**2014 State Damage Prevention Program Grants Progress Report**

**CFDA Number: 20.720**

**Award Number**: DTPH5614GPPS08

**Project Title:** Maryland Underground Facilities Damage Prevention Authority State Damage Prevention Grant

**Date Submitted:** April 29, 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.**”)

As noted above our primary objective is enforcement as detailed in *Element (7)* of 49 USC§60134. During the period from 09/22/2014 through March 31, 2015, the Authority was very busy achieving this objective. Five (5) monthly meetings were held (no meeting in December) at which hearings were held at three (3) of those meetings. Simultaneously the Authority received an additional 15 Notices of Probable Violation (NPV’s) to add to the fifty-two (52) NPV’S they were already monitoring, addressing or researching. Also during that time period the Authority collected $28,500.00 in fines from previous decisions of the Authority. During that timeline, the Authority reviewed thirty-one (31) previously received NPV’s and recommended $66,000.00 in fines and training for those violators. Additionally, the Authority reviewed seven (7) of the new NPV’s and recommended an additionally $18,000.00 in fines and training. During three (3) of the five (5) meetings conducted during this period, nine (9) hearings were held and $15,000.00 in fines and training was levied. Four (4) of the Authority decisions from the February 4, 2015 hearings, which included $8,000.00 in fines, have been appealed to the Circuit Court of Anne Arundel County Maryland. A new problem surfaced during this time period that required the Authority to establish a collection process for those Probable Violators who refuse to pay the fines levied. Currently the Authority has six (6) NPV”s with a total of $12,000.00 fines that the Authority is attempting to collect through our new legal collection process. Five (5) previous decisions of the Authority were appealed to the Circuit Court of Anne Arundel County. Oral Arguments were heard on those appeals on October 20, 2014 and a decision in favor of the Authority was rendered in November of 2014. Since then those decisions have been appealed to the Maryland Court of Special Appeals. Each year, the Authority is required by statute to submit a report to the Governor and Maryland Legislature. This year a ninety (90) page report was submitted outlining and reviewing the activities of the Authority during calendar year 2014. In October of 2014 for the first time, The Authority became a Gold Sponsor of the Greater Chesapeake Damage Prevention Training Conference held in Ocean City Maryland. We sponsored a booth in the show and presented an education session updating the progress of the Authority. The Authority sponsored Cross-Bore Legislation in the 2015 session of the Maryland Legislature, which passed and will become law on October 1, 2015. And finally, the Authority sponsored quarterly damage preventions training session for contractors, three (3) of which were conducted during this time period. Training sessions were held on September 25, 2014, November 13, 2014 and February 20, 2015. A total of 34 construction companies participated and one hundred eleven (111) employees were trained.

**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.”)**

The Authority has yet to set up a baseline from which our progress can be measured. Without some sort of mandatory reporting, we don’t see a viable baseline being established any time in the near future. Therefore, no Quantifiable Metrics/Measures of Effectiveness has been established

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

The work under this grant agreement has moved steadily forward after receiving the 50% grant allocation in October 2014. With no Quantifiable Metrics, we are unable to measure any gains or slippage. However, there have some issues, problems and challenges we are attempting to overcome during this SDP Grant Year. Most important is the establishment of a dedicated steady revenue stream to fund the Authority and promote it’s much needed growth. A subcommittee of the Authority with some invited stakeholders from the facility owner’s group has begun to look at this issue. Currently three proposals are being considered: (1) adding 5 to 10 cents to the cost of outgoing tickets with that revenue dedicated to the Authority; (2) allowing up to 50% of the fines collected to be used by the Authority to cover operating costs and (3) creating an online training component requiring an annual fee from contractors to help fund the Authority. The subcommittee is leaning toward a combination of (1) & (2) while also considering the implementation of (3) as a free on-line training opportunity. The committee hopes to reach consensus by August of this year so we can draft legislation to submit to the Maryland Legislature in the 2016 Session. The Authority is currently in negotiations with the Call Center to rent a larger space so additional employees can be hired to enhance the administrative and investigation processes of the Authority. Finally, as mentioned above, the Authority has implemented a collection process to get legal judgments against those violators who refuse to pay the fines levied during the hearing enforcement process.

**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 29, 2015 submission.

Travel/Conferences Expenses $ 3,000.00

Supplies 1,999.70

Contractual

Website Maintenance 0.00

Executive Director 48,875.00

Office Associate 1,392.50

Accounting 0.00

Other

Office Rent & Utilities 0.00

Total $ 55,267.20

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

The plans for the remainder of this grant are consistent with the objectives outlined in the grant application. We plan on continuing with the same procedures and policies we have been successful with during the first half of this grant year. NPV’s continue to come into the Authority, which will require continued investigation and research. There are still NPV’s that have gone through the review process that have not yet been settled through hearings or acceptance of fines and training.

However, the Authority is working on creating a matrix that can be used to more fairly and objectively assign fines and penalties. Through this process we hope to initiate a settlement process affording the probable violators an opportunity to settle the complaint without going to a full blow hearing. We hope to have that process developed and in operation before the end of this Grant year.

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

As you can see from the Mid-term Financial Status Report, the Authority will probably be going over budget on Executive Director. Since the Executive Director has lost his full time Office Associate, he has been completing many of these duties. We have been using an individual on an Incidental Labor basis to complete meeting minutes and hearing reviews. Couple that with the fact that the Executive Director may well be going from a Contractual Basis to an Employee Basis with the Authority during the second have of the Grant year. We would like to open discussions with the Agreement Administrator on how to best handle these changes on a financial reporting basis.