

Agreement No. 0641262
SAP Vendor No. 138996
Federal ID No. 23-6002927

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (“Agreement”) is entered into this ____ day of _____, _____, by and between the Commonwealth of Pennsylvania, acting through its Department of Transportation (“PennDOT”),

and

the Borough of Pottstown, a political subdivision of the Commonwealth of Pennsylvania (“Municipality”).

BACKGROUND:

PennDOT has issued the State Route (SR) 0422, Section M1B project (PROJECT) in Montgomery and Chester Counties to reconstruct PennDOT’s SR 0422 Pottstown Bypass – Expressway from west of Porter Road to west of the Sanatoga Interchange, including two (2) bridges carrying SR 0422 over Porter Road and Sanatoga Road and Creek, and to address both routine traffic and diversions from SR 0422 associated with incidents in this region, and;

A traffic management strategy is intended to be utilized to improve communications and technology improvements within the corridors and to better inform vehicular and public transit travelers of traffic incidents and to improve multi-agency coordination and the management of daily traffic operations, and;

The traffic management strategy will be used to effectuate upgrades along SR 0422 and adjacent corridors and to further improve the flow of traffic on a daily basis, as well as during incidents on SR 0422, and;

PennDOT and the Municipality share a common interest in facilitating the safe and efficient management of traffic flow along state, county and locally owned roadways parallel

to SR 0422 in the event of an incident and wish to coordinate and disseminate accurate travel condition information to area motorists and the traveling public, and;

The need for communication cable and closed-circuit television (CCTV) cameras at the following location(s) has been found to be warranted (“CCTV Locations”):

- CCTV at High Street (SR 4031) and Hanover Street (SR 4038); and
- CCTV at High Street (SR 4031) and Armand Hammer Boulevard (SR 4036) / Wilson Street.

The cost of installing communication cable and CCTV cameras at these locations is being partially or totally funded with state and/or federal funds, and;

PennDOT will maintain the CCTV camera device(s) along with related communication equipment and cable and the Municipality will continue to maintain its traffic signals and other facilities on which the CCTV cameras are installed, and,

PennDOT and the Municipality now wish to outline their respective functions and responsibilities in this Agreement.

In consideration of the foregoing premises and of the mutual promises set forth below, PennDOT and the Municipality agree, with the intention of being legally bound, to the following:

1. Installation of CCTV. The Municipality agrees to permit PennDOT to install and maintain CCTV camera devices, as well as to monitor traffic conditions, via the use of CCTV cameras to be installed along the roadways, within the boundaries of the Municipality at the CCTV Locations.
2. Ownership. PennDOT will own, maintain, and operate the CCTV camera locations along area roadways, as well as the communication infrastructure used to operate these devices.

3. Municipal Responsibility. The Municipality agrees to continue to maintain and operate traffic signals within its jurisdiction in accordance with the Department's Publication 191 incorporated as if physically attached hereto.
4. Cooperation. In the event of immediate danger to Municipality operation or to the highway user, the parties hereto agree to fully cooperate with each other.
5. Notice. Notices and reports arising out of, or from, this Agreement shall be in writing and given to the parties at the addresses below, either by regular mail, facsimile, email, or delivery in person. A party may revise its contact information by providing written notice to the other party.

If to PennDOT:

Name: District Executive
Address: 7000 Geerdes Boulevard
King of Prussia, PA 19406
Email: RA-PdD06DEOffice@pa.gov
Phone: 610.205.6700

If to Municipality

Name: Justin Keller, Borough Manager
Address: 100 E High Street
Pottstown, PA 19464
Email: jkeller@pottstown.org
Phone: 610.970.6500

6. Term. The term of this Agreement shall be for two (2) years from the date of its execution and shall automatically renew for additional one-year terms unless cancelled by either party on written notice delivered not less than ninety (90) calendar days prior to the end of the term.
7. Termination. PennDOT has the right to terminate this Agreement for reasons as stated in the following paragraphs. Termination shall be effective upon receipt of written notice from

either party to the other.

A. Termination for Convenience:

PennDOT shall have the right to terminate this Agreement for its convenience if PennDOT determines termination to be in its best interest. Municipality shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall Municipality be entitled to recover loss of profits.

B. Non-Appropriation:

PennDOT's obligations are contingent upon appropriation of funds for the Project Agreement Purpose. PennDOT shall have the right to terminate a Project Agreement because of nonavailability of sufficient funds (state and/or federal) for PennDOT to pay for the services to be rendered under this Agreement.

C. Termination for Cause:

PennDOT shall have the right to terminate this Agreement for Municipality's default upon written notice to Municipality. The PennDOT shall have the right to terminate this Agreement or any Project Agreement executed with cause upon written notice to Municipality.

8. Amendments and Modifications. This Agreement may not be modified or amended except in writing signed by duly authorized representatives of both Municipality and PennDOT. This Agreement may not be assigned by either party without the prior written authorization of the other party. This Agreement should not be construed to confer any rights upon any other persons or entities of any kind not a party hereto.
9. Successors and Assigns. This Agreement shall be binding and inure to the benefit of the successors and assigns of Municipality and PennDOT.

10. Required Commonwealth Provisions. All work authorized by this Agreement, and approved by PennDOT, shall be subject to all applicable laws, rules, and regulations, and the Municipality shall also ensure that all design plans, specifications, estimates of costs, construction, utility relocation work, right-of-way acquisition procedures, acceptance of work and procedures in general shall, at all times, conform to all applicable and state laws, rules and 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 Municipality shall comply, and cause its consultant(s) and contractor(s) to comply, with the conditions set forth in the Commonwealth of Pennsylvania's"

- A. Nondiscrimination / Sexual Harassment Clause;
- B. Contractor Integrity Provisions;
- C. Provisions Concerning the Americans with Disabilities Act; and,
- D. Contractor Responsibility Provisions;

all of which are incorporated into this Agreement by reference, and attached as Exhibits "A", "B", "C", and "D", respectively.

11. 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 Municipality shall comply with, the clause entitled Contract Provisions – Right to Know Law, attached as Exhibit "E" and made a part of this Agreement. As used in Exhibit "E", the term "Contractor" refers to the Municipality.

12. Assignment. This Agreement may not be assigned by the Municipality either in whole or in part, without the written consent of the Commonwealth.

13. 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 Pennsylvania courts.
14. Indemnification. The Municipality shall indemnify, save harmless and defend (if requested) 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, brought for or on account of any injuries or damages received or sustained by any person, persons, or property, arising out of, resulting from or on account of any act, omission, neglect or misconduct of the Municipality, 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.
15. Severability. The provisions of this Agreement shall be severable. If a 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 and its applicability to a government, agency, person, or circumstance is held invalid, the validity of the remainder of this Agreement and its applicability to a government, agency, person, or circumstance shall not be affected.
16. No Waiver. Either party may elect not to enforce its rights and remedies under this Agreement in the event of a breach by the other party. Failure by either party to enforce its rights and remedies shall not be construed as a waiver of a subsequent breach of the same or another term or condition of this Agreement.
17. Independence of the Parties. Nothing contained in this Agreement is intended or shall be construed to create or establish the relationship of partners between the Municipality and PennDOT, or as constituting PennDOT as the Municipality's representative or general agent.

18. Force Majeure. Neither party shall be liable for failure to perform if the failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Causes may include 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 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.
19. Integration and Merger. This Agreement, when executed, approved, and delivered, shall constitute the final, complete, and exclusive Agreement between the parties containing the terms and conditions agreed on by the parties. Representations, understandings, promises, and agreements pertaining to the subject matter of this Agreement made before or at the time this Agreement is executed are superseded by this Agreement unless specifically accepted by this Agreement. No conditions precedent to the performance of this Agreement exists, except as expressly set forth in this Agreement.
20. Effective Date. This Agreement shall not be effective until the necessary Commonwealth officials required by law have executed it. Following full execution, PennDOT shall insert the effective date at the top of Page 1.

[Remainder of page intentionally blank – signature page follows]

IN WITNESS WHEREOF, the parties have caused these presents to be executed, by their
duly authorized officials, on the date first above written.

ATTEST:

By _____
Date

By _____
Date

Title

Title

If a Corporation, the President or Vice President must sign; if a sole proprietorship, only the owner must sign; if a partnership, only one partner need sign; if a limited partnership, only the general partner must sign. If a Municipality, Authority, or other entity, please attach a resolution.

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Do not write below this line – for Commonwealth use only

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION**

by _____
Deputy Secretary Date

APPROVED AS TO LEGALITY
AND FORM

by _____
Chief Counsel Date

by _____
Deputy Attorney General Date

by _____
Deputy General Counsel Date

18-014

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 if 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.



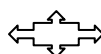
PROVISIONS CONCERNING THE *AMERICANS WITH DISABILITIES ACT*

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 B



Contractor Responsibility Provisions

(December 2020)

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 search the current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment List tab.

Exhibit C

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Contracts]

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

Exhibit D



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.

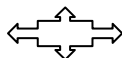
Exhibit D



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 E



- 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 E

