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INDIANA STATE
ETHICS COMMISSION



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue
Room N758
Indianapolis, Indiana 46204

PHONE: (855) 463-6848

Eric Holcomb, Governor
Michael Smith, Commissioner

November 7, 2024

Katherine Noel, Chair
Indiana State
Ethics Commission
315 West Ohio
Street, Room 104
Indianapolis, Indiana 46202

RE: Waiver of Application of 42 IAC 1-5-1 (the "Gift Rule") for Certain Items of Value Received by INDOT Employees in Relation to the American Concrete Pipe Association 2023 Pipe School on February 10-13, 2025.

Chairwoman Noel:

Commissioner Michael J. Smith, the appointing authority of the Indiana State Department of Transportation ("INDOT"), has designated authority to me as the agency's ethics officer to waive application of the Gift Rule in individual cases when consistent with the public interest. I am hereby waiving application of 42 IAC 1-5-1 (a) for items of value that will be received by INDOT employees James Emerick, James Boehm, Crystal Weaver, and Nicole Reed in relation to their anticipated participation in the American Concrete Pipe Association 2025 Pipe School ("Pipe School") that will be held on February 10-13, 2025. Each employee will benefit professionally from attendance for the reasons provided below.

The Pipe School will be held at the Hilton Columbus Downtown at 402 N. High Street, Columbus, OH 43215, on February 10-13, 2025. INDOT employees will be able to hear speakers from around the world and connect with ACPA members, DOT and transportation agencies, consultants, contractors, and subject matter experts to discuss, learn and engage with one another. The ACPA has given INDOT Hydraulics four (4) scholarships to attend at ACPA cost. This includes hotel, food, and registration valued at approximately One Thousand One Hundred Sixty-Five dollars (\$1,165.00) per person. The combined value of the items received by INDOT employees is therefore approximately Four Thousand Six Hundred and Sixty-Six Dollars (\$4,660.00).

The scholarship is being provided by the American Concrete Pipe Association ("ACPA"), an association of companies operating in the concrete pipe and drainage infrastructure industry. ACPA members include INDOT vendors and suppliers with ongoing business relationships with the Department. The ACPA is itself an industry partner of the Department with an interest in the business and operational decision-making of the agency. Corporate trinkets potentially made available to attending INDOT employees may potentially be offered by existing Department vendors or companies with an interest in future agency contracting opportunities. While such souvenirs are not subject to the prohibition on accepting gifts under 42 IAC 1-5-1, receipt is being disclosed in the interest of complete transparency.

INDOT personnel covered by this waiver were instructed not to accept any other item of value from any other person or entity if that person or entity may have a business relationship with INDOT or may seek to influence an action by one or more INDOT personnel in his or her official capacity. INDOT personnel are regularly

informed that the safest course of action at any industry event is to assume that anyone in attendance might have a business relationship with or operational interest in the Indiana Department of Transportation.

The ACPA Pipe School is primarily educational in nature, and the above listed INDOT employees will be attending, as well as participating in marketing, engineering and transportation forums. Employees will be able to take advantage of the unique opportunity to engage diverse industry stakeholders and experts on topics of particular interest to their duties at the Department.

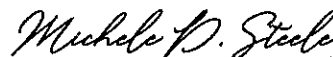
The individuals who will attend the event are all employed in the INDOT Hydraulics Division, and therefore administer INDOT's adherence to industry best practices in the field of drainage engineering, as well as scoping and designing drainage facilities and layout on Department projects and in Department right of way. Hydraulics Division employees work closely with drainage industry stakeholders, such as the ACPA, which is the preeminent socio-educational platform for advancing the concrete pipe and drainage infrastructure industry. The professional services provided by these INDOT employees on behalf of the State of Indiana are greatly enhanced through learning about evolving best practices and technological developments in hydraulic design, engineering, and maintenance, and from exchanging ideas with commercial stakeholders at events such as plant tours and product presentations, which promises to "advance the industry by teaching classes on production and quality, while engaging with industry stakeholders to ensure that they are provided with information vital to their decision making process." Accordingly, every INDOT employee who participates in the 2025 ACPA Pipe School holds a position with duties that will directly benefit each person from their individual attendance at the event, both through the educational and networking components.

Indiana Code 8-23-2-4.1(4)(A) provides that INDOT is responsible for the "construction, reconstruction, improvement, maintenance, and repair of (state) highways" and Indiana Code 8-23-2-5(a)(4) imposes upon INDOT the statutory duty in to "evaluate and utilize whenever possible improved transportation facility maintenance and construction techniques." By attending the 2025 ACPA Pipe School, INDOT employees will be educated concerning production, advanced production, and quality while engaging with industry stakeholders to ensure that they are provided with information vital to their decision making process.

Therefore, it is my opinion that it is consistent with the public interest for the above listed INDOT personnel to attend the American Concrete Pipe Association 2025 Pipe School on February 10-13, 2025, and to receive the items of value specified above, even though payment for these items was made by the American Concrete Pipe Association, an industry association with an interest in INDOT business, comprised of member companies including current Department vendors and firms with a potential interest in establishing a business relationship with the agency. Based on this finding, I am hereby waiving application of 42 IAC 1-5-1 (a) to allow INDOT employees, James Emerick, James Boehm, Crystal Weaver, and Nicole Reed to accept the scholarship from the American Concrete Pipe Association to attend the 2025 ACPA Pipe School, which the scholarship amount for all four employees have a total combined value of approximately Four Thousand Six Hundred and Sixty-Six Dollars (\$4,660.00).

If you need additional information or have any questions about this letter, please feel free to contact me at (317) 719-6624 or msteele@indot.in.gov.

Very Respectfully Submitted,



Michele D. Steele,
Director of Prequalification &
Compliance Ethics Officer
Indiana Department of Transportation