

REQUEST FOR PROPOSALS FOR

**Long Term Ground Lease of 4.133 total acres in Hempfield Township, Westmoreland County
(Former Jeannette Importing Property)**

ISSUING OFFICE

**Pennsylvania Turnpike Commission
Property Management Department**

RFP NUMBER

RFP 13-10470-4470

DATE OF ISSUANCE

October 18, 2013

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(Former Jeannette Importing Property)**

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TABLE OF CONTENTS

Part I	- GENERAL INFORMATION FOR PROPOSERS	page 1
Part II	- INFORMATION REQUIRED FROM PROPOSERS	page 8
Part III	- CRITERIA FOR SELECTION	page 10

APPENDIX A – DEED AND SITE PLAN

APPENDIX B – PROPOSAL COVER SHEET

APPENDIX C – INSURANCE REQUIRMENTS

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 for the commercial use of 4.133 acres in Hempfield Township, Westmoreland County. The property is located at the northeast corner of the intersection of Route 30 and Route 66

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 4.133 acres in Hempfield Township, Westmoreland County, Pennsylvania. The site is located on the northeast corner of the intersection of Route 30 and Route 66.

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 13-10470-4470** in the Subject Line to be received no later than **12:00 PM local time on Friday, November 1, 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, November 21, 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 five (5) hard copies of the Technical Submittal and five (5) 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 \$30,000, 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 \$49,000. 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 average annual rental shall be a **minimum** of \$79,480.77/year but the proposers may offer more.

I-24. Available Acreage. 4.133 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 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 Hempfield 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 Hempfield Township Zoning Ordinance. 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. See Appendix C for Insurance Requirements

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 4.133 total acres in Hempfield Township, Westmoreland County (Former Jeannette Importing Property), RFP 13-10470-4470.** 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.