

MEMORANDUM OF AGREEMENT

among

UNITED STATES ARMY CORPS OF ENGINEERS, Baltimore District,

2 Hopkins Plaza

Baltimore, Maryland 21201

and

UNITED STATES ARMY CORPS OF ENGINEERS, Philadelphia District,

1650 Arch Street

Philadelphia, Pennsylvania 19103-2004

and

UNITED STATES ARMY CORPS OF ENGINEERS, Pittsburgh District,

1000 Liberty Avenue

Pittsburgh, Pennsylvania 15222-4186

and

PENNSYLVANIA TURNPIKE COMMISSION

700 South Eisenhower Blvd.

Middletown, Pennsylvania 17057

WHEREAS, this Memorandum is entered into this 24th day of July 2024, by and between the Department of the Army, United States Army Corps of Engineers (“Corps”), and the Pennsylvania Turnpike Commission (“COMMISSION”).

WITNESSETH, THAT:

WHEREAS, pursuant to Section 214 of the Water Resources Development Act (WRDA) 2000, as amended (33 U.S.C. § 2352) the Secretary of the Army, after public notice, may accept and expend funds contributed by a non-federal public entity to expedite the evaluation of permit applications of that entity related to a project or activity for a public purpose under the jurisdiction of the Army; and,

WHEREAS, the Corps currently reviews COMMISSION projects pursuant to Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, and all applicable regulations to assure that the planning and design of these projects is environmentally acceptable by law; and,

WHEREAS, COMMISSION is a non-federal public entity that was created by the Commonwealth of Pennsylvania to act as an instrumentality of the Commonwealth by 36 P.S. § 652d.; and

WHEREAS, COMMISSION desires advance coordination with the Corps on transportation related projects during the planning, programming, and preliminary-engineering phases of transportation projects leading to an expedited Corps review of permit application as part of the lead district initiative pursuant to Section 214 of WRDA 2000, as amended (33 U.S.C. § 2352); and,

WHEREAS, COMMISSION desires statewide consistency and predictability of transportation related project permit applications and expedited Corps review of these permit applications in accordance with the Corps’ lead district initiative; and

WHEREAS, all parties have determined that it would be mutually beneficial to have expedited review of COMMISSION permit applications by Corps staff in Baltimore, Philadelphia, and Pittsburgh Districts to provide COMMISSION with the “advance coordination” and/or “statewide consistency and predictability of transportation related project permit applications and expedited Corps review of these permit applications” previously stated, and thereby allow the transportation program to be planned, designed, and implemented promptly, to meet the changing transportation and environmental quality needs of the COMMISSION, in a manner that meets all obligations of the law, avoids and minimizes impacts to aquatic resources, and exhibits sensitivity to and the public interest; and,

WHEREAS, COMMISSION is willing to provide funds in advance to the Corps for expedited Corps review by Corps staff required to provide such advance coordination, while ensuring statewide consistency and predictability of transportation related project permit applications and expedited Corps review of these permit applications; and,

WHEREAS, the COMMISSION will not utilize federal funding to fulfill its obligations under this Agreement; and,

WHEREAS, the Corps has determined that (1) it is authorized pursuant to Section 214 of WRDA 2000, as amended (33 U.S.C. § 2352) to accept and expend funds contributed by a non-federal public entity to expedite the evaluation of a permit of that entity, related to a project or activity for a public purpose under the jurisdiction of the Department of the Army, and (2) the service provides a prioritized level of review attention to such transportation programs; and,

WHEREAS, the Corps will ensure that use of such funds will not impact impartial decision-making with respect to application review and any final permit decision, either substantively or procedurally; and,

WHEREAS, the parties hereto desire to enter into this Agreement to facilitate the expedited review of the COMMISSION transportation program and provide for the personnel and funds to obtain this goal.

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

#### **Article I. Statement of Work**

A. The Corps shall be responsible for providing the following: Sufficient staff to expedite review of COMMISSION permit applications in the Baltimore District, the Philadelphia District and the Pittsburgh District. Staffing shall generally include an assigned project manager in each Corps District and the following: one half time equivalent (FTE) Liaison at the Baltimore District; one half-time FTE project manager at the Philadelphia District; and one half-time FTE project manager at the Pittsburgh District. Corps Districts may dedicate additional staff to COMMISSION permit application review as workload dictates and funding allows. The COMMISSION acknowledges that the assigned Corps staff will not be dedicated solely to COMMISSION work. The Parties agree that the lead district under this agreement shall be the Baltimore District.

B. The Corps will, subject to the continued authority to accept such funds, use the funds provided under this Agreement to defray its costs associated with expedited services; said funds may be used by the Corps for salaries, training as approved by COMMISSION, associated benefits, and to pay reasonable travel expenses in accordance with the Joint Travel Regulations, 41 C.F.R. Chapter 301, which is hereby incorporated by reference as if physically attached hereto.

C. Corps staff shall provide expedited document review, technical assistance, consultation, and program and project coordination.

D. The Corps shall strive to attend COMMISSION meetings, and review permit applications within the established timeframes and performance measures listed in Attachment B as Performance Metrics. When competing priorities among PTC applications exist, COMMISSION will establish the ranking of priorities. It is recognized that multiple, overlapping requirements will occur; in such event, COMMISSION and the Corps will mutually determine priorities based on negotiated timeframes and performance measures.

E. The Corps- shall assign a Liaison in the Baltimore District to act as the primary point of contact (POC) through which COMMISSION communicates with the Corps and who acts on behalf of the lead district to facilitate interaction between the Corps and COMMISSION by referring and coordinating COMMISSION's issues/questions/concerns about Corps procedures, specific projects, etc. with the appropriate Corps personnel. The Corps' designated lead district Baltimore District, through the Liaison, will be responsible for the development and implementation of programmatic recommendations and documentation as per the November 22, 2004 Memorandum for Commanders, Major Subordinate Commands and District Commands, Signed by Major General USA, Don L. Riley, Director of Civil Works, Subject: Lead District Initiative. Each Corps District will continue to develop permit decisions according to the appropriate regulations, the Clean Water Act (CWA), National Environmental Policy Act (NEPA), and applicable Corps regulations, and the lead District guidance. Lead District guidance will be disseminated as necessary.

F. The Corps will provide COMMISSION with a quarterly statement that details the cost of the expedited services. To support the documentation of those efforts, Corps regulatory personnel assigned to COMMISSION-funded projects shall keep daily time and other necessary records to identify the number of hours spent, or other costs incurred, working on COMMISSION programs. Timesheets will be provided to the COMMISSION monthly within ten (10) working days after the end of the previous month and shall detail monthly project review activity pursuant to this agreement. Attachment A provides general recommendations for potential tasks that are suitable for billing and is not a worksheet for required billing. The total number of hours or other services or costs billable during each year of this Agreement shall not exceed the funding set aside at Article II.A of this Agreement or the maximum available funds. In addition, the Corps shall keep accurate and separate accounting records of all funds received and disbursed pursuant to this Agreement and produce such records for examination as required by COMMISSION and will permit extracts and copies to be made by COMMISSION, or its duly authorized representatives. The Corps shall keep records substantiating hours and costs billed pursuant to this agreement for a period of at least seven (7) years after the final billing is submitted.

G. The Corps Regulatory Branch/Division Chiefs and COMMISSION's Assistant Chief Engineer - Design or his/her duly appointed representative will meet annually or more

often if needed, to review the implementation of the provisions of this Memorandum, assist in the development and subsequent assessment of Agency Performance Review Standards and participate in a performance evaluation of this agreement. Additionally, the Corps will complete, and submit to COMMISSION an Annual Summary Report highlighting the accomplishments of the program positions.

H. COMMISSION and the Corps shall conduct business according to the established timeframes and performance measures, whereby statewide standardization among the three Corps districts is demonstrated and implemented. The Lead District Baltimore District shall be responsible for coordinating these timeframes and performance measures and shall coordinate revisions and updates with each Corps District and COMMISSION. Attachment C contains the list of Army Corps of Engineers Standard Operating Procedures.

I. The parties to this Agreement act in an independent capacity in the performance of their respective functions under this Agreement; and neither party shall be construed as the officer, agent, or employee of the other.

J. In no way shall it be construed or implied that either COMMISSION or the Corps is by this Agreement intending to abrogate its obligation and duty to comply with Sections 9, 10, 11, 13, 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. §§ 401, 403, 404, 407, 408), Section 301 and 404 of the Clean Water Act of 1977 (as amended) (33 U.S.C. §§ 1311, 1344), or the NEPA (42 U.S.C. §§ 4331-4347), the regulations promulgated thereunder, or any other applicable law or regulation.

## **Article II. Financial Administration**

Subject to the billing provisions of Paragraph II.B. below, and for a period of up to five (5) years (extending through September 30, 2028) COMMISSION shall pay the Corps in the amounts shown below which reflect a maximum total amount of \$548,662.96 per year:

A. The billing period shall be October 1 through September 30.

- a. January 1, 2024 through September 30, 2024 - \$411,497.22
- b. October 1, 2024 through September 30, 2025 - \$548,662.96
- c. October 1, 2025 through September 30, 2026 - \$548,662.96
- d. October 1, 2026 through September 30, 2027 - \$548,662.96
- e. October 1, 2027 through September 30, 2028 - \$548,662.96

B. If the cost for services under this agreement increases beyond the amounts set forth in Paragraph II-A above, causing the overall Agreement cost to increase, the parties must execute a letter of amendment. A letter of amendment is not effective until duly authorized representative of COMMISSION (including representatives of its Office of Chief Counsel and the Office of Comptroller) and of the Corps District Commanders or their delegates, sign, and date the letter of amendment.

C. COMMISSION shall advance funding for the anticipated costs of all expedited assistance provided under this agreement.

D. Upon implementation of this agreement, the Baltimore District shall submit an invoice for the estimated services through September 30, 2024. COMMISSION will strive to provide payment within 30 days of receipt of the invoice.

E. On or before October 1 of each year through the expiration or termination of this agreement, the Baltimore District shall provide an invoice for estimated services through June 30 of the following Calendar year. COMMISSION will strive to provide payment within 30 days.

F. All checks to the Corps shall be made payable to "F&AO, USAED Baltimore (Finance and Accounting Office, U.S. Army Engineer District Baltimore)" and shall be sent to the following address:

U.S. Army Corps of Engineers, Baltimore District  
Attn: Mr. Christopher Higgins  
Operations Division  
2 Hopkins Plaza, 2<sup>nd</sup> Floor  
Baltimore, MD 21201

G. The Corps must submit a unique invoice number with each invoice submitted.

H. It is the responsibility of the Corps to ensure that the Corps information contained in the invoice is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

I. The Corps shall draw upon these monies as needed throughout the year to fund the activities performed for COMMISSION under this Agreement and reflected in quarterly statements provided to COMMISSION.

J. The Baltimore District shall receive all funds associated with the expedited processing and programmatic development under this Agreement. Funds will be dispersed to each of the Corps Districts as appropriate (as determined by workload assessments) via provided Corps billable cost codes. The Baltimore District shall be responsible for the maintenance and balancing of all expenses billable to COMMISSION provided funding.

K. The Corps shall utilize funds issued by COMMISSION to cover all Baltimore District, Philadelphia District, and Pittsburgh District expenses for the Corps staff working under the Agreement to defray the costs of salaries and associated benefits, and training approved by COMMISSION, and to reimburse reasonable travel expenses in accordance with the Federal Travel Regulations, 41 CFR Chapter 301, which is hereby incorporated by reference as if physically attached hereto. Established Corps accounting procedures will be used for recording costs.

L. The Corps may continue to utilize all deposited funds until exhausted to fund performance for the period after the end of the federal fiscal year and prior to receiving the next annual cycle of funding from COMMISSION. Unused funds from each prior federal fiscal year may be retained and used by the Corps until exhausted; however, the Corps shall show all such amounts as a debit on the following annual invoice submitted to the COMMISSION. All unused funds from the final federal fiscal year that this Agreement is in place shall be refunded to the COMMISSION within 90 days after the expiration of this Agreement. If a refund of unused funding is required, it shall be returned to COMMISSION by check payable to "The Pennsylvania Turnpike Commission" within 90 days of receipt of the next annual funding cycle of funding, along with the reconciliation report and sent to the following:

Pennsylvania Turnpike Commission  
Attn: Assistant Chief Engineer - Design  
700 Eisenhower Blvd.  
Middletown, Pennsylvania 17057

### **Article III. Period of Performance**

A. This Agreement shall be in effect for an initial period of five (5) years from the Effective Date above unless terminated in accordance with Paragraph B below. The Parties have an opportunity to exercise a second five (5) year term, which may be exercised by letter agreement, executed by the same Parties, including the Comptroller, prior to termination of the initial term in accordance with the requirements of Article VI below related to Modification. Should the parties exercise this option, the terms of this agreement shall be reviewed by each parties' Office of Counsel prior to execution of the option. The updated MOA shall be provided to USACE Regulatory HQ and posted on the Regulatory HQ 214/Transportation public website.

B. If either party wishes to terminate this Agreement because of deficient performance, the party wishing to terminate shall provide written notice to the other party, detailing the reasons for this request. The parties shall allow a ninety (90) calendar day cure period during which the performing party may remedy the deficiencies identified in the written notice. During the cure period, the party wishing to terminate shall provide a monthly progress evaluation to the other party. If the party wishing to terminate determines that satisfactory progress has not been made at the end of the cure period and wishes to continue to pursue the termination of this Agreement, that party shall provide written notice to the other party, addressed to the Program Officer listed in Article IV, indicating

the intent to terminate this Agreement thirty (30) calendar days from the date of the written notice, unless both parties agree to an alternate date. If either party wishes to terminate this Agreement for any reason other than deficient performance, the party wishing to terminate shall provide written notice to the other party, indicating the intent to terminate the Agreement ninety (90) calendar days from the date of the written notice, unless both parties agree to an alternate date.

C. Within thirty (30) calendar days of terminating the Agreement, the Corps shall provide COMMISSION with a final accounting of the actual cost incurred in that billing period. The Baltimore District shall return to COMMISSION any funds advanced in excess of the actual costs as then known, or COMMISSION shall provide any additional funds necessary to cover the actual costs as then known. Such an accounting shall in no way limit COMMISSION's duty in accordance with Article III to pay for any costs which may become known after the final accounting.

#### **Article IV. Program Officers**

A. For U.S. Army Corps of Engineers, Baltimore District (Lead District):

Chief, Regulatory Branch  
U.S. Army Corps of Engineers, Baltimore District  
2 Hopkins Plaza  
Baltimore, MD 21201  
Phone: (410) 962-3670  
Fax: (410) 962-6024

B. For Pennsylvania Turnpike Commission:

Assistant Chief Engineer – Design

#### **Physical Address:**

Pennsylvania Turnpike Commission  
700 South Eisenhower Blvd.  
Middletown, Pennsylvania 17057

#### **Mailing Address:**

PO Box 67676  
Harrisburg, PA 17106-7676  
Phone: (717) 831-7213

#### **Article V. Required Clauses**

A. During the performance of this Agreement, the parties agree to abide by the terms of Executive Order 11246 as amended on nondiscrimination and will not discriminate



against any person because of race, color, religion, sex, national origin, handicap, age, sexual orientation, or gender identity. The participants will ensure that applicants are employed without regard to their race, color, religion, sex, national origin, handicap, age, sexual orientation, or gender identity.

B. No member of, or delegate to, Congress, or resident Commissioner, shall be admitted to any share or part of this Agreement of any benefit that may arise therefrom.

C. The parties agree that any hiring pursuant to this Agreement shall, at all times, conform to the applicable federal and state laws, rules, regulations, orders and approvals, including, specifically, procedures and requirements relating to labor standards, equal employment opportunity, nondiscrimination, compliance with the Americans with Disabilities Act, anti-solicitation, information, auditing, and reporting provisions.

#### **Article VI. Modification**

All amendments, changes, corrections, or additions to this MOA shall be in the form of a letter describing the amendment(s), change(s), correction(s) or addition(s) with signature lines on which each party's authorized representative or representatives will sign. Other than the authorized representatives of each party, such other required signatories for the parties shall sign this letter, which in the case of COMMISSION shall include its Office of Chief Counsel and the Office of Comptroller Operations. Modifications to this Agreement shall be mutually agreed upon by the Corps and the COMMISSION prior to implementation and shall occur only when the Program Officers determine such changes are necessary. Modifications shall become effective after Corps Office of Counsel review, providing the modified MOA to Regulatory HQ, and written approval by the authorized representatives of each party.

#### **Article VII. Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

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

**BALTIMORE DISTRICT CORPS**

**UNITED STATES ARMY CORPS OF ENGINEERS**

ATTEST

Wade B. Chubb 30 May 2024  
Title: Regulatory Branch Chief DATE

BY [Signature] 20 May 2024  
Title: District Commander DATE

**PHILADELPHIA DISTRICT CORPS**

**UNITED STATES ARMY CORPS OF ENGINEERS**

ATTEST

\_\_\_\_\_  
Title: Regulatory Branch Chief DATE

BY \_\_\_\_\_  
Title: District Commander DATE

**PITTSBURGH DISTRICT CORPS**

**UNITED STATES ARMY CORPS OF ENGINEERS**

ATTEST

\_\_\_\_\_  
Title: Regulatory Division Chief DATE

BY \_\_\_\_\_  
Title: District Commander DATE

DO NOT WRITE BELOW THIS LINE—FOR COMMISSON USE ONLY

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

**BALTIMORE DISTRICT CORPS**

**UNITED STATES ARMY CORPS OF ENGINEERS**

ATTEST

\_\_\_\_\_  
Title: Regulatory Branch Chief      DATE      BY \_\_\_\_\_  
Title: District Commander      DATE

**PHILADELPHIA DISTRICT CORPS**

**UNITED STATES ARMY CORPS OF ENGINEERS**

ATTEST

\_\_\_\_\_  
Title: Regulatory Branch Chief      DATE      BY \_\_\_\_\_  
Title: District Commander      DATE

**PITTSBURGH DISTRICT CORPS**

**UNITED STATES ARMY CORPS OF ENGINEERS**

ATTEST

 5/8/24      BY  5/16/24  
Title: Regulatory Division Chief      DATE      Title: District Commander      DATE

DO NOT WRITE BELOW THIS LINE—FOR COMMISSON USE ONLY

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

**BALTIMORE DISTRICT CORPS**

**UNITED STATES ARMY CORPS OF ENGINEERS**

ATTEST

\_\_\_\_\_  
Title: Regulatory Branch Chief      DATE

BY \_\_\_\_\_  
Title: District Commander      DATE

**PHILADELPHIA DISTRICT CORPS**

**UNITED STATES ARMY CORPS OF ENGINEERS**

ATTEST

**Todd A. Schaible**      Digitally signed by Todd A. Schaible      08 May 2024  
Date: 2024.05.08 09:58:29 -04'00'

**BEEMAN.JEFFREY.M.10340 EY.M.103409304**      Digitally signed by BEEMAN.JEFFREY.M.10340      09 May 2024  
Date: 2024.05.09 06:58:06 -04'00'

\_\_\_\_\_  
Title: Regulatory Branch Chief      DATE

BY 7 \_\_\_\_\_  
Title: District Commander      DATE

**PITTSBURGH DISTRICT CORPS**

**UNITED STATES ARMY CORPS OF ENGINEERS**

ATTEST

\_\_\_\_\_  
Title: Regulatory Division Chief      DATE

BY \_\_\_\_\_  
Title: District Commander      DATE

DO NOT WRITE BELOW THIS LINE—FOR COMMISSON USE ONLY



## ATTACHMENT A

### CORPS ROLES & RESPONSIBILITIES

The Corps Liaison shall strive to accomplish the following common tasks for COMMISSION, as appropriate, in order to enhance, expedite, implement, and coordinate the transportation program development process and meet the COMMISSION's needs for compliance with applicable federal statutes:

- Facilitate the interaction of the Corps and the COMMISSION,
- Provide an intermediary to the Corps and the COMMISSION,
- Serve as the single Point of Contact (POC) between the Corps and the COMMISSION, as appropriate,
- Participate in the planning and programming phase of a transportation related project,
- Oversee inter- and intra-agency programs and agreements,
- Participate in the development and implementation of written COMMISSION and Corps programmatic recommendations,
- Manage and facilitate the Section 404, Section 10 and Section 103 permitting processes,
- Provide a medium for conflict/dispute resolution to resolve problems at the request of the Corps, other agencies, or the COMMISSION,
- Attend inter- and intra-agency meetings as appropriate,
- Represent the Corps at meetings (team meetings, and task forces) with the authority to make routine programmatic decisions,
- Perform other duties as requested by the COMMISSION and agreed to by the Corps,
- Coordinate and provide training, as necessary, on natural and aquatic resource issues,
- Coordinate the completion of Annual Summary Reports
- Participate in transportation project development process-related training agreed to in advance by both parties and,

- Submit monthly timesheet, documenting the work performed on each project.

## PROGRAM GOALS

The Corps Districts, when funded under this Agreement shall strive to accomplish the following common tasks for COMMISSION, as appropriate, in order to expedite, implement, and coordinate the transportation project development process and meet the COMMISSION's needs for compliance with applicable state and federal statutes:

- Render a decision on greater than 80% of Corps Regional General Permit (PASPGP) and Nationwide Permit verifications within 60 calendar days of the Corps' determination of completeness,
- Render a decision on greater than 50% of individual permit reviews within 120 days of a complete application.
- Render a decision on greater than 80% of permit modification requests within 60 days of receipt of a complete request.
- Participate in the planning and programming phase of a transportation-related project,
- Review transportation plans and programs,
- Participate in Agency scoping processes,
- Provide preliminary environmental analysis recommendation and review,
- Provide preliminary and detailed alternatives analyses recommendation and review,
- Represent the Corps at meetings (including public hearings, public meetings, team meetings, task forces, and the Interagency Review Team),
- Participate in the development and implementation of written COMMISSION and Corps programmatic recommendations,
- Ensure internal Corps coordination, as needed, on document and permit application reviews,
- Attend inter- and intra-agency meetings as appropriate,
- Organize and/or facilitate meetings or conference calls to resolve problems at the request of the Corps, other agencies, or COMMISSION and,
- Perform other duties within statutory authority as requested by COMMISSION and agreed to by the Corps,

The Corps project manager shall strive to accomplish the following specific tasks for COMMISSION, as appropriate, in order to expedite, implement, and coordinate the transportation project development process and meet the COMMISSION's needs for compliance with applicable state and federal statutes:

- Participate in meetings and site visits on Purpose and Need documentation and development of mitigation bank sites.
- Participate in impact assessment activities/field work
- Verify wetland delineations and assist with functional assessments
- Participate in site visits to identify/refine alternatives
- Participate in field reviews of potential mitigation sites and constructed mitigation
- Conduct compliance inspections at construction sites before, during, and after construction as directed by Corps District policy
- Conduct regular inspections of COMMISSION mitigation sites
- Conduct coordination with resource agencies and environmental groups to resolve objections to proposed permit issuance
- Conduct document reviews and prepare agency comments for (not inclusive):
  - Wetland delineation reports
  - Wetland functional analysis reports
  - Habitat evaluation reports, including biological assessments
  - Purpose and Need
  - Preliminary Alternates
  - Alternates Retained for Detailed Study
  - Preferred Alternative and Conceptual Mitigation
  - Environmental Assessments (draft and final)
  - Environmental Impact Statements (draft and final)
  - Environmental Impact Statement comment resolution packages



- Categorical Exclusions
- Findings of No Significant Impact
- Records of Decisions
- Mitigation site reports and plans, including mitigation banks
- Mitigation Bank Instrument Modifications
- Environmental Evaluation/Reevaluation Reports
- Section 404/Section 10 Permit Applications in Streamlined Process
- Policies and Procedures
- Coordinate and provide training, as necessary, on natural and aquatic resource issues
- Prepare Corps permit decision documents
- Assist in completing Annual Summary Reports, and
- Submit monthly timesheets documenting the work performed on each project.

## ATTACHMENT B

### METRICS

<b>Metric ID</b>	001
<b>Definition</b>	This metric will help to evaluate the level of involvement our funded positions have with COMMISSION projects. The goal is to have the funded positions attend the necessary COMMISSION Meetings, Interagency Meetings, Field Views, and pre-application meetings when provided ample notice and when appropriate. Reasons for not attending will need to be furnished to the appropriate District.
<b>Suggested Thresholds</b>	<ul style="list-style-type: none"> <li>• <b>Unsatisfactory:</b> &lt; 80%</li> <li>• <b>Satisfactory:</b> ≥ 80% and &lt; 90%</li> <li>• <b>Exceed:</b> ≥ 90%</li> </ul>
<b>Business Owner</b>	USACE
<b>Selection Criteria</b>	All COMMISSION meetings that the funded positions are asked to attend.
<b>Formula</b>	(The number of meetings attended / the total number of invitations) x 100
<b>Component list</b>	n/a
<b>Metric Source Summary</b>	USACE funded positions.

<b>Metric ID</b>	002
<b>Definition</b>	This metric will measure the percentage of decisions on Corps General Permits, including Nationwide Permits and Pennsylvania State Programmatic General Permit Reporting Activity verifications. The goal is to have greater than 80% of decisions within 60 calendar days of administratively complete application determination.
<b>Suggested Thresholds</b>	<ul style="list-style-type: none"> <li>• <b>Unsatisfactory:</b> ≤ 80%</li> <li>• <b>Satisfactory:</b> &gt; 80% and &lt; 90%</li> <li>• <b>Exceed:</b> ≥ 90%</li> </ul>
<b>Business Owner</b>	USACE
<b>Selection Criteria</b>	All COMMISSION PASPGP Reporting Activity authorizations and Nationwide Permit verifications submitted to USACE.
<b>Formula</b>	(Total number of applications / number of administratively complete within timeframe) x 100.
<b>Component list</b>	n/a
<b>Metric Source Summary</b>	USACE Tracking System
<b>Metric ID</b>	003

<b>Definition</b>	This metric will measure the percentage of decisions on individual permit review. The goal is to have greater than 50% of individual permit reviews within 120 days of a complete application.
<b>Suggested Thresholds</b>	<ul style="list-style-type: none"> <li>• <b>Unsatisfactory:</b> <math>\leq 50\%</math></li> <li>• <b>Satisfactory:</b> <math>&gt; 50</math> and <math>&lt; 65\%</math></li> <li>• <b>Exceed:</b> <math>\geq 65\%</math></li> </ul>
<b>Business Owner</b>	USACE
<b>Selection Criteria</b>	All COMMISSION permit applications submitted to USACE.
<b>Formula</b>	(Total number of permit review / number conducted within timeframe) x 100.
<b>Component list</b>	n/a
<b>Metric Source Summary</b>	USACE Tracking System

<b>Metric ID</b>	004
<b>Definition</b>	This metric will measure the percent of permit modifications issued within an acceptable time frame. The goal is to issue greater than 80% of permit modifications within 60 calendar days of complete request.
<b>Suggested Thresholds</b>	<ul style="list-style-type: none"> <li>• <b>Unsatisfactory:</b> <math>\leq 80\%</math></li> <li>• <b>Satisfactory:</b> <math>&gt; 80\%</math> and <math>&lt; 90\%</math></li> <li>• <b>Exceed:</b> <math>\geq 90\%</math></li> </ul>
<b>Business Owner</b>	USACE
<b>Selection Criteria</b>	All COMMISSION requests to modify a Corps SPGP, Nationwide permit verification or standard permit.
<b>Formula</b>	(Total number of permit modification / number of determinations reached within timeframe) x 100.
<b>Component list</b>	n/a
<b>Metric Source Summary</b>	USACE Tracking System

ATTACHMENT C

STANDARD OPERATING PROCEDURES

In Support Of

THE INTERPERSONNEL MEMORANDUM OF AGREEMENT

Among

UNITED STATES ARMY CORPS OF ENGINEERS

PHILADELPHIA, BALTIMORE & PITTSBURGH DISTRICTS

And

THE PENNSYLVANIA TURNPIKE COMMISSION

I. **Overview of the Standard Operating Procedures:** It is the goal of the U.S. Army Corps of Engineers (Corps) and the Pennsylvania Turnpike Commission (COMMISSION) to establish and maintain a working partnership in support of the Memorandum of Agreement (MOA) regarding funding pursuant to Section 214 of the Water Resources Development Act of 2000 (33 U.S.C. § 2352) between the Corps and COMMISSION. To achieve this goal, the parties have developed these Standard Operating Procedures (SOP) to facilitate cooperation and communication. This SOP incorporates current Corps permit processing and will facilitate consistency across the Commonwealth of Pennsylvania in applying such procedures to transportation projects. Certain COMMISSION procedures are also incorporated into the SOP. The SOP may be updated, amended, or otherwise revised as the process of cooperation develops.

II. **Corps Liaison:** The Corps Liaison is a Corps employee, whose time working on COMMISSION projects is funded by the referenced MOA by COMMISSION. The Corps Liaison serves as the primary point of contact to COMMISSION. The Liaison will facilitate Corps/COMMISSION interactions and shall represent the Corps program and agenda at interagency meetings, forums, and discussions. Specifically, the Liaison's duties include, but are not limited to the following:

- A. Serve as the primary point of contact for COMMISSION with the three Corps Districts on programmatic issues;
- B. Oversee interagency and intra-agency programs and agreements;
- C. Manage the terms and conditions of the MOA;

D. Participate in the development and execution of COMMISSION training programs related to aquatic resources and/or Corps regulations, programs, and policies;

E. Manage specific COMMISSION permit applications or actions;

F. Represent the Corps at meetings with the authority to make routine programmatic decisions; and

G. Facilitate project-specific and programmatic issues with strict adherence to the Lead District Initiative.

**III. Partially Funded Positions:** Corps employees, whose time on COMMISSION projects and programs is funded by the MOA, will address project-specific and programmatic issues forwarded by COMMISSION. The partially funded positions will not necessarily replace existing Corps project manager support for transportation project review, but rather augment existing Corps structure to provide expedient and priority review of products related to the project development and planning process, processing of jurisdictional determinations, evaluation of permit applications, conflict resolution, in accordance with applicable federal regulations.

**IV. Staffing:**

A. Corps districts will take into consideration feedback from COMMISSION's annual performance review including the customer service survey to ensure appropriate staffing of funded positions. All Corps Districts will consider input from COMMISSION on qualifications needed to staff funded positions. Appendix A contains COMMISSION suggested qualifications for Corps staff assigned to expedite permit review.

B. The Lead Corps District shall maintain a Corps Liaison as the primary point of contact between the Corps and COMMISSION. The Corps Liaison will be selected by the Regulatory Branch Chief, Lead Corps district with input from the other two Corps Districts.

C. The Corps shall be responsible for providing sufficient staff to expedite review of Commission permit applications, to generally include the following: one Liaison at the Baltimore District; one project manager at the Philadelphia District; and one project manager at the Pittsburgh District. Corps Districts may dedicate additional staff to Commission permit application review as workload dictates and funding allows.

D. Regulatory Branch or Division structure, personnel decisions, and charges for operational support, engineering review, or resource management are made by the respective Regulatory Branch or Division and Corps District Commander

E. Performance: All funded positions are subject to performance review by current Department of the Army procedures. COMMISSION performance and customer service review and comments from COMMISSION will be considered by Corps management. The Corps Liaison may provide additional comments on staff performance to the Corps reviewing official.

V. **District Boundaries:** Generally, all tasks assigned to funded positions will be addressed in accordance with existing Corps District Areas of Responsibility (Appendix B). Flexibility is endorsed in assigning project-specific items. With the approval of the COMMISSION Environmental Engineering Manager, Corps Districts may assign project-specific and programmatic work to additional Corps employees to address COMMISSION workload concerns. Such additional employee time may be charged against the COMMISSION funding provided through the MOA. In addition, if workload in one Corps District becomes excessive due to regional transportation demands, disaster, or emergency conditions, and/or attrition of assigned personnel, employees from other Corps Districts may be assigned to address workload in another Corps District; only with the agreement of both Corps Regulatory Branch Chiefs and the COMMISSION Environmental Engineering Manager. Such flexibility is not to be utilized to alter determinations or actions of one Corps District by another Corps District. Any determinations in a Corps District are subject to the review and approval of the Regulatory Branch Chief or designee of that respective Corps District.

VI. **Project Review and Processing:**

A. Project Development and Preapplication Process: As described in the MOA, Corps personnel shall make all reasonable efforts to attend and participate in the preapplication and the project development and planning phases of a project that will require Corps review of the application, provided sufficient notice and materials are submitted in accordance with VI.A.a below. The preapplication phase of a project is seen as a critical time in which to focus on opportunities to avoid and minimize the proposed project's impacts to the aquatic ecosystem. COMMISSION personnel shall make all reasonable efforts to provide relevant information to the Corps and other resource agencies during the preapplication process. The Corps shall engage in the process and provide feedback to COMMISSION or their contractors, as appropriate. When conflicting priorities exist, mutual agreement regarding the prioritization of projects shall be reached.

a. COMMISSION staff and contractors shall notify Corps staff at least 15 working days prior to the scheduled, coordinated date of a preapplication or project development meeting or site inspection. All relevant information shall be forwarded by hard copy or electronic copy at least 5 working days prior to the meeting.

b. Attendance at a meeting is required of Corps Project Managers and/or the Liaison when agenda items include relative project specific discussions or presentations from Regional or Metropolitan Planning Organizations (RPOs and MPOs).

B. Permit Processing:

a. In accordance with Joint Permit Application procedures and the Standard Operating Procedures for the Pennsylvania State Programmatic General Permit (PASPGP), as well as the Pennsylvania Department of Environmental Protection (PADEP) procedures concerning submission of electronic permit applications; applications for Department of the Army permits and permit authorizations shall be submitted electronically. Some applications (PADEP GP-11 authorizations, emergency permit application, requests for modification) may be submitted via hard copies. The Corps may request complex permit applications be submitted as hard copies. The Corps may also request additional information in hard copy when more detail is required than can be obtained from the electronic submission. In accordance with SPN-10-02, electronic copies of all final plans are required to be submitted for all actions within the Philadelphia Corps District.

b. PASPGP

i. Non-reporting applications may receive federal authorization via PASPGP (or subsequent iterations of PASPGP) without direct Corps review. The federal authorization for such projects may be attached by PADEP or a delegated County Conservation District to the Chapter 105 authorization. In accordance with PASPGP, the Corps may request non-reporting applications be reported to the Corps for separate review as Reporting applications. Work may be determined to be ineligible for PASPGP based on thresholds or agency comments. The Corps shall notify COMMISSION when a project is elevated.

ii. Reporting applications require Corps review. The date of application for Reporting projects or PASPGP eligible projects shall be the date of receipt by the Corps of an electronic or hard copy application. Any requests for additional information shall be dated within 15 days of the date of application. The Corps goal is to make a decision on greater than 80% of such authorizations within 60 calendar days of receipt of a complete application. The Corps has 15 days to conduct a completeness review. In cases where review is delayed due to agency coordination concerns (e.g., under Section 106 of the National Historic Preservation Act [Section 106], Endangered Species Act [ESA], etc.), the Corps will consider an application incomplete for decision making until issues are resolved. Corps verifications of PASPGP may be issued in several ways. The Corps may advise PADEP to issue a PASPGP verification with the Chapter 105 authorization (through a letter or email). The Corps may issue a letter to COMMISSION, usually in cases where special conditions are applied.

c. Nationwide Permit Authorizations: Activities that are not eligible for PASPGP authorization, may be eligible for authorization under Nationwide Permit that have not been suspended in Pennsylvania. The Corps goal is to issue greater than 80% of Nationwide Permit authorizations within 60 calendar days from receipt of a complete application. The Corps has 15 days from receipt to determine completeness.

d. Individual Permits:

i. The PASPGP authorizes many activities that would otherwise require an Individual Permit. It is recognized that use of PASPGP is an expedited service. Further, those actions that are PASPGP ineligible are generally very complex, representing a subset of only the most complex Individual Permit workload of other Corps Districts.

ii. Within 15 days of the date received, the Corps will conduct a completeness review of applications. Based on this review, the Corps will issue a Public Notice or a deficiency letter.

iii. The Corps generally will issue public notices with a comment period of 15 days (complex or controversial projects may necessitate a 30-day public notice comment period). Within 15 days after the close of the public notice, the Corps will notify COMMISSION of the comments received and provide a summary of those comments which must be addressed.

iv. The Regulatory portion of a project may be part of a larger process of federal involvement by numerous agencies. If state or other federal agencies have already undertaken compliance work that is acceptable to cover other federal requirements (e.g., Section 106, ESA), copies of compliance letters from the consulting agencies may be all that is necessary to document compliance.

v. Upon receipt of all information necessary to process an individual permit, including responses to deficiencies, agency concerns, and public notice comments, the Corps will strive to render a decision on greater than 50% of individual permit applications within 120 days of receipt of a complete application.

vi. NEPA/404 Joint Review: The Corps, COMMISSION, and other affected federal and state agencies are developing a revised joint review process. The Corps will provide comments as required by project milestones.

**VII. Dispute Resolution and Elevation Procedures:** This process is only valid prior to finalization of a Standard Individual Permit (IP), Regional General Permit (PASPGP), Nationwide Permit (NWP) Verifications, or Jurisdictional Determination (JD).



A. Level I Resolution: When an issue arises that cannot be resolved between COMMISSION and a Corps District project manager, either COMMISSION or the Corps District may request discussion of such issue at a Level I resolution meeting. Level I resolution will generally include the respective project managers, supervisors, the COMMISSION environmental manager or permit manager, and/or other affected agency personnel. The purpose of the designated Level I resolution meeting shall be to resolve identified issues. Meeting minutes and participants shall be documented by the Corps project manager with concurrence by COMMISSION for accuracy. If the issue(s) cannot be resolved within 15 days of the Level I resolution meeting, the issue may be elevated for Level II resolution.

B. Level II Resolution: If the Level I resolution process does not resolve the concern, Level II resolution procedures shall be employed. The Corps will review the minutes of the Level I resolution meeting and determine if the issues are project specific or programmatic and inform the appropriate Corps Districts and COMMISSION within 15 calendar days of this determination. If the issue is project specific, the Corps Liaison may prescribe an informal and non-binding resolution to all parties to facilitate resolution. However, project-specific disputes are subject to Corps District resolutions through the appropriate District chain of command (i.e., the Regulatory Branch/Division Chief, Operations Division Chief, and then the District Commander). For project specific concerns, COMMISSION may appeal IPs and JDs in accordance with current Corps Administrative Appeals Procedures at 33 C.F.R. Part 331. If the dispute is programmatic in nature affecting statewide consistency in Corps program implementation, the Corps Liaison will again render a non-binding, informal resolution to all parties. If any party does not agree with the Corps Liaison's resolution, that party may request additional consideration (Level III resolution) from the Regulatory Branch Chief of the lead Corps District.

C. Level III Resolution/Lead District Initiative: Where the dispute is determined by the Corps Liaison to affect consistent implementation across the three Corps Districts, a Level III resolution will be initiated by a request from any party mentioned above to the Lead District. Level III resolution will occur at a meeting including the affected Regulatory Branch Chief, the Lead District Regulatory Branch Chief, and the COMMISSION Assistant Chief Engineer of Design. If a decision cannot be reached within 15 days of the date of the meeting, with concurrence by attendees documented in a letter from the Lead District Regulatory Branch Chief, the issue will be elevated to the respective Corps Division office.

D. A flow chart describing these elevation procedures is attached as Appendix C.

## **VIII. General Operation and Management:**

A. The purpose of these Standard Operating Procedures is to provide consistent permit application review of COMMISSION projects by the Corps in Pennsylvania. Continuance of the funding program is directly related to expedited service herein defined.

B. In no instance does acceptance of funding obligate the Corps to abrogate any federal law, regulation, or guidance related to the permit application and review process, including, but not limited to the National Environmental Policy Act, Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, Section 103 of the Marine Protection, Research and Sanctuaries Act, or the PASPGP. The Corps does assure COMMISSION of express service related to application of federal regulations at a level consistent with the general public interest including application of permit conditions, alternatives review, and jurisdiction.

## APPENDICES:

Appendix A: COMMISSION-Suggested Qualifications for Funded Staff

Appendix B: Corps District Boundaries

Appendix C: Informal Dispute Resolution Flow Chart

Appendix D: Sample Timesheet

## APPENDIX A

### COMMISSION Suggested Qualifications for Funded Corps Staff

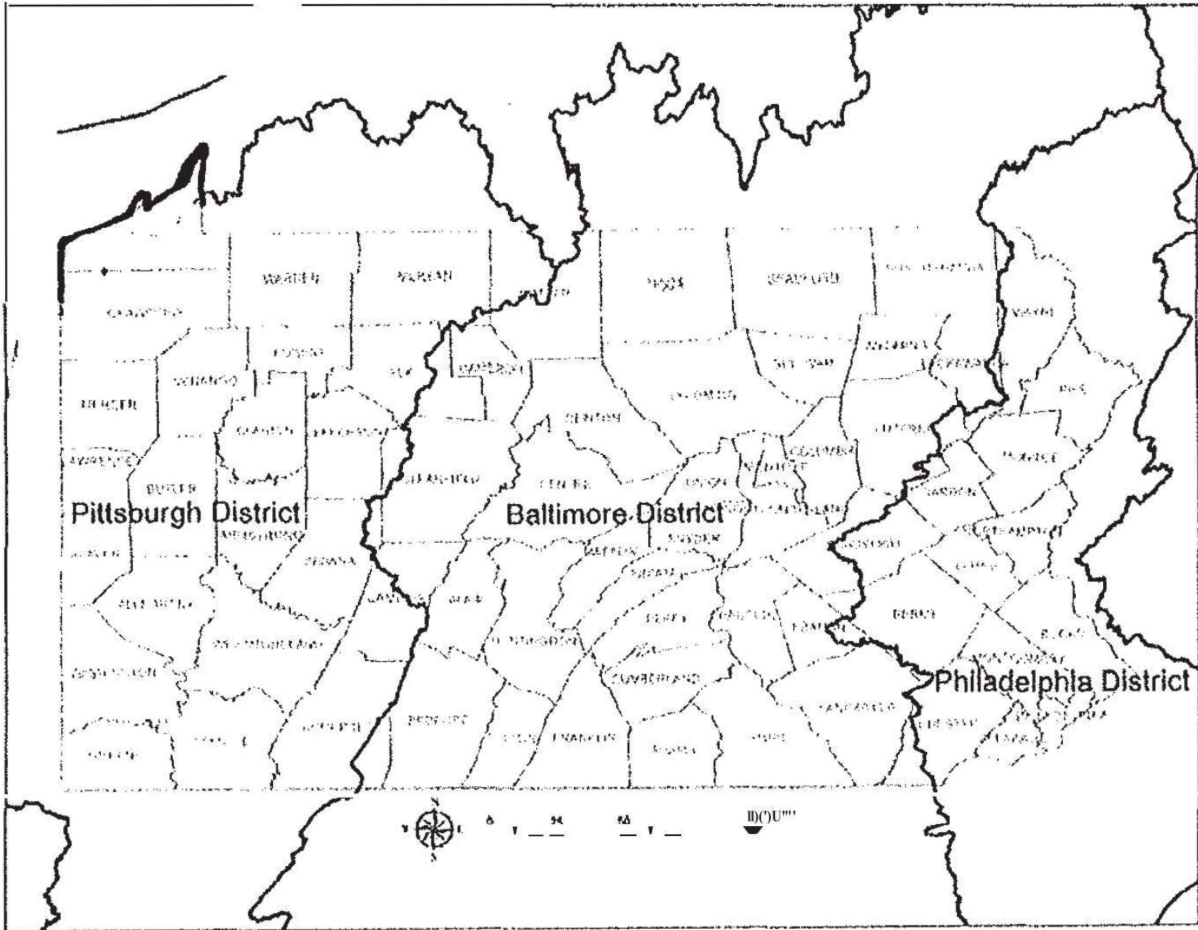
The following are general requirements of knowledge, skills, and achievements for filling the referenced funded positions with the Corps Districts.

#### **Transportation Project Manager Positions**

- Appropriate experience in environmental project management is required.
- A working knowledge of NEPA, and the Corps and PADEP regulatory programs is required. More than five years of working experience is highly desirable.
- A bachelor's degree is required.
- A demonstrated ability to resolve complex issues regarding the environment, and an established record of compliance within HQUSACE time frames for processing permit applications and jurisdictional determinations is required.
- A demonstrated ability to manage multiple projects and priorities simultaneously is required.

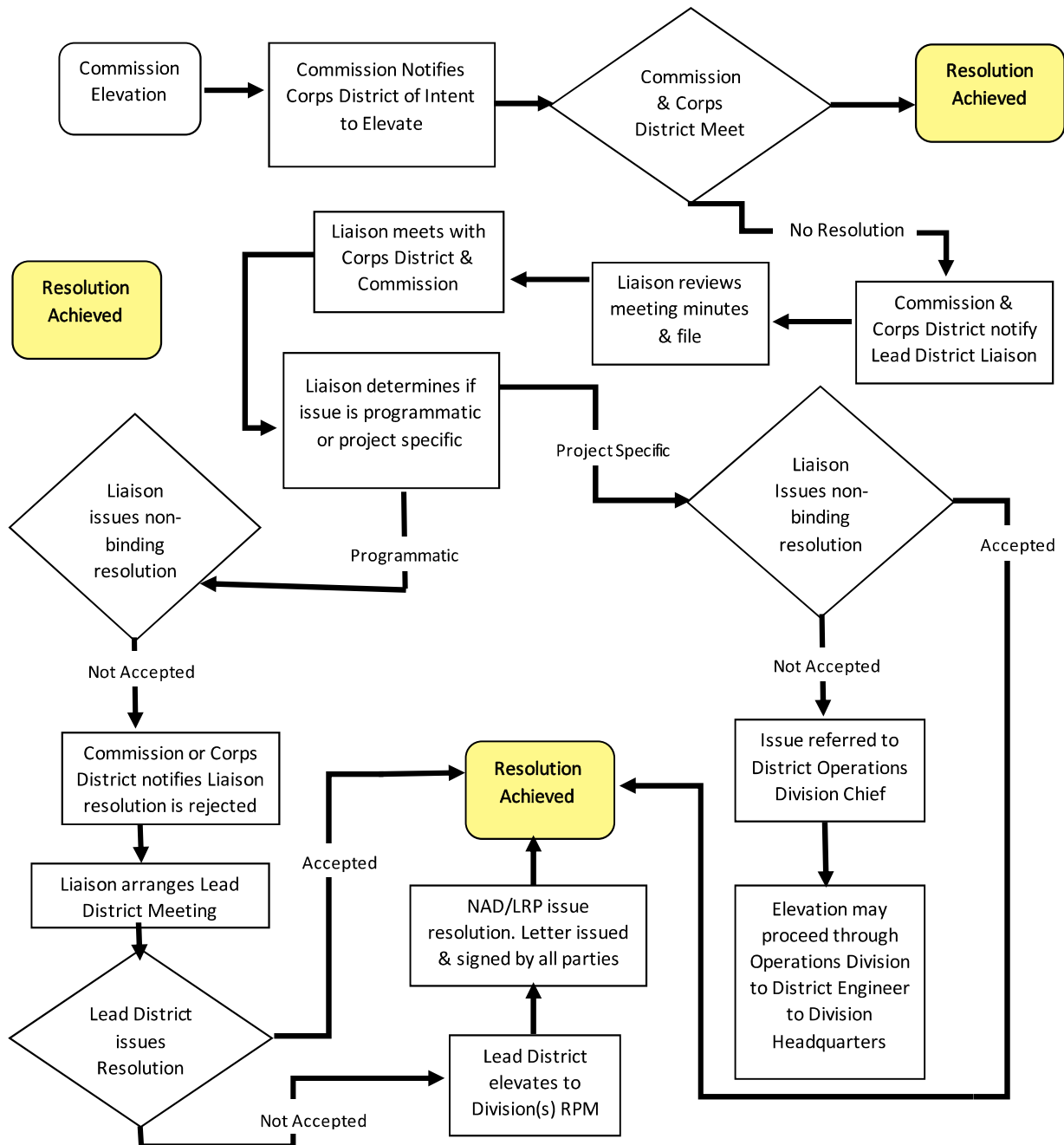
## APPENDIX B

### Corps District Boundaries



## APPENDIX C

### Informal Dispute Resolution Flowchart



# Appendix D

## Sample Timesheet

INTERAGENCY FUNDING AGREEMENT MONTHLY TIMESHEET - JANUARY 2024																
Funded Agency	Last Name	First Name	Title	Email	Phone											
Date	Project Numbers: SR/Sec and County	Comments	Field Views	Meetings	Reviews	Consultation	Presentation/Train	Statewide Programs	Other	Non-PennDOT	Total					
1/1/2024																
1/2/2024																
1/3/2024																
1/4/2024																
1/5/2024																
1/6/2024																
1/7/2024																
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1/27/2024																
1/28/2024																
1/29/2024																
1/30/2024																
1/31/2024																
Total			0	0	0	0	0	0	0	0	0	0	0	0	0	0

Comments - Please provide additional comments in the space provided below. For extensive comments, please use Sheet's 1, 2, and 3 of this workbook.