**2015 State Damage Prevention Program Grants Progress Report**

**CFDA Number: 20.720**

**Award Number**: DTPH5615GPPS06

**Project Title:** Maryland Underground Facilities Damage Prevention Authority “the Authority” -State Damage Prevention Grant

**Date Submitted:** January 22, 2015

**Submitted by:** James A. Barron

**Specific Objective(s) of the Agreement**

Under this grant agreement, the Authority will enforce:

* Laws and regulations of the damage prevention process

**Workscope**

Under the terms of this grant agreement, the Recipient will address the following elements listed in the approved application as stated in 49 U.S.C§60134 (b).

* *Element (7):* Enforcement of State damage prevention laws and regulations for all aspects of the damage prevention process, including public education and the use of civil penalties for violations assessable by the appropriate State authority.

**Accomplishments for this period (Item 1 under Article IX, Section 9.01 Progress Report: “A comparison of actual accomplishments to the objectives established for the period.**”)

**Metrics:**

The primary objective of “the Authority” is to enforce all aspects of *Element (7)* of 49 USC§60134. During the period from 09/30/2015 through March 31, 2016, the Authority was extremely active in achieving this objective. Six (6) monthly meetings were held during which hearings were held at four (4) of those meetings. Simultaneously the Authority received an additional thirty-six (36) Notices of Probable Violation (NPV’s); which represents a forty (40) percent increase in volume over the same period of reporting for the 2014 State Program Grant. Those NPV’s are added to the fifty-nine (59) NPV’S currently being monitored, researched or addressed. Also, during that time period the Authority collected $23,500.00 in fines from previous decisions of the Authority. And, during that timeline, reviewed fifty (50) previously received NPV’s; which was a sixty-two (62) percent over the previous Grant period. The Authority also recommended $42,000.00 in fines and training for those violators. During four (4) of the six (6) meetings conducted during this period, twelve (12) hearings were held and $7,000.00 in fines and training was levied.

**Pending Cases & Actions:**

The four (4) decisions from the February 4, 2015 (which included $8,000.00 in fines) currently going through the appeal system; will be heard on August 1, 2016 before the Anne Arundel, Maryland Circuit Court. The Authority established a collection process for those Probable Violators who refuse to pay the fines levied. Currently the Authority has six (6) NPVs with a total of $11,500.00 fines that the Authority is attempting to collect through the legal process.

The five (5) previous decisions of the Authority that were appealed to the Maryland Court of Special Appeals. The Authority had prevailed up to this point, but the court found against the Authority on procedural grounds, not on the merits of the cases. As a result, those pending fines will not be pursued.

**Education & Outreach:**

Each year, the Authority is required by statute to submit a report to the Governor and Maryland Legislature. This year an eight-seven (87) page report was submitted outlining and reviewing the activities of the Authority during calendar year 2015. The Authority became a Gold Sponsor of the Greater Chesapeake Damage Prevention Training Conference (GCDPTC) held in Ocean City Maryland for the second consecutive year. The Authority had a table display booth in the tradeshow and presented an education session updating the progress of the Authority. In an effort to increase its education and outreach program, the Authority has purchased a professionally made ten (10) foot banner wall display which will be used at the 2016 Maryland Municipal League Summer Meeting, the 2016 Maryland Association of Counties Summer Conference and the 2016 October meeting of the GCDPTC.

The Authority has also purchased educational and marketing materials which it shares with the Maryland Damage Prevention Committee for maximum distribution. The Authority will also help to underwrite the 2016 *“811- Call Before You Dig”*, with a $25,000 grant for a media buy for the Greater Baltimore radio market. These spots are also placed in the Spanish speaking market place. The Authority has also given four (4) presentations during this reporting period including The OCC, Inc. Tech Conference in San Francisco, CA and the CGA Stakeholder Advocacy Committee meeting in San Antonio, TX.

The Authority sponsored quarterly damage preventions training session for contractors, two (2) of which were conducted during this reporting period. Training sessions were held on November 13, 2015 and March 18, 2016. A total of twenty (20) construction companies participated and seventy-two (72) employees were trained.

**Legislative Activity:**

In order to continue the growth and expansion of the Authority, the Board of Directors elected to seek a permanent funding stream for the operation of the Authority. Legislation was introduced in the 2016 Session of the Maryland General Assembly, that would allow the addition of five (5) cents to every Miss Utility ticket in the State of Maryland, with the exception of all Maryland counties and municipalities in accordance with the previous agreement in the original Miss Utility law. The initiative passed unanimously in both Houses of the General Assembly and will go into effect on June 1, 2016.

**Quantifiable Metrics/Measures of Effectiveness (Item 2 under Article IX, Section 9.01 Project Report: “Where the output of the project can be quantified, a computation of the cost per unit of output.”)**

No Quantifiable Metrics/Measures of Effectiveness has been established to-date.

However, since the inception of the Authority in 2011, our empirical data shows a steady increase in NPV’s, fines collected, training obtained and trends in the types of violations most prevalent in Maryland which is failure to call the One-Call System (72%).

Without some sort of mandatory reporting, we don’t see a true statistical baseline being established which captures the Authority’s effectiveness.

**Issues, Problems or Challenges (Item 3 under Article IX, Section 9.01 Project Report: “The reasons for slippage if established objectives were not met. “)**

Activities under this grant agreement have moved steadily forward after receiving the 50% grant allocation in December 31, 2015. With no Quantifiable Metrics, we are unable to measure any statistical gains or slippage. However, since the inception of the Authority in 2011, our empirical data shows a steady increase in NPV’s, fines collected, training obtained and trends in the types of violations most prevalent in Maryland which is failure to call the One-Call System (72%). There are some issues and challenges we are attempting to overcome during this SDP Grant Year. Most important was the establishment of a dedicated steady revenue stream to fund the Authority and promote it’s much needed growth; which was accomplished and will go into effect on June 1, 2016. The Authority has moved into a larger office space which is accessible to the public and the construction industry. There are plans to further expand the Authority facility within the next six (6) months. The Executive Director position, originally envisioned as a part-time position, has evolved into a full-time/plus position with the Director and staff at the Authority office on a daily basis. This change is in full part due to the increased number of NPV’s filed, the complexity of some of the investigations and the attention to detail and record keeping required as a result of some the the findings and observations by the Judicial Branch in Maryland during the course of the afore mentioned appeals. The Authority has implemented a collection process to obtain legal judgments against those violators who refuse to pay the fines levied during the hearing enforcement process. Also, the Authority is developing a “fining matrix” in order to achieve negotiate settlements with the violators; which should speed up the NPV process as well as improve overall outcomes.

**Mid-term Financial Status Report**

The Mid-Term Federal Financial Report (Standard Form SF-425) is attached hereto. A breakdown of line (b.) is shown below. Documentation such as invoices, receipts, spreadsheets, etc. will be forwarded to the AOR and AA within a week of this April 25, 2016 submission.

Travel/Conferences Expenses $ 2,2600.00

Contractual

Website Maintenance -

Executive Director 36,000.00

Office Associate 6,240.00

Other -

Gold Sponsorship GCDPTC -

Indirect

Office Rent & Utilities -\_\_\_\_

Total $ 44,500.00

**Plans for Next Period (Remainder of Grant)**

Plans for the remainder of this grant are consistent with the objectives outlined in the grant application. We plan on continuing to fine tune our procedures and policies; which has become a major priority since a recent Maryland Court of Appeals ruling upholding the constitutionality of the Authority. But, in so doing, the Court declared the Authority a member of the Executive Branch of Maryland Government which brings with it a number of new standard that must be addressed in our judicial capacity. The volume of NPV’s continues to grow; which all require investigation, research, record keeping and correspondence. In addition, more stakeholders are utilizing the Authority by filing NPV’s.

The Authority has implemented a collection process to obtain legal judgments against those violators who refuse to pay the fines levied during the hearing enforcement process. Also, the Authority is developing a “fining matrix” in order to achieve negotiate settlements with the violators; which should speed up the NPV process as well as improve overall outcomes. We have also taken initial steps to streamline the on-line NPV filing process and are investigating more portable was to reach our audiences for education and outreach purposes.

**Requests of the AOR and/or PHMSA**

The Executive Director is now a full-time salaried employee of the Authority and as a result in no longer a 1099 employee. Payroll taxes, worker’s compensation and other employee related costs are now paid by the Authority. The Authority also hired a part-time Assistant to the Executive Director who has taken over a majority of the administrative responsibilities. In addition, the assistant’s role is expanding to include marketing, grant administration, report writing and legal correspondence. Once the permanent funding stream is in place, the Director envisions changing the Assistant position to full-time.