LOWER MAKEFIELD TOWNSHIP

Request for Proposals and qualifications for Traffic Engineer

Minimum Qualifications

Applicant vendors must establish that they meet the minimum qualifications

1. PURPOSE AND INTENT

Through this Request for Proposals (RFP), Lower Makefield Township seeks to engage a respondent as Traffic Engineer for Lower Makefield Township upon appointment.

2. PROPOSAL SUBMISSION

An original, clearly marked as the ORIGINAL and six full, complete and exact copies of each proposal shall be submitted in a sealed envelope and must be marked as 'Township Engineer Request for Proposals" and addressed to:

Kurt M. Ferguson
Township Manager
1100 Edgewood Road
Yardley Pa 19067

The proposal must be received no later than Monday, September 16, 2019 at 2:00 p.m.

Faxed or emailed proposals will NOT be accepted. Any inquiry concerning this RFP should be directed in writing to:

Kurt M. Ferguson
Township Manager
1100 Edgewood Road
Yardley Pa 19067

All documents/information submitted in response to this solicitation shall be available to the general public. Lower Makefield Township will not be responsible for any costs associated with the oral or written and/or presentation of the proposals. Lower Makefield reserves the right to reject any, and all proposals, with or without cause, and waiver any irregularities or informalities in the proposals. Lower Makefield Township also reserves the right to negotiate with all qualified sources, or to cancel in part or in its entirety the RFP when the township determines that such action is in its best interests.

Lower Makefield further reserves the right to make such investigations as it deems necessary as to the qualifications and any, and all respondents submitting proposals, with or without cause, and waiver any irregularities or informalities in the proposals. Lower Makefield Township also reserves the right to negotiate with all qualified sources, or to cancel in part or in its entirety the RFP when the township determines that such action is in its best interests.

3. GENERAL INFORMATION

Lower Makefield Township is located in Bucks County, Pennsylvania. The Township has a five-member Board of Supervisors and an appointed Manager. The Township of Lower Makefield is approximately 18.28 square miles and an estimated 2017 Census population of 32,742, an annual General Fund budget of approximately 14 million dollars and 74 Full Time employees. The Board of Supervisors meets the 1st and 3rd Wednesday of each month as well as special meetings on an as-needed basis.

4. SCOPE OF WORK

The Township is soliciting proposals and qualifications from firms interested in providing traffic engineering services. The firm must have all applicable licenses to perform traffic engineering in Pennsylvania, have at least seven (7) years of experience in a similarly sized municipality, and have experience with conducting traffic studies and providing recommendations on a myriad of issues, including but not limited to:

A. Plan Review Services

The selected Traffic Engineer will provide technical review of, and answer inquiries relating to site plans, subdivision plans, improvement plans, land development plans, construction plans and escrows for proposed by applicants to be developed in the Township to ensure that such conform to codes adopted by the Township and to applicable engineering standards.

B. Municipal Project Design Services

The selected Traffic Engineer must have experience with understanding the impact of PennDOT projects and Bucks County engineering projects; proven experience with creating and implementing Act 209 plans; and experience with providing recommendations on traffic calming measures, bike trails and routes, failing intersections and traffic signalization projects.

C. Environmental Services & Regulatory Agency Interactions

The selected Traffic Engineer shall be well versed in regulatory compliance and permitting and be familiar with approval procedures of regulatory agencies including but not limited to the following: Pennsylvania Department of Transportation, PA Department of Conservation and Natural Resources, Pennsylvania Department of Environmental Protection, Pennsylvania Emergency Management Agency, U.S. Army Corps of Engineers, Federal Emergency Management Agency, Federal Highway Administration, and the U.S. Environmental Protection Agency.

D. Grant/Bid Assistance

The selected Traffic Engineer shall, as requested, complete or assist in the completion of grant applications and preparation and management of the bidding process for traffic-related projects.

E. Surveying, Easements and Related Services

The selected Traffic Engineer shall have the capacity to perform boundary surveys, topographic surveys, construction staking, prepare easement plans and easement documents, and assist in easement acquisition.

F. CAD and GIS Capabilities

The selected Traffic Engineer shall have computer aided drafting and geographical information system capabilities upon request.

G. Meeting Attendance and Participation

The selected Traffic Engineer may be expected to attend a variety of municipal meetings, including, but not limited to, board meetings, planning and zoning meetings, meetings of affected property owners, and meetings with municipal staff and developers.

H. Work Product

The selected Traffic Engineer will be expected to provide the Municipal with copies of all work products without limitation, which shall include reports, analyses, correspondence, plans, proposals, submittals, schematics, exhibits, drawings and any other documents produced in connection with the consulting relationship with the Municipal in printed form, as well as in electronic form to include portable document format and the root files(s).

I. Assignment of Professional Engineer

The selected Traffic Engineer shall assign to the Municipality a minimum of one (1) staff person who is a Professional Traffic Engineer licensed to practice in the State of Pennsylvania.

J. Responsiveness

The selected Traffic Engineer must commit to provide services to the Municipal in a timely manner, without unreasonable delays.

5. MEETING ATTENDANCE AND PARTICIPATION

The selected Traffic Engineer may be expected to attend a variety of municipal meetings, including, but not limited to, board meetings, planning and zoning meetings, meetings of affected property owners, and meetings with municipal staff and developers.

The Board of Supervisors meets on the first (1st) and third (3rd) Wednesday of each month. The Planning Commission meets on the second (2nd) and fourth (4th) Monday of each month.

6. WORK PRODUCT

The selected Municipal Engineer will be expected to provide the Municipality with copies of all work products without limitation, which shall include reports, analyses, correspondence, plans, proposals, submittals, schematics, exhibits, spreadsheets, drawings and any other documents produced in connection with the consulting relationship with the Municipality in printed form, as well as in electronic form to include portable document format and the root file(s).

7. ASSIGNMENT OF PROFESSIONAL ENGINEER

The selected Traffic Engineer shall assign to the Municipality a minimum of one (1) staff person who is a Professional Engineer licensed to practice in the State of Pennsylvania, and include the following:

- Experience and qualifications of personnel to be assigned for these services, their functions and levels of responsibility.
- References and brief summaries of similar services provided within the preceding two years.
- Current workload of the selected firm and staff capability of meeting the limitations of this Request for Proposals.
- Hourly compensation schedule for services. Out of pocket expenses for normal everyday costs such as travel, typing, prints, postage, etc. shall be included in hourly rates.

8. RESPONSIVENESS

The selected Municipal Engineer must commit to provide services to the Municipal in a timely manner, without unreasonable delays.

9. PROXIMITY

The selected Municipal Engineer must be located within reasonable proximity to the Township to ensure meeting attendance if requested, meeting coordination and the conveyance of documents when sent via courier.

10. INSURANCE REQUIREMENTS

Please refer to the draft AGREEMENT pages 7-10.

11. QUESTIONS FOR PROSPECTIVE BIDDERS

a. A copy of the Commonwealth of Pennsylvania Business Registration Certificate.
b. A copy of the Certificate of Insurance for general liability, professional liability and worker's comp.
c. Copy of Equal Opportunity Employment policy.
d. Copy of Americans with Disabilities Act policy.
e. Disclosure of Political Contributions (last five years)-to candidates and/or campaigns in Lower Makefield Township
    i. Any amount in currency.

ii. Any other monetary or in-kind (goods or services) contributions in excess of $250 in the aggregate from one source.

f. List all contracts held and monetary value with Lower Makefield Township in the last five years.
g. List all contracts held and monetary value with other municipalities in Bucks County in the last five years.
h. List all contracts held and monetary value with public entities in Bucks County in the last five years.
i. Have any of your employees previously or currently work for Lower Makefield Township? If so, please provide names and dates of employment.
j. Do any of your staff have family members that have or currently work for Lower Makefield Township? If so, please provide names and dates of employment.
k. Provide a list of all lawsuits against your firm within the last five years. Include name, date and description of lawsuit. If an outcome was reached, please provide description and any associated monetary values.
l. Has your firm been found to be in violation of any Federal, State, or local laws or regulations in the last five years? If so, please provide a description of each violation and associated remedy and/or action taken.

12. REQUIREMENT FOR BID SUBMISSION

PLEASE NOTE that the Township shall not consider a Response to this Request for Proposals where the Prospective Professional Service Provider makes a Contribution within a period of ninety (90) days immediately following its submission to the Township of its Response to any of the following: (1) any Candidate's Political Committee of any sitting member of the Lower Makefield Township Board of Supervisors; or (2) any Candidate's Political Committee for any Candidate for the office of Supervisor of the Lower Makefield Township Board of Supervisors for the municipal election scheduled to occur on Tuesday, November 5, 2019.

13. INTERVIEW

The Township Manager and/or the Board of Supervisors reserve the right to interview any, and all of the respondents submitting a proposal. Although interviews may take place, the proposal should be comprehensive and complete on its face. Lower Makefield Township reserves the right to request clarifying information subsequent to submission of the proposal.

14. SELECTION PROCESS

All proposals will be reviewed by the Township Manager and/or Board of Supervisors to determine responsiveness. Non-responsive proposals will be rejected without evaluation. For respondents that satisfy the Minimum Qualifications and the Mandatory Contents of Proposal the Township's evaluation will include but not be limited to the following evaluation criteria, separate or combined in some manner, and not necessarily listed in order of significance:

a. The respondent's general approach to providing the services required under this RFP.

b. The respondent's municipal experience and to the engagement addressed by this RFP.

c. The qualifications and experience of the respondent's management, supervisory or other key personnel assigned to the engagement, with emphasis on municipal experience and to the services required by this RFP.

d. The overall ability of the respondent to mobilize, undertake and successfully complete the scope of work in a timely fashion. This criterion will include, but not be limited to, the following factors: the number and qualifications of management, supervisory and other staff proposed by the respondent to perform the services required by this RFP; the availability and commitment to the engagement of the respondent's management, supervisory and other staff proposed.

e. Costs and fee schedules.

f. Other criteria as deemed appropriate by the Lower Makefield Township Board of Supervisors.

15. SELECTION AND CONTRACT

Lower Makefield Township will select the respondent deemed most advantageous to the Township, with price and other factors considered. The resulting contract will include this RFP, any clarifications or addenda thereto, the selected respondent's proposal, and any changes negotiated by the parties. Lower Makefield Township shall not be required to appoint the lowest cost respondent.

16. FILES

At the termination of the employment of the Township Traffic Engineer, he/she shall promptly return to the township all files complete with all documents, memos, legal research notes, correspondence and all other material contained therein including but not limited to electronic data, at no cost to the Township.

17. EXCEPTIONS

Any exceptions to terms, conditions, or other requirements in any part of this RFP must be clearly pointed out in the candidate's proposal. Otherwise, the Township will consider that all items offered are in strict compliance with this RFP, and the successful proposer will be responsible for compliance.

18. QUESTIONS/CLARIFICATIONS:

All official questions and/or clarifications shall be directed, in writing, to the person noted below

by 3:00 p.m., September 2, 2019. Questions raised after this cut-off will remain unanswered.

Kurt M. Ferguson
Lower Makefield Township Manager
Yardley Pa 19067
Phone: (267) 274-1101
Fax: (215) 493-3053

Questions may be answered in writing and distributed to all firms.

19. AUTHORITY TO DISTRIBUTE RFP PACKAGES:

The Township Manager's office is the sole entity authorized to provide this RFP package to interested companies or individuals.

AGREEMENT

THIS AGREEMENT, made and executed, on this _____day of _____2018 by and between _____., a _____ corporation authorized to transact business in Pennsylvania, as _____, with principal offices located at _____, hereinafter referred to as "CONSULTANT," and the **TOWNSHIP OF LOWER MAKEFIELD,** in the County of Bucks a municipal corporation of the Commonwealth of Pennsylvania, hereinafter referred to as "CLIENT."

WITNESSETH that CONSULTANT and CLIENT in consideration of the promises and covenants contained herein, and intending to be legally bound hereby, agree, covenant and promise as follows:

1. Services and Compensation in General.

   CONSULTANT shall hold available to CLIENT all officers, employees and facilities of CONSULTANT to perform all engineering services normally provided by the CONSULTANT as requested by CLIENT. CLIENT shall compensate CONSULTANT for any and all engineering services requested by CLIENT and performed by CONSULTANT in accordance with the terms of this Agreement.

2. Costs and Expenses.

   All costs and expenses incurred by CONSULTANT shall be borne solely by CONSULTANT unless specifically reimbursable under another provision of this Agreement or specifically authorized in writing by the CLIENT.

3. Scope of Services; CONSULTANT Responsibilities.

A. In addition to the duties and obligations contained herein, CONSULTANT shall perform such duties and obligations as are set forth in Sections 1202 and 1203 of the Pennsylvania Second Class Township Code, 53 P.S. §§ 66202 – 66203.

B. CONSULTANT shall, at the request of the CLIENT, provide engineering, estimating, planning (including developing specifications), reporting, and/or surveying services as specified in the scope of services as provided in the proposal provided by CONSULTANT. CONSULTANT shall provide a proposal detailing the scope of services for each project requested by CLIENT unless authorized otherwise by CLIENT in writing.

C. CONSULTANT'S services are for the sole and exclusive benefit of the CLIENT and no third-party beneficiary is intended. Unless otherwise agreed to the parties hereto, the provision of these services by CONSULTANT shall not relieve others of their responsibilities to the CLIENT.

D. Unless otherwise directed by CLIENT, in any and all projects on which CONSULTANT renders services pursuant to this Agreement, CONSULTANT shall be responsible for obtaining approval of any and all governmental authorities having jurisdiction over such projects and any and all approvals and consents from such other individuals or bodies as may be necessary to complete such projects.

4. CLIENT Responsibilities.

The CLIENT shall:

A. Provide full information as to its requirements for any project for which it requests CONSULTANT'S services.

B. Assist CONSULTANT by placing at CONSULTANT'S disposal all information available to CLIENT pertinent to the site of any project, including prior reports and any other data relative or necessary to the design, the construction, or the work of said project.

C. Subject to applicable law, guarantee access to and make all provisions for CONSULTANT to enter upon CLIENT-owned lands and work with CONSULTANT to gain access to other public and private lands, to the extent required for CONSULTANT to perform its work.

D. Examine all studies, reports, sketches, estimates, drawings, specifications, proposals, and other documents presented and produced by CONSULTANT in furtherance of CONSULTANT'S duties under this Agreement and provide, in writing, decisions pertaining thereto within a reasonable time so as not to delay the work of the CONSULTANT.

E. Advertise for proposals from bidders, open the proposals at the appointed time and place in accordance with the applicable rules and laws, and pay for all costs incidental thereto.

F. Provide such legal, accounting and insurance counseling services solely to CLIENT as may be required for any and all projects for which CONSULTANT'S services are required.

G. Designate in writing a person to act as the authorized representative with respect to any and all work to be performed by CONSULTANT. CLIENT'S authorized representative shall have complete authority to transmit instruction, receive

information, interpret and define policies and decisions with respect to materials, equipment elements, and systems pertinent to the work.

H. Pay any and all fees required by any governmental agency related to any project for which CLIENT is utilizing CONSULTANT'S services pursuant hereto.

5. Compensation to CONSULTANT.

CONSULTANT will be compensated by CLIENT as set forth herein and approved by CLIENT:

A. Hourly Rates.

All services rendered by CONSULTANT under this Agreement will be compensated on the basis of the hourly rates for personnel in the rate schedule attached hereto as **Exhibit A**, unless an alternative rate schedule is agreed upon by the parties hereto in writing.

B. Fixed Fee.

When it is possible to define precisely the scope of any project and the services to be performed by CONSULTANT, a fixed fee based on estimated services required and other factors considered relevant by the parties may be determined and agreed upon in writing for total compensation. In the event a fixed fee arrangement is agreed upon by the parties, progress payments will be made monthly by CLIENT on a percentage of completion as described within the specific project proposal.

CLIENT will only make direct payment to consultants that it directly engages. CONSULTANT shall be responsible for payment to any and all sub-consultants it retains in connection with services provided to CLIENT provided said sub-consultants are not directly contracted by the CLIENT.

6. Payment to CONSULTANT.

A. Invoices shall be submitted by CONSULTANT to the CLIENT on a monthly basis.

B. CONSULTANT shall append to each invoice for payment a detailed breakdown of services and charges in accordance with this Agreement.

C. CLIENT shall make payment to CONSULTANT within sixty (60) days of receipt of the invoice for payment by CLIENT. Payments not made within sixty (60) days of receipt of the applicable invoice for payment shall be assessed an interest rate of 1.5%, unless otherwise prescribed for by State law. No deduction shall be made from CONSULTANT'S compensation on account of penalty, liquidated damages or other sums withheld from payments to others or on account of the cost of changes in the work other than those for which CONSULTANT is directly responsible.

D. All charges for services performed by CONSULTANT shall be invoiced no later than forty-five (45) days from the date of performance. CONSULTANT agrees that in the event said charge is not invoiced within forty-five (45) days of performance said charge is waived and shall not be subsequently charged to or sought from CLIENT.

E. Disputes of invoices for payments, or portions thereof, shall be brought to CONSULTANT'S attention in writing within fifteen (15) days of the receipt of the invoice for payment by CLIENT.

7. Changes in Fees.

At any time either party may give the other party notice that renegotiations of any or all fees payable hereunder is necessary. Such notice shall be in writing and shall specify which fees must necessarily be renegotiated. All fees payable under the terms of the

Agreement shall be effective until the approval of the renegotiation of fees. Following such renegotiation, fee changes agreed upon shall be set forth in writing, executed by both parties. In the event the parties are unable to agree on revised fee(s), the existing fees shall remain in effect until the termination of the Agreement or until agreement is reached.

8. CLIENT Requests; Private Request.

The CONSULTANT shall respond to only those requests by the CLIENT'S authorized representative, solicitor, or member of the governing body, but in no case shall respond to, or provide any services or work hereunder upon the request of any private citizen, person, firm, or other entity, except as expressly authorized in writing by CLIENT.

9. Filing materials and certificates with the CLIENT.

A. CONSULTANT will deliver, by way of filing to the CLIENT a true copy of all maps, charts, documents, work sheets and data for which CONSULTANT has been compensated by the CLIENT. Reproduction shall be accomplished by CONSULTANT according to any process in any manner the CLIENT desires. Cost for reproduction shall be as indicated in the attached schedule of reproduction costs.

B. CONSULTANT shall supply a certificate of commencement and of completion as specified in Section 1203 of the Pennsylvania Second Class Township Code, 53 P.S. § 66203.

10. No Damage for Delay.

CONSULTANT and the CLIENT waive consequential damages for claims, disputes, delays or other matters in question, arising out of or relating to any monetary damages that are alleged to be the result of any delay which is not the fault of the CLIENT. The

CLIENT further agrees to undertake commercially reasonable efforts in an attempt to obtain by contract, to the fullest extent permitted by law, similar waivers from any and all Contractors and subcontractors, if any, to any and all work for which CONSULTANT provides services to CLIENT.

11. Reserved.

12. Insurance.

CONSULTANT shall procure, and further require any and all subcontractors and sub-consultants to procure, prior to the commencement of services, and maintain, at its own expense, until final acceptance by the CLIENT of all services required under this Agreement, insurance for liability for damages imposed by law and assumed under this Agreement, of the kinds and in the amounts hereinafter provided, with insurance companies authorized to do business in the Commonwealth of Pennsylvania. The insurance carriers shall have a Best's rating of "A" or better and a Best's financial size of "VII" or larger. All of the policies of insurance required to be purchased and maintained and the certificates, declaration pages, or other evidence thereof shall contain a provision or endorsement that the coverage afforded is not to be cancelled, materially changed or non- renewed without at least thirty (30) days prior written notice to the CLIENT.

A. Commercial General Liability Insurance. The minimum limit of liability shall be $5,000,000 per occurrence (combined single limit for bodily injury and property damage) /$10,000,000 aggregate, including products/completed operations and contractual liability insurance. The coverage to be provided under the policy shall be at least as broad as that provided by the standard, basic, un-amended and

unendorsed comprehensive general liability coverage forms currently in use in the Commonwealth of Pennsylvania, which shall not be circumscribed by any endorsement limiting the breadth of coverage.

B. Comprehensive Automobile Liability Insurance. The policy shall cover owned, non-owned, hired, leased and rented vehicles with minimum limits of liability in the amount of $1,000,000 per accident as a combined single limit for bodily injury and property damage. The coverage provided shall include automobile contractual liability covering liability assumed under this Agreement.

C. Workers Compensation and Employer's Liability Insurance. Worker's Compensation and Employer's Liability insurance shall be provided in accordance with the requirements of the laws of the Commonwealth of Pennsylvania.

D. Professional Liability (Errors & Omissions). Written on a "claims made" basis, with not less than $5,000,000 for CONSULTANT and not less than $5,000,000 for any licensed professional retained by CONSULTANT against any and all liabilities arising out of or in connection with the negligent acts, errors or omissions of CONSULTANT, its licensed professionals, sub-consultants, contractors or subcontractors.

E. CLIENT shall be named as an additional insured on all insurance policies obtained by CONSULTANT in furtherance of this Agreement.

F. CONSULTANT shall furnish to the CLIENT within ten (10) days of the effective date of this Agreement, Certificates of Insurance representing insurance coverages as set forth above, together with declaration pages, in a form satisfactory to the CLIENT.

13. Indemnification by CONSULTANT.

Except to the extent of the CLIENT'S gross negligence or willful misconduct, CONSULTANT shall indemnify and hold the CLIENT and the CLIENT'S officers, administrators, members of its Board of Supervisors, employees, attorneys and agents (collectively, the "CLIENT Indemnitees") harmless from and against any and all liabilities, injuries (including death), losses, damages, costs, including reasonable attorney fees, judgments, settlements, claims, actions, causes of action, penalties, awards or expenses of any nature to the extent arising out of this Agreement or CONSULTANT'S, or its shareholders', members', partners', officers', directors', employees', personnel's, contractors', sub-contractors', consultants', sub-consultants' or agents' (collectively, the "CONSULTANT Indemnitors") performance or omission of performance pursuant hereto or related hereto from, including but not limited to, the following: (1) any and all labor, employment, unemployment compensation, or workers' compensation claims or causes of action or other claim or cause of action arising from an employment, collective bargaining or contractor relationship between CONSULTANT and any of the other CONSULTANT Indemnitors or any collective bargaining unit; (2) the intentional, negligent or wrongful performance, acts or omissions of any of CONSULTANT Indemnitors in connection with any services provided pursuant to this Agreement; (3) any breach, violation, inaccuracy, or misrepresentation of or contained in any term, condition, covenant, representation, warranty or covenant of CONSULTANT contained herein or any omission of a material fact necessary to be stated herein in order to make such statement not a breach, violation, inaccurate or misrepresentation; (4) the claim of malpractice, ineffective

rendering of service or other claim related to the negligent, wrongful or intentionally improper provision of services by any of CONSULTANT Indemnitors in connection with this Agreement; and (5) any claim, notice, violation, citation, breach or other failure alleging violation of any of CONSULTANT Indemnitors with respect to any federal, state or local law, regulation, ordinance, contract, or other obligation. CONSULTANT Indemnitor's duty to indemnify the CLIENT Indemnitees shall not be limited to the available proceeds of insurance coverage.

14. Waiver of Subrogation.

To the extent damages experienced by CLIENT or CONSULTANT are covered by property or casualty insurance, CLIENT and CONSULTANT waive all rights against each other, their agents, consultants and employees for such covered losses and shall obtain waivers from their respective property and casualty insurance carriers against subrogation of such covered losses. CLIENT shall require similar waivers of their contractors and its sub-contractors and suppliers and consultants of any tier as to CONSULTANT. The Parties shall advise their property and casualty carriers in writing as to such waivers.

15. Law and Venue.

A. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

B. In the event that any dispute arises out of the Agreement, the parties hereto consent and agree that venue and jurisdiction for any dispute hereunder shall be exclusively in the Court of Common Pleas for Bucks County, Pennsylvania.

16. Term & Termination.

A. Pursuant of Section 1201 of the Second Class Township Code, 53 P.S. §66201, the Township Engineer serves at the pleasure of the Board of Supervisors.

B. Either party may terminate the Agreement for convenience upon thirty (30) days written notice. Notwithstanding the foregoing, either the CLIENT or CONSULTANT may terminate this Agreement upon the other Party's material breach of this Agreement, provided that: (a) the nonbreaching Party sends written notice to the breaching Party describing the breach in reasonable detail; and (b) the breaching Party does not cure the breach within twenty (20) working days following its receipt of such written notice. CONSULTANT will be compensated for its Services rendered to the date of termination. Termination of this Agreement for any reason whatsoever shall not affect any right or obligation of any party which is accrued or vested prior to the termination, and any provisions of this Agreement relating to any such right or obligation shall be deemed to survive the expiration or earlier termination of this Agreement.

17. Representations and Warranties; Warranty Obligations.

A. CONSULTANT represents and warrants that: (i) any and all services furnished under this Agreement, shall comply with any applicable description of the services set forth in this Agreement; (ii) CONSULTANT has not made and will not make any commitments inconsistent with CLIENT'S rights and CONSULTANT'S obligations under this Agreement; and (iii) services furnished under this Agreement shall be performed (A) by technically competent and qualified personnel who are, where applicable, licensed to practice under the laws and/or regulations of the Commonwealth of Pennsylvania, (B) in accordance with Good Industry Practices

and generally accepted professional standards associated with the particular industry, trade, or discipline involved and (C) as expeditiously and economically as is consistent with the best interests of the CLIENT.

B. In the event that the services rendered by or on behalf of CONSULTANT pursuant to this Agreement do not conform to any or all of the warranties set forth herein at any time from commencement of said services provided by CONSULTANT, CONSULTANT, at no cost or expense to the CLIENT, shall re-perform the Services and take all other actions necessary to correct any such nonconformity (each, a "Defect") in a manner and time acceptable to the CLIENT. CONSULTANT expressly waives all such costs and expenses in connection with the required re-performance of work or other corrective actions and all taxes in connection therewith.

C. . In the event the same, or substantially the same, Defect is discovered during the course of services as part of this Agreement on more than one project, or more than one time on any project, CONSULTANT shall perform a root cause analysis to determine the cause of such Defect. CONSULTANT shall provide the CLIENT with a monthly update describing the progress of each such root cause analysis and a copy of the results of the root cause analysis upon completion thereof.

D. CONSULTANT further represents and warrants to CLIENT that, at all times during the Term of this Agreement: (i) it is a company duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and duly authorized to operate in each jurisdiction in which all or any portion of the Services are to be performed, is financially responsible, fully licensed and competent to

perform all services, and any work provided thereunder, and has all requisite power and authority and has obtained and is maintaining all required applicable permits in connection with the services rendered pursuant to this Agreement or by applicable law or regulation at such time to be obtained or maintained by CONSULTANT, and does not require any action by any Governmental Authority which has not already been taken, to execute or deliver this Agreement or to perform its obligations thereunder; (ii) it has the power to execute, deliver and carry out this Agreement and to perform all of its obligations under this Agreement and all such actions have been duly authorized by all necessary corporate or comparable action on its part; (iii) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by, the terms of its organizational documents or any applicable laws or any covenant, contract, agreement or instrument, to which it is a party or by which it or any of its assets are bound; and (iv) this Agreement has been duly and validly executed and delivered by it and constitutes a legal, valid and binding obligation of it, enforceable in accordance with its terms, except to the extent that its enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or the application of general principles of equity.

E. CONSULTANT further represents and warrants that (i) it has (and, with respect to items that are hereafter owned, licensed or otherwise used by CONSULTANT as part of the services contemplated under this Agreement, will have) all necessary right and authority to assign ownership and to grant the licenses granted to CLIENT

as provided in this Agreement (including, where necessary, by having obtained the necessary rights from its affiliates and third party licensors, as the case may be); (ii) the CONSULTANT Deliverables do not and will not infringe the Intellectual Property rights of any Person, and no infringement of the Intellectual Property rights of any Person will occur as a result of any services performed under this Agreement, or any part or component thereof, nor other performance of CONSULTANT's obligations under this Agreement; and (iii) no infringement of any Intellectual Property rights of any Person will occur as a result of CLIENT'S ownership, use, repair, or maintenance of any project completed as part of the services contemplated in this Agreement.

18. Business Registration and Employee Information Report.

A. CONSULTANT attaches hereto as **Exhibit B** a copy of the CONSULTANT'S filed Employee Information Report and Business Registration Certificate from the Commonwealth of Pennsylvania.

B. CONSULTANT shall provide CLIENT with all relevant documentation regarding its business registration and ability to do business both in the in the Commonwealth of Pennsylvania and State of New Jersey within ten (10) days of the execution of this Agreement.

C. CONSULTANT shall provide CLIENT with proof that each engineer employed by CONSULTANT in connection with this Agreement is a licensed engineer in the Commonwealth of Pennsylvania.

19. Quality Management Program.

A. CONSULTANT attaches hereto as **Exhibit C** a copy of the CONSULTANT'S documented Quality Management Program.

B. CONSULTANT further represents and warrants to CLIENT that the CONSULTANT'S Quality Management Program meets the requirements of the American Society of Civil Engineers' (ASCE's) Policy Statement 431.

20. Environmental Health and Safety Program.

A. CONSULTANT attaches hereto as **Exhibit D** a copy of the CONSULTANT'S documented Environmental Health and Safety Program.

B. CONSULTANT further represents and warrants to CLIENT that the CONSULTANT'S Environmental Health and Safety Program meets the requirements of all federal, state, and local agencies with jurisdiction including, but not limited to, the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) agency of the United States Department of Labor.

21. Entire Agreement.

This Agreement contains the entire understanding among the parties hereto with respect to the subject matter hereof only. The express terms of this Agreement control and supersede any course of performance inconsistent with any of its terms. This Agreement may not be modified or amended other than in writing signed by the CONSULTANT and the CLIENT.

22. Notice.

All notices shall be in writing and sent by certified mail, return receipt requested addressed as follows:

To CLIENT: Lower Makefield Township
1100 Edgewood Road
Yardley, PA 19067
Township Manager

To CONSULTANT: _____
Title: _____
_____
_____
_____

or to such other persons or places as either party may, from time to time, designate by notice.

23. Headings.

The headings in this Agreement are for convenience of reference only and shall not affect the construction hereof.

24. Waiver.

The failure of the CONSULTANT or CLIENT to insist upon strict performance of the covenants and conditions contained herein shall not be deemed a waiver of the right of the CONSULTANT or CLIENT to insist on the strict performance of such covenants or conditions at any other time. Any waiver by the CONSULTANT or CLIENT of any breach or violation of this Agreement shall not operate or be interpreted, therefore, as a waiver of any subsequent breach or violation of this Agreement.

25. Severability.

In the event that any provision of this Agreement shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall attach only to such provision and shall not affect or render invalid any other provisions of this Agreement.

26. Counterparts.

This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Notwithstanding anything to the contrary in Section 22, a signed copy of this Agreement delivered by facsimile or email or other means of electronic transmission shall be given the same legal effect as delivery of an original signed copy of this Agreement.

27. Cumulative Remedies.

All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties, or otherwise.

28. Assignment.

CONSULTANT shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of CLIENT. Any purported assignment or delegation in violation of this Section 28 shall be null and void. No assignment or delegation shall relieve CONSULTANT of any of its

obligations hereunder. CLIENT may at any time assign, transfer or subcontract any or all of its rights or obligations under this Agreement without CONSULTANT'S prior written consent.

29. Successors and Assigns.

This Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.

30. Relationship of the Parties.

The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, franchise, business trust, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused these presents to be executed and their corporate or common seals hereunto affixed the day and year first above mentioned.

ATTEST: _____

_____ _____

ATTEST: **TOWNSHIP OF LOWER MAKEFIELD**

_____ _____

COMMITMENT TO FISCAL RESPONSIBILITY AND STEWARDSHIP OF TOWNSHIP ASSETS THROUGH THE USE OF PROFESSIONAL SERVICES AND VENDORS RESOLUTION

LOWER MAKEFIELD TOWNSHIP
BUCKS COUNTY, PENNSYLVANIA
RESOLUTION NO. 2391

WHEREAS, the Township of Lower Makefield Board of Supervisors confirms its commitment to fiscal responsibility and stewardship of Township assets;

WHEREAS, the Board of Supervisors recognizes the importance of establishing processes and procedures concerning the management of our assets and budgets;

WHEREAS, a cornerstone of the Board of the Supervisors stewardship of Township assets and budgets is the responsible use of our professional consultants and vendors;

WHEREAS, the Board of Supervisors also recognizes the importance of establishing processes and procedures concerning the use of our professional consultants and vendors;

WHEREAS, the Board of Supervisors commits to control project costs and contain reviews and research consistent with the initiatives of a majority of the Board; and

WHEREAS, in an effort to control project costs and contain reviews and research, the Board of Supervisors passed a unanimous motion on November 7, 2018 to develop requests for proposals (RFPs) for all professional services; and

WHEREAS, the Board of Supervisors is establishing standard operating procedures in advance of that process formally getting underway.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Township of Lower Makefield, Bucks County, Pennsylvania, as follows:

1. That the Board of Supervisors affirms its desire to have all professional consultants and vendors engaged only by the Township Manager, or designee, or a majority of the Board of Supervisors who shall direct the manager to engage such professionals; and

2. That all advisory boards and committees within the Township requesting the use of professional services contracted and paid for by the Township shall present their requests to their Supervisor liaison, who would present to the Manager and/or Board of Supervisors for such consideration.

This Resolution has been duly prepared and adopted by the Governing Body of the Township of Lower Makefield in public meeting held this 20th day of March, 2019.

BOARD OF SUPERVISORS
TOWNSHIP OF LOWER MAKEFIELD