



A G R E E M E N T

WITH:

FOR:

BY: DEPARTMENT OF PUBLIC WORKS

DIVISION OF:

BTE PROJECT NO.:

CONTROLLER'S NO.: _____

AGREEMENT

MADE THIS _____ day of _____, 2015 between the CITY OF PITTSBURGH, a Municipal Corporation of the Commonwealth of Pennsylvania, hereinafter called "CITY",

A
N
D

VENDOR., Tax I.D. No XXX, a STATE Corporation, with local offices at, hereinafter called "CONSULTANT".

WHEREAS, CITY desires to engage CONSULTANT to render BRIEF SCOPE

WHEREAS, CONSULTANT is possessed of professional experience and expert skill and is qualified to render the desired services; and,

WHEREAS, CITY desires to engage CONSULTANT upon the terms and conditions hereinafter set forth, and CONSULTANT is willing to accept such engagement upon such terms and conditions;

NOW, THEREFORE, in consideration of the mutual premises and intending to be legally bound hereby, the parties hereto agree as follows:

I. SCOPE OF SERVICES

CONSULTANT agrees to perform the professional services required under the terms of this agreement in full compliance with all federal, state, and local laws, and regulations applicable to

said work, and in accordance with Exhibit "A", listed below, which is attached hereto and made a part hereof.

A. EXHIBITS:

A - Part 1 - CONSULTANT'S Technical Proposal

A - Part 2 - CONSULTANT'S Price Proposal

CONSULTANT shall perform automated red light enforcement services and supporting services as outlined in above-listed CONSULTANT'S proposals to the Department of Public Works, hereinafter called "DEPARTMENT".

B. WORK PRODUCTS

CONSULTANT shall deliver to DEPARTMENT, the complete project file.

II. GENERAL TERMS AND CONDITIONS

A. GENERAL REQUIREMENTS

CITY hereby engages CONSULTANT as an independent contractor to perform, upon the terms and conditions hereinafter set forth, an automated red light enforcement program in accordance with the scope of work set forth in Exhibit "A", and also in accordance with the Exhibits listed below which are attached hereto and made a part hereof. All materials and work products prepared, developed or obtained under the terms of this agreement shall be promptly delivered to and become the property of CITY.

EXHIBIT B:

Affidavit Regarding Accepting Provisions of the Workers' Compensation Act.

EXHIBIT C:

Federal Non-discrimination and Equal Opportunity Clauses

Commonwealth Non-discrimination/Sexual Harassment Clause

CITY's Non-discrimination Clause
Employment Provisions, Pennsylvania Human Relations Act

EXHIBIT D:

CONSULTANT'S Certification of Non-Collusion

EXHIBIT E:

DEPARTMENT's Certification of Non-Collusion

EXHIBIT F:

CONSULTANT'S Debarment Affidavit
Certification Regarding Debarment, Suspension and other Responsibility Matters -
Primary Covered Transactions

EXHIBIT G:

CONSULTANT'S Statement of Affiliations

EXHIBIT H:

Audit Clause to be used in Agreements with Entities Receiving Federal Awards from the
Commonwealth.

EXHIBIT I:

Engineer's (Contractor's) Integrity Provisions for Municipal Agreements

EXHIBIT J:

Provisions Concerning the Americans-with-Disabilities Act

EXHIBIT K:

Lobbying Certification Form

EXHIBIT L:

Disadvantaged Business Enterprise and Small Business Concern Involvement

EXHIBIT M:

Good Faith Effort

B. OBLIGATIONS OF CITY TO CONSULTANT

CITY shall make available to CONSULTANT all data in its possession regarding the existing structures, street or utilities. These data shall include, but are not limited to, standards, specifications, policies, guides, engineering reports, maps, plans, drawings, inventories, etc.

C. MONITORING

CONSULTANT'S performance shall be subject to monitoring and review by CITY through DEPARTMENT. Where CONSULTANT'S work is unsatisfactory to DEPARTMENT, CITY retains the right to request personnel changes to rectify the noted deficiencies in said performance.

D. START AND FINISH DATES - PROJECT SCHEDULE/DURATION

III. BASIS OF PAYMENT AND PAYMENTS

A. COMPENSATION

B. METHOD OF PAYMENT

C. LIMIT OF COMPENSATION

CITY shall not be liable or obligated to reimburse CONSULTANT for costs incurred by CONSULTANT which exceed the amounts set forth above in Section A of this Article without prior approval of CITY, and in the form of a supplemental agreement, as provided in Article IV - Other Provisions, Section C - Extra Services.

D. PAYMENT OF TAXES AND SET-OFF PAYMENTS

CONSULTANT warrants that any and all taxes or municipal claims that may be payable to CITY by CONSULTANT are current and not delinquent. If CITY determines that there is an outstanding delinquency or if any taxes or municipal claims become delinquent and owing during the term of this agreement or prior to final payment by CITY, CONSULTANT hereby grants CITY the right to set-off that indebtedness against any amounts owing to CONSULTANT under the terms of this agreement. CITY reserves the right to apply set-off payments in whatever manner it deems appropriate.

E. SPECIFIC RATE FACTORS

The Engineer shall have a Certified Public Accountant perform a Federal Acquisition Regulation Audit for the Engineer for the fiscal year. This audit shall be furnished to PennDOT, via the City, for review and acceptance. Upon PennDOT acceptance of the audit the City shall establish, by letter from the Director of the DEPARTMENT, specific rate factors for the Engineer. These specific rate factors shall remain fixed for the life of the agreement. The Engineer shall not submit a request for specific rate of compensation reimbursement prior to the establishment of these factors.

IV. OTHER PROVISIONS

A. STANDARDS

Standards for services to be provided under this agreement shall be OSHA, ADA, PennDOT and AASHTO standards, as applicable. CITY and/or industry standards will

be utilized when other appropriate standards do not exist or are specifically requested. CONSULTANT is obligated to enforce the application of all such standards in his administration of the construction contract.

B. OWNERSHIP

All materials and work products prepared, developed or obtained under the terms of this agreement shall be promptly delivered to and become the property of CITY (See Section D of this Article). No limitation on the subsequent use of same by CITY shall be placed upon said material and work products by CONSULTANT. Any subsequent use of CONSULTANT'S material or work products, shall be at the risk of CITY and shall engender no further liability to CONSULTANT. Failure to comply with this provision shall, at CITY's election, absolve CITY for payment of any compensation to CONSULTANT in connection with this agreement.

C. EXTRA SERVICES

If extra services are required for satisfactory completion of the work or any phase thereof, and extra costs are thereby necessarily incurred by CONSULTANT, CONSULTANT may be reimbursed only upon approval by the Director of DEPARTMENT pursuant to proper legislative action by CITY and by subsequent execution of a supplemental agreement. However, CITY shall not reimburse CONSULTANT for any extra services occasioned by interruption, postponement or abandonment of the work, because of circumstances which CITY deems to be in its best interest. In such cases, CITY shall pay only the cost of services rendered up to the time of such interruption, postponement or abandonment, pursuant to Article VI hereof.

D. RIGHTS IN DATA; COPYRIGHTS; DISCLOSURE

1. Definition - The term "data", as used in this agreement, includes written reports, studies, drawings, or other graphic, electronic, chemical or mechanical representations.

2. Rights in data - All data developed pursuant to this agreement shall belong solely and exclusively to CITY , and CITY shall have the full right to use such data for any official purpose and in whatever manner deemed desirable and appropriate, including making it available to the general public. Such use shall be without any additional payment to or approval by CONSULTANT. CITY shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any data developed or prepared under this agreement. (Subject to the caveat stipulated in Article IV - Other Provisions, Section B - Ownership)

3. Copyrights - No data developed or prepared in whole or in part under this agreement shall be subject to copyright in the United States of America or in any other country. CONSULTANT hereby relinquishes, or shall cause to be relinquished, any and all copyrights and/or privileges to data developed or prepared under this agreement without any additional payment to CONSULTANT therefore. CONSULTANT shall not include in the data any copyrighted matter unless CONSULTANT obtains the prior written approval of the Director of DEPARTMENT and provides the said Director with written permission of the copyright owner for CONSULTANT to use such copyrighted matter in the manner provided herein.

V. DELAYS AND EXTENSIONS

The time of completion of services under this agreement shall conform to Article II, Section D, and it may be extended in writing only by the Director of DEPARTMENT for unavoidable delays resulting from causes beyond the control of CONSULTANT, and/or per Article IV, Section C.

VI. INTERRUPTIONS - POSTPONEMENT - ABANDONMENT

In the event the work herein contemplated, or any part thereof, shall be interrupted, postponed or abandoned due to circumstances which CITY deems to be in its best interest, CONSULTANT shall not be entitled to any further payment for such work or part thereof beyond and in excess of the amount due at the time of the interruption, postponement, abandonment, and in accordance with Article III hereof. Final payment shall be based upon the proportionate amount of the fee

earned to such date (services actually performed through date when work is interrupted, postponed or abandoned).

CITY may also, at its option, elect to cancel the agreement for cause and recover damages or choose to enter into renegotiations to change the fee as provided herein, when CITY determines that the fee transmittals are in error and that accurate contract data will cause a change in the fee to be paid CONSULTANT.

VII. INTERPRETATION, DISPUTES AND FINAL PAYMENT

In the event of any disputes as to the interpretation of the terms of the agreement, the decision of the Director of DEPARTMENT shall be final. Acceptance of the final payment by CONSULTANT shall be considered full release of all claims against CITY arising out of or by reason of the work done and materials furnished under this agreement.

VIII. INDEMNITY

CONSULTANT hereby agrees to indemnify, save and hold harmless, and defend CITY, its officers, agents, and employees and all other agencies of the Commonwealth of Pennsylvania and Federal Government, from and against all liens, charges, claims, demands, losses, costs, judgments, liabilities, and damages of every kind and nature whatsoever, including court costs and legal fees, arising by reason of: the negligent performance by CONSULTANT of any services under this agreement; any act, error or omission of CONSULTANT or of any agent, employee, licensee, contractor or subcontractor of CONSULTANT; and any breach by CONSULTANT of any of the terms, conditions or provisions of this agreement. CONSULTANT shall supply evidence of insurance satisfactory to CITY covering the liabilities and indemnification required by this agreement, as outlined hereinafter under Article XI.

IX. LIABILITY OF CONSULTANT

CITY assumes no responsibility for the work or direction of any of the employees or independent contractors engaged by CONSULTANT hereunder, or for any negligent or unlawful act or omission of any of the same. Nothing in this agreement shall be deemed to impose any liability or duty on CITY for any act, omission, liability or obligation of CONSULTANT or of any

person, firm, business or corporation employed or engaged by CONSULTANT in any capacity in relation to this agreement. CONSULTANT shall be solely responsible for both damage to property and all personal injuries, including death, to its agents, servants or employees, or to any other person, sustained by reason of the performance by CONSULTANT of any work hereunder, or resulting from any negligent act or omission of any of CONSULTANT'S partners, officers, employees, agents, servants or independent contractors.

X. MINORITY BUSINESS ENTERPRISE (MBE) AND WOMEN'S BUSINESS ENTERPRISE (WBE) PARTICIPATION/DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM ASSURANCE

A. MBE/WBE PARTICIPATION

MBE and/or WBE participation is requested in all CITY contracts, including professional services agreements. Such participation may be demonstrated by utilization of MBE/WBE firms through the use of subcontracts with such firms in support services, supplies, etc. CITY requires that all providers of professional services demonstrate a good faith effort to obtain the participation of MBEs and WBEs in all work to be performed under CITY contracts. To this end, CONSULTANT agrees to assist CITY's efforts to encourage the participation of minorities and women in CITY contracts by making a good faith effort to utilize women and minorities in performing the work required by this agreement.

CONSULTANT further agrees to provide MBE and WBE participation in the work hereunder and such participation shall be as set forth in CONSULTANT'S proposal attached hereto as Exhibit "A", Part 1, or as such participation may be hereafter amended with the written approval of CITY.

It shall be a term of this agreement that final payment shall be conditioned on receipt by DEPARTMENT of a report from CONSULTANT detailing:

1. The dollar amount of the contract paid to MBEs, along with the names and addresses of said MBEs;
2. The dollar amount of the contract paid to WBEs, along with the names and addresses of said WBEs;

3. An explanation of any failure to achieve the goals for MBE and WBE participation which had been represented to CITY prior to the award of the contract.

CITY intends to monitor the progress closely, including revising the practices and procedures from time to time as conditions warrant.

B. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM ASSURANCE

CONSULTANT also agrees to comply with the terms and conditions of the following Disadvantaged Business Enterprise (DBE) Program Assurance for federally funded agreements.

CONSULTANT shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of United-States-Department-of-Transportation-assisted contracts. Failure by CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as CITY deems appropriate. If CONSULTANT is providing services or supplies for CITY pursuant to this contract CONSULTANT must include this assurance in each subcontract that CONSULTANT signs with a subcontractor. If CONSULTANT is a grantee or other recipient of funds from CITY, CONSULTANT must include this assurance in each contract into which CONSULTANT enters to carry out the project or activities being funded by this contract.

XI. INSURANCE

Prior to the beginning of any work or program covered under this agreement, CONSULTANT shall deliver to CITY certificates of insurance duly executed by the officers or authorized representatives of a responsible and nonassessable insurance company, evidencing the following minimum coverages for the benefit of CITY, which insurance shall be noncancellable, except upon thirty (30)-day prior written notice to CITY. CITY shall be named as additional insured with regard to the General Liability policy.

	<u>Individual Occurrence</u>	<u>Aggregate</u>
<u>Public Liability</u>		
Bodily injury, including death and property damage combined	\$500,000.	\$1,000,000.
<u>Automobile Liability</u>		
Bodily injury, including death and property damage combined	\$500,000.	\$1,000,000.
<u>Professional Liability</u>	\$250,000.	\$ 250,000.
<u>Workers' Compensation</u>	Statutory	

All premiums shall be at the expense of CONSULTANT.

The General Liability certificate must state that the policy is an "Occurrence" policy. "Claims Made" policies are not acceptable.

In the event that the term of said insurance shall expire prior to the expiration of the term of this agreement or the completion of all services required hereunder, whichever shall occur later, CONSULTANT shall renew said insurance in a timely manner and shall promptly cause a certificate of insurance evidencing such renewal, and also identifying CITY as an additional insured, under the General Liability insurance, to be forwarded to the Director of DEPARTMENT.

XII. WORKER'S COMPENSATION

CONSULTANT hereby certifies that it has accepted the provisions of the Pennsylvania Worker's Compensation and Occupational Disease Acts, as amended and supplemented, insofar as work covered by this agreement is concerned, and that it has insured its liability thereunder in accordance with the terms of said acts or has duly filed a proper certificate of exemption from insurance with the Pennsylvania Department of Labor and Industry.

XIII. ANTI-DISCRIMINATION

CONSULTANT shall not discriminate in its employment on the basis of race, color, religion, ancestry, national origin, place of birth, sex, age, disability, non-job related handicap, or sexual orientation. CONSULTANT shall comply with the applicable provision of the Pittsburgh Code, Title Six - Conduct, Article V - Discrimination, and any amendments thereto. CONSULTANT shall also comply with the applicable provisions of Title I and Title II of the Americans-with-Disabilities Act, any amendments thereto and any regulations issued thereunder. CONSULTANT shall incorporate in any subcontracts, which may be permitted under the terms of this agreement, a requirement that said subcontracts also comply with the provisions of this Article.

XIV. COMPLIANCE WITH LAWS

CONSULTANT shall fully obey and comply with all laws, ordinances and administrative regulations duly made in accordance therewith which are applicable to the work done under this agreement.

XV. SUBCONTRACTS; ASSIGNMENTS

None of the work or services covered by this agreement shall be subcontracted without the prior written approval of CITY. CONSULTANT shall not assign this agreement or any rights to monies to be paid hereunder without the prior written consent of CITY.

XVI. DEBARMENT/CITY OF PITTSBURGH CONSULTANT'S RESPONSIBILITY PROVISIONS

A. DEBARMENT

CONSULTANT warrants that it is not prohibited from entering into this agreement with CITY by reason of disqualification under subsection (b) of Section 161.22 of the Pittsburgh Code. An affidavit certifying compliance with this Article is attached hereto as Exhibit F and incorporated into and made a part of this agreement.

B. CITY OF PITTSBURGH CONSULTANT'S RESPONSIBILITY PROVISIONS

1. CONSULTANT must certify, in writing, for itself and all its subcontractors, that as of the date of the execution of any CITY contract, that neither CONSULTANT, nor any subcontractors, nor any suppliers are under suspension or debarment by CITY or any governmental entity, instrumentality, or authority and, if CONSULTANT cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.
2. CONSULTANT must also certify, in writing, that as of the date of the execution of any CITY contract, it has no tax liabilities or other CITY obligations.
3. CONSULTANT'S obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, CONSULTANT shall have an obligation to inform the contracting agency if, at any time during the term of the contract, it becomes delinquent in the payment of taxes, or other CITY obligations, or if it or any of its subcontractors are suspended or debarred by CITY, the Federal government, or any other State or governmental entity. Such notification shall be made within fifteen (15) days of the date of suspension or debarment.
4. The failure of CONSULTANT to notify the contracting agency of its suspension or debarment by CITY, any other state of the Federal government shall constitute an event of default of the contract with CITY.
5. CONSULTANT agrees to reimburse CITY for the reasonable costs of investigation incurred by the Commonwealth's Office of State Inspector General for investigations of the contractor's compliance with the terms of this or any other Agreement between CONSULTANT and CITY which results in the suspension or debarment of CONSULTANT. 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. CONSULTANT shall not be responsible for investigative costs for investigations that do not result in

CONSULTANT'S suspension or debarment.

6. CONSULTANT may obtain a current list of suspended or debarred firms by contacting the:

City of Pittsburgh
Department of Law
Room 313 City-County Building
414 Grant Street
Pittsburgh, Pennsylvania 15219
Telephone No. (412) 255-2010
Fax No. (412) 255-2285

XVII. STATEMENT OF AFFILIATIONS

CONSULTANT herewith files a Statement of Affiliations with CITY, attached hereto as Exhibit G, in compliance with Section 197.08(c) of the Pittsburgh Code, including:

1. A description of any contractual or other business relationship with CITY or any of its departments, agencies, boards, commissions or authorities, including the value of any contract or business relationship entered into during the three (3) calendar years previous to the execution of this agreement;
2. CONSULTANT'S qualifications and experience for the performance of services to be rendered under this agreement;
3. An identification of CONSULTANT'S principals, including the names and addresses of all owners or partners or shareholders and officers, or, if CONSULTANT is a public corporation, the officers, the members of the board of directors, and shareholders holding more than three (3) percent of the corporate stock.

XVIII. PITTSBURGH HOME RULE CHARTER; LIABILITY OF CITY

This agreement is subject to the provisions of the Pittsburgh Home Rule Charter, and the liability of CITY hereunder is limited to the sum of

XIX. AUTHORIZING RESOLUTION

This agreement is entered into by CITY pursuant to Resolution No.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, the day and year first above written

Vendor
Tax I.D. No. xx-xxxx

ATTEST: _____

By: _____

Title: _____
(Secretary or Treasurer)
(Corporate Seal)

Title: _____
(President or Vice President)

CITY OF PITTSBURGH

WITNESS: _____

**Director, Department of
Public Works**

EXAMINED BY: _____
Assistant City Solicitor

APPROVED AS TO FORM: _____
City Solicitor

ATTEST: _____
Secretary to the Mayor

By: _____
Mayor

COUNTERSIGNED: _____
City Controller

RESOLUTIONS