



Deval L. Patrick, Governor
Timothy P. Murray, Lt. Governor
Jeffrey B. Mullan, Secretary & CEO

massDOT
Massachusetts Department of Transportation

Subsidy Agreement Modification

June 28, 2011

Rose Fitzgerald Kennedy Greenway Conservancy
185 Kneeland Street - 7th Floor
Boston, MA 02116

Agreement Number: # 65456

Attention: Ms. Nancy Brennan;

Enclosed is a signed copy of the amended subsidy agreement between the Massachusetts Department of Transportation and the Rose Fitzgerald Kennedy Greenway Conservancy.

This agreement is relative to the legal obligation to fund the conservancy through interest earnings accrued in the Central Artery & Statewide Road & Bridge Infrastructure Fund (TIF).

This modification will increase the in cash portion by \$92,875.00 from \$1,786,500.00 to \$1,879,375.00 and reducing the in kind contribution from \$443,500.00 to \$350,625.00 by this same amount.

Please insert this modification notice into the original contract.

Cordially,

Tanya M. Barros
Director of Contracts & Records

TMB

enc.

cc: Thom Dugan
Peter O'Connor
Fiscal Management
Contracts & Records

Ten Park Plaza, Suite 3170, Boston, MA 02116
Tel: 617-973-7000, TDD: 617-973-7306
www.mass.gov/massdot



COMMONWEALTH OF MASSACHUSETTS SUBSIDY AGREEMENT

[This Subsidy Agreement has been issued by the Office of the Comptroller for subsidies or other legislatively authorized payments to a named Recipient under 815 CMR 2.00.]

Commonwealth Of Massachusetts - Department: Department of Transportation # 65456
 Address: 10 Park Plaza, Suite 3170 Boston, MA 02116
 Contact Person: Peter O'Connor Telephone: (617) 248-2915
 Recipient Name: Rose Fitzgerald Kennedy Greenway Conservancy
 Address: 185 Kneeland Street, 7th Floor Boston, MA
 Contact Person: Ms. Nancy Brennan Telephone: (617) 292-0020
 Total Amount Of Subsidy Payment(s) \$ \$1,879,375
 Number Of Payments To Be Made: 3 Payment(s). Attach details of multiple payment amounts, if applicable.
 Amount of First Payment: \$ \$893,250
 Anticipated Date of First Payment: 8/20/2010. Attach schedule of additional payments, if applicable.
 Termination Date Of Subsidy Agreement (Payments can not be made after the expiration date of the account funding this Subsidy Agreement.): June 30, 2011, 19 .

1. The Department and the Recipient understand and agree that pursuant to: [Indicate citation for Legislative Authorization for Subsidy] Ch. 306 of the Acts of 2008, the Department is legislatively authorized to initiate a payment(s) of funds to the Recipient. Payments are subject to any conditions required by law as a prerequisite to payment, including any restrictions or conditions specified by the Department in this Subsidy Agreement. Payments can not be made to the Recipient prior to the date that this Subsidy Agreement, including all relevant attachments, has been properly executed by authorized signatories of both parties in accordance with all relevant general or special laws and regulations, and filed with the Office of the Comptroller. Notwithstanding the termination date of this Subsidy Agreement, the Recipient's obligations under Sections 2. and 3. shall survive the termination of this Subsidy Agreement.
2. The Recipient agrees to expend funds provided under this Subsidy Agreement in accordance with all applicable federal and state general and special laws and regulations and any restrictions or conditions specified by the Department by attachment to this Subsidy Agreement. Any actions arising out of this Subsidy Agreement shall be governed by the laws of the Commonwealth of Massachusetts. The Recipient may not use any funds provided or paid under this Subsidy Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.
3. The Recipient understands and agrees that the Department, the State Auditor and the Comptroller shall be entitled to copies of any programmatic or fiscal reports that verify compliance with, or are required as a condition to, receiving funds under this Subsidy Agreement, or that are specified by attachment to this Subsidy Agreement.

IN WITNESS WHEREOF, the Department and the Recipient have caused this Subsidy Agreement to be executed by their respective authorized officers, as of the last date specified below:

DEPARTMENT:
 X: *Jeffrey B. Mullan*
 Signature
JEFFREY B. MULLAN
 SECRETARY & CEO
 Title
JUNE 2011
 Date

RECIPIENT:
 X: *Nancy Brennan*
 Signature
NANCY BRENNAN
 Print Signatory Name
EXD. DIR.
 Title
JUN 17, 2011
 Date

Massachusetts Department of Transportation

Schedule of Payments to the Rose Fitzgerald Kennedy Greenway Conservancy

Payment #1	Due August 20, 2010	\$ 893,250
Payment #2	Due January 3, 2011 ✓	\$ 893,250 ✓
Payment #3	Due June 30, 2011 ✓	\$ 92,875 ✓
Total payments		\$1,879,375

Notes:

MassDOT's legal obligation is to fund the Conservancy through interest earnings accrued in the Central Artery and Statewide Road and Bridge Infrastructure Fund (TIF). As discussed with Conservancy, the TIF does not have sufficient interest earnings and balance to pay fifty percent (50%) of the Conservancy's projected fiscal year 2011 budget and in light of this, MassDOT is committed to a partnership with the Conservancy by meeting a portion of its budgetary needs through other funding sources. MassDOT will support its obligation to fund a portion of the approved budget through cash contributions and in-kind services for next year as required by Section 12 of Chapter 306 of the Acts of 2008, as amended.

As stipulated in our June 18th letter, the funding to be provided by MassDOT will be conditioned on the Conservancy's written commitment to the following conditions:

1. The Conservancy must eliminate any attempt to recover its costs through the use of the land itself. Costs recovered must be actual and reasonable.
2. Subject to reasonable restrictions on opening and closing consistent with City of Boston and Department of Conservation and Recreation (DCR) urban parks, all spaces must be open to all people at all times. There should be no need for free speech zones with public parks open to everyone.
3. To the extent that it is discussing the use of MassDOT or other public funds, the Conservancy must comply with the Commonwealth's open meeting law, and to the extent materials are addressing the use of public funds, the Conservancy must comply with the requirements of the Commonwealth's public records law.
4. MassDOT will require a full accounting of all sources and uses of revenue received from the use of the Greenway so as to ensure compliance with 23 USC 126 and other applicable Federal and state law. In particular, MassDOT will require a full reporting on the use of MassDOT and state funds used to operate the park, including the salaries of staff, payments to vendors and copies of all contractual documents for vendors funded through state funds. MassDOT will require revised financial reporting from the Conservancy that clearly segregates the use of state funds from

non-state funds. Reports will be provided on the following dates: On December 1, 2010 for the period through October 31, 2010; on April 1, 2011, for the period through February 28, 2011; together with the audited financial report for FY 10.

5. In fiscal year 2011, the Conservancy must agree to share responsibility in areas where MassDOT can provide services to support Conservancy operations.

With these conditions in effect, MassDOT is prepared to provide to the Conservancy \$2,230,000 (\$1,879,375 in cash; \$350,625 in-kind contributions). These funds are to be used to support the following purposes:

- Funds allocated to the Conservancy may only be used for horticulture and maintenance programs. MassDOT funds may not be used for any other purpose.
- Funds allocated to the maintenance and horticultural program may be used to fund personnel salaries at a level comparable to that of equivalent DCR staff. For example, state funds can only be used to fund \$69,190 of the Conservancy's Director of Operations salary of \$108,000 as \$69,190 represents the equivalent salary of a comparable DCR title. The Conservancy will be required to fund the remaining salary from non-state funds. Attachment A to this letter notes the amount of salary that will be funded by MassDOT. All salaries funded from MassDOT funds shall be public record.
- MassDOT's allocation of funds will include \$1,879,500 in cash and \$350,500 of in-kind services, including the plumbing, electrical, rent, fuel and equipment services noted above. In future fiscal years, as additional opportunities arise for the Department to provide to provide additional in-kind services, the amount of cash allocated to the Conservancy may be reduced. MassDOT will commit the Highway Division District Six Director, Highway Division Chief Engineer, and other senior members of the division to work with your staff on schedules and service agreements necessary to provide these in-kind services.
- Due to the funding constraints imposed by the balance in the TIF and the need to use other MassDOT funds, MassDOT proposes to allocate its contribution in three separate payments: the first payment will be made on August 20, 2010, the second on January 3, 2011 and the final payment on June 30, 2011.

MassDOT Greenway Obligations

\$ 1,786,500
 \$ 893,250
 \$ 893,250
 \$ -

Cash Transfer
 August Payment
 January Payment
 Variance to budget

Comments

	MassDOT Pledge	Paid to date	Forecast	TOTAL	Variance
	\$ 443,500	\$ 92,168	\$ 230,057	\$ 322,225	\$ (121,275)
In Kind Services	\$ 125,000	\$ 72,917	\$ 52,083	\$ 125,000	\$ -
Kneeland rent	\$ 14,000	\$ 8,167	\$ 5,833	\$ 14,000	\$ -
Kneeland utilities	\$ 30,000	\$ 1,600	\$ -	\$ 1,600	\$ (28,400)
Truck + van	\$ 100,000	\$ -	\$ 100,000	\$ 100,000	\$ -
Maintenance facility	\$ 174,500	\$ 9,484	\$ 72,141	\$ 81,625	\$ (92,875)
Other equipment, services, utilities (see detail below)	\$ -	\$ -	\$ 22,000	\$ 22,000	\$ 22,000
Park utilities - water	\$ -	\$ 5,797	\$ 48,141	\$ 53,938	\$ 53,938
Park utilities - electricity	\$ -	\$ 3,688	\$ 1,000	\$ 4,688	\$ 4,688
Trade labor	\$ -	\$ -	\$ 1,000	\$ 1,000	\$ 1,000
Equipment rental	\$ -	\$ -	\$ -	\$ -	\$ -
New Options Suggested by Conservancy	\$ -	\$ -	\$ 15,000	\$ 15,000	\$ 15,000
Office move laborers	\$ -	\$ -	\$ 10,000	\$ 10,000	\$ 10,000
Office move direct costs	\$ -	\$ -	\$ -	\$ -	\$ -

Note - pledge was vehicles; not necessarily an absolute dollar amount

Commonwealth of Massachusetts Office of the Comptroller
Contract Commodity Encumbrance Form



[710292]

Document Name		INCREASE FUNDS BY \$92,875			
Document Description		Subsidy Agreement-Rose Fitzgerald Kennedy Greenway			
Document I.D.		INTF00X02011A0065456			
Code	Dept	Unit	Action	Code	Department
CT	DOT	9800	Mod	MA	MA
Header / Vendor Information		Document Total:			
Budget FY:	2011	Vendor Name: ROSE FITZGERALD KENNEDY GREENWAY CONSERV			
Fiscal Year:	2011	Vendor Address: 185 KNEELAND ST 7TH FL City: BOSTON State: MA			
Period:	12	Vendor/Customer No.: VC0000466345			
Board Award:	0065456	Address Code: AD001			
Requester ID:	dolavw	Comment:			
Report Note:					

Line #1- Commodity Information

Commodity Code	931516110000	List Price		Description	Subsidy Agreement - 2 payments (August & January)
Line Type	Service	Unit Price		Contract Amount	
Quantity		Service From	08/24/2010	Action (Inc/Dec)	I
Unit of Measure		Service To	06/30/2011	Inc/Dec Amount	\$92,875.00

Line #2- Accounting Information

Event Type	PR05	Budget FY	2011	Unit	1640	Major Program		Location	
Line Amount	1-\$92,875.00	Fiscal Year	2011	Object	P02	Program		Phase	
Depl	DOT	Period	12	Appropriation	61060660	Program Period		Activity	
Line Description	Increase cash in lieu of "In-Kind Services"								

FOR FISCAL USE ONLY

Entered By: _____ Date: _____ (Initial)

Verified By: _____ Date: _____ (Initial)

Phone Ext: 7631 Date: 6/3/11

Phone Ext: _____ Date: 6/3/11

TO THE COMPTROLLER OF THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify under the penalties of perjury that all laws of the Commonwealth governing disbursements of public funds and the regulations thereof have been complied with and observed.

Print Name: Robert C. Shapcott Signed: Robert C. Shapcott Title: Director

Print Name: Christine Hurley Barnes Signed: Christine Hurley Barnes Title: Assistant Secretary

Request For Allocation of Funds Prior to Encumbrance

Project Info #'s

Encumbrance Document ID			
Trans	Dept	Unit	Identification Number
	DOT	1640	INTFOCX02011AC065456

Date
4/27/2011

Funding Source

Capital Tolls Capital Tolls General X Federal Grant
 Operating Tolls Operating Expendable Trust

Approp No	Obj	Unit	Activity	Program	Phase	N/P	Amount Allocated
6106-0660							\$92,875.00
							\$92,875.00

Obligation By Fiscal Year for Multi - Year Contracts

Appropriation	6106-0660	Total
2011	\$92,875.00	\$92,875.00
2012		\$0.00
2013		\$0.00
2014		\$0.00
2015		\$0.00
2016		\$0.00
MMARS Total	\$92,875.00	\$92,875.00

RECEIVED
 2011 APR 27 PM 2:09
 MASSDOT

Reason For Request:

Contract #: _____ Cost Reduction %: 0.00%
 Vendor ID & Address Cd: _____ Current Year Savings: \$0.00
 Vendor Name: _____
 Contract Location: _____
 Contract Description: _____
 Contract Notes: _____

Recommended By: _____
 (Signature / Date)

Approved By: Joe Buntal 4/27/11
 (Signature / Date)

Below to be completed by the Budget Office:

Expense Budget Entered By: Neil Cadigan Approved By: Michael E. Nelson 4/29/11
 (Signature / Date) 04/23/11 (Signature / Date)

Division H100 District H019