

Agreement No. 521277
Federal Id No. 25-6001056
Business Partner No. 607723
Loan No. _____

**Commonwealth of Pennsylvania
Department of Transportation**

Infrastructure Bank Loan Agreement

This Agreement is made the _____ day of _____, 2020 between the Commonwealth of Pennsylvania, Department of Transportation ("PennDOT"),
and
Cranberry Township, Butler County, a Municipality of the Commonwealth of Pennsylvania, acting through its proper officials (the "Borrower").

Background:

- A. PennDOT, pursuant to 71 P.S. §525, is empowered to make loans for infrastructure improvements.
- B. The Borrower is a municipality located in Butler County, Pennsylvania.
- C. The Borrower is an eligible borrower under 71 P.S. §525.
- D. The Borrower intends to: (a) Construct a ramp and new local road system from I-79N off ramp to Cranberry Drive; (B) construct a grade separated crossing under Route 228; (C) construct a roundabout and other traffic control, safety and stormwater systems within Cranberry Springs mixed-use developments, within the Township as specified in the loan application (collectively, the "Project").

E. The Borrower wishes to borrow an amount not to exceed \$5,000,000.00, to construct the Project, which will be repaid over a period not to exceed ten (10) years.

F. The Borrower has approved, by lawful action, the incurring of indebtedness and the taking of such other action necessary to secure a loan from PennDOT to construct the Project.

G. PennDOT has approved loan financing from its Pennsylvania Infrastructure Bank.

Now therefore, in consideration of the premises, the mutual promises contained in this Agreement, and with the intent to be legally bound, the parties agree as follows:

1. Incorporation of Recitals. The recitals stated above are incorporated by reference as a material part of this Agreement (the term “this Agreement” shall refer to this agreement).

2. The Loan Funds. PennDOT agrees to lend to the Borrower a principal amount not to exceed \$5,000,000.00 (the “Loan Funds”).

3. Source of the Loan Funds. Funds for the Loan Funds shall be taken from the highway account of the Pennsylvania Infrastructure Bank.

4. Use of the Loan Funds. The Borrower shall use the Loan Funds solely for the Project.

5. Automatic Clearing House (ACH) Procedures. The Borrower hereby unconditionally agrees and consents to participate and follow any automatic clearing house procedures implemented, or to be implemented, by PennDOT in order to facilitate

disbursements of the Pennsylvania Infrastructure Bank loan funds, monitor the Borrower's expenditures of Infrastructure Loan disbursements or facilitate the collection of loan repayments. The Borrower will provide any necessary information or written consent requested by the PennDOT upon receiving written notification from PennDOT that it is implementing automatic clearing house procedures.

6. Loan Fund Disbursement. The Infrastructure Loan Funds shall be disbursed in a single payment upon the execution of this Agreement. Disbursement will be made through the Pennsylvania Electronic Payment Program ("PEPP") of which the following provisions apply:

a. PennDOT will make payments to the Borrower through Automated Clearing House ("ACH"). Within ten days of executing this Agreement, the Borrower shall submit or must have already submitted its ACH registration information on an ACH enrollment form provided by PennDOT. Upon receipt of the Borrower's ACH registration information PennDOT will submit the ACH forms to the Commonwealth's Central Vendor Management Unit at the Office of Comptroller Operations, Bureau of Payable Services, Payable Service Center, Vendor Data Management Unit, 555 Walnut Street- 9th Floor, Harrisburg, PA 17101.

b. The Borrower must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the Borrower to properly apply PennDOT's payment to the respective invoice or program.

c. It is the responsibility of the Borrower to ensure that the ACH information contained in the ACH registration form is correct. Failure to maintain accurate and complete information may result in delays in fund disbursement and/or repayments.

7. Loan Funds Contingent on Appropriation. To the extent applicable, no approval or opinion is offered as to the fiscal authority of the agency to commit funds not yet appropriated. The Office of the Budget is responsible for the fiscal review of contracts pursuant to the Commonwealth Procurement Code, 62 Pa. C.S. § 327.

8. Loan Fund Account. During the term of the loan the Borrower shall:

- a. deposit all Loan Funds in a separate account;
- b. provide copies of all account statements to PennDOT within 15 days of receipt;
- c. use all income earned by the Borrower from the Loan Funds to repay the loan. Any excess interest income must be returned to PennDOT with the final loan repayment;
- d. maintain full and complete records of all receipts and disbursements of the Loan Funds for three years from the date of final loan repayment for inspection and/or audit. PennDOT, or any of its authorized officers, agents or employees, shall have full and complete access to the records to inspect, copy, or carry them away, at any reasonable time during the term of this Agreement or the three-year retention period; and
- e. comply with generally accepted accounting practices for all accounting records.

9. Loan Repayment Terms.

- a. **Principal Amount.** The Borrower shall pay to the order of PennDOT the principal amount of \$5,000,000.00.

b. **Interest Rate.** Interest shall accrue on the unpaid principal balance at the rate of 2.5 percent per annum. The first two years shall be interest only.

c. **Payment Interval.** The Borrower shall repay the principal and interest of the loan in 10 consecutive annual payments due and payable beginning on or before the first day of the month following the first annual anniversary of the loan disbursement.

d. **Payment Schedule.** The payment schedule will be provided to the Borrower based on the date of the actual loan disbursement.

e. **Prepayment Terms.** The Borrower may prepay the loan in whole at any time or in part from time to time, without penalty or premium but with accrued interest to the date of such prepayment on the amount prepaid. Each partial prepayment shall be in the aggregate principal amount of \$1,000 or an integral multiple thereof. Each partial prepayment shall be applied to the principal installments in the inverse order of their maturities.

f. **Late Fees.** If PennDOT has not received the full amount of any due payment by the end of 15 business days after the date that it is due, the Borrower will pay a late charge of one percent of the overdue payment of principal and interest. The late charge shall be paid no later than 45 days past the payment due date. Failure to pay all amounts currently due, including the late charge, shall result in either a declaration of default or the payment and late charge taken from the loan security without the declaring of default by PennDOT.

g. **Repayments.** The Borrower shall make all repayments via ACH. Borrower shall submit or must have already submitted its ACH information on a ACH enrollment form provided by PennDOT. Loan repayments shall be due the first

business day of the month, at the frequency specified by the terms and conditions of the loan. ACH repayment agreements shall be entered solely with the Borrower named herein. ACH registration shall not be permitted with third parties. ACH repayments will draw funds to satisfy all open items as of the first business day of the month.

10. Promissory Note. The Borrower's obligation to repay the Loan Funds shall be evidenced by a promissory note (the "Note"), attached as Exhibit B, payable to the order of PennDOT in the principal amount of the loan. The Borrower shall provide PennDOT with a copy of a duly executed debt ordinance and Note, approved by the Commonwealth of Pennsylvania's Department of Community and Economic Development (DCED) under the Local Government Unit Debt Act. PennDOT must receive the executed ordinance and Note, in a form approved by the DCED, before any funds will be disbursed by PennDOT.

11. Administrative Fees. The Borrower shall pay to PennDOT the amount of zero dollars, which shall represent all origination, loan management, and other administrative costs incurred by PennDOT in connection with this loan.

12. Borrower's Covenants. The Borrower hereby certifies and covenants that:

a. all acts, conditions, and things required to be done, to happen, or to be performed as conditions precedent to issuance of this loan or in creation of debt have happened or have been performed in due and regular form and manner, as required by law;

b. the Borrower has included the amount of debt service for this loan in its budget for each fiscal year in which sums are payable;

c. the Borrower shall duly and punctually pay, or cause to be paid, the principal of this loan and any interest due as stated in this Agreement;

d. the debt incurred by this loan, together with any other indebtedness of the Borrower, does not exceed any legal limitation upon the Borrower; and

e. the Borrower shall provide a certified resolution authorizing execution of this Agreement, in form and substance satisfactory to PennDOT and legal counsel to PennDOT.

13. Continuation of Representations and Warranties. All of the representations and warranties of the Borrower set forth in this Agreement shall survive and continue until the loan is paid in full and all of the Borrower's obligations have been satisfied.

14. Default. Upon the occurrence of any default, which default is not cured within 30 days after receipt of written notice from PennDOT, the unpaid principal balance plus any accrued interest plus any other sums payable under this Agreement shall become due and payable immediately and without further notice to the Borrower. Any of the following shall constitute default:

a. the Borrower fails to make a payment of principal within ten days of when due;

b. the Borrower fails to observe all or any one of the terms of this Agreement;

c. the Borrower makes a materially false or erroneous statement, certificate, report, representation, or warranty made by the Borrower in connection with the loan or this Agreement;

d. the Borrower uses, or fails to prevent other from using, the Loan Funds for purposes other than the Project;

e. the Borrower (i) becomes insolvent, (ii) admits its inability to pay its debts as they come due, (iii) makes an assignment to the benefit of its creditors, (iv) is adjudicated bankrupt or insolvent, (v) voluntarily initiates proceedings under any bankruptcy or reorganization law, (vi) becomes the subject of any involuntary proceedings under any bankruptcy or reorganization law that is not discharged within 60 days from its initiation, or (vii) seeks to take advantage of any moratorium law; or

f. a receiver, liquidator, or trustee is appointed for the Borrower and is not discharged within 60 days.

15. Remedies Upon Default. The Cranberry Township has pledged its Liquid Fuel Tax allocation as collateral, which guarantees performance of this Agreement. Upon a default, PennDOT may withhold all or part of the Borrower's liquid fuels tax allocation under the Liquid Fuels Municipal Allocation Law, Act of June 1, 1956 (P.L. (1955)1944), or under 75 Pa.C.S. Chapter 95 or any other statute or regulation, or pursue other legal remedies and impose other penalties as PennDOT may prescribe.

16. Indemnification. The Borrower shall indemnify, hold harmless, and defend the Commonwealth, its agencies, officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, or any other person, firm, or corporation furnishing work, supplies, or services in connection with the Project, and from any and all claims and losses accruing or resulting to any person, firm, corporation, or other entity who may be injured or damaged by the Borrower or any agent, employee, or independent contractor of the Borrower in the performance of the Project.

17. Additional Instruments. The Borrower shall execute any additional instruments that PennDOT requests to further confirm and assure the interests and rights created or intended to be created in favor of PennDOT under this Agreement.

18. No Attachment by Creditors; No Cause of Action. No portion of PennDOT's commitment to make the loan will be subject to attachment or levy by any creditor of the Borrower or by any contractor, subcontractor, material person, or supplier, or any creditor of any contractor, subcontractor, material person, or supplier. Notwithstanding anything contained in any document executed in connection with this transaction, or any conduct or course of conduct by any of the parties hereto, before or after signing this Agreement, this Agreement shall not be construed as creating any rights, claims, or causes of action against the Commonwealth, or any agency, officer, agent, or employee thereof, in favor of any contractor, subcontractor, supplier of labor or materials, or any of their respective creditors, or any other person or entity other than PennDOT.

19. Required Commonwealth Provisions. The Borrower shall comply with the following required Commonwealth provisions (as used in these provisions, "Contractor" refers to the Borrower):

a. The current version of the Contractor Integrity Provisions, which is attached and made part of this Agreement as part of Exhibit "A;"

b. The current version of the Commonwealth Provisions Concerning the Americans with Disabilities Act, which is attached and made part of this Agreement as part of Exhibit "A;"

c. The current version of the Commonwealth Contractor Responsibility Provisions, which is attached and made part of this Agreement as part of Exhibit "A;" and

d. The current version of the Commonwealth Nondiscrimination/Sexual Harassment Clause, which is attached and made part of this Agreement as part of Exhibit "A."

20. Offset Provision. The Borrower agrees that the Commonwealth of Pennsylvania may set off the amount of any state tax liability or other obligation of the Borrower or its subsidiaries to the Commonwealth of Pennsylvania against any payments due the Borrower under any contract with the Commonwealth of Pennsylvania.

21. Right-to-Know Law. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, applies to this Agreement. Therefore, this Agreement is subject to, and the Borrower shall comply with the clause entitled Contract Provisions – Right to Know Law, attached and made part of this Agreement as Exhibit "C." As used in this exhibit, the term "Contractor" refers to the Borrower.

22. Choice of Law. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania and the decisions of the Pennsylvania courts. The Borrower consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Borrower agrees that any such court shall have in personam jurisdiction over it and consents to service of process in any manner authorized by Pennsylvania law.

23. Catalog of Domestic Assistance Information. Agreement No. 521277 equals an expenditure amount of \$5,000,000.00 of state funds. The related state assistance program name and number is 471.

24. U.S. Government Disclaimer. Financial assistance from the Pennsylvania Infrastructure Bank does not constitute a commitment, guarantee or obligation of the United States.

25. Amendments and Modifications. No alterations or variations to this Agreement shall be valid unless made in writing and signed by the parties. This Agreement may be amended by letter, signed by both parties. The Deputy Secretary for Planning or his or her designee will sign for PennDOT. Documents referenced in or attached to this Agreement in proposed form, or which are provided for informational purposes, and events or other occurrences giving rise to the contract's creation or submission shall not be legally binding unless this Agreement has been amended or modified.

26. Titles Not Controlling. Titles of paragraphs are for reference only, and shall not be used to construe the language in this Agreement.

27. Severability. The provisions of this Agreement shall be severable. If any phrase, clause, sentence or provision of this Agreement is declared to be contrary to the Constitution of Pennsylvania or of the United States or of the laws of the Commonwealth the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby.

28. No Waiver. Either party may elect not to enforce its rights and remedies under this Agreement in the event of a breach by other party of any term or condition of this Agreement. In any event, the failure by either party to enforce its rights and remedies under this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other term or condition of this Agreement.

29. Independence of the Parties. It is understood by and between the parties that nothing contained herein is intended or shall be construed to, in any respect, create or establish the relationship of partners between the Borrower and PennDOT, or as constituting PennDOT as the representative or general agent of Borrower for any purpose whatsoever.

30. Assignment. This Agreement may not be assigned by the Borrower, either in whole or in part, without the written consent of PennDOT.

31. Third Party Beneficiary Rights. The parties to this Agreement understand that this Agreement does not create or intend to confer any rights in or on persons or entities not a party to this Agreement.

32. Notices. All notices and reports arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, facsimile, e-mail, or delivery in person.

PENNDOT:

Commonwealth of Pennsylvania
Department of Transportation
Center for Program Development and Management
P.O. Box 3365,
Harrisburg, Pennsylvania, 17105-3365
PHONE: 717-787-2862
FAX: 717-787-5247

BORROWER:

Cranberry Township
ATTN: Jerry Andree, Township Manager
2525 Rochester Road, Suite 400,
Cranberry Township, PA 16066
PHONE: 724-776-4806
EMAIL: dan.santoro@cranberrytownship.org

33. Force Majeure. Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without

the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

34. Integration and Merger. This Agreement, when executed, approved and delivered, shall constitute the final, complete and exclusive Agreement between the parties containing all the terms and conditions agreed on by the parties. All representations, understandings, promises and Agreements pertaining to the subject matter of this Agreement made prior to or at the time this Agreement is executed are superseded by this Agreement unless specifically accepted by any other term or provision of this Agreement. There are no conditions precedent to the performance of this Agreement except as expressly set forth herein.

[Remainder of Page Intentionally Left Blank]

The parties have executed this Agreement the date first above written.

Commonwealth of Pennsylvania
Department of Transportation

BY _____
Date

Attest:

Cranberry Township*

BY _____
Title: Date

BY _____
Title: Date

DO NOT WRITE BELOW THIS LINE--FOR COMMONWEALTH USE ONLY

Approved As To Legality
And Form

Funds Commitment Doc. No. _____
Certified Funds Available Under
SAP No. _____
SAP Cost Center _____
GL Account _____
Amount _____

By _____
For Chief Counsel Date

BY _____
Deputy General Counsel Date

BY _____
for Comptroller Operations Date

BY _____
Deputy Attorney General Date

*** Borrower's original signed resolution authorizing execution and attestation must accompany this Agreement; please indicate the signers' titles in the blanks provided and date all signatures.**

Contractor Responsibility Provisions

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

1. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
2. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
4. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
5. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
6. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138

CONTRACTOR INTEGRITY PROVISIONS

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth contracting and procurement process.

1. DEFINITIONS. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

- a. **"Affiliate"** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- b. **"Consent"** means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.
- c. **"Contractor"** means the individual or entity, that has entered into this contract with the Commonwealth.
- d. **"Contractor Related Parties"** means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
- e. **"Financial Interest"** means either:
 - (1) Ownership of more than a five percent interest in any business; or
 - (2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- f. **"Gratuity"** means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.
- g. **"Non-bid Basis"** means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

2. In furtherance of this policy, Contractor agrees to the following:

- a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

Exhibit A

- b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
- c. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.
- d. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.
- e. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
 - (1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 - (2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
 - (3) had any business license or professional license suspended or revoked;
 - (4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
 - (5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract it becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

Exhibit A

- f. Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.
- g. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.
- h. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- i. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.
- j. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

Exhibit A

PROVISIONS CONCERNING THE AMERICANS WITH DISABILITIES ACT

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant with the Commonwealth of Pennsylvania (Commonwealth).

During the term of this agreement, the contractor agrees as follows:

1. Pursuant to federal regulations promulgated under the authority of the *Americans with Disabilities Act*, 28 C. F. R. § 35.101 et seq., the contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this agreement or from activities provided for under this agreement. As a condition of accepting and executing this agreement, the contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the *Americans with Disabilities Act* which are applicable to the benefits, services, programs, and activities provided by the Commonwealth through contracts with outside contractors.
2. The contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the contractor's failure to comply with the provisions of paragraph 1.

Exhibit A

**Nondiscrimination/Sexual Harassment Clause
(August 2018)**

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.
4. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public Employee Relations Act*, *Pennsylvania Labor Relations Act* or *National Labor Relations Act*, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
5. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
6. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
7. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies

relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

8. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

9. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

10. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

PROMISSORY NOTE

FOR VALUE RECEIVED, Cranberry Township (the "Maker"), does hereby promise to pay to the order of the Commonwealth of Pennsylvania, Department of Transportation (the "Payee") at its office at Harrisburg, Pennsylvania the principal amount of Five million dollars and 00/100 cents (\$5,000,000.00) in lawful money of the United States of America and in ten (10) consecutive yearly principal and interest payments in accordance with a payment schedule to be provided by the Payee, each payable with interest at the rate per annum set forth in the Loan Agreement between the Maker and the Payee made contemporaneously with this Note.

This Note is the Promissory Note to which reference is made in the Loan Agreement, Number **521277**, between the Maker and the Payee and is subject to the terms provided therein.

Cranberry Township

By: _____ Date

Title: _____

Attest:

By: _____ Date

Title: _____

EXHIBIT B

Contract Provisions – Right to Know Law

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
 1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.

EXHIBIT C

Revised February 1, 2010

- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

EXHIBIT C

Revised February 1, 2010