

# SUBCONTRACT AGREEMENT

## NAME OF PROJECT

THIS SUBCONTRACT AGREEMENT is made this \_\_\_\_ day of \_\_\_\_, 201\_\_ by and between the **SOUTH JERSEY TRANSPORTATION AUTHORITY**, having its principal offices located at the Farley Service Plaza, P.O. Box 351, Hammonton, New Jersey 08037, hereinafter referred to as the "Contractor", (party of the first part) and **COMPANY NAME** having offices located at **ADDRESS**, hereinafter referred to as "Subcontractor" or "Recipient", (party of the second part).

### WITNESSETH:

**WHEREAS**, the South Jersey Transportation Planning Organization, having its principal offices located at 782 S. Brewster Road, Unit B-6, Vineland, New Jersey 08361, hereinafter referred to as the "SJTPO", has been established pursuant to and in accordance with the provisions of the federal Intermodal Surface Transportation Efficiency Act of 1991 and is the designated Metropolitan Planning Organization for the Counties of Atlantic, Cape May, Cumberland and Salem in the State of New Jersey; and

**WHEREAS**, on December 3, 1993, the State of New Jersey, acting through the Commissioner of the Department of Transportation (the "State") entered into a certain basic agreement (the "Basic Agreement") with the Contractor pursuant to which the Contractor agreed to provide administrative staff support to the SJTPO in furtherance of its work program activities and pursuant to which the conditions applicable to the funding and administrative staff support to be provided to the SJTPO by the Contractor and the obligations of the Contractor and the State with respect to such funding were set forth; and

**WHEREAS**, the State has received project authorization from the Federal Highway Administration for the \_\_\_\_\_ and in furtherance of such authorization the State will issue to the Contractor a Federal Aid Agreement to the Basic Agreement authorizing the implementation of the Project and establishing funding accounts with respect thereto; and

**WHEREAS**, the SJTPO has selected the Subcontractor to prepare the Project and has requested the Contractor to engage the Subcontractor for such purposes, and the Subcontractor is desirous of providing the services necessary to perform the Project; and

**WHEREAS**, the parties are entering into this Subcontract Agreement to set forth their entire agreement and understanding regarding the subcontracting of the Project.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises herein contained, the parties hereto, intending to be legally bound hereby, agree as follows:

#### 1. STATEMENT OF WORK.

(A) The Subcontractor shall provide the necessary personnel, equipment, facilities and supplies to perform the services constituting the Project as specified in the Scope of Work, attached hereto as Appendix N and incorporated herein by reference.

(B) The SJTPO Executive Director shall serve as Contractor's project director for the Project and will advise the Subcontractor in its performance of the required services.

## 2. DELIVERY OR PERFORMANCE SCHEDULE.

The Subcontractor shall furnish, deliver, and perform the Project, commencing as of the date of this Agreement and continuing through, [REDACTED] for which period funds will be available under the Federal Aid Agreement. This Agreement may be extended with the consent of both parties made in writing, subject to extension of the Federal Aid Agreement if necessary.

## 3. ALLOWABLE COSTS AND PAYMENT.

(A) **Cost.** The cost of services to be provided under this Subcontract Agreement is \$ [REDACTED].

(B) **Budget.** A budget, which has been agreed to by the parties to this Subcontract Agreement is attached hereto as Appendix N and made part of this Subcontract Agreement for all purposes. No amendment may be made to such budget without the written approval of the Contractor.

(C) **Allowable Costs.** To be eligible for funding, costs must be in accordance with either Federal Acquisition Regulation, Chapter 1, Subpart 31.6, Contracts with State, Local and Federally Recognized Indian Tribal Governments; Subpart 31.3, Contracts with Educational Institutions; Subpart 31.7, Contracts with Non-Profit Organization OMB Circular A-87, Cost Principles for State and Local Governments, OMB Circular A-122, Cost Principles for Non-Profit Organizations, or OMB Circular A-21, Cost Principles for Educational Institutions, as applicable. Costs and their reimbursement shall further be governed by the Basic Agreement and payment thereof shall be subject to availability of funds and terms thereunder.

(D) **Payment.**

(1) The Subcontractor shall submit invoices for payment of costs incurred to the SJTPO, not more than monthly, following the commencement of this Subcontract Agreement. A final invoice shall be submitted no later than thirty (30) days after the last day of the Subcontract Agreement. The Contractor's obligation to make payment pursuant to this Agreement shall be subject to the availability of funds under the Federal Aid Agreement.

(2) Payments for performance under this Subcontract Agreement shall be made by the Contractor to the Subcontractor on a cost reimbursable basis when billed. Any payments so made shall be in accordance with the approved budget, attached as Appendix N. Each invoice shall be accompanied with the appropriate affidavit of payment of wages and documentation of expenditures for each phase of the work, including time and effort reports, and shall be certified by the Chief Financial Officer or Treasurer of the Subcontractor.

(3) No invoices submitted will be acted upon unless an acceptable Progress Report complying with requirements of paragraph 4(B) below is submitted to the SJTPO, corresponding to the time period covered in the invoice.

(4) The Subcontractor shall maintain a complete set of time sheets, records, and accounts to identify salaries, payroll burden, and non-salary direct expenses incurred by

personnel directly supporting the invoice. These expenditures shall be documented in compliance with applicable federal and State guidelines and be made available for review. If such documentation is found during annual audits and/or reviews by the federal government and/or the State to be not in compliance with applicable federal and State guidelines, the Subcontractor shall implement an appropriate plan of corrective action to meet all guidelines or repay the undocumented costs to the Contractor.

(5) The Subcontractor shall maintain all records relating to both negotiations and to costs incurred, which records shall include, but not be limited to, documents, papers, accounting records, and any other evidence pertaining to costs. The Subcontractor shall make such records available at the offices of the Contractor at all reasonable times during the contract period and for three (3) years from the date of final payment and shall furnish copies of the records if requested.

(E) The Contractor shall not reimburse the Subcontractor for equipment purchases, in accordance with State policies and practices.

#### **4. SPECIAL PROVISIONS.**

(A) The books of account, files, and other records of the Subcontractor shall at all times be available for inspection, review and audit by the Contractor and its representatives to determine the proper application and use of all funds paid to or for the account or benefit of the Subcontractor. In addition, the Subcontractor shall provide such special reports as requested by the Contractor or the SJTPO to permit evaluation of progress of the Project.

##### **(B) Reports.**

(1) The Subcontractor shall prepare a Progress Report and submit it to the SJTPO within ten (10) calendar days after the close of each calendar month following the date of the Notice to Proceed.

(2) Each Progress Report shall include:

(a) A narrative description of work performed during the period and any difficulties or delays encountered;

(b) A comparison of actual accomplishments to the goals established for the period;

(c) A comparison, by task, of costs incurred with amounts budgeted; and

(d) A comparison, by task, of work performed compared to the schedule, including a percentage of work completed. This requirement can be met by including a bar chart showing schedule timing and actual progress.

(3) The following disclaimer statement shall appear on the cover or the title page of any published report concerning the Project:

*The preparation of this report has been financed in part by the U.S. Department of Transportation, Federal Highway Administration. This document is disseminated under the sponsorship of the U.S. Department of Transportation in the interest of information exchange. The United States Government assumes no liability for its contents of its use thereof.*

(C) [Reserved]

(D) The Subcontractor agrees that Disadvantaged Business Enterprise (DBE), as defined in 49 CFR Part 26 and FTA Circular 4716.1A, shall have the maximum opportunity to participate in the performance of contracts and subcontracts financed, in whole or in part, with federal funds provided under this Subcontract Agreement. For this agreement, a good faith effort should result in a **minimum DBE utilization of 12.44%**, consistent with the Cost Proposal associated with this Project.

(E) Regulations of the Department of Transportation relative to Non-Discrimination in Federally Assisted Projects of the Department of Transportation (49 CFR Part 21) is made a part of this Subcontract Agreement (Appendix A).

(F) Regulations of the New Jersey Department of Transportation relative to Restrictions on Lobbying is made a part of this Subcontract Agreement (Appendix B).

(G) The New Jersey Department of Transportation Certification of RECIPIENT is made a part of this Subcontract Agreement (Appendix C).

(H) The Certification of New Jersey Department of Transportation is made a part of this Subcontract Agreement (Appendix D).

(I) The New Jersey Department of Transportation Code of Ethics for Vendors is made a part of this Subcontract Agreement (Appendix E).

(J) The New Jersey Department of Transportation Certification of RECIPIENT Eligibility is made a part of this Subcontract Agreement (Appendix F).

(K) The New Jersey Department of Transportation Americans with Disabilities Act provisions are made a part of this Subcontract Agreement (Appendix G).

(L) The State of New Jersey Equal Employment Opportunities for Contracts Funded by FHWA is made a part of this Subcontract Agreement (Appendix H).

(M) Equal Employment Opportunity Requirements for Procurement and Service Contracts in accordance with the provisions of N.J.S.A. 10:2-1 through 10:2-4 and N.J.S.A. 10:5-3, et seq. is made a part of this Subcontract Agreement.

(N) The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination Assurances DOT Order No. 1050.2A is made a part of this Subcontract Agreement (Appendix I through Appendix M).

(O) In the event of non-compliance by the Subcontractor with the nondiscrimination provisions of this Subcontract Agreement, the Contractor shall impose such sanctions as it may determine to be appropriate, including, but not limited to:

(1) Withholding payments to the Subcontractor until the Subcontractor complies; and

(2) Cancelling, terminating, or suspending this Subcontract Agreement, in whole or in part.

(P) This Subcontract Agreement may be terminated: (1) immediately for non-compliance in accordance with paragraph 4(I) above; (2) if funds are not forthcoming to Contractor pursuant to the Basic Agreement; (3) by mutual agreement; and (4) by Contractor in the event Subcontractor fails to perform its obligations under this Agreement. In the event the Agreement is terminated as a result of the Subcontractor's failure to perform, the Subcontractor shall turn over to the Contractor all work product developed under the Scope of the Work to the date of termination and shall reimburse the Contractor for all funds paid to the Subcontractor to the date of termination.

(Q) If Subcontractor has not commenced the Project within two (2) months after the execution of this Subcontract Agreement, Subcontractor may be notified in writing that the funding hereunder is rescinded.

(R) This Subcontract Agreement may not be assigned, in whole or in part, without the prior written consent of the Contractor.

(S) **Indemnification.** The Subcontractor hereby agrees to and shall defend, indemnify, protect and save harmless the Contractor and the SJTPO, its or their agents, servants, and employees, from and against all suits, claims, losses, demands or damages arising out of or claimed to arise out of the negligent acts, errors or omissions or intentional acts or omissions of the Subcontractor, its agents, servants, employees and subcontractors, of its obligation pursuant to this Subcontract Agreement or any breach of any of its representations, warranties or covenants set forth herein. The Subcontractor shall, at its own expense, pay all charges for attorneys and all costs and other expenses arising from any such suit or claim incurred in connection therewith. If any judgment shall be rendered against the Contractor and/or the SJTPO for which indemnification is provided under this paragraph, the Subcontractor shall, at its own expense, satisfy and discharge the same. This indemnification obligation is not limited by, but is in addition to the insurance obligations contained in this Subcontract Agreement.

(T) The Subcontractor assumes sole responsibility for reimbursement to the Contractor of any expenditures disallowed should audit or other examination conclude that expenditures from funds allocated to the Subcontractor pursuant to this Subcontract Agreement were not made in compliance with the provisions of this Subcontract Agreement.

## 5. FURTHER SUBCONTRACTORS.

(A) Subject to the provisions of this section, work constituting the Project may be further subcontracted. The Subcontractor, pursuant to OMB Circular A-110/A-87 and State OMB Circular 93-05 and as a recipient of federal and state funds, is required to comply with all federal and state procurement guidelines. As such, it is understood that the Subcontractor shall ensure that the terms and conditions of proposed subcontracts are in full compliance with such regulations.

(B) With regard to each subcontract, the Subcontractor shall maintain all supporting documentation, including an executed agreement with the further subcontractor, on file for review by representatives of the Contractor, the State and the federal government. Each such further subcontract shall provide that the further subcontractor shall be responsible for complying with all federal, state, or local laws and regulations applicable to the performance of this Subcontract Agreement insofar as it relates to work performed by the further subcontractor.

(C) The Subcontractor shall make no claim for reimbursement for expenditures, which were incurred prior to any subcontract for services performed by the further subcontractor related to such subcontract.

(D) Each further subcontract shall provide that the further subcontractor shall look only to the Subcontractor for the payment of any claims of any nature whatsoever arising out of such further subcontract.

(E) The hiring of further Subcontractors or consultants is prohibited without the prior written approval of the Contractor.

## **6. REPRESENTATIONS, WARRANTIES, AND COVENANTS.**

(A) The Subcontractor covenants that the performance of work and services pursuant to the requirements of this Subcontract Agreement shall conform to professional standards of transportation planning as defined by the State.

(B) The Subcontractor represents and warrants that to solicit or secure this Subcontract Agreement, no company or person, other than a bona fide employee working solely for the Subcontractor, has been employed or retained; and that the Subcontractor has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Subcontractor, any finder's fee, commission, percentage, brokerage fee, gift or any other consideration, either contingent upon or resulting from the award or making of this Subcontract Agreement.

(C) The Subcontractor covenants that the patentable results of any demonstration project undertaken under this Subcontract Agreement and all information, designs, specifications, know-how, data, and findings developed in the performance of this Subcontract Agreement, including research studies, shall be made available to the public through either dedication, assignment to the United States, publication, or such other means as the Contractor shall determine.

(D) The Subcontractor covenants that it shall coordinate with the SJTPO and the Contractor all news releases, publicity and information to the media having to deal with the progress of the Scoping Project. The Subcontractor shall furnish copies of all news releases and clippings to the Contractor.

(E) **Affirmative Action Requirements.** The parties to this Subcontract Agreement hereby incorporate herein the mandatory language of Subsection 3.4(a) of the Regulations promulgated by the Treasurer of the State of New Jersey pursuant to P.L. 1975, c.127, as amended and supplemented, and the Subcontractor agrees to comply fully with the terms, provisions, and obligations thereof; provided that said Subsection shall be applied subject to the terms of Subsection 3.4(d) of said Regulations.

The parties hereto agree further to incorporate herein the mandatory language of section 5.3 of the Regulations promulgated by the Treasurer of the State of New Jersey pursuant to P.L. 1975, c. 127 (N.J.A.C. 17:27), as amended and supplemented from time to time and the Subcontractor agrees to comply fully with the terms, provisions and obligations of said section 5.3.

(F) **Waiver or Modification.** It is further agreed that no waiver or modification of this Subcontract Agreement or of any covenant or condition hereof shall be valid unless made in writing and duly executed by the parties hereto.

(G) **Governing Laws.** The parties hereto agree that it is their intention that this Subcontract Agreement shall be construed in accordance with the laws of the State of New Jersey.

(H) **Compliance with Laws.** The Subcontractor agrees to comply with all local, state, and federal laws, rules and regulations applicable to this Subcontract Agreement and to the services performed hereunder.

## 7. INSURANCE REQUIREMENTS.

(A) The Subcontractor shall secure and maintain in force for the term of this Subcontract Agreement insurance as provided herein. The Subcontractor shall provide the SJTPO with current certificates of insurance for all coverages and renewals thereof, which must contain the proviso that the insurance provided in the certificates shall not be canceled for any reason except after thirty (30) days written notice to the SJTPO. Policies shall be issued by an insurance company authorized to do business in the State of New Jersey and approved by the Contractor.

(B) Insurance similar to that required of the Subcontractor shall be provided by or on behalf of all further subcontractors to cover their operations performed under this Subcontract Agreement, and be included in all further subcontracts. The Subcontractor shall not be issued the Notice to Proceed until evidence of the insurance coverage required has been received, reviewed, and approved by the SJTPO.

(C) The insurance to be provided by the Subcontractor shall include a General Liability Policy as broad as the standard coverage forms currently in use by the Contractor, which shall not be circumscribed by any endorsements limiting the breadth of coverage and shall be endorsed to include:

- |     |  |            |
|-----|--|------------|
| (1) | Worker's Compensation and Employer's Liability |            |
| (a) | Each Accident                                  | \$ 500,000 |
| (b) | Disease Each Employer                          | \$ 500,000 |
| (c) | Disease Policy Limit                           | \$ 500,000 |

(2)	Comprehensive General Liability:	
(a)	Bodily Injury	
	Each Person	\$1,000,000
	Each Occurrence	\$1,000,000
(b)	Property Damage	
	Each Person	\$1,000,000
	Aggregate	\$2,000,000
(3)	Comprehensive Automobile Liability:	
(a)	Bodily Injury	
	Each Person	\$1,000,000
	Each Occurrence	\$1,000,000
(b)	Property Damage	
	Each Occurrence	\$ 250,000
(4)	Professional Liability Insurance:	
(a)	Claims Made/Aggregate Basis	\$1,000,000



**8. NOTICE.**

All notices required or desired to be given pursuant to this Subcontract Agreement shall be made in writing, and any reports, studies, surveys or other information required to be provided pursuant to this Subcontract Agreement, shall be sent to the parties by regular mail, postage prepaid, as follows:

**If to Contractor:** South Jersey Transportation Authority  
Farley Service Plaza  
P.O. Box 351  
Hammonton, NJ 08037  
Attn: Executive Director

**If to SJTPO:** South Jersey Transportation Planning Organization  
782 S. Brewster Road, Unit B-6  
Vineland, NJ 08361  
Attn: Executive Director

**If to Subcontractor:** Company Name  
Company Address  
City, State, Zip  
Attn:

**9. INCORPORATION OF APPLICABLE PROVISIONS OF BASIC AGREEMENT.**

All applicable provisions contained in the Basic Agreement, except as modified herein, shall be binding upon the Subcontractor, and the Subcontractor agrees to comply with the same.

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

**ATTEST:**

**SOUTH JERSEY TRANSPORTATION  
AUTHORITY**

\_\_\_\_\_

(SEAL)

By \_\_\_\_\_

**ATTEST:**

**COMPANY NAME**

\_\_\_\_\_

(SEAL)

By \_\_\_\_\_

This Subcontract Agreement has been reviewed and is found to be consistent with the authorizing resolution adopted by the South Jersey Transportation Planning Organization.

By: \_\_\_\_\_ Date \_\_\_\_\_  
Executive Director, SJTPO

## APPENDIX A

### NONDISCRIMINATION

During the performance of this Agreement, the RECIPIENT, for itself, its assignees and successors in interest hereinafter referred to as the RECIPIENT, agrees as follows:

1. Compliance with Regulations: The RECIPIENT will comply with Regulations of the United States Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21 through Appendix H, and Title 23CFR Part 710.405(b), hereinafter referred to as the Regulations), which are incorporated herein by reference and made a part of this Agreement.
2. Nondiscrimination: The RECIPIENT, with regard to the work performed by it after award and prior to completion of the work, will not discriminate on the basis of race, color, age, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The RECIPIENT will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, including Procurement of Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the RECIPIENT for work to be performed under a subcontract, including procurement of materials or equipment, such potential subcontractor or supplier shall be notified by the RECIPIENT of the RECIPIENT's obligations under this Agreement and the Regulations relative to nondiscrimination on the basis of race, color, age, sex or national origin.
4. Information and Reports: The RECIPIENT will provide all information and reports required by the Requisitions, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the RECIPIENT is in the exclusive possession of another who fails or refuses to furnish this information, the RECIPIENT shall so certify to the STATE or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the RECIPIENT's noncompliance with the nondiscrimination provisions of this contract, the STATE shall impose such sanctions as are appropriate and available under the laws of the STATE.
  - (a) Withholding of payments to the RECIPIENT under the contract until the RECIPIENT complies, and/or
  - (b) Cancellation, termination, or suspension of the contract, in whole or in part.
6. This Agreement is subject to all federal, State, and local laws, rules, and regulations, including, but not limited to, those pertaining to nondiscrimination in employment and affirmative action for equal employment opportunity.
7. The RECIPIENT agrees to ensure that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR, Part 23 and FTA Circular 4716.1A, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds. Failure to make a good faith effort to meet the established DBE goal may result in sanctions as defined under paragraph 5 of this Appendix.

8. If at any time following the execution of this Agreement, the RECIPIENT intends to sublet any additional portion(s) of the work or intends to purchase materials or lease equipment not contemplated during the original proposal preparation, the RECIPIENT shall:

(a) Notify the Project initiator, in writing, of the type and approximate value of the work which the RECIPIENT intends to accomplish by such subcontract, purchase order or lease.

(b) Give DBE firms equal consideration with non-minority firms in negotiations for any such subcontracts, purchase orders or leases.

9. Incorporation of Provisions: The RECIPIENT will include the provisions of paragraph (1) through (9) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, orders or instructions, issued pursuant thereto.

**APPENDIX B**

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_,  
(Name and Title of Grantee Official)

hereby certify on behalf of RECIPIENT, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subRECIPIENTS shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

By: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of Authorized Official)

## **APPENDIX C**

### **CERTIFICATION OF RECIPIENT**

In executing the Agreement the RECIPIENT's signatory certifies on behalf of the RECIPIENT that neither he, nor any other officer, agent or employee of the RECIPIENT has:

1. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bonafide employee working solely for him or the RECIPIENT) to solicit or secure this Agreement.
- 2, agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or
3. paid, or agreed to pay, to any firm, organization or person (other than a bonafide employee working solely for him or the RECIPIENT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement;

except as expressly Stated in a disclosure letter to the STATE which shall accompany the Agreement after execution by the RECIPIENT on submission to the Commissioner or his designee for execution.

The RECIPIENT acknowledges that this certificate furnished to the STATE and the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement, is subject to applicable State and Federal laws, both criminal and civil.

## **APPENDIX D**

### CERTIFICATION OF NEW JERSEY DEPARTMENT OF TRANSPORTATION

In executing the Agreement the STATE'S signatory certifies that to the best of his knowledge, the RECIPIENT or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement, to:

1. employ or retain, or agree to employ or retain, any firm or person, or
2. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

except as expressly Stated in a disclosure letter to the Federal Highway Administration and/or Federal Transportation Administration, U.S. Department of Transportation.

The STATE acknowledges that this certificate is to be furnished to the Federal Highway Administration, U.S. Department of Transportation, in connection with agreements involving participation of Federal-aid highway funds, and the Federal Transportation Administration, in connection with agreements involving participation of FTA Metropolitan Planning (PL) funds, and is subject to applicable State and Federal laws, both criminal and civil.

## APPENDIX E

### **NJDOT CODE OF ETHICS FOR VENDORS**

1. No vendor\* shall employ any NJDOT officer or employee in the business of the vendor or professional activity in which the vendor is involved with Department officer or employee.
2. No vendor shall offer or provide any interest, financial or otherwise, direct or indirect, in the business of the vendor or professional activity in which the vendor is involved with the Department officer or employee.
3. No vendor shall cause or influence or attempt to cause or influence any NJDOT employee or officer in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of that NJDOT officer or employee.
4. No vendor shall cause or influence, or attempt to cause or influence, any NJDOT officer or employee to use or attempt to use his or her official position to secure any unwarranted privileges or advantages for that vendor or for any other person.
5. No vendor shall offer any NJDOT officer or employee any gift, favor, service or other thing of value under circumstances from which it might be reasonably inferred that such gift, service or other thing of value was given or offered for the purpose of influencing the RECIPIENT in the discharge of his or her official duties. In addition , employees or officers of NJDOT will not be permitted to accept breakfasts, lunches, dinners, alcoholic beverages, tickets to entertainment and/or sporting events or any other item which could be construed as having more than nominal value.

**NOTE:** This section would permit an NJDOT employee or officer to accept food or refreshments of relatively low monetary value provided during the course of a meeting, conference or other occasion where the employee is properly in attendance (for example - coffee, danish, tea or soda served during a conference break). Acceptance of unsolicited advertising or promotional materials of nominal value (such as inexpensive pens, pencils or calendars) would also be permitted.

Any questions as to what is or is not acceptable or what constitutes proper conduct for a Departmental employee or officer should be referred to the Department's Ethics Liaison Officer or his or her designee.

6. This code is intended to augment, not to replace existing administrative orders and the current Departmental Code of Ethics.
7. This code shall take effect immediately upon approval of the NJ Executive Commission on Ethical Standards and adoption by the NJDOT.

\*Vendor is defined as any general contractor, subcontractor, consultant, person, firm, corporation or organization engaging in or seeking to do business with NJDOT.

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Adopted on the 16th day of December, 1987



**APPENDIX F**

**CERTIFICATION OF RECIPIENT ELIGIBILITY**

I \_\_\_\_\_ hereby certify under penalty of perjury under the laws of the United States, that except as noted below, the company or any person associated therewith in the capacity of owner, partner, director, officer, principal, Project director, manager, auditor, or any position involving the administration of federal or State funds:

is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal, State or local government agency;

has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal, State or local government agency within the past 3 years;

does not have a proposed debarment pending; and

has not been indicted, convicted, or had a civil judgment rendered against (it) by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

(Insert exceptions - for any exception noted, indicate to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions. If no exceptions, insert "None".)

Attest:

RECIPIENT

\_\_\_\_\_  
Name/Title

\_\_\_\_\_  
Name/Title

Date: \_\_\_\_\_

## **APPENDIX G**

### **AMERICANS WITH DISABILITIES ACT**

Equal Opportunity For Individuals With Disabilities.

The RECIPIENT and the STATE do hereby agree that the provisions of Title II of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. Sec. 12101 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the STATE pursuant to this contract, the RECIPIENT agrees that the performance shall be in strict compliance with the Act. In the event that the RECIPIENT, its agents, servants, employees, or subconsultants violate or are alleged to have violated the Act during the performance of this contract, the RECIPIENT shall defend the STATE in any action or administrative proceeding commenced pursuant to this Act. The RECIPIENT shall indemnify, protect, and save harmless the STATE, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The RECIPIENT shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith.

In any and all complaints brought pursuant to the STATE'S grievance procedure, the RECIPIENT agrees to abide by any decision of the STATE which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the STATE or if the STATE incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the RECIPIENT shall satisfy and discharge the same at its own expense.

The STATE shall, as soon as practicable after a claim has been made against it, give written notice thereof to the RECIPIENT along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the STATE or any of its agents, servants, and employees, the STATE shall expeditiously forward or have forwarded to the RECIPIENT every demand, complaint, notice, summons, pleading, or other process received by the STATE or its representatives.

It is expressly agreed and understood that any approval by the STATE of the services provided by the RECIPIENT pursuant to this contract will not relieve the RECIPIENT of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the STATE pursuant to this paragraph.

It is further agreed and understood that the STATE assumes no obligation to indemnify or save harmless the RECIPIENT, its agents, servants, employees and subconsultants for any claim which may arise out of their performance of this Agreement. Furthermore, the RECIPIENT expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the RECIPIENT'S obligations assumed in this Agreement, nor shall they be construed to relieve the RECIPIENT from any liability, nor preclude the STATE from taking any other actions available to it under any other provisions of this Agreement or otherwise at law.

## **APPENDIX H**

### **STATE OF NEW JERSEY EQUAL EMPLOYMENT OPPORTUNITY FOR CONTRACTS FUNDED BY FHWA**

The parties to this Agreement do hereby agree that the provisions of NJSA 10:2-1 through 10:2-4 and NJSA 10:5-31 et seq (PL 1975, c 127, as amended and supplemented) dealing with discrimination in employment on public contracts, and the rules and regulations promulgated pursuant thereunto, are hereby made a part of this Agreement and are binding upon them.

During the performance of this Agreement, the RECIPIENT agrees as follows:

- a. The RECIPIENT, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The RECIPIENT will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The RECIPIENT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Department of Transportation's Compliance Officer setting forth provisions of this nondiscrimination clause;
- b. The RECIPIENT will, in all solicitations or advertisements for employees placed by or on behalf of the RECIPIENT, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status or sex;
- c. The RECIPIENT, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Department of Transportation's Compliance Officer, advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The notices referred to in paragraphs a and c may be obtained at the preconstruction conference.

## APPENDIX I

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, **FHWA, FTA, and/or FAA**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the **FHWA, FTA, and/or FAA** to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the **FHWA, FTA, and/or FAA**, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA, FTA, and/or FAA may determine to be appropriate<sup>1</sup> including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the **FHWA, FTA, and/or FAA** may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

## APPENDIX J

### **CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the **South Jersey Transportation Planning Organization (SJTPO)** will accept title to the lands and maintain the project constructed thereon in accordance with *(Name of Appropriate Legislative Authority)*, the Regulations for the Administration of the **Unified Planning Work Program**, and the policies and procedures prescribed by the **FHWA, FTA, and/or FAA** of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non discrimination in Federally-assisted programs of the U.S Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto **SJTPO** all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

#### **(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto SJTPO and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on **SJTPO**, its successors and assigns.

**SJTPO**, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that **SJTPO** will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49 1 Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended L and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

## **APPENDIX K**

### **CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM**

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by SJTPO pursuant to the provisions of Assurance 7(a):

- A. The (*grantee, lessee, permittee, etc. as appropriate*) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [*in the case of deeds and leases add "as a covenant running with the land"*] that:
  1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non discrimination covenants, **SJTPO** will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, **SJTPO** will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of **SJTPO** and its assigns. \*

(\* Reverter clause and related language to be used only when it is determined that such a clause is necessary to make dear the purpose of Title VI.)

## APPENDIX L

### **CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by **SJTPO** pursuant to the provisions of Assurance 7(b):

- A. The (*grantee, licensee, permittee, etc., as appropriate*) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (*in the case of deeds and leases add, "as a covenant running with the land"*) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance,
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non discrimination covenants, **SJTPO** will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. \*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, **SJTPO** will there upon revert to and vest in and become the absolute property of **SJTPO** and its assigns. \*

(\* Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## **APPENDIX M**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC§ 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles 11 and 111 of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).



**APPENDIX N**

**Technical Proposal and Cost Proposal (see attached).**