

REQUEST FOR PROPOSALS FOR

**Long Term Ground Lease of 12.1± total acres
in Caernarvon Township, Berks County
(Former Morgantown Interchange Property)**

ISSUING OFFICE

**Pennsylvania Turnpike Commission
Property Management Department**

RFP NUMBER

RFP 13-10470-4427

DATE OF ISSUANCE

September 26, 2013

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PART I

GENERAL INFORMATION FOR PROPOSERS

I-1. Purpose. This request for proposals (RFP) provides interested Proposers with sufficient information to enable them to prepare and submit proposals for consideration by the Pennsylvania Turnpike Commission (Commission) to satisfy a need for execution of a long-term ground lease of Commission property to provide adequate, safe facilities as permitted by the Caernarvon Township Zoning Ordinance. Uses such as a travel plaza, truck stop or rest area with associated convenience (c-store) and maximum allowable off-road parking (including overnight parking), for commercial motor vehicles would be examples of acceptable uses to the Commission.

I-2. Issuing Office. This RFP is issued for the Commission by the Property Management Department.

I-3. Scope. This RFP contains instructions governing the proposals to be submitted and the material to be included therein; a description of the service to be provided; requirements which must be met to be eligible for consideration; general evaluation criteria; and other requirements to be met by each proposal.

I-4. The Site. The Commission will consider entering into a long-term, **unsubordinated** ground lease of 12.1± acres in Caernarvon Township, Berks County, Pennsylvania. The site is located at the southeast quadrant of PA Turnpike Route 76 and US Route 10.

I-5. Type of Contract. It is proposed that if a contract is entered into as a result of this RFP, it will be in the form of an unsubordinated ground lease. The Commission may in its sole discretion undertake negotiations with Proposers whose proposals as to lease rates and other factors show them to be qualified, responsible, and capable of undertaking the development.

I-6. Rejection of Proposals. The Commission reserves the right to reject any and all proposals received as a result of this request, or to negotiate separately with competing Proposers.

I-7. Subcontracting. Any use of subcontractors by a Proposer must be identified in the proposal. During the contract period use of any subcontractors by the selected Proposer, which were not previously identified in the proposal, must be approved in advance in writing by the Commission.

I-8. Incurring Costs. The Commission is not liable for any costs the Proposer incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of contract.

I-9. Questions and Answers. Written questions may be submitted to clarify any points in the RFP which may not have been clearly understood. Written questions should be submitted by email to RFP-Q@paturndpike.com with **RFP 13-10470-4230** in the Subject Line to be received no later than **12:00 PM local time on Friday, October 11, 2013**. All questions and written answers will be posted to the website as an addendum to and become part of this RFP.

I-10. Addenda to the RFP. If it becomes necessary to revise any part of this RFP before the proposal response date, addenda will be posted to the Commission's website under the original RFP document. It is the responsibility of the Proposer to periodically check the website for any new information or addenda to the RFP.

The Commission may revise a published advertisement. If the Commission revises a published advertisement less than ten days before the RFP due date, the due date will be extended to maintain the minimum ten-day advertisement duration if the revision alters the project scope or selection criteria. Firms are responsible to monitor advertisements/addenda to ensure the submitted proposal complies with any changes in the published advertisement.

I-11. Response. To be considered, proposals must be delivered to the Pennsylvania Turnpike Commission's Contracts Administration Department, Attention: Wanda Metzger, on or before **2:00 PM local time on Thursday, October 31, 2013**. The Pennsylvania Turnpike Commission is located at 700 South Eisenhower Boulevard, Middletown, PA 17057 (Street address). Our mailing Address is P. O. Box 67676, Harrisburg, PA 17106.

Please note that use of U.S. Mail, FedEx, UPS, or other delivery method, does not guarantee delivery to the Contracts Administration Department by the above listed time for submission. Proposers mailing proposals should allow sufficient delivery time to ensure timely receipt of their proposals. If the Commission office location to which proposals are to be delivered is closed on the proposal response date, due to inclement weather, natural disaster, or any other cause, the deadline for submission shall be automatically extended until the next Commission business day on which the office is open. Unless the Proposers are otherwise notified by the Commission, the time for submission of proposals shall remain the same.

I-12. Proposals. To be considered, Proposers should submit a complete response to this RFP, using the format provided in PART II. Each proposal should be submitted in seven (7) hard copies of the Technical Submittal and seven (7) hard copies of the Cost Submittal. In addition to the hard copies of the proposal, **one complete and exact copy of the entire proposal (Technical and Cost, along with all requested documents) on CD-ROM or Flash Drive in Microsoft Office or Microsoft Office-compatible format.** The electronic copy must be a mirror image of the hard copy. Proposer should ensure that there is no costing information in the technical submittal. The CD or Flash drive should clearly identify the Proposer and include the name and version number of the virus scanning software that was used to scan the CD or Flash drive before it was submitted. The Proposer shall present the proposal to the Contracts Administration Department only. No other distribution of proposals will be made by the Proposer. Each proposal page should be numbered for ease of reference.

An official authorized to bind the Proposer to its provisions must sign the proposal. If the official signs the Proposal Cover Sheet (Appendix B to this RFP) and the Proposal Cover Sheet is attached to the proposal, the requirement will be met. For this RFP, the proposal must remain valid for at least 120 days. Moreover, the contents of the proposal of the selected Proposer will become contractual obligations if a contract is entered into.

Each and every Proposer submitting a proposal specifically waives any right to withdraw or modify it, except as hereinafter provided. Proposals may be withdrawn by written or fax notice (fax number (717)

986-8714) received at the Commission's address for proposal delivery prior to the exact hour and date specified for proposal receipt.

Overnight Delivery Address:

Contracts Administration Department
Attn: Wanda Metzger
PA Turnpike Commission
700 South Eisenhower Blvd.
Middletown, PA 17057

US Mail Delivery Address:

Contracts Administration Department
Attn: Wanda Metzger
PA Turnpike Commission
P.O. Box 67676
Harrisburg, PA 17106

However, if the Proposer chooses to attempt to provide such written notice by fax transmission, the Commission shall not be responsible or liable for errors in fax transmission. A proposal may also be withdrawn in person by a Proposer or its authorized representative, provided his/her identity is made known and he/she signs a receipt for the proposal, but only if the withdrawal is made prior to the exact hour and date set for proposal receipt. A proposal may only be modified by the submission of a new sealed proposal or submission of a sealed modification which complies with the requirements of this solicitation.

I-13. Economy of Preparation. Proposals should be prepared simply and economically, providing a straightforward, concise description of the Proposer's ability to meet the requirements of the RFP.

I-14. Discussions for Clarification. Proposers who submit proposals may be required to make an oral or written clarification of their proposals to the Issuing Office through the Contract Administration Department to ensure thorough mutual understanding and Proposer responsiveness to the solicitation requirements. The Issuing Office through the Contract Administration Department will initiate requests for clarification.

I-15. Prime Proposer Responsibilities. The selected Proposer will be required to assume responsibility for all services offered in its proposal whether or not it produces them. Further, the Commission will consider the selected Proposer to be the sole point of contact with regard to contractual matters.

I-16. Proposal Contents. Proposals will be held in confidence and will not be revealed or discussed with competitors, unless disclosure is required to be made (i) under the provisions of any Commonwealth or United States statute or regulation; or (ii) by rule or order of any court of competent jurisdiction. All material submitted with the proposal becomes the property of the Pennsylvania Turnpike Commission and may be returned only at the Commission's option. Proposals submitted to the Commission may be reviewed and evaluated by any person other than competing Proposers at the discretion of the Commission. The Commission has the right to use any or all ideas presented in any proposal. Selection or rejection of the proposal does not affect this right.

In accordance with the Pennsylvania Right-to-Know Law (RTKL), 65 P.S. § 67.707 (Production of Certain Records), Proposers shall identify any and all portions of their Proposal that contains confidential proprietary information or is protected by a trade secret. Proposals shall include a written statement signed by a representative of the company/firm identifying the specific portion(s) of the Proposal that contains the trade secret or confidential proprietary information.

Proposers should note that “trade secrets” and “confidential proprietary information” are exempt from access under Section 708(b)(11) of the RTKL. Section 102 defines both “trade secrets” and “confidential proprietary information” as follows:

Confidential proprietary information: Commercial or financial information received by an agency: (1) which is privileged or confidential; **and** (2) the disclosure of which would cause substantial harm to the competitive position of the person that submitted the information.

Trade secret: Information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that: (1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; **and** (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The term includes data processing software by an agency under a licensing agreement prohibiting disclosure.

65 P.S. §67.102 (emphasis added).

The Office of Open Records has determined that a third party must establish a trade secret based upon factors established by the appellate courts, which include the following:

- the extent to which the information is known outside of his business;
- the extent to which the information is known by employees and others in the business;
- the extent of measures taken to guard the secrecy of the information;
- the value of the information to his business and to competitors;
- the amount of effort or money expended in developing the information; and
- the ease of difficulty with which the information could be properly acquired or duplicated by others.

See Crum v. Bridgestone/Firestone North Amer. Tire., 907 A.2d 578, 585 (Pa. Super. 2006).

The Office of Open Records also notes that with regard to “confidential proprietary information the standard is equally high and may only be established when the party asserting protection shows that the information at issue is either ‘commercial’ or ‘financial’ and is privileged or confidential, and the disclosure **would** cause substantial competitive harm.” (emphasis in original).

For more information regarding the RTKL, visit the Office of Open Records’ website at www.openrecords.state.pa.us.

I-17. Debriefing Conferences. Proposers whose proposals are not selected will be notified of the name of the selected Proposer and given the opportunity to be debriefed, at the Proposer’s request. The Issuing Office will schedule the time and location of the debriefing. The Proposer will not be compared with other Proposers.

I-18. News Releases. News releases pertaining to this project will not be made without prior Commission approval, and then only in coordination with the Issuing Office.

I-19. Commission Participation. Unless specifically noted in this section, Proposers must provide all services to complete the identified work.

I-20. Lease Rates Submittal. The lease rates submittal shall be placed in a separately sealed envelope within the sealed proposal and kept separate from the technical submittal.

I-21. Term of Lease. The proposer may propose any lease term, provided that the full term of the lease, including extensions, shall not exceed 90 years. The term of the contract will commence on the Effective Date (as defined below). The Commission shall fix the Effective Date after the contract has been fully executed by the Contractor and by the Commission and all approvals required by Commission contracting procedures have been obtained.

I-22. Deposits. At the signing of the lease, the successful proposer will be required to pay a deposit in the amount of \$25,000, which will be non-refundable after all governmental approvals have been received by the proposer. Within 30 days after all governmental approvals have been secured, the successful proposer will be required to pay another non-refundable deposit in the amount of \$50,000. These deposits shall constitute a security deposit that shall be held in a non-interest bearing account. At the expiration of the lease term, provided that the tenant is in compliance with the terms of the lease, the security deposit will be returned to the tenant.

I-23. Minimum Lease Rates. The business plan for this site should coincide with the needs of the Pennsylvania Turnpike Commission.

I-24. Available Acreage. Approximately 12 acres are available for lease.

I-25. Rent Commencement Date. Rental payments will begin 90 days after all government approvals have been obtained, or twelve months from the date of the signing of the lease, whichever occurs first. The Commission reserves the right to extend the time period under this paragraph.

I-26. Zoning. The property is currently zoned (C-2) Neighborhood Commercial and (C-3) Highway Commercial. Please note that the Commission is not responsible for the accuracy of this information. Proposers should conduct their own investigations regarding zoning, utility availability, etc. The successful proposer will be responsible for obtaining any zoning changes, land development approvals, and all other approvals necessary for the development at the proposer's sole expense.

I-27. Adherence to Laws. All proposals must conform to all applicable Caernarvon Township building codes, and to all other local, state and federal laws, regulations and requirements.

I-29. Brokerage. The Commission will not retain a real estate broker for this project. Any brokers involved must act as the proposer's agent only; all commissions to be paid will be the sole responsibility of the proposer.

I-29. Proposer's Representations and Authorizations. Each Proposer by submitting its proposal understands, represents, and acknowledges that:

- a. All information provided by, and representations made by, the Proposer in the proposal are material and important and will be relied upon by the Issuing Office in selecting a proposer for lease negotiations. Any misstatement, omission or misrepresentation shall be treated as fraudulent concealment from the Issuing Office of the true facts relating to

the submission of this proposal. A misrepresentation shall be punishable under 18 Pa. C.S. 4904.

- b. The price(s) and amount of this proposal have been arrived at independently and without consultation, communication or agreement with any other Proposer or potential Proposer.
- c. Neither the price(s) nor the amount of the proposal, and neither the approximate price(s) nor the approximate amount of this proposal, have been disclosed to any other firm or person who is a Proposer or potential Proposer, and they will not be disclosed on or before the proposal submission deadline specified in the response section of this RFP.
- d. No attempt has been made or will be made to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
- e. The proposal is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
- f. To the best knowledge of the person signing the proposal for the Proposer, the Proposer, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four (4) years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as disclosed by the Proposer in its proposal.
- g. To the best of the knowledge of the person signing the proposal for the Proposer and except as otherwise disclosed by the Proposer in its proposal, the Proposer has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Proposer that is owed to the Commonwealth.
- h. The Proposer is not currently under suspension or debarment by the Commonwealth, or any other state, or the federal government, and if the Proposer cannot certify, then it shall submit along with the proposal a written explanation of why such certification cannot be made.
- i. The Proposer has not, under separate contract with the Issuing Office, made any recommendations to the Issuing Office concerning the need for the services described in the proposal or the specifications for the services described in the proposal.
- j. Each Proposer, by submitting its proposal, authorizes all Commonwealth agencies to release to the Commission information related to liabilities to the Commonwealth including, but not limited to, taxes, unemployment compensation, and workers' compensation liabilities.

I-30. Use Restrictions. Proposals may include any use related to all permitted uses by the Caernarvon Township Zoning Ordinance including, but not limited to, truck stop facility, truck fueling facility or rest area with associated convenience (c-store) and maximum parking (including overnight parking) for commercial motor vehicles. Facilities should also include alternative fueling stations for CNG and/or LNG. The additional truck parking will assist the Pennsylvania Turnpike Commission in meeting the ever increasing demand for truck parking across Pennsylvania and the Nation. In addition, the proposer shall provide, at a minimum, a 25 foot “buffer” zone suitably landscaped to screen the adjoining residential properties and in which no parking or structures shall be permitted. Proposer also shall ensure that any activity that is illuminated at night shall be so designed and located that the light sources are shielded from adjoining residences and streets, and shall not be of excessive brightness nor cause a glare hazardous or noxious to pedestrians or drivers at or beyond the property boundaries.

I-31. Payments in Lieu of Taxes. The site is tax-exempt as a result of the Commission's status as an instrumentality of the Commonwealth. In order to benefit the local municipality and its citizens, the successful proposer will be required by the terms of the lease to make payments in lieu of taxes to the local taxing authority.

I-32. Insurance.

A. General Insurance Requirements

1. The term “Professional Service Contractor” shall include the Proposer, Contractor, Subcontractor, and Sub-subcontractors of every tier. The Professional Services shall not commence until the Professional Service Contractor has obtained, at their own expense, the following minimum levels of insurance and such insurance has been approved by the Commission.

Approval of insurance required of the Professional Service Contractor will be granted only after submission to the Commission, original certificates of insurance signed by the representatives of the insurers or, at the Commission’s request, certified copies of the required insurance policies. Evidence of renewal or replacement coverage shall be provided to the Commission in the same form as previously described no later than 30 days prior to the expiration date of coverage. The required insurance shall not contain any exclusions of endorsements which are not acceptable to the Commission. Failure of the Commission to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the Commission to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor’s obligation to maintain such insurance. With respect to insurance maintained after final payment in compliance with a requirement below, an additional certificate(s) evidencing such coverage shall be provided to the Commission with final application for payment and thereafter upon renewal or replacement of such insurance until the expiration of the time period for which such insurance must be maintained. If found to be non-compliant, the Commission may purchase the required insurance coverage(s) and the cost will be borne by the Professional Service Contractor through direct payment/reimbursement to the Commission, or the Commission may withhold payment to the Professional Services Contractor for amounts owed to them.

2. All insurance required herein, with the exception of the Professional / Errors and Omissions Liability Insurance shall be written on an “occurrence” basis and not a “claims-made” basis. For Professional Liability “claims-made” coverage:
 - a. The retroactive date must be on or prior to the start of work under this contract; and
 - b. The Professional Service Contractor must purchase “tail coverage/an extended reporting period” or maintain coverage for a period of three years, subsequent to the completion of their work / final payment.
3. The Commission, its commissioners, agents, servants, employees and representatives shall be named as additional insured on all of the Professional Service Contractor’s liability policies (except Workers Compensation and Professional Liability policies) for ongoing and completed operations on a primary and noncontributory basis. On the Commercial General Liability, coverage to include ongoing and completed operations must be provided using ISO Endorsements CG 2010 and CG 2037, or their equivalents. This coverage should be provided, along with evidence of such coverage in a form acceptable to the Commission as discussed in Item A1, for a period of three years after completion of the project/final payment. The Commission reserves the right to require the Professional Service Contractor name other parties as additional insureds as required by the Commission. There shall be no “Insured versus Insured” Exclusion on any policies; all policies shall provide coverage for “cross liability suits”.
4. All insurance policies required hereunder shall be endorsed to provide that the policy is not subject to cancellation, non-renewal, or material reduction in coverage until thirty (30) days prior written notice has been given to the Commission. Should coverage cancel or non-renew, it is the responsibility of the Professional Service Contractor to replace coverage to comply with the Contract requirements so there is no lapse of coverage for any time period. In the event the insurance carrier(s) will not issue or endorse their policy(s) to comply with the above, it is the responsibility of the Professional Service Contractor to report any notice of cancellation, non-renewal, or material reduction in coverage at least thirty (30) days prior to the effective date of this notice.
5. No acceptance and/or approval of any insurance by the Commission shall be construed as relieving or excusing the Professional Service Contractor or the Professional Service Contractor’s Surety (if applicable) from any liability or obligation imposed upon either or both of them by provisions of this Contract.
6. Any deductibles or self-insured retention’s of (\$10,000) or greater shall be disclosed by the Professional Service Contractor, and are subject to Commissions written approval. Any deductible or retention amounts elected by the Professional Service Contractor or imposed by the Professional Service Contractor’s insurer(s) shall be the sole responsibility of the Professional Service Contractor, and the Additional Insured requirements specified herein shall be offered within the SIR amount(s).
7. All insurance companies shall have an AM Best’s rating of A-, Class VIII or better and be permitted to do business in the State of Pennsylvania.

8. There shall be no liability upon the Commission, public officials, their employees, their authorized representatives, or agents either personally or as officials of the Commission in carrying out any of the provisions of the Contract nor in exercising any power or authority granted to them by or within the scope of the Contract, it being understood that in all such matters they act solely as agents and representatives of the Commission.
9. Waiver of Rights of Recovery and Waiver of Rights of Subrogation:
 - a. The Professional Service Contractor waives all rights of recovery against the Commission and all the additional insured's for loss or damage covered by any of the insurance maintained by the Professional Service Contractor.
 - b. If any of the policies of insurance required under this contract require an endorsement to provide for the waiver of subrogation, then the named insured of such policies will cause them to be so endorsed.
10. Any type of insurance or any increase in limits of liability not described above which the Professional Service Contractor requires for its own protection or on account of statute shall be its own responsibility and at its own expense.
11. The amount of insurance provided in the aforementioned insurance coverage shall not be construed as a limitation of the liability on the part of the Professional Service Contractor.
12. Professional Service Contractor shall promptly notify the Commission and the appropriate insurance company(ies) in writing of any accident(s) as well as any claim, suit or process received by the insured Professional Service Contractor arising in the course of operations under the contract.

B. Professional Service Contractor Liability Insurance Requirements – the following may be provided through a combination of primary and excess policies in order to meet the minimum limits set forth below:

- The Professional Service Contractor shall purchase the following insurance coverage's for the minimum limits specified below or required by law.
- **Commercial General Liability** insurance for bodily injury, personal injury, and property damage including loss of use, etc. with minimum limits of:

\$1,000,000	each occurrence;
\$1,000,000	personal and advertising injury;
\$2,000,000	general aggregate; and
\$2,000,000	products/completed operation aggregate.

This insurance shall include coverage for all of the following:

- Coverage is to be provided on ISO form CG 00 01 12 07 (Occurrence basis) or an equivalent form including Premises Operations, Independent Contractors, Products/Completed Operations, Broad Form Property Damage, Contractual Liability, and Personal Injury and Advertising Injury;
- General aggregate limit applying on a per project basis;

- No exclusions for development, construction, building conversion, etc. with respect to the project’s location and/or where the work is to be completed by the Professional Service Contractor;
 - Coverage for “resulting damage”;
 - No sexual abuse or molestation exclusion;
 - No amendment to the definition of an “Insured Contract”;
 - The definition of an “Insured Contract” must be amended to provide coverage for all work on or within 50 feet of a railroad. A standalone Railroad Protective Liability policy may be required based on the scope of this project.
 - Products/Completed Operations Coverage must be maintained for a period of at least three (3) years after final payment/completion of work (including coverage for the Additional Insured’s as set forth in these Insurance Requirements).
- **Business Auto Liability** insurance with a minimum Combined Single Limit of \$1,000,000 per accident and including, but not limited to, coverage for all of the following:
 - Liability arising out of the ownership, maintenance or use of any auto;
 - Auto non-ownership and hired car coverage
 - Contractual Liability Coverage (including Liability for Employee Injury assumed under a Contract as provided in the standard ISO policy form)
 - For Professional Service Contractors involved in the transportation of hazardous materials, include the following endorsements: MCS-90 and ISO-9948.
- **Workers’ Compensation** insurance with statutory benefits as required by any state or federal law, including standard “other states” coverage; **employer’s liability** insurance with minimum limits of:
 - \$1,000,000 each accident for bodily injury by accident;
 - \$1,000,000 each employee for bodily injury by disease; and
 - \$1,000,000 policy limit for bodily injury by disease.
 1. United States Longshoreman’s & Harbor Workers Act Coverage, where applicable;
 2. Maritime Coverage under the Jones Act, where applicable; and
 3. FELA Coverage, where applicable.
 4. Includes sole proprietorships and officers of a corporation who will be performing work.
- **Professional Liability:** Professional Service Contractors engage in services such as, but not limited to Architects, Engineers, Attorneys, Financial Advisors, Marketing Professionals, Physicians and Risk Management Consultants shall provide professional liability and/or malpractice insurance with minimum limits of \$10,000,000. The definition of “Covered Services” shall include the services required in the scope of this contract. Coverage shall be extended to cover “Green Building”, if applicable.

- **Umbrella Liability or Excess Liability** insurance with minimum limits of:
 - \$50,000,000 per occurrence;
 - \$50,000,000 aggregate for other than products/completed operations and auto liability; and
 - \$50,000,000 products/completed operations aggregate.

Policy to apply on a Following Form basis of the Commercial General Liability (Per Project Aggregate), Commercial Automobile Liability and Employers Liability Coverage.

- **Pollution Liability Insurance**
 - Occurrence/Claims Made Limit: \$50,000,000 per project
 - Covering losses caused by pollution incidents that arise from the operations of the Professional Service Contractor described under the scope of services of this Contract. This is to include all work completed by the Professional Service Contractor, including testing and/or removal of any and all pollutants.
 - Insurance to be maintained for the duration of the work and for a period of three years after completion of work / final payment.
 - No Exclusions for Silica, Asbestos or Lead and/or Lead Based Paint testing.
 - Include Mold Coverage for full policy limit of liability.
 - Shall include coverage for all pollutants as defined under the Resource Conservation and Recovery Act, as amended, 42 U.S.C Section 6901 et. Seq. (“RCRA”) or any related state or city environmental statute or the removal of any petroleum contaminated material at the project.
- **Watercraft and Aircraft Liability (If Applicable):** If contractor utilizes any owned, used, leased, hired or borrowed watercraft or aircraft to complete their work in accordance with this Contract, coverage shall be provided for bodily injury, property damage, personal and advertising injury with Minimum Limits of Liability as follows:.

\$2,000,000 Per Occurrence
 \$2,000,000 Aggregate

C. Indemnification

To the extent that state and/or federal laws limit the terms and conditions of this clause, it shall be so limited. The Professional Service Contractor shall protect, defend, indemnify and hold harmless the Commission, and their agents and employees from and against all liability (including liability for violation of any law or any common law duty), claims, damages, losses, and expenses including attorneys' fees arising in connection with, out of, or resulting from the performance of the work, provided that any such liability, claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease, or death, or to any statutory or regulatory rule designed to protect against such conditions, or to injury to or destruction of tangible property (other than the work itself), and including the loss of the use resulting there from, and (ii) is caused by or results from, in whole or in part, any act or omission of the Professional Service Contractor, any Subcontractor, Sub-subcontractor(s), anyone direct or indirectly employed by any of them or anyone for whose acts any of them may be liable,

regardless of whether or not it is also caused by or results from any act or omission of any party indemnified hereunder.

In any and all claims against the Commission or any of their agents or employees, by an employee of the Professional Service Contractor, Subcontractor, or any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for any Professional Service Contractor, Subcontractor or any Sub-subcontractor under Workmen's Compensation Acts, Disability Benefits Acts, or other Employee.

PART II

INFORMATION REQUIRED FROM PROPOSERS

Proposals must be submitted in the format, including heading descriptions, outlined below. To be considered, the proposal must respond to all requirements in this part of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. All cost data relating to this proposal should be kept separate from and not included in the Development Submittal. Each proposal shall consist of the completed proposal cover sheet (use Appendix B) and two (2) separately sealed submittals. The submittals are as follows: (i) Development Submittal, in response to Sections II-1 through II-8 hereof; (ii) Lease Rates Submittal, in response to Part II-9 hereof.

The Commission reserves the right to request additional information which, in the Commission's opinion, is necessary to assure that the Proposer's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the RFP.

The Commission may make such investigations as deemed necessary to determine the ability of the Proposer to perform the work, and the Proposer shall furnish to the Issuing Office all such information and data for this purpose as requested by the Commission. The Commission reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Proposer fails to satisfy the Commission that such Proposer is properly qualified to carry out the obligations of the lease agreement and to complete the work specified.

II-1. Proposal Cover Sheet (Appendix B)

Show the name of your firm, Federal I.D. number, address, name of contact person, contact person's email and telephone number date and the subject: **Long Term Ground Lease of 12.1± total acres in Caernarvon Township, Berks County (Former Morgantown Interchange Property), RFP 13-10470-4427**. In addition it is required that all information requested in Appendix B be provided including information pertaining to location of office performing the work, contact information, listing of all Pennsylvania offices and total number of Pennsylvania employees, and location of company headquarters.

II-2. Proposed Development. State in succinct terms your plan for development of the parcel in question. Describe the nature of the proposed development and include a list of specific subtenants, if any, which may have an interest in leasing this location. Submit written commitments or letters of interest from lead/anchor tenants, if any.

II-3. Prior Experience. Describe the specialized experience and technical competence of the proposer and the proposer's team, if any. Include descriptions of previous projects, if any. Experience shown should be work done by individuals who will be involved with this development, as well as that of your company. If the proposer is a company or organization proposing to lease the entire site for its own business operations, the proposer should submit resumes and a brief summary of the previous experience of its consultants and/or architects who will be assisting with the project. Studies or projects referred to should be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

II-4. Financial Status. Describe how the project will be financed. Provide financial references, along with the financial statements of the proposer. The proposer must submit 2011 and 2012 year-end audited financial statements, if available. Financial statements should include income statements, balance sheets and cash-flow statements, along with accompanying notes. The information will be held in confidence and will be used only for evaluating the financial stability of the proposer.

II-5. Location. Identify the location of the proposer, including principal and branch offices, if any.

II-6. Sketch Plan. Proposers should submit a sketch plan of the site, showing the proposed development.

II-7. Subordination. Proposers must specify within their proposals that the lease will be unsubordinated. The successful proposer may obtain financing through its leasehold interest, but may not mortgage the real estate itself.

II-8. Commitment to Diversity and Inclusion

The Turnpike Commission is committed to the inclusion of disadvantaged, minority, and woman firms in contracting opportunities. Responding firms shall clearly identify DBE/MBE/WBE firms, expected to participate in the Contract, in their Proposal. Proposed DBE/MBE/WBE firms must be certified by the Pennsylvania Unified Certification Program (www.paucp.com) at the time of the submission of the proposal. Small disadvantaged, minority and women-owned businesses are encouraged to submit a proposal in response to this RFP.

II-9. Lease Rates Submittal. Proposers should include the proposed annual rental payment to the Commission, plus escalation clauses or specified increases over the life of the lease. The lease rates submittal shall be placed in a separately sealed envelope within the sealed proposal and kept separate from the remainder of the proposal. A profit sharing plan may be submitted in lieu of a lease payment structure, if this alternate method is chosen by the submitting company. A description of the profit sharing plan showing yearly adjustment factors shall be included in the profit sharing concept.

Any costs not provided in the cost proposal will be assumed as no charge to the Commission.

The selected Proposer shall only perform work on this contract after the Effective Date is affixed and the fully-executed contract sent to the selected Proposer. The Commission shall issue a written Notice to Proceed to the selected Proposer authorizing the work to begin on a date which is on or after the Effective Date. The selected Proposer shall not start the performance of any work prior to the date set forth in the Notice of Proceed and the Commission shall not be liable to pay the selected Proposer for any service or work performed or expenses incurred before the date set forth in the Notice to Proceed. No Commission employee has the authority to verbally direct the commencement of any work under this Contract.

PART III

CRITERIA FOR SELECTION

III-1. Mandatory Responsiveness Requirements. To be eligible for selection, a proposal shall be (a) timely received from a Proposer; and (b) properly signed by the Proposer.

III-2. Technical Nonconforming Proposals. The two (2) Mandatory Responsiveness Requirements set forth in Section III-1 above (a&b) are the only RFP requirements that the Commission will consider to be non-waivable. The Issuing Office reserves the right, in its sole discretion, to (1) waive any other technical or immaterial nonconformities in the proposal, (2) allow the Proposer to cure the nonconformity, or (3) consider the nonconformity in the evaluation of the proposal.

III-3. Proposal Evaluation. Proposals will be reviewed, evaluated, and rated by a Technical Evaluation Team (TET) of qualified personnel based on the evaluation criteria listed below. The TET will present the evaluations to the Professional Services Procurement Committee (PSPC). The PSPC will review the TET's evaluation and provide the Commission with the firm(s) determined to be highly recommended for this assignment.

The Commission will select the most highly qualified firm for the assignment or the firm whose proposal is determined to be most advantageous to the Commission by considering the TET's evaluation and the PSPC's determination as to each firm's rating. In making the PSPC's determination and the Commission's decision, additional selection factors may be considered taking into account the estimated value, scope, complexity and professional nature of the services to be rendered and any other relevant circumstances. Additional selection factors may include, when applicable, the following: geographic location and proximity of the firm, firm's Pennsylvania presence or utilization of Pennsylvania employees for the assignment; equitable distribution of work; diversity inclusion; and any other relevant factors as determined as appropriate by the Commission.

The Commission will prioritize the proposals and negotiate in the order of priority. If the Commission is unsuccessful in negotiating with the first-ranked proposer, the Commission will then cease negotiations with that proposer and may initiate negotiations with number two, and so on. In any event, the Commission reserves the right to reject any or all proposals submitted, to cancel this solicitation, and to re-advertise for proposals.

Award will only be made to a Proposer determined to be responsive and responsible in accordance with Commonwealth Management Directive 215.9, Contractor Responsibility Program.

III-4. Evaluation Criteria. The following criteria will be used, in order of relative importance from the highest to the lowest, in evaluating each proposal:

a. Prior Experience. The Commission will consider the prior experience and technical competence of the proposer. If the proposer is a company or organization proposing to lease the entire site for its own business operations, the Commission will consider the prior experience of the proposer's consultants or architects who will be assisting with the project.

b. Financial Status. The Commission will consider the financial status of the proposer, the proposer's financial references, and the proposer's planned financing of the development.

c. Nature of Proposed Project. The Commission will consider the proposed use of the site and its suitability to the surrounding area. In other words, is the proposed use of the site a good fit?

d. Lease Rates. Financial benefit to the Commission will be one factor only in the selection process. While this area may be weighted heavily, it will not necessarily be the deciding factor in the selection process.

III-5. The Commission reserves the right to select a proposal based upon all the factors listed above, and will not necessarily choose the developer offering the highest financial return to the Commission. The Commission will select the firm with the proposal that best meets the needs and desires of the Commission, in the sole discretion of the Commission.