to apply such funds or portion thereof, to remedy such default.
  
6. The MUNICIPALITY shall indemnify, save harmless, and defend (if requested) the COMMONWEALTH, its officers, agents, and employees from all suits, actions, or claims of any character, name, or description brought for on account of any injuries to or damages received or sustained by any person, persons or property by or from the MUNICIPALITY, its contractors, their officers, agents and employees as a result of the obligations assumed by the MUNICIPALITY under this Agreement. Further, the MUNICIPALITY shall fully indemnify the Commonwealth from any and all liability, loss, or damage that the Commonwealth, its officers, agents and employees may suffer as a result of any and all claims, demands, costs, or judgments of any type made against the Commonwealth as a result of this Agreement, including, but not limited to, fines, penalties, claims, demands, costs, or judgments arising from the design, construction or maintenance or as a result of any failure of any of them to conform to all pertinent statutes, ordinances, regulations, or other requirements of any governmental authority in connection with this Agreement, including the ADAAG. IT IS THE INTENT OF THIS PROVISION TO ABSOLUTELY ABSOLVE AND PROTECT THE COMMONWEALTH, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL LOSS BY REASON OF THIS AGREEMENT.
  
7. The MUNICIPALITY agrees to comply with the *Contractor Integrity Provisions*, the *Commonwealth Nondiscrimination/Sexual Harassment Clause* and the *Provisions Concerning the Americans with Disabilities Act*, and the *Right to Know Law Provisions*

which are attached hereto and made part hereof as Exhibits "D," "E," "F," and "G" respectively.

8. The MUNICIPALITY shall enact and/or adopt such ordinances and/or resolutions as may be necessary to implement this Agreement.
9. The actions that the COMMONWEALTH is either required or authorized to perform pursuant this Agreement are not intended to enlarge, and shall not be construed as enlarging, its obligations regarding maintenance and operation of the state highway system under either the State Highway Law, Act of June 1, 1945, P.L. 1242, as amended, 36 P.S. § 670-101 et seq., or the Act of September 18, 1961, P.L. 1389, No. 615, as amended, 36 P.S. § 1758-101 et seq.
10. This Agreement will not be effective until all necessary COMMONWEALTH officials as required by law have executed it. Following full execution, the COMMONWEALTH will inset the effective date at the top of Page 1.

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

ATTEST

MUNICIPALITY

Margaret M. Hoop 6-28-2010  
Title: DATE

[Signature] 6-28-2010  
BY Title: DATE

*If a Corporation, the President or Vice-president must sign and the Secretary, Treasurer, Assistant Secretary or Assistant Treasurer must attest; if a sole proprietorship, only the owner must sign; if a partnership, only one partner need sign; if a limited partnership, only the general partner must sign. If a Municipality, Authority or other entity, please attach a resolution.*

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

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

BY \_\_\_\_\_  
Deputy Secretary for DATE  
Highway Administration

APPROVED AS TO LEGALITY  
AND FORM

FUNDS COMMITMENT DOC. NO. \_\_\_\_\_  
CERTIFIED FUNDS AVAILABLE UNDER  
SAP NO. \_\_\_\_\_  
SAP COST CENTER \_\_\_\_\_  
GL ACCOUNT \_\_\_\_\_  
AMOUNT \_\_\_\_\_

BY \_\_\_\_\_  
for Chief Counsel Date

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

BY \_\_\_\_\_  
for Comptroller Date

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