



SOUTHWESTERN PENNSYLVANIA CORPORATION

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August 28, 2020

Ms. Kelly Maurer
Assistant Manager, Operations
Cranberry Township
2525 Rochester Road
Cranberry Township, Pennsylvania 16066

Subject: SPC Regional Traffic Signal Program-4th cycle
Proposed Rochester Road SINC project
Project Agreement

Dear Ms. Maurer:

Thank you for meeting with me to discuss your proposed Rochester Road SINC project.

Enclosed for your signature is our proposed agreement for your project. The items that we previously discussed have been incorporated into this agreement. If possible, please have this original agreement signed by the authorized personnel in Cranberry Township and return the signed original to me within 60 days of receiving this letter. Please include the appropriate signed board resolutions or meeting minutes authorizing agreement. Once SPC executes the agreement, I will send you executed copies in the mail and contact you to discuss the next steps moving forward.

If you or others have any questions in the interim, please do not hesitate to call me at (412) 639-2285.

Thank you for your continued interest in SPC's Regional Traffic Signal Program. We look forward to, again, working with Cranberry Township on this important project.

Sincerely,

Domenic A. D'Andrea, P.E., P.T.O.E.
Manager, Transportation Operations and Safety

Enclosure

AGREEMENT FOR
CRANBERRY TOWNSHIP ROCHESTER ROAD SINC PROJECT
REGIONAL TRAFFIC SIGNAL PROGRAM
SOUTHWESTERN PENNSYLVANIA CORPORATION

THIS AGREEMENT is made by and between the Southwestern Pennsylvania Corporation ("SPC"),

And

Cranberry Township, political subdivision in the County of Butler of the Commonwealth of Pennsylvania, acting through its proper officials ("MUNICIPALITY")

RECITALS:

WHEREAS, the SPC has initiated the Regional Traffic Signal Program consistent with the goals and objectives of the Region's Long Range Plan *"Smart Moves for a Changing Region"* and the 2019 Regional Operations Plan; and

WHEREAS, the goals and objectives of the Regional Traffic Signal Program are to facilitate optimized traffic signal operations along key corridors in the region that will result in reduced congestion, improved safety, improved mobility, reduced vehicle stops, reduced fuel and energy consumption, reduced vehicle emissions, and reduced impacts to our environment; and

WHEREAS, SPC will enter into agreements and coordinate with local governments to implement signal retiming projects (Signals In Coordination or "SINC" projects-no construction) and signal equipment upgrade projects with retiming (Signals In Coordination with Upgrades or "SINC-UP" projects-includes construction) in order to achieve the above goals and objectives; and

WHEREAS, SPC will be utilizing federal-aid Congestion Management Air Quality funding from the Federal Highway Administration ("FHWA") for the above named project; and

WHEREAS, SPC and the MUNICIPALITY has signified its willingness to participate in the Program by undertaking the improvements described in Paragraph 2(a) in accordance with the terms, conditions and provisions contained in this Agreement and the terms, conditions and provisions of the Reimbursement Agreement between the Pennsylvania Department of Transportation ("PENNDOT") and SPC attached as Exhibit "A".

NOW, THEREFORE, the parties, intending to be legally bound, agree to the following:

1. INCORPORATION BY REFERENCE

The recitals set forth above are incorporated by reference as a material part of this Agreement.

2. GENERAL CONDITIONS

SPC and MUNICIPALITY shall participate in the preliminary engineering only at the following locations in accordance with policies, procedures and specifications prepared or approved by the PENNDOT and the FHWA, where applicable.

- (a) Rochester Road SINC Project (“Project”) Project Limits and Description of upgrades and retiming (final scope to be determined in final design):
 - Retiming study and new timing implementation at up to 6 signalized intersections along the Rochester Road corridor. A maximum of six (6) new time of day plans would be produced from the study (AM, 2 Midday, 2 PM, Weekend). This area includes the 6 traffic signals from Municipal Center Drive to Powell Road.
- (b) SPC and MUNICIPALITY shall participate in the administration of the Project in accordance with the provisions of this Agreement and more specifically with the most current version of PENNDOT Publication No. 740, *Local Project Delivery Manual* incorporated into this Agreement as though physically attached to it.
- (c) The Project Cost Estimate, attached to and made a part of this Agreement as Exhibit “B,” sets forth the total cost for the Project which are \$48,000.

3. OBLIGATIONS

- (a) The SPC, by contract with engineering consultant, shall complete the signal retiming study required for the Project. The signal retiming study shall be in accordance with policies, procedures and specifications prepared or approved by PENNDOT and the FHWA.
- (b) The SPC, by contract with engineering consultant, shall secure all necessary approvals, permits and licenses from all other governmental agencies as may be required to complete the Project. Unless otherwise determined by PENNDOT or FHWA, it is anticipated that all projects would be classified “Categorical Exclusion 1A, no Evaluation required”. In addition, it is anticipated that only a signal retiming study and presentation of new timings on revised traffic signal permit drawings will be required to be issued for SINC projects. This permit shall be signed by the MUNICIPALITY without delay and issued by PENNDOT after study approval.

- (c) The SPC, upon completion of engineering phase, shall submit all required study documents to PENNDOT and the MUNICIPALITY for review and approval. SPC and its consultants shall assist the municipality with: a) implementation of the new approved traffic signal timings; b) monitoring the effectiveness of the new approved timings over a 30 day period; and c) making any necessary final timing adjustments during and immediately after the 30 day monitoring period.
- (d) Periodic progress meetings will be held as necessary between SPC, PENNDOT, its consultants, and MUNICIPAL representatives to discuss project progress.
- (e) MUNICIPALITY shall provide 20% of total Project costs as Project Local Match which equals **\$9,600**. MUNICIPALITY shall provide a cash amount of **\$9,600** upon execution of this agreement.
- (f) MUNICIPALITY agrees to provide SPC, PENNDOT, and its contractors unlimited access to the existing traffic signals and related equipment listed in Paragraph 2(a) during the duration of the Project. This access is required to perform the described signal improvements. MUNICIPALITY shall grant this access upon SPC's request, without delay.
- (g) The Projects under the Regional Traffic Signal Program involve only signal retiming and minor traffic signal equipment upgrades. Projects involving known utility considerations will not be accepted into this Program. It is anticipated that the Project will not require relocation or adjustment of any existing utility facilities. In addition, Projects involving known right-of-way considerations will not be accepted into this Program. It is anticipated that the Project will not require new right-of-way acquisition. MUNICIPALITY shall also be responsible for any and all costs incurred in excess of those eligible for federal-aid participation including, but not limited to, the following:
 - (i) Time delays and extensions of time or termination of construction work caused by MUNICIPALITY;
 - (ii) Unforeseen right-of-way and other property damages and costs resulting from the acquisition or condemnation, or both, of lands for the Project or the construction of the improvements;
 - (iii) Unforeseen utility relocations costs;
 - (iv) Unforeseen costs for environmental litigation and reports; and
 - (v) All other unforeseen costs and expenses not included in the estimates of preliminary engineering, final design, utility relocation, right-of-way

acquisition and construction costs, but which are directly related to or caused by the planning, design or construction of the Project.

- (h) SPC will determine when the Project is completed and provide written Notification of Project Completion to MUNICIPALITY. Upon receiving the Notification of Project Completion from SPC, the MUNICIPALITY, at their sole cost and expense, shall own, operate and maintain all of the completed improvements financed under this Agreement that fall under its jurisdiction. The MUNICIPALITY shall certify that it shall make available sufficient funds to provide for the described maintenance program. Exhibit "C," attached to and made a part of this Agreement, lists the minimum maintenance requirements that MUNICIPALITY must perform. This agreement does not supersede any existing maintenance agreements between PENNDOT and MUNICIPALITY. Also see Paragraph 4 below.
- (i) The Project will include new signal timings per Paragraph 2(a) that will be implemented by project's contractor. Adjustments in signal timings may be made by project's contractor prior to completion of the Project to facilitate optimized operations. The MUNICIPALITY agrees that no further adjustments in signal timing will occur within one year after receipt of the Notification of Project Completion unless agreed to by SPC.

4. MAINTENANCE AND OPERATION OF THE FACILITY

- (a) This agreement does not supersede any existing maintenance agreements between PENNDOT and MUNICIPALITY. Any and all existing maintenance agreements between PENNDOT and MUNICIPALITY shall remain in effect. This agreement does not supercede any existing multi-municipal maintenance agreements. PENNDOT, in concurrence with the FHWA, when applicable, shall determine the existence of acceptable methods of operation and maintenance. These operation and maintenance services shall include, but not be limited to, the following:
 - (i) Periodic inspections;
 - (ii) Functional review of traffic operations;
 - (iii) Appropriate preventative maintenance, which shall include cleaning, lubrication and refurbishing of all electrical equipment;
 - (iv) A systematic record-keeping system; and
 - (v) A means to handle the notification and implementation of emergency repairs.
- (b) The existence of functioning maintenance and operation services shall not exempt the MUNICIPALITY from complying with the provisions of the Vehicle Code (75 Pa. C.S. § 101 *et seq.*), as amended, pertaining to traffic control devices, or with

applicable provisions of the State Highway Law (36 P.S. § 670-101 *et seq.*), as amended.

- (c) The MUNICIPALITY agrees that each party shall administer, enforce and maintain any statutes, regulations or ordinances within its jurisdiction necessary for the operation of the improvements. The parties further agree that the enforcement obligations relating to the regulations are governed by the statutes of the Commonwealth of Pennsylvania, and more particularly by those statutes relating to municipalities; the Vehicle Code, as amended; and the State Highway Law, as amended; as well as those ordinances, rules and regulations issued by appropriate governmental agencies in implementation of these statutes.
- (d) The MUNICIPALITY acknowledges that the traffic controls and parking regulations necessary to be maintained on these improvements are shown on Exhibit "D," attached to and made a part of this Agreement.
- (e) MUNICIPALITY acknowledges that PENNDOT may disqualify the MUNICIPALITY from future federal-aid or state participation on MUNICIPAL maintained projects if the MUNICIPALITY fails to:
 - (i) Provide for the proper maintenance and operation of the completed improvements; or
 - (ii) Maintain and enforce compliance with any statutes, regulations or ordinances under its jurisdiction necessary for the operation of the improvements.
- (f) The MUNICIPALITY agrees that PENNDOT shall withhold federal-aid or state funds, or both, until one or both of the following (as applicable) have taken place:
 - (i) The MUNICIPALITY has corrected the operation and maintenance services.
 - (ii) The MUNICIPALITY has brought traffic operations on the improvements, including enforcement of statutes, regulations or ordinances, up to a level satisfactory to the PENNDOT.

5. ABANDONMENT OR POSTPONEMENT OF PROJECT

- (a) If MUNICIPALITY abandon or indefinitely postpone the Project for any reason whatsoever, MUNICIPALITY may terminate this Agreement by sending to SPC a thirty- (30-) day written notice of termination. By sending the written notice of termination, MUNICIPALITY acknowledges that the SPC, PENNDOT, and

FHWA will not participate in any costs of a project that is not completed and that the MUNICIPALITY must reimburse the SPC for all costs incurred by SPC, PENNDOT, and FHWA for the Project. The MUNICIPALITY shall reimburse SPC, within forty-five (45) days of receipt of a statement from the SPC, in an amount equal to the sum of all PENNDOT and FHWA funds received by SPC for return to PENNDOT and FHWA. Statement shall include information on any balance remaining after utilizing funds already received from MUNICIPALITY.

- (b) If MUNICIPALITY fails to reimburse SPC within the time period set forth in subparagraph (a) above, MUNICIPALITY shall be in default pursuant to Paragraph 7 of this Agreement.

6. SAVE HARMLESS

The MUNICIPALITY shall indemnify, save harmless and defend (if requested) the SPC, FHWA (if applicable), the Commonwealth of Pennsylvania, PENNDOT, and all of their officers, agents and employees, from all suits, actions or claims of any character, name or description, relating to personal injury, including death, or property damage, arising out of the preliminary engineering, final design, right-of-way acquisition, utility relocation, construction, or operation of the Project improvements, by the SPC, its consultant(s) or contractor(s), their officers, agents and employees, whether the same be due to the use of defective materials, defective workmanship, neglect in safeguarding the work, or by or on account of any act, omission, neglect or misconduct of the SPC, its consultant(s) or contractor(s), their officers, agents and employees, during the performance of said work or thereafter, or to any other cause whatever.

7. DEFAULT CLAUSE

If the MUNICIPALITY fails to perform any of the terms, conditions or provisions of this Agreement, including, but not limited to, any default of payment for a period of forty-five (45) days, the MUNICIPALITY authorizes PENNDOT to withhold so much of the MUNICIPALITY'S Liquid Fuels Tax Fund allocations as may be necessary to complete the Project or reimburse the SPC, PENNDOT and FHWA, in full for all costs due under this Agreement; and MUNICIPALITY authorizes the DEPARTMENT to withhold such amount and to apply such funds, or portion thereof, to remedy such default.

8. DISPUTE RESOLUTION

The parties agree to abide by the dispute resolution processes described in Exhibit "E".

9. FHWA APPROVAL

The parties agree that their responsibilities under this Agreement shall be made contingent upon the approval, prior to commencement of work, of the Project's eligibility for participation in federal funds to the extent of the proportionate share detailed in Exhibit "A," limited to the maximum dollar amount shown there; and, if this approval is not obtained, neither of the parties shall be further obligated by the terms of this Agreement.

10. REQUIRED CONTRACT PROVISION

The parties agree, and the SPC shall also provide in its contracts for the Project, that all designs, plans, specifications, estimates of cost, construction, utility relocation work, right-of-way acquisition procedures, acceptance of the work and procedures in general shall at all times conform to all applicable federal and state laws, rules, regulations, orders and approvals, including specifically the procedures and requirements relating to labor standards, equal employment opportunity, non-discrimination, anti-solicitation, information, auditing and reporting provisions. The SPC shall comply, and shall cause its consultant(s) and contractor(s) to comply, with the conditions set forth in the most current version of the *Federal Nondiscrimination and Equal Employment Opportunity Clause* which is attached as Exhibits "F" and made a part of this Agreement. As used in this clause, the term "Contractor" means SPC.

11. CONTRACTOR INTEGRITY PROVISIONS

The SPC shall comply, and shall cause its consultant(s) and contractor(s) to comply, with the latest version of the Commonwealth of Pennsylvania's *Contractor Integrity Provisions*, which are attached as Exhibit "G" and made a part of this Agreement. As used in these provisions, the term "Contractor" means the SPC.

12. TERMINATION OF AGREEMENT FOR LACK OF FUNDS

The SPC may terminate this Agreement if the SPC does not receive the necessary federal or state funds allocated for the purpose stated in this Agreement. Termination shall become effective as of the termination date specified in PENNDOT's written notice of termination to the SPC specifying the reason for termination. To the extent that SPC is reimbursed by PENNDOT, SPC shall reimburse MUNICIPALITY the unexpended cash portion of the local share amount shown in paragraph 3(e) within sixty (60) days of PENNDOT's written notice of termination.

13. EFFECTIVE DATE

This Agreement will not be effective until it has been executed by all necessary SPC officials as required by law. This Agreement shall remain in effect until the Project is abandoned or completed, whichever occurs first.

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

ATTEST: Cranberry Township*

_____		BY	_____	
Title:	Date		Title	Date

ATTEST: Southwestern Pennsylvania Corporation

_____		BY	_____	
Title:	Date		Title	Date

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

**EXHIBIT A-REIMBURSEMENT AGREEMENTS BETWEEN COMMONWEALTH OF
PA AND SOUTHWESTERN PENNSYLVANIA CORPORATION**

AVAILABLE UPON REQUEST

Exhibit "A"

PROJECT ESTIMATED COSTS

	SPC's - Incurred Costs	Commonwealth- Incurred Costs	Phase Totals
Preliminary			
Engineering	\$ 48,000	\$ 0	\$ 48,000
Final Design	\$ 0	\$ 0	\$ 0
Utilities	\$ 0	\$ 0	\$ 0
Right-of-Way	\$ 0	\$ 0	\$ 0
Construction	\$ 0	\$ 0	\$ 0
SUBTOTALS	\$ 48,000	\$ 0	\$ 48,000

COST SHARING (SPC -Incurred Costs)

	Federal (80 %)	State (%)	Municipality (20 %)	State Act 26 (%) (If Applicable)	Phase Subtotals
Preliminary					
Engineering	\$ 38,400	\$ 0	\$ 9,600	\$ 0	\$ 48,000
Final Design	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Utilities	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Right-of-Way	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Construction	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
TOTALS	\$ 38,400	\$ 0	\$ 9,600	\$ 0	\$ 48,000

COST SHARING (Commonwealth-Incurred Cost)

	Federal (80 %)	State (%)	Municipality (20%)	State Act 26 (%) (If Applicable)	Phase Subtotals
Preliminary					
Engineering	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Final Design	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Utilities	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Right-of-Way	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Construction	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
TOTALS	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0

TOTAL COST

Federal	State	Municipality	Total
(\$ 38,400)	(\$)	(\$ 9,600)	(\$ 48,000)

COUNTY: Butler County

SPC : Southwestern Pennsylvania Corporation

PROJECT NAME: Cranberry Rochester Road SINC Project

Exhibit "B"

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**GUIDELINES TO PREPARING
MUNICIPAL METHOD OF
MAINTENANCE OPERATION AND SERVICES**

1. The MUNICIPALITY must provide for the proper maintenance of all completed projects under its jurisdiction. To comply with this federal requirement, the MUNICIPALITY shall establish or maintain a functional traffic engineering unit throughout the design life of all projects.
2. A functional traffic engineering unit consists of, at a minimum:
 - (a) A competent and qualified traffic engineer; and
 - (b) A maintenance staff with at least one licensed electrician skilled in the operation and repair of traffic signal equipment.
3. To be considered capable of effectively maintaining completed projects, the MUNICIPALITY'S maintenance staff must be provided with the proper equipment and materials necessary, at a minimum, to:
 - (a) Repair and replace worn out or damaged signal equipment;
 - (b) Install new and replace damaged or obsolete traffic signs; and
 - (c) Install or replace paint and thermoplastic pavement markings.
4. The MUNICIPALITY should evaluate its present and proposed organizational charts to determine if the MUNICIPALITY is capable of providing a functional traffic engineering unit within its government. Guidelines for considering the inclusion of a functional traffic engineering unit have been published by the Institute of Traffic Engineers ("ITE"), and should be reviewed by MUNICIPALITY in evaluating their organizational chart. The ITE guidelines make reference to the Model Traffic Ordinance (*Uniform Vehicle Code and Model Traffic Ordinance*, published by the National Committee on Uniform Traffic Laws and Ordinances) as being the best method of providing the legal basis for establishing a traffic engineering function.
5. If the MUNICIPALITY is unwilling or unable to provide the traffic engineering function from within its organization, the MUNICIPALITY has the option of contracting with an outside agent or agency for the required traffic engineering expertise and maintenance.

6. Functional Traffic Engineering Unit Method.

- (a) In preparing to comply with this Exhibit, the MUNICIPALITY must select one of the following methods for providing a functional traffic engineering unit:
 - (i) Municipal Traffic Engineer and Municipal Maintenance Staff;
 - (ii) Contractual Traffic Engineer and Municipal Maintenance Staff;
 - (iii) Contractual Traffic Engineer and Contractual Maintenance Staff; and
 - (iv) Municipal Traffic Engineer and Contractual Maintenance Staff.
- (b) Depending on which method is chosen, the guidelines for the functional traffic engineering unit shall include, but not be limited to, the following:
 - (i) **Municipal Traffic Engineer:**
 - (1) A brief description of educational background and work experience, including length of employment as Municipal Traffic Engineer;
 - (2) A description of duties assigned and powers delegated to the Municipal Traffic Engineer under municipal ordinance; and
 - (3) A municipal organizational chart showing the Traffic Engineer's position in the hierarchy of municipal government.
 - (ii) **Municipal Maintenance Staff:**
 - (1) The number of employees permanently assigned to this function and the number which may be assigned on a temporary basis;
 - (2) A brief description of the organization of the staff, including the length of time that it has been in existence; and
 - (3) A clear demonstration of the maintenance staff's ability to properly maintain and repair traffic signal equipment.
 - (iii) **Contractual Traffic Engineer.**
 - (1) The MUNICIPALITY's assurance that the Contractual Traffic Engineer hired is qualified and competent in all aspects of traffic engineering; and

- (2) It will not be necessary to include the name and professional background of the individual or organization.

(iv) **Contractual Maintenance Staff:**

- (1) A brief description of the organization to be hired, including a history of its experience in this field;
- (2) The MUNICIPALITY's assurance that the organization is capable of properly maintaining and repairing traffic signal equipment and that it has adequate staff available in case of emergency.

Required Traffic Controls and Parking Regulations

1. The traffic controls and parking regulations necessary to be maintained on each project must be clearly outlined by PENNDOT and SPC and agreed upon by MUNICIPALITY prior to physical construction.
2. The MUNICIPALITY agrees to maintain and enforce the traffic controls and parking regulations set forth below and to adopt any resolutions necessary for the accomplishment of the same. If MUNICIPALITY fails to provide a functional traffic engineering unit within its own organization, it is understood that prior COMMONWEALTH or FHWA approval will be required for changes to the controls and regulations listed. Prior approval will not be required for the following:
 - (a) Expansion of the time restriction for “No Parking” beyond that which is specified; and
 - (b) Erection of warning sign, painted crosswalks and other traffic control devices not specified below as long as they conform to the requirements in the 1971 edition of the Manual on Uniform Traffic Control Devices and do not require the Secretary’s approval as specified in the Vehicle Code.
3. The traffic controls and parking regulations that must be maintained by the MUNICIPALITY are as follows:

(See attached for format)

PROJECT LIMITS	PARKING RESTRICTIONS (use station numbers if feasible)	LOADING RESTRICTIONS	BUS STOP LOCATIONS	TURN PROHIBITION	Signalized Intersection (specify #. of phases and of operation)

DISPUTE RESOLUTION

MEDIATION

The parties may elect to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to the Agreement and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration or the institution of legal or equitable proceedings but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

ARBITRATION

All controversies, claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof, including, but not limited to, Claims in contract, tort and/or equity, shall be subject to and decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. Any claim arising out of or related to the Agreement. Prior to arbitration, the parties may endeavor to resolve disputes by mediation.

Arbitration shall be commenced within the time limits when institution of legal or equitable proceedings based on such claims would be barred by the applicable statute of limitations.

Arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder, or joint filing, any additional person or entity not a party to this Agreement to the extent necessary to the final resolution of the matter in controversy. MUNICIPALITY shall include a similar arbitration, litigation and consolidation provision in all Subcontractor, Material and Supplier Agreements. The agreement to arbitrate as contained and specified herein as well as any agreement to arbitrate with any additional persons duly consented to by the parties to this Agreement shall be specifically enforceable under the laws of the Commonwealth of Pennsylvania.

Judgment on Final Award: Any award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Unless otherwise agreed by the parties, the exclusive locale for settlement and/or resolution of any and all claims, controversies or disputes arising out of or related to this Agreement or any breach thereof shall be Allegheny County, Pennsylvania.

**FEDERAL NONDISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY CLAUSES
(All Federal Aid Contracts)* (1-76)**

1. **Selection of Labor:** During the performance of this contract, the contractor shall not discriminate against labor from any other State, possession or territory of the United States.
2. **Employment Practices:** During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by the State highway department setting forth the provisions of this nondiscrimination clause.
 - b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway department advising the said labor union or workers' representative of the contractor's commitments under section 2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.
 - e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 - f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
 - g. The contractor will include the provisions of Section 2 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Federal Highway Administration, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

3. **Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment:** During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- a. **Compliance with Regulations:** The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations) which are herein incorporated by reference and made a part of this contract.
- b. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in the Regulations.
- c. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontract or supplier shall be notified by the contract of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex or national origin.
- d. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State highway department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- e. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - (1) withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (2) cancellation, termination or suspension of the contract, in whole or in part.
- f. **Incorporation of Provisions:** The contractor shall include the provisions of this paragraph 3 in every subcontract, including procurements of materials and leases of equipment, unless except by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State highway department or enter into such litigation to protect the interest of the State, and , in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Wherever hereinabove the word "contractor" is used, it shall also include the word engineer, consultant, researcher, or other entity (governmental, corporate, or otherwise), its successors and assigns as may be appropriate.

*Not to be used if otherwise included in Construction or Appalachian Contract Provisions.

EXHIBIT "G"

January 14, 2015

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.
- 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.

- 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.