



**ANTIETAM SCHOOL DISTRICT  
SPECIAL SCHOOL BOARD MEETING AGENDA  
Thursday, February 22, 2024, 7:00 p.m.**

**1. AGENDA/CALL TO ORDER-Mr. Roberts**

The Board met for their CoW meeting prior to this special voting meeting. The Board will meet in executive session after the Special Voting Meeting meeting today, February 22, 2024 regarding personnel and will not reconvene.

**2. PLEDGE OF ALLEGIANCE**

**3. APPROVAL OF AGENDA - Mr. Roberts**

**4. PUBLIC COMMENT - Mr. Roberts**

Procedures for Public Comment:

The ASD School Board welcomes the public to comment on agenda items and other issues that pertain to the ASD. We would like to remind everyone who would like to offer public comment that each speaker will be given a 3-minute time limit for their comments, and that the public comment time is not intended to be a question and answer session with the school board. If you have a question that you would like addressed, please reach out to Dr. Rochlin via email, and she will communicate with ASD Board Members. Thank you for your cooperation and continued partnership with the ASD. If you would like to take this opportunity to speak please state your name and address for the record.

**5. FINANCE COMMITTEE - Mr. Weldele**

**MOTION # - ROLL CALL**

- Approve <Insert Company Name> to complete the required traffic study at a cost of <insert cost here>.

**6. ADJOURN -**



**HEINRICH & KLEIN  
ASSOCIATES, INC.**

TRAFFIC ENGINEERING & PLANNING  
1134 Heinrich Lane • Ambler, Pennsylvania 19002  
215-793-4177 • FAX 215-793-4179

**PROPOSAL FOR TRAFFIC ENGINEERING SERVICES  
TRAFFIC IMPACT STUDY AND OFF-SITE PARKING  
ANTIETAM SCHOOL DISTRICT  
ANTIETAM PRIMARY CENTER – 201 N. 25<sup>th</sup> STREET**

Heinrich & Klein Associates, Inc. is pleased to submit this proposal to prepare a Traffic Impact Study for the Antietam Primary Center located at 201 N. 25<sup>th</sup> Street in the Borough of Mount Penn, Berks County, Pennsylvania. It is my understanding that the existing building currently accommodates approximately 200 students in grades K-3 with on-street angled parking along Filbert Avenue for 30 vehicles. The Antietam School District proposes to relocate the K-3 students and use the building for grades 9-12.

As part of this study, the scope will consider the lack of centralized parking at the school, and the pick-up/drop-off operations at the school. As such, we will complete the following tasks as part of this study:

**Existing Conditions Evaluation**

- A field inventory will be completed of the physical and operational characteristics of the affected street system. In addition to physical geometry of the intersections in the study area, we will document signage, traffic controls, pedestrian facilities, and areas of deficient sight distances along pedestrian routes and areas of school parking;
- We will consult with the Police Department to document any known safety issues along the streets and intersections surrounding the Mount Penn Primary Center;
- Hourly traffic patterns in the vicinity of the site will be quantified for the purpose of documenting existing school peak hour volumes, traffic patterns and traffic conditions through completion of Intersection Turning Movement counts taken during the typical weekday morning school peak period (7:00 AM to 9:00 AM) and the typical weekday afternoon school peak period (2:00 PM to 4:00 PM) at the intersections listed below:
  - Endlich Avenue & Perkiomen Avenue
  - Endlich Avenue & Filbert Avenue
  - Endlich Avenue & Philmay Terrace
  - Endlich Avenue & N. 25<sup>th</sup> Street

- Endlich Avenue & Carsonia Avenue
  - N. 25<sup>th</sup> Street & Perkiomen Avenue
  - N. 25<sup>th</sup> Street & Filbert Avenue
  - N. 25<sup>th</sup> Street & Philmay Terrace
  - N. 25<sup>th</sup> Street & N. 23<sup>rd</sup> Street
- 
- The student drop-off/pick-up operations will be observed to assess queuing into intersections near to the school;
  - A volume/capacity analysis will be completed for the study area intersections for the existing weekday morning school and weekday afternoon school peak hours utilizing Synchro Highway Capacity Manual software;
  - Based on the findings of the existing conditions analysis, an exhibit will be prepared to illustrate existing traffic and pedestrian patterns, identification of maximum queues, and locations for potential vehicle and pedestrian circulation improvements;

#### **Future Traffic Conditions Evaluation**

- The potential traffic generation characteristics for the proposed High School will be estimated based on trip generation data compiled by the Institute of Transportation Engineers and documented in the publication entitled Trip Generation Manual, 11<sup>th</sup> Edition, supplemented with information to be provided, where necessary, available from the School District pertaining to parent drop-off and pick-up, student traffic, faculty traffic and pedestrian traffic:
- The assignment of vehicle and pedestrian traffic for the proposed High School will be estimated and compared with current traffic to determine the net change in vehicle/pedestrian traffic compared to current conditions for grades K-3.
- Depending on the magnitude of change in vehicle and pedestrian traffic due to the building being used for the High School versus the current K-3, a second volume/capacity analysis may be completed for some or all of the study area intersections to mitigate any deficiencies identified in the existing conditions analysis;
- Based on the findings of the future conditions analysis with the High School, an exhibit may be prepared to illustrate future traffic and pedestrian patterns, identification of anticipated maximum queues, and locations for potential additional vehicle and pedestrian circulation improvements. Improvements may include measures to reduce vehicle delays, manage the arrival and dismissal of traffic, manage vehicle queuing related to pick-up/drop-off operations, and measure to ensure safe pedestrian circulation. The condition of sidewalk and crossings at intersections will be identified.

- Based on information to be provided by the School District, an estimate of the potential parking needs of the proposed High School will be quantified for students, staff and visitors. Recommendations to manage the parking needs will be identified.

**Traffic Management Plan Implementation and Refinement**

- We will work with the School District to develop a Traffic Management Plan. This may include review and adjustment of current School District policies and procedures with the focus on the new building location. Existing means of communications between parents, students and staff will be reviewed so that traffic circulation plans and policies are understood, enforcement and management of traffic circulation policies are easily understood, and the School District will have a means to communicate with the Borough and Police as policies and procedures are modified/updated to meet future needs.

It is our intent to perform this work on a lump sum basis. The fee for services will not exceed \$ 12,200.00. The cost of this study does not include time and expenses for attendance at project meetings or public hearings for the purpose of presenting the results of the study. The cost of this study also does not include time and expenses to respond to comments/issues raised by Municipal staff as part of an approval process. These services will be provided, if necessary, on a time and materials basis in accordance with the attached Standard Provisions For Professional Services.

If this arrangement is agreeable with you, please sign this proposal and return it to me. If you should have any questions, please contact me.

*Accepted for Antietam School District:*

By: \_\_\_\_\_  
(Signature of Authorization Representative)

Date: \_\_\_\_\_



**HEINRICH & KLEIN  
ASSOCIATES, INC.**

TRAFFIC ENGINEERING & PLANNING  
1134 Heinrich Lane • Ambler, Pennsylvania 19002  
215-793-4177 • FAX 215-793-4179

**STANDARD PROVISIONS FOR PROFESSIONAL SERVICES  
JANUARY 1, 2024**

PROVISIONS FOR ENGINEERING SERVICES AND EXPENSES HAVE BEEN DEVELOPED IN ACCORDANCE WITH "CHARGES FOR CONSULTING ENGINEERING SERVICES" SPECIFIED BY THE AMERICAN SOCIETY OF CIVIL ENGINEERS IN ITS STANDARD MANUAL ASCE NO. 45, 1975 REVISED EDITION.

**Services**

The following rates will apply to actual time devoted by professional and staff employees to each engagement, computed to the nearest half hour:

<u>PERSONNEL</u>	<u>HOURLY RATE</u>
PRINCIPAL	\$150.00
SENIOR PROFESSIONAL	\$70.00-\$100.00
PROFESSIONAL	\$40.00-\$70.00
SECRETARIAL	\$30.00-\$50.00
TECHNICAL STAFF/DRAFTING	\$30.00-\$45.00

Heinrich & Klein Associates, Inc. reserves the right to make adjustments for individuals within these classifications as may be desirable in its opinion by reason of promotion or demotion or change in wage rates generally. Such adjustments will not be limited to the manner in which charges are computed and billed and will not, unless so stated in writing, affect other terms of an agreement, such as total estimated project cost.



TRAFFIC PLANNING AND DESIGN, INC.

[WWW.TRAFFICPD.COM](http://WWW.TRAFFICPD.COM)

## Professional Services Agreement

Date: February 20, 2024 Client: Antietam School District

Client Address: 100 Antietam Road  
Reading, PA 19606

Client Contact: Dr. Heidi Rochlin, Superintendent

Project Name: Antietam Primary Center (201 N. 25<sup>th</sup> Street)

Municipality/County/State: Mount Penn Borough, Berks County, PA

TPD Project Manager: Bryan Proska, PE, PTOE

TPD Project No.: ASD.00001

Traffic Planning and Design, Inc. (TPD) is pleased to submit this Professional Services Agreement ("Agreement") regarding the above-referenced project (the "Project"). Included in this Agreement are sections regarding **Assumptions, Scope of Services, Schedule, Fee Estimate and Standard Terms and Conditions.**

This Agreement will be between TPD and Antietam School District ("Client").

In order for TPD to begin our services, we request that Client review this Agreement and return a signed authorization to our office. We appreciate the opportunity to be of service on this Project.

### ASSUMPTIONS

This Agreement has been prepared under the following assumptions, which reflect TPD's current understanding of the Project:

- » The scope of the study was based on the Traffic Study Scope Review Letter prepared by Bowman Consulting, dated February 16, 2024.
- » Development – The proposed development will may consist of re-populating the existing school building at 201 N. 25th Street to serve grades K-6 or serving grades 9-12. This proposal includes study of both school enrollment scenarios.
- » Access – The 201 N. 25th Street site (subject site) is be served by multiple access locations to the frontage roadways of Endlich Avenue, Filbert Avenue, and N. 25<sup>th</sup> Street. No modifications to the general access for the subject site are proposed.

- » Highway Occupancy Permit (HOP) – Since the existing building is not accessed by state-maintained roadways, an HOP will not be required for the access associated with this Project. This proposal does not include an HOP plan submission.
- » Study Year – This development does not meet PennDOT’s quantitative criteria for requiring a traffic study. Therefore, the study outlined in this proposal does not conform to PennDOT standards, but rather is intended to address the traffic concerns during the Municipal Land Development process. Since this study will not be prepared for submission to PennDOT, the future study year should represent the year in which the development will be fully built out and occupied. The future year will be confirmed with the Client prior to commencing with the study.
- » Study Times – TPD recommends that the following time periods be studied: weekday morning (school arrival) and weekday afternoon (school dismissal) peak hours.
- » Study Area – It is anticipated that the study area will consist of the site access intersections with the external roads, and all of the intersections listed in Task II.1.
- » Base (future “no-build”) Conditions – TPD will assume a background growth factor based on PennDOT statistics. In addition, TPD will include traffic due to the nearby developments based on discussions with the Borough Engineering Consultant.
- » Trip Generation – The trip generation analysis for this study will be conducted utilizing the latest version of the Trip Generation Manual from the Institute of Transportation Engineers (ITE). In the event that local data is preferred over ITE data, this will be completed on an out-of-scope basis.
- » Parking Generation – The parking generation analysis for this study will be conducted utilizing the latest version of the Parking Generation Manual from the Institute of Transportation Engineers (ITE). In the event that local data is preferred over ITE data, this will be completed on an out-of-scope basis.
- » Crash Data – TPD will request crash data from PennDOT for intersections listed in Task II.1 for the past five (5) years.
- » Crash Data Report – This proposal does not include the preparation of a Crash Data Report which analyzes and compares the calculated crash rate for roadways within the study area with the state-wide average crash rate for similar roadway types and classifications based on the crash data provided by PennDOT. If required by the municipality, this will be completed on an out-of-scope basis.
- » Bicycle and Pedestrian Checklist – This proposal does not include the preparation of a Bicycle and Pedestrian Checklist outlined in PennDOT Publication 10a, DM-1A. If required by the municipality, this will be completed on an out-of-scope basis.
- » If PennDOT or the municipality requires concept plans and/or cost estimates as a result of roadway improvements attributable to the site, these will be provided on an out-of-scope basis.
- » Submissions – This proposal covers one (1) TIS submission to the municipality. There are no provisions for response letters or subsequent submissions. TPD will correct any mathematical, analytical, or typographical errors in the study without further cost to the client. Any changes due to enlarged or changed scope, reviewer preference, or client preference will be performed on an out-of-scope basis.

- » The cost provided for the TIS is a preliminary estimate based upon TPD's experience and is subject to change pending the outcome of the scoping meeting with PennDOT. This cost is provided for budgetary purposes only and should not be viewed as a total cost or not to exceed price, unless otherwise stated.

*Note: See "Project Cost" Section.*

If you disagree with any of these assumptions, please notify us at the time you authorize the study. Otherwise, we will proceed with the study using the assumptions listed above.

### *Opinions of Probable Construction Cost*

Evaluation of Client's or owner's Project budget, and/or estimates of construction cost, if included in TPD's Scope of Services, represent TPD's judgment as a design professional familiar with the construction industry. It is recognized, however, that TPD does not have control over the cost of labor, materials, or equipment, over the contractor's methods of determining bid prices, or over competitive bidding, market, or negotiating conditions. Accordingly, TPD cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project budget proposed, established or approved by the Client or owner, if any, or from any statement of probable construction cost or other cost estimate or evaluation prepared by TPD.

### *Out of Scope or Additional Services*

Any service requested that is not described in the above Scope of Services section will be billed on an hourly basis according to the current fee schedule, plus expenses as additional services. Before proceeding with such additional services, TPD will inform the Client of the need for these additional services.

## **SCOPE OF SERVICES**

TPD's Scope of Services under this Agreement shall include the following tasks:

### *TASK I. INITIAL INVESTIGATION*

1. Obtain information from PennDOT and the municipality regarding any planned roadway improvements in the study area.
2. Obtain a copy of the PennDOT-approved traffic signal permit plan for the intersections listed in Task II.1, which are currently signalized.
3. Consult with the Central Berks Regional Police Department to obtain crash data and known safety issues along the roads and intersections surrounding the Primary Center.

### *TASK II. FIELD DATA COLLECTION*

1. Conduct vehicle and pedestrian counts for the weekday morning (6:00-9:00 A.M.) and weekday afternoon (2:00-4:00 P.M) at the following nine (9) intersections:
  - » Endlich Avenue and Perkiomen Avenue (SR 2021) – *signalized intersection.*
  - » Endlich Avenue and Filbert Avenue – *AWSC intersection.*
  - » Endlich Avenue and Philmay Terrace – *TWSC intersection.*
  - » Endlich Avenue and N. 25<sup>th</sup> Street – *AWSC intersection.*
  - » Endlich Avenue and Carsonia Avenue (SR 2023) – *TWSC intersection.*

- » N. 25<sup>th</sup> Street and Perkiomen Avenue (SR 2021) – *signalized intersection*.
  - » N. 25<sup>th</sup> Street and Filbert Avenue – *AWSC intersection*.
  - » N. 25<sup>th</sup> Street and Philmay Terrace.
  - » N. 23<sup>rd</sup> Street/Carsonia Avenue (SR 2023), Friedensburg Road (SR 2071) and Filbert Avenue – *signalized intersection*.
2. Conduct general parking/traffic/queuing observations during school arrival and dismissals at the following facilities currently utilized by the school district:
    - » MPPC at 25<sup>th</sup> & Filbert.
    - » MPEC at 2310 Cumberland.
    - » Trinity Church.
  3. Conduct a field inventory along the roads and intersections surrounding the Primary Center to document the existing transportation infrastructure conditions including sidewalk, pavement markings, signages, intersection sight distance, and traffic control.

### *TASK III. EXISTING VOLUME DEVELOPMENT & SCHOOL TRAFFIC OPERATIONS*

1. Based on the traffic data collected in Task II.1, determine the existing peak hour traffic volumes at the study area intersections.
2. Prepare an exhibit that illustrates the existing traffic and pedestrian circulation patterns including identified maximum queues.

### *TASK IV. TRIP GENERATION/DISTRIBUTION PROJECTIONS*

1. Determine the trip generation for the two identified school enrollment scenarios (serving grades K-6 and serving grades 9-12) on a daily and peak highway hours basis utilizing the Institute of Transportation Engineers Trip Generation Manual.
2. Coordinate with the School District on the breakdown of the anticipated modal split for the proposed school (walk, bus, and passenger vehicle).
3. Coordinate with the School District on identifying potential off-site parking areas for students and/or staff.
4. Using trip distribution rates developed from a gravity-model analysis distribute and assign the site-generated traffic to the driveways, off-site parking areas, and the intersections on the local road network identified in Task II.1.

### *TASK V. BASE YEAR AND PROJECTED VOLUME DEVELOPMENT*

1. Determine the projected increase in traffic at the study area intersections due to background growth, based on the methodology outlined in the Assumptions section of this proposal.
2. Based on discussions with the municipality, determine the projected increase in traffic in the study area due to developments which are not currently operating but which will be operating by the build-out year for the above-referenced Project.
3. Develop Future Base (no-build) Condition traffic volumes for the intersections listed in Task II.1.
4. Determine Future Projected (build) Condition traffic volumes for the intersections listed in Task II.1.

## TASK VI. ANALYSES

1. Conduct capacity analyses at the intersections identified in Task II.1 for Existing, Base, and Projected Conditions.
2. Compare Base Condition and Projected Condition LOS to determine the traffic impact at the study area intersections attributable to the site.
3. For roadways and intersections within the study area, determine roadway improvements necessary to mitigate the traffic impacts (if any) attributable to the site.
4. Conduct analyses to determine the need for (and, if necessary, the length of) separate turn lanes at the access intersections for Projected Conditions.
5. Conduct traffic signal warrant analyses based on peak hour and four-hour traffic volumes at any deficient unsignalized intersections for Base and Projected Conditions.
6. Provide a projection of the school vehicle stacking during the weekday dismissal time period based on available national data.
7. Identify potential circulation pattern changes to the surrounding roadways in the vicinity of the subject site to address school-related traffic concerns.
8. Redistribute traffic volumes and re-evaluate traffic impacts at key study area intersections for up to four (4) potential circulation pattern changes.
9. Determine the parking generation of the proposed development on a daily and peak highway hours bases using the Institute of Transportation Engineers Parking Generation Manual.
10. Discuss and advise on options to accommodate existing and future parking demands for the fully built-out and occupied development.
11. Discuss and advise on a pedestrian access plan for the subject site.

## TASK VII. TRAFFIC MANAGEMENT PLAN

1. In coordination with the School District, prepare a formal circulation plan that clearly shows the proposed circulation pattern for the students, parents, staff, and/or buses.
2. Prepare signage and striping plans depicting the school property as well as loading and staging areas. Signs and pavement markings will be in accordance with applicable standards. The type, size, and color of pavement markings and signs will be noted on the plans. The plan will show all signage required to enhance circulation (vehicular and pedestrian) and pedestrian safety (on and off site).
3. Prepare a school route plan to include the following:
  - a. Conduct field reconnaissance of the suggested extent of the school route plan to document the existing traffic controls, location of crossings, presence of sidewalks and other elements.
  - b. Develop suggested walking routes to/from the school and the nearby neighborhood areas.
  - c. Prepare a schematic plan depicting the above.
4. Coordinate with the School District/Borough staff/consultants to develop a Traffic Management Plan addressing the school traffic circulation plan, policies, and procedures.

#### *TASK VIII. REPORT PREPARATION*

1. Prepare schematic figures illustrating the results of Tasks I-VII.
2. Prepare a report of findings discussing the results of Tasks I-VII.
3. Submit a draft report to Client for review.
4. Schedule a conference call to discuss the results of the TIS.
5. Revise the TIS to address minor comments by the Client and submit a final version of the TIS to Mount Penn Borough for review.

#### *TASK IX. PROJECT COORDINATION*

1. TPD has allocated an initial allowance of eight (8) hours for coordination with the Project Team. Before proceeding with such services beyond the initial allowance, TPD will inform Client of the need for additional services.

#### *TASK X. MEETINGS*

1. TPD has allocated an initial allowance of twenty (20) hours for meetings/hearings which includes preparation time/travel time/attendance. Before proceeding with such services beyond the initial allowance, TPD will inform Client of the need for additional services.

### ***FEES AND EXPENSES***

#### *POLICY REGARDING FEE ESTIMATES*

As a general policy, TPD will not provide a not-to-exceed ("NTE") price regarding the estimated fee for project approvals, because the scope of services may change or increase based on changes by the project team, or based on reviewer preference. Also, the complexity of the Project may not be fully apparent at the outset when the Agreement is prepared. In the same way, the degree to which the reviewing agencies, the municipality, and local stakeholders will facilitate the Project, or fight it, has a definite impact on the Project cost. If the Client requests TPD to prepare a budgetary estimate of the necessary transportation engineering fees for a project, then any such budgetary estimate provided by TPD shall be based upon past experiences with similar projects, and shall, by no means whatsoever, be interpreted as a firm fee quotation for the subject Project.

#### *PROFESSIONAL SERVICES*

The flat fee for TPD's performance of the tasks listed in the Scope of Services is **\$65,000.00**.

#### *FEE ADJUSTMENTS*

If, through no fault of TPD the orderly and continuous progress of TPD's services is impaired, or TPD's services are delayed or suspended, then the time for completion of TPD's services, and the rates and amounts of TPD's compensation, shall be adjusted equitably.

If Client authorizes changes in the Scope of Services, extent, or character of the Project or TPD's services, then the time for completion of TPD's services, and the rates and amounts of TPD's compensation, shall be adjusted equitably.

## *EXPENSES*

Expenses such as copies, prints, postage, mileage, next-day mail, and hand-delivery of materials are included in the estimated fee for professional services, and will be billed in addition to professional services. In some cases, specialized equipment may be needed and will be charged to the Project.

Based on applicability, TPD employs various methods of Data Collection and TPD reserves the right to substitute ATC (automated traffic counter) charges for man hour labor where a benefit to the Project can be realized.

## *MEETINGS*

The costs for attending meetings are not included in the fee estimate for professional services, unless such meetings are specifically included in the Scope of Services. All meetings not specifically covered in the Scope of Services will be attended at Client's request (or at Client's attorney's request) and will be billed hourly using TPD's applicable fee schedule at the time of the meeting.

Hours associated with evening or weekend meetings may be billed at a higher rate; billing rates and meeting-adjusted billing rates can be provided for specific TPD personnel upon client's request.

## *SPECIAL COST PROVISION*

If, as part of any legal proceeding associated with this Project, any TPD employee is subpoenaed for deposition or testimony purposes, Client will be billed at TPD's hourly rate (in effect at the time of deposition) for those services plus any related expenses.

## *DATA COLLECTION*

### *TRAFFIC COUNTS*

If it is necessary to conduct traffic counts from during school summer break, during a school in-service day, a minor holiday, inclement weather, etc., it may be necessary to conduct supplemental counts later to confirm that those counts are accurate and reflect average conditions. If it is found that the counts do not accurately represent average conditions, it may be necessary to adjust the entire study to reflect average conditions. Any work that is required to adjust the study as a result of such traffic counts being conducted, will be billed as described in the "Out of Scope Work" section of this proposal.

*{Continue to next Page for TPD's Terms and Conditions}*

## Terms and Conditions

### 1. *Payment Terms*

- a. *Invoices:* TPD shall prepare and submit invoices to the Client on a regular basis. Invoices are due and payable within 30 calendar days of receipt of invoice. If Client fails to make full payment on any amount due to TPD within 30 calendar days after receipt of TPD's invoice, then (1) the amounts due to TPD will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less), and (2) TPD can suspend, or terminate at TPD's discretion, all services under this Agreement until TPD has been paid in full for all amounts due. If services are suspended, TPD shall not be obligated to resume services under the Agreement. TPD may resume services after a mutually agreed upon payment and project schedule is established. Client waives any and all claims against TPD for any such suspension. Client agrees to reimburse TPD for all costs and expenses incurred in connection with the collection of invoices due here under, including reasonable attorney's fees.
- b. If, through no fault of TPD the orderly and continuous progress of TPD's services is impaired, or TPD's services are delayed or suspended, then the time for completion of TPD's services, and the rates and amounts of TPD's compensation, shall be adjusted equitably.
- c. If Client authorizes changes in the Scope of Services, extent, or character of the Project or TPD's services, then the time for completion of TPD's services, and the rates and amounts of TPD's compensation, shall be adjusted equitably.

### 2. *Instruments of Service*

- a. Drawings, specifications and other documents prepared by TPD and TPD's consultants are Instruments of Service for use solely with respect to this Project. This includes documents in electronic form. TPD and TPD's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights whether or not the project is completed.
- b. TPD grants Client a non-exclusive license to use the Instruments of Service solely and exclusively for the purpose of constructing, using, maintaining, altering and adding to the Project, provided that the Client substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. Client may make and retain copies of documents for information and reference in connection with use on the project by Client. The non-exclusive license does not come into existence until payment is made and any license that has come into existence is automatically terminated upon TPD's suspension of services under Paragraph 1 a. for Client's failure to make any payment due under this Agreement.
- c. Instruments of Service are not intended or represented to be suitable for reuse by Client or others on extensions of the specific project for which they were prepared or on any other project. Any such reuse or modification without written verification or adaptation by TPD, as appropriate for the specific purpose intended, will be at Client's sole risk and without liability or legal exposure to TPD or to TPD's Consultants. Client shall defend, indemnify and hold harmless TPD and TPD's Consultants from all claims, damages, losses, economic damages and expenses, including attorneys' fees arising out of or resulting from such reuse or modification.

### 3. *Standard of Care*

The standard of care for all professional engineering and related services performed or furnished by TPD under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. TPD makes no warranties or guarantees, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished, or in any report, opinion, document, by TPD.

#### 4. *Limitation of Liability*

- a. To the fullest extent permitted by law, the total liability in the aggregate, of TPD and TPD's officers, directors, employees, agents, and independent professional associates, and any of them, to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to TPD's services, the project, or this Agreement, from any cause or causes whatsoever, including but not limited to, any negligence, errors, omissions, strict liability, breach of this Agreement, misrepresentation, or breach of warranty of TPD or TPD's officers, directors, employees, agents or independent professional associates, or any of them, shall not exceed the total compensation received by TPD under this Agreement or \$50,000 whichever is greater.
- b. Client and TPD waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Project or Agreement.
- c. TPD may rely upon the accuracy and completeness of, and shall not be responsible for, any acts or omissions in any data, design elements and information supplied by Client, or by any contractor, subcontractor, supplier, agent or employee or any other person acting on behalf of Client.

#### 5. *Termination*

- A. The obligation to continue performance under this Agreement may be terminated:
  1. For cause,
    - a. By either party upon five (5) calendar days' notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.
    - b. By TPD immediately:
      - i. if Client demands that TPD furnish or perform services contrary to TPD's responsibilities as a licensed professional; or
      - ii. if TPD's ability to provide services are delayed for more than 60 calendar days for reasons beyond TPD's control.
      - iii. if Client fails to pay TPD for its services in accordance with payment terms under Paragraph 1.
    - c. TPD shall have no liability to Client on account of a termination for cause by TPD.
    - d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 5.A.1.a if the party receiving such notice begins, within five (5) calendar days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 calendar days of receipt of notice.
  2. For convenience, by Client, effective five (5) calendar days after TPD's receipt of notice from Client.
- B. In the event of any termination under Paragraph 5, Client shall pay TPD for all services performed or furnished and all expenses incurred up through and including the termination date.

#### 6. *Successors and Beneficiaries*

- a. TPD and Client each is hereby bound and the successors, executors, administrators, and legal representatives of TPD and Client are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

- b. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Client or TPD to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the Client named in TPD's Professional Services Agreement and TPD and not for the benefit of any other party.

## 7. *Dispute Resolution*

Disputes shall be initiated by written notice. Prior to the initiation of any legal proceedings, Client and TPD agree to negotiate a resolution to each dispute between them in good faith during the 30 calendar days after receiving written notice of the dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. A written request for mediation may be made by either party. The receiving party shall respond within ten (10) business days, and the initial mediation session shall be held within thirty (30) business days of the request. The parties shall share equally the costs and expenses of the mediation, except that each party shall bear the cost of its own legal representation. If mediation is unsuccessful, then the parties may exercise their rights at law. Either party may proceed in accordance with applicable law to meet filing deadlines, but any litigation shall be stayed for a reasonable period to negotiate and mediate the dispute as set forth in this paragraph.

## 8. *General Conditions*

- a. TPD shall complete its services in accordance with the schedule identified in the Professional Services Agreement or if no time period is specified, within a reasonable period of time.
- b. TPD shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall TPD have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work. TPD shall not be responsible for the acts or omissions of any contractor. TPD neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work.
- c. TPD's opinions (if any) of probable construction cost are to be made on the basis of TPD's experience, qualifications, and general familiarity with the construction industry. However, because TPD has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, TPD cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by TPD. If Client requires greater assurance as to probable construction cost, then Client agrees to obtain an independent cost estimate.
- d. If any term or provision of this Agreement shall be held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement.
- e. Titles/Headings used in this Agreement are for convenience only and shall not be deemed to affect the meaning or construction of any of the terms, provisions, covenants, or conditions of this Agreement.
- f. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- g. Neither party will be in default of any provision of this Agreement for delays and performances resulting from strikes, riots, lock-outs, acts of God, or civil or military authority, fire, flood, tornadoes, epidemics, or other disasters, or events or acts beyond the reasonable control and without negligence of the party. Time to perform is extended by the time of delay.
- h. This Agreement is to be governed by the law of the state in which the Project is located.

## 9. *Total Agreement*

- a. This Agreement (together with any expressly incorporated attachments), constitutes the entire agreement between TPD and Client and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, or modified by a duly executed written instrument by both parties.
- b. This Agreement may be executed by way of original, facsimile, PDF or electronic signature and transmitted electronically. The Agreement may be executed in counterpart, each of which shall be deemed an original, but all counterparts together shall constitute one and the same Agreement.

*{Continue to next page for Authorization Page}*

## AUTHORIZATION PAGE

### Use of Agreement

Client agrees that the Scope of Services and related provisions in this Agreement represent a valuable and unique work product developed by TPD specifically for this Project. As such, it may not be used or disclosed by Client for any purpose without TPD's express consent in writing unless required to be released as part of a Freedom of Information Act request. This specifically precludes Client from utilizing the enclosed Scope of Services for the purpose of soliciting competitive bids from other companies, unless TPD has been compensated for our services in developing the Scope of Services and related provisions.

### Client Acceptance

TPD's offer of services under this Agreement shall remain valid for thirty (30) calendar days from the date of this Agreement. Acceptance of the Agreement after the end of the thirty (30) day period shall be valid only if TPD elects, in writing, to reaffirm the Agreement, and waives its right to re-evaluate and resubmit the Agreement. In order for TPD to begin our services, we request that Client review this Agreement and return the signed authorization to our office.

Prepared by:

Traffic Planning and Design, Inc. (TPD)

  
Bryan Proska, PE, PTOE  
Senior Project Manager

Approved by:

Traffic Planning and Design, Inc. (TPD)

  
Eric Ostimchuk, PE, PTOE  
Vice President – Transportation Planning

### Client Authorization (TPD Job No. ASD.00001 - Antietam Primary Center)

Client authorizes TPD to proceed with the services as described within this Agreement:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name (Please Print): \_\_\_\_\_

Title: \_\_\_\_\_ Firm: \_\_\_\_\_

E-mail Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Billing Contact: \_\_\_\_\_ Billing Email: \_\_\_\_\_

Billing Address\*: \_\_\_\_\_

City, State, Zip\*: \_\_\_\_\_

*\* (If different than first page)*

*Please retain one copy for your file and forward an executed copy to TPD.*

Headquarters for Traffic Planning and Design, Inc. (TPD)  
2500 East High Street, Suite 650  
Pottstown, PA 19464  
Phone 610.326.3100  
www.trafficpd.com