

AGREEMENT NO.:2024-SJTA-001

BASIC AGREEMENT

BETWEEN THE

STATE OF NEW JERSEY

DEPARTMENT OF TRANSPORTATION

THE

SOUTH JERSEY TRANSPORTATION AUTHORITY

AND THE

SOUTH JERSEY TRANSPORTATION PLANNING ORGANIZATION

FOR

UNIFIED PLANNING WORK PROGRAM ACTIVITIES

This Basic Agreement, made this *31 st* day of *October* in the year of 2024, made between the SOUTH JERSEY TRANSPORTATION PLANNING ORGANIZATION, whose address is 817 East Landis Avenue, Second Floor, Vineland, NJ 08360, (hereinafter referred to as "SJTPO"), the SOUTH JERSEY TRANSPORTATION AUTHORITY, whose address is P.O. Box 351, Hammonton, New Jersey, 08307 (hereafter referred to as "SJTA") and the STATE OF NEW JERSEY, acting through its Commissioner, Department of Transportation, whose address is 1035 Parkway Avenue, P.O. Box 600, Trenton, New Jersey 08625-0600 (hereinafter referred to as "STATE") (collectively referred to as the "Parties") witness that:

WHEREAS, under 23 U.S.C. § 134 and 49 U.S.C. § 5303, it is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution; and

WHEREAS, in 1993, the Governor of the State of New Jersey designated New Jersey's three Metropolitan Planning Organizations ("MPOs") to function as the main decision-making forums for selecting projects for the Statewide Transportation Improvement Program ("STIP") in deliberations involving the New Jersey Department of Transportation ("NJDOT"), the New Jersey Transit Corporation, county, and municipal transportation planners and engineers, other transportation implementing agencies, the public, and elected officials at the state, county, and municipal levels; and

WHEREAS, the three MPOs were defined as the Delaware Valley Regional Planning Commission,

the South Jersey Transportation Planning Organization and the North Jersey Transportation Planning Authority; and

WHEREAS, to accomplish the objective cited above, the designated MPOs, in cooperation with the STATE and public transit operators, were required to develop transportation plans and programs for urbanized areas of the State; and

WHEREAS, pursuant to 23 C.F.R. § 450.308(b), each MPO was required to develop a Unified Planning Work Program ("UPWP") which sets forth the transportation studies and tasks to be performed by, or on behalf of, the MPO, reflecting federal, state and local priorities, the funding sources for each task, the agency responsible for each task or study, and the anticipated work product for each item; and

WHEREAS, the STATE is a direct recipient of annual federal appropriations, designated as metropolitan planning, from the Federal Highway Administration ("FHWA") and the Federal Transit Administration ("FTA") to be used to fund MPO UPWPs, activities, and special studies; and

WHEREAS, the STATE distributes the metropolitan planning funds in accordance with the metropolitan planning allocation formula developed by the STATE with each MPO and approved by FHWA and FTA; and

WHEREAS, the SJTPO was designated by the Governor of the State of New Jersey to serve as the responsible MPO for the geographic region comprised of Atlantic County, Cumberland County, Cape May County, and Salem County; and

WHEREAS, the SJTA has agreed to provide all personnel, facilities, payroll, and related administrative support for the SJTPO, including, but not limited to: purchasing, grants accounting, human resource management, payroll accounts payable and accounts receivable in the furtherance of the annual SJTPO UPWP activities; and

WHEREAS, the STATE, the SJTA and the SJTPO desire to specify the conditions applicable for the funding of the SJTPO's UPWP activities and the obligations of the STATE, the SJTA, and the SJTPO with respect to said funds; and

WHEREAS, the Commissioner, Department of Transportation, under powers vested by law and as more particularly set forth in N.J.S.A. 27:1A-3, N.J.S.A. 27:1A-5, and N.J.S.A. 27:7-21, has determined that it is in the best interest of the STATE to enter into the Basic Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and pursuant to all applicable federal, state, and local laws, statutes, codes or ordinances, the STATE, the SJTA and the SJTPO agree to abide by this Basic Agreement and the GENERAL TERMS and CONDITIONS attached hereto as Exhibit A.

1. The preambles of the Basic Agreement are incorporated into the Basic Agreement as though set forth here in verbatim.

2. The Parties agree that the attached General Terms and Conditions are made a part hereto and set forth the terms of the agreement between the STATE and the SJTA pertaining to the distribution of monies from the STATE for those items requiring federal funding for the SJTPO's UPWP.
3. For the items identified in the UPWP which require funding from annual federal appropriations to the STATE, the STATE shall prepare and issue a Task Order to fund the UPWP, setting forth the specific work to be performed by the SJTPO and authorizing the SJTA to incur costs for the same and specifying that the obligations of the STATE to fund items in the UPWP are limited to only the approved tasks and services identified in the specific Task Order, as such Task Order(s) may from time to time be modified or amended as provided herein.
4. The SJTA shall provide all personnel, facilities, payroll and related administrative support and services, including, but not limited to: purchasing, grant and contract accounting, human resource management, payroll, accounts payable and accounts receivable in the furtherance of the SJTPO's UPWP, as updated.
5. It is agreed that both the Basic Agreement, and any Task Order issued pursuant to the Basic Agreement, are subject to appropriations and the availability of funds.
6. If any of the provisions of the Basic Agreement and/or the attached General Terms and Conditions are declared invalid or unenforceable, the remainder of the Basic Agreement and/or the General Terms and Conditions will not be affected, and every provision of the Basic Agreement and/or the General Terms and Conditions will be valid and enforceable to the fullest extent permitted by the law.
7. All notices required to be served or given pursuant to the Basic Agreement and/or any Task Order entered pursuant to the Basic Agreement shall be in writing pursuant to the notification provision of the General Terms and Conditions:

If to the STATE:

Megan Fackler
 Director, Division of Statewide Planning
 New Jersey Department of Transportation
 1035 Parkway Avenue, P.O. Box 600
 Trenton, New Jersey 08625-0600

If to SJTA:

Stephen Dougherty
 Executive Director
 South Jersey Transportation Authority
 P.O. Box 351
 Hammonton, New Jersey 08307

If to SJTPO:

Jennifer Marandino
 Executive Director
 South Jersey Transportation Planning Organization

817 East Landis Avenue, Second Floor,
Vineland, NJ 08360

8. The Parties waive any statutory or common law presumption that would serve to have this Basic Agreement construed in favor or against any party as the drafter.

9. The Basic Agreement, the General Terms and Conditions, and every Task Order issued hereunder is intended for the sole and exclusive benefit of the Parties hereto, and nothing herein shall be construed as creating an enforceable right of action in favor of any third party.

10. The Basic Agreement, the General Terms and Conditions, and any Task Order issued hereunder shall be governed by and construed under the laws of the State of New Jersey.

11. Any and all claims based on contract law shall be made in accordance with and subject to the provisions of the New Jersey Contractual Liability Act N.J.S.A. 59:13-1 through-10. Any and all claims based on tort law shall be made in accordance with and subject to the provisions of the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.).

12. The Basic Agreement shall be effective upon execution by a duly authorized representative of the STATE, the SJTA, and the SJTPO and shall continue in full force and effect for a period of five (5) years from the execution date.

13. Upon execution by the STATE, the SJTA, and the SJTPO, this Basic Agreement No.2024-SJTA-001-shall supersede Basic Agreement No. 2019-SJTA-001, dated December 17, 2019.

14. This Basic Agreement may be terminated by any of the Parties upon thirty (30) calendar days written notice to the other party. If, at the time termination notice is issued there are any existing Task Orders, the SJTA and the SJTPO may submit a final invoice, which sets forth the actual costs incurred by the SJTA on behalf of the SJTPO, for all eligible work in accordance with the General Terms and Conditions actually performed prior to receipt of, or issuance of, the notice of termination. All monies otherwise due and owing shall be paid in accordance with the terms hereof.

15. This Basic Agreement shall not be modified unless required by law or court order, or as agreed to in writing by the Parties.

16. The Parties will accept and submit electronic signatures or scanned copies of signatures in connection with the execution of this Basic Agreement and Task Orders. The Parties acknowledge the right to opt-out of this arrangement and can request hard copies of the applicable documents to sign and review upon thirty (30) days written notice to the other party. The Parties agree that the STATE reserves the right to refuse to conduct other transactions by means of electronic or scanned copies of signatures.

IN WITNESS WHEREOF, the SJTPO has caused this instrument to be signed, sealed and attested by its duly authorized representatives, the SJTA has caused this instrument to be signed, sealed and attested by its duly authorized representatives, and the STATE has caused this instrument to be signed by the Commissioner of Transportation, or a designee of the Commissioner, and attested and sealed

by the Secretary of the Department of Transportation as of the day, month and year first written above.

Attest /Witnessed/Affix Seal:

**SOUTH JERSEY TRANSPORTATION
AUTHORITY**

BY: Cynthia Blasberg
Cynthia Blasberg
Secretary

BY: Stephen Dougherty
Stephen Dougherty
Executive Director

Date: 10/9/24

Date: 10/9/24

Attest /Witnessed/Affix Seal:

**SOUTH JERSEY TRANSPORTATION
PLANNING ORGANIZATION**

BY: Monica Butler
Monica Butler
Secretary

BY: Jennifer Marandino
Jennifer Marandino
Executive Director

Date: 10/15/2024

Date: 10/15/2024

ARIANA L. BERRIOS
NOTARY PUBLIC, STATE OF NEW JERSEY
COMMISSION # 2360245
MY COMMISSION EXPIRES 05/23/2025

Attest /Witnessed/Affix Seal:

**STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION**

BY: Anika James
Anika James
Secretary

BY: Eric R. Powers
Eric R. Powers
Assistant Commissioner

Statewide Planning, Safety and Capital Investment

Date: 10/31/24

Date: 10/31/24

Approved as to form for the NJDOT only:
MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

BY: Brad M. Reiter
Brad M. Reiter
Deputy Attorney General
Date: 10/16/2024

EXHIBIT A

GENERAL TERMS AND CONDITIONS
BETWEEN THE
STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION,
THE SOUTH JERSEY TRANSPORTATION AUTHORITY,
AND THE
SOUTH JERSEY TRANSPORTATION PLANNING ORGANIZATION

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I. GENERAL.

The General Terms and Conditions set forth hereafter are agreed upon by the Parties. These General Terms and Conditions are to be used in each Task Order assigned or entered into on or after the date of execution of the Basic Agreement, and prior to its termination, for the type of services identified in the Task Order. It is further agreed that the General Terms and Conditions shall be incorporated by reference in each Task Order for work awarded to the MPO under the Basic Agreement. Titles and headings used in the General Terms and Conditions are included for convenience only and shall not be used to interpret the General Terms and Conditions.

II. REFERENCES.

All Parties agree to follow applicable federal, state, and local laws, statutes, codes, regulations, and ordinances including, but not limited to, the following:

- A. 23 U.S.C. Title 23 Highways; Federal Aid Highways;
- B. 49 U.S.C. Chapter 53 – Public Transportation;
- C. 23 C.F.R. Part 420 – Planning and Research Program Administration;
- D. 23 C.F.R. Part 450 – Planning Assistance and Standards;
- E. 48 C.F.R. Part 31 – Contract Cost Principles and Procedures;
- F. 49 C.F.R. Part 20 – New Restrictions on Lobbying;
- G. 49 C.F.R. Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964;
- H. 9 C.F.R. Part 26 – Participation by disadvantaged business enterprises in Department of Transportation financial assistance programs;
- I. 49 C.F.R. Part 613 – FTA Planning Assistance and Standards;
- J. 2 C.F.R. Chapter I and Chapter II, Part 200, et al. – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- K. FTA Circular C 4220.1F – Third Party Contracting Guidance;
- L. FTA Circular 5010.1D – Grant Management Requirements;
- M. FTA Circular 8100.1C – Program Guidance and Application Instructions for Metropolitan Planning Program Grants; and
- N. NJDOT Code of Ethics for Vendors.

III. DEFINITIONS.

A. The following terms are defined in the manner indicated below and shall apply to the Basic Agreement and/or any Task Order issued pursuant to the Basic Agreement:

- 1. “Administrative Support Services” means any and all lawful activities undertaken by the metropolitan transportation organization (MPO) to support the development of transportation plans and programs for urbanized areas of the State as set forth in the Unified Planning Work Program.
- 2. “Authorized SJTPO Representative” means the SJTPO Executive Director, or the designated representative of the SJTPO Executive Director, who is authorized in writing to execute any and all documents on behalf of the SJTPO and/or to accept

- notice and/or service of applicable notices pursuant to the Basic Agreement.
3. "Authorized STATE representative" means the Commissioner of the - New Jersey Department of Transportation ("NJDOT"), or the designated representative of the Commissioner, who has been authorized in writing to execute any and all documents on behalf of the NJDOT and/or to accept notice or service of applicable notices pursuant to the Basic Agreement.
 4. "Authorized SJTA Representative" means the SJTA Executive Director, or the designated representative of the SJTA Executive Director, who is authorized in writing to execute any and all documents on behalf of the SJTA and/or to accept notice and/or service of applicable notices pursuant to the Basic Agreement.
 5. "Basic Agreement" means the contract between the STATE, the SJTA, and the SJTPO to conduct UPWP activities, and any modifications issued hereto.
 6. "Fiscal Year" means the twelve-month period ending on June 30 of any given year.
 7. "FHWA" means the Federal Highway Administration.
 8. "FTA" means the Federal Transit Administration.
 9. "Quarter" means the three-month period ending September 30, December 31, March 31, and June 30 of each program fiscal year.
 10. "SJTA" shall mean the South Jersey Transportation Authority.
 11. "SJTPO" shall mean the South Jersey Transportation Planning Organization.
 12. "SJTPO Central Staff" means the employees of the SJTPO who are assigned on a full-time or part-time basis to provide the central planning, programming and administrative services identified in the authorized SJTPO Unified Planning Work Program.
 13. "STATE" or "NJDOT" means the New Jersey Department of Transportation.
 14. "Subrecipient" means the non-federal entity to which a subaward is made and which is accountable to the MPO for the use of the funds provided.
 15. "Task Order" means the supplement to the Basic Agreement authorizing the SJTA to incur costs for eligible planning and administrative services in support of the SJTPO up to the maximum amount specified in each supplement.
 16. "Unified Planning Work Program" (UPWP) means the annual federal approved written detailed description of the work to be accomplished by the SJTPO and any of its subrecipients and contractors, as required by the STATE in accordance with the terms and conditions of the Basic Agreement.

IV. TASK ORDERS.

- A. A Task Order shall be issued under the sole discretion of the STATE and shall be effective only upon execution by the STATE, the SJTA, and the SJTPO.
- B. The issuance of a Task Order is essential to the satisfactory completion of the SJTPO's UPWP. The SJTA and the SJTPO acknowledge and agree that Task Order(s) are subject to state and federal authorization and the appropriation of supporting program funds.
- C. Each Task Order shall contain the following information:
 1. Task Order Number, as determined by the STATE;
 2. Title of Task Order;
 3. Title and date of the underlying Basic Agreement;
 4. Total cost ceiling for completion of the Task Order;
 5. Reference to the relevant UPWP, which outlines the work to be performed;

6. Start and completion dates of the Task Order;
 7. Assistance Listing Number (ALN);
 8. Relevant FHWA and FTA Agreement numbers;
 9. Name and address of the Task Order project managers for the STATE, the SJTA, and the SJTPO; and
 10. Specific program reporting requirements.
- D. The obligations of the STATE hereunder are limited to the allocation of funds for approved tasks or services as set forth in the Task Order.
 - E. The STATE shall have no liability for any additional costs incurred in providing services not specifically enumerated in a Task Order or a modification thereto.
 - F. A Task Order issued pursuant to a previously executed Basic Agreement ("Prior Basic Agreement") shall continue in full force according to its own terms under the authority of the Prior Basic Agreement until such time as said Task Order expires.
 - G. Any party may request the termination of each or all Task Orders issued hereunder at any time upon thirty (30) days written notice to the other Parties. In the event of a termination, the SJTA shall submit, within sixty (60) days of the date of termination, a claim for compensation and reimbursement. Any claim submitted after sixty (60) days will not be honored and no payments will be issued. The claim for compensation and reimbursement shall be for all eligible work performed and costs incurred prior to the termination date stated in the notice of termination. The STATE will reimburse the SJTA for all work, subject to FHWA and FTA concurrence, as applicable.
 - H. To the extent that any Task Order requires the production of any documents, products or results, the same shall be remitted to the NJDOT within thirty (30) calendar days of notice of said termination. If, at the time the termination notice is issued, there are any existing Task Orders, the NJDOT shall make payments for the costs of eligible work actually performed, subject to FHWA and FTA concurrence.

V. WARRANTS.

- A. The SJTA and the SJTPO warrant that to solicit or secure the Basic Agreement, no company or person, other than a bona fide employee working solely for the SJTA or the SJTPO has been employed or retained; and that the SJTA and the SJTPO have not paid or agreed to pay any company or person, other than a bona fide employee working solely for the SJTA or the SJTPO, any finder's fee, commission, percentage, brokerage fee, gift, or any other consideration, either contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, the STATE shall have the right either to terminate the Agreement without liability, or in its discretion, to deduct or otherwise to recover from the contract price or consideration the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
- B. The SJTA shall furnish all personnel, facilities, equipment and support services, including reasonable funds, necessary for the accomplishment of the SJTPO's UPWP in accordance with the terms and conditions set forth herein and as outlined in executed Task Order(s).
- C. The SJTPO Executive Director acting on behalf of the SJTPO shall be responsible for supervising and/or overseeing the SJTPO Central Staff's day-to-day work activities.

VI. NOTIFICATIONS.

- A. All reports, documents and notices required by the Basic Agreement shall be sent to

the following addresses:

1. If to the STATE: Megan Fackler
Director, Division of Statewide Planning
New Jersey Department of Transportation
1035 Parkway Avenue, P.O. Box 600
Trenton, NJ 08625-0600
2. If to SJTA: Stephen Dougherty
Executive Director
South Jersey Transportation Authority
P.O. Box 351
Hammonton, New Jersey 08307
3. If to SJTPO: Ms. Jennifer Marandino
Executive Director
South Jersey Transportation Planning Organization
817 E. Landis Avenue, Second Floor,
Vineland, NJ 08360

- B. Changes to the Notifications in Section VI do not require approval by the other Parties but requires proper notification.

VII. INDEMNIFICATION.

- A. The SJTA and the SJTPO shall respectively, defend, indemnify, protect and save harmless the STATE, its agents, servants, and employees from and against all suits, claims, losses, demands or damages arising out of or claimed to arise out of negligent or willful acts, errors, or omissions of the SJTA and the SJTPO, its agents, servants, employees and subcontractors when such suits, claims, losses, demands or damages relate to the provision of administrative support services required by this Basic Agreement, to assure compliance with pertinent State and federal laws and guidelines with respect to the proper application of federal funds. The SJTA and the SJTPO shall, at their own expense, appear, defend and pay all charges for attorneys and all costs and other expenses arising from such suit or claim or incurred in connection with the Basic Agreement and/or General Terms and Conditions related to the Task Order. If any judgment shall be rendered against the STATE for which indemnification is provided under this article, the SJTA and the SJTPO shall respectively, at their own expense, satisfy and discharge the same.
- B. The STATE shall, as soon as practicable after a claim or complaint is received related to a Task Order issued pursuant to the Basic Agreement, give written notice thereof to the SJTA and the SJTPO along with full and complete copy of the claim or complaint, to the extent permitted by law. If suit related to a Task Order issued pursuant to the Basic Agreement is brought against the STATE or any of its agents, servants, and employees, the STATE shall as soon as practicable forward or have forwarded to the SJTA and the SJTPO the complaint, notice, summons, or other pleading, received by the STATE or its representatives to the extent permitted by law.
- C. It is expressly agreed and understood that any approval by the STATE of the services

performed in support of the SJTPO's UPWP and/or any Task Order shall not operate to limit the SJTA and the SJTPO's indemnification obligations assumed in this Basic Agreement.

- D. It is understood and agreed that the STATE shall not indemnify or save harmless either the SJTA and the SJTPO, their agents, servants, employees and subcontractors for any claim which may arise out of their performance of the Basic Agreement or any Task Order(s).
- E. The SJTA and the SJTPO, each, expressly understands and agrees that the provisions of this Indemnification Clause shall in no way limit the SJTA's and the SJTPO's obligations assumed in the Basic Agreement, nor shall they be construed to relieve the SJTA and the SJTPO from any liability, nor preclude the STATE from taking any other actions as are available to it under any other provisions of the Basic Agreement, the General Terms and Conditions or otherwise at law. The terms of this Article VII. "INDEMNIFICATION" shall survive the expiration or termination of any and all Task Orders and the Basic Agreement.

VIII. ASSIGNABILITY.

- A. Neither the SJTA nor the SJTPO shall assign, transfer, convey or otherwise dispose of the Basic Agreement or any part thereof, or of its right, title or interest herein, or of any Task Order issued pursuant to the Basic Agreement, to any person, company or corporation without the written consent of the STATE and FHWA and FTA, where applicable.

IX. CONTRACTORS and SUBRECIPIENTS.

- A. Subject to the provisions of this Article, Task Order work may be contracted and/or subawarded by the SJTPO Central Staff.
- B. The SJTA and the SJTPO shall be subject to federal and state audits. It is anticipated that the federal and state audits shall occur annually; however, the SJTA and the SJTPO shall comply with any audit requirements, no matter their frequency. The SJTA and the SJTPO shall include in the terms and conditions of any and all contracts and/or subawards that the contractors and/or subrecipients comply with all federal and state audits. The SJTA and the SJTPO shall at all times give their attention to the provision of the services agreed to under the Basic Agreement and shall keep all such services under their respective control.
- C. The SJTA and the SJTPO shall comply with all applicable federal and state procurement laws, regulations and guidelines, including, but not limited to, 2 C.F.R. §§ 200.317-327.
- D. The SJTA and the SJTPO, each respectively, shall maintain all documentation generated and/or received, in any manner, by its own organization, including any and all contracts, subawards and supporting documentation, on file for review by representatives of the federal government and/or the STATE as defined in Article XVII, "Records".
- E. The SJTA and the SJTPO each respectively, shall include in every contract and/or subaward the provision that the contractor and/or subrecipient shall be responsible for compliance with all federal, state or local laws and regulations applicable to the performance of the Task Order including all those enumerated herein and in the Basic Agreement. Every contract and/or subaward that uses federal funds must also contain

the applicable provisions described in 2 C.F.R. Part 200, App. II—Contract Provisions for non-Federal Entity Contracts under Federal Awards.

- F. The SJTA and the SJTPO shall make no claim for reimbursement for expenditures incurred by contractors, subrecipients and suppliers prior to the effective date of any Task Order or Task Order modification for services performed by the contractors, subrecipients and/or suppliers related to the Task Order or Task Order modification, without obtaining the STATE's prior written approval of such expenditures.
- G. The SJTA and the SJTPO shall insure that all contracts and/or subawards include the provision that the sole legal recourse for any contractor and/or subrecipient lies with the SJTPO and there shall be no claims, demands or any recourse with the STATE or any federal agency.

X. REVIEWS.

- A. In compliance with federal requirements, the SJTA and the SJTPO shall permit representatives of the federal and state agencies to visit the offices of the SJTA and the SJTPO periodically, with or without prior notice, to inspect or monitor payrolls and other data and records pertaining to the services performed by the SJTA and the SJTPO pursuant to the Basic Agreement.
- B. The STATE shall, without delay, review and act upon all invoices and program documents submitted by the SJTA and the SJTPO.
- C. In the event of a dispute or disagreement as to the obligations between any Party to this agreement, said dispute or disagreement shall be submitted to the Assistant Commissioner for Statewide Planning, Safety and Capital Investment, NJDOT, the Executive Director of the SJTA, and the Executive Director of the SJTPO, or their respective designees, for review and determination. In the event that the Assistant Commissioner, the Executive Director of the SJTA, and the Executive Director of the SJTPO are unable to reach an agreement with respect to said dispute or disagreement, any Party may seek all available legal or equitable remedies, but shall not be permitted to submit the dispute to arbitration or mediation without prior written approval by all Parties of the dispute.

XI. HALTS.

- A. The SJTA and the SJTPO shall stop the performance of all services promptly if so directed by the STATE. When the notice is oral, the STATE shall, within seven (7) calendar days, confirm the notice in writing. The SJTA and the SJTPO shall stop the performance of all services promptly if so directed by the STATE in the event of any federal or state governmental shutdown or similar work or funding stoppage beyond the control of the State.

XII. MODIFICATIONS.

- A. The SJTA and the SJTPO agree that all Task Order modifications initiated by the SJTA and/or the SJTPO shall be set forth in writing to the STATE and shall be subject to negotiations.
- B. Modifications shall be subject to FHWA and/or FTA approval, where applicable.
- C. Task Order modifications are defined as follows:
 - 1. "Additional Work" shall mean services negotiated by the STATE and the SJTA

and/or the SJTPO that was not anticipated at the time the Task Order was originally executed.

2. "Reduction" shall mean a decrease in the work or services or costs previously negotiated by the STATE, the SJTA, and the SJTPO.
 3. "No-cost time extension" shall mean an extension of time to the negotiated Task Order completion date with no additional funding.
 4. "Termination" shall mean the discontinuation of all services authorized under an existing Task Order.
- D. In the event that the STATE, the SJTA, and the SJTPO agree that the proposed Task Order modification constitutes Additional Work, a Reduction in services, a No-cost time extension and/or a Reduction in the allocation of money for those services, the STATE, the SJTA, and the SJTPO shall jointly execute a modification to the Task Order, which shall be prepared by the STATE, in writing on Form DC-45A, providing extra compensation and/or time to the SJTA and/or the SJTPO upon a fair and equitable basis. Notwithstanding the above, no expenditure of funds in excess of the Approved Budget of a Task Order shall be incurred without the written approval of the STATE.
- E. The SJTA and the SJTPO shall invoice for work on any modified Task Order only after receipt of a fully executed copy of Form DC-45A.
- F. The STATE shall pay the SJTA in accordance with the provisions of Article XVI, "Terms of Payment", for approved Task Order modifications.
- G. The STATE shall have no liability for any additional costs incurred in providing services not covered by a Task Order or a modification thereto.

XIII. INVOICES.

- A. The SJTA shall submit to the STATE an invoice which sets forth the actual costs incurred by the SJTA and on behalf of the SJTPO. The invoice shall be submitted on the State of New Jersey Payment Voucher, provided by the STATE. The SJTA and the SJTPO are required to comply with all federal cost guidelines and shall have attached to each invoice a summary report detailing progress during the time period covered. Each invoice shall be subject to review and approval by the STATE.
- B. At its option, the SJTA may submit to the STATE monthly invoices for subcontracts and SJTPO Central Staff salaries, fringe benefits and associated F&A costs for such period. Any such amounts paid by the STATE shall be reconciled to the next quarterly invoice in accordance with Article XIII A. above (all monthly invoices shall also comply with the cost guidelines therein).
- C. The SJTA and the SJTPO shall provide any and all supporting documentation required by the STATE in support of the submitted invoice.
- D. The SJTA and the SJTPO shall maintain supporting documentation of financial expenditures on file for review by representatives of the federal government and STATE as defined in Article X, "Reviews" and Article XVI, "Terms of Payment" and subject to all applicable federal and state audit requirements. The SJTA and the SJTPO recognize that FHWA and/or FTA must review and find acceptable all documents supportive of the costs incurred by the SJTA on behalf of the SJTPO.
- E. The SJTA must submit with the first quarterly invoice of each contract year, and with the next invoice when changes occur, the documented average fringe benefit rate to be applied to all direct hourly wages; or documented individual fringe benefit rates for all project personnel.

XIV. REPORTING.

The SJTPO shall submit to the STATE a semi-annual and final program summary report detailing its UPWP progress during the preceding six months. The reports shall include, but not be limited to the following:

1. The established goals as set forth in the Task Order;
2. Comparison of actual performance with established goals;
3. Progress in meeting scheduled tasks;
4. Status of activity expenditures in a format compatible with the work program, including a comparison of budgeted (approved) amounts and estimated costs incurred;
5. Approved work program revisions; and
6. Other pertinent supporting program information or data.

XV. SJTPO CENTRAL STAFF.

A. Wage Rates

The SJTA shall provide a roster of the SJTA and SJTPO employees, their titles and their annual salaries to the STATE at the beginning of the annual program year. All SJTA and SJTPO employees, assigned on a full-time or part-time basis to provide central planning, programming and administrative services for the SJTPO's UPWP, shall be subject to the currently approved SJTA wage rate schedule. If there are any additions or changes to the items listed above, the SJTA shall provide said revision to the STATE with the next invoice application submission.

B. Payment for Salaries

1. Payment for employee services shall include the direct actual straight time wages paid to employees corresponding to the salary and wage policy of the SJTA, in compliance with applicable federal regulations.
2. The wages paid to employees for overtime hours authorized by the SJTA shall be in accordance with the appropriate SJTA bargaining unit agreement and the SJTA salary and wage policies.

C. Payment for Employee Fringe Benefits

Payment for the fringe benefits of the SJTA employees assigned full-time or part-time to provide central planning, programming and administrative support to the SJTPO's UPWP is permitted as a percentage of direct straight time wages, and is permitted as approved by the appropriate federal funding agency. If there are revisions to the fringe benefit rate approved by the cognizant federal agency, the SJTA will submit said revision to the STATE with the next quarterly invoice application submission. If an increase, the SJTA will provide a proposal outlining the source of funding to support the increase after consultation with the SJTPO along with the revision to the STATE with the next quarterly invoice submission.

D. Payment for Non-Salary Direct Expense

1. Non-salary direct expenses are defined in appropriate Federal Acquisition Regulations and Codes of Federal Regulation.
2. The STATE shall reimburse the SJTA for non-salary Direct Expenses as provided for in the approved budget of the Task Order. Expenses related to non-salary items must be documented within the guidelines of the appropriate

federal funding agency.

3. Travel essential to the services performed in accordance with the Basic Agreement or Task Order may be reimbursed at actual cost on a public conveyance or in a privately owned vehicle at the lesser of the prevailing rate per mile authorized and paid by the SJTA but not to exceed the amount authorized by the state. The SJTPO Executive Director will determine what training or conferences the SJTPO staff will attend in accordance with state and federal guidelines.

E. Facilities and Administrative (F&A) Costs.

1. Payment for F&A costs are permitted at the rate approved by the cognizant federal agency prior to billing under the Basic Agreement. The F&A cost rate shall be developed in accordance with Federal Acquisition Regulations and Codes of Federal Regulation.
2. A negotiated fixed amount in lieu of an F&A cost rate may be appropriate for self-contained, off-campus, or primarily contracted and/or subawarded activities where the benefits derived from an institution's F&A services cannot be readily determined.
3. The selection of either an F&A cost rate or a negotiated fixed amount shall be specifically identified and outlined in the applicable task order.

XVI. TERMS OF PAYMENT.

A. Funding

1. The obligations of the STATE pursuant to the Basic Agreement shall be subject to the availability of federal funds and state legislative appropriation authority.
2. The STATE shall reimburse the SJTA for costs incurred in support of the SJTPO's UPWP and associated programs within the approved budget of a Task Order.
3. The fee provided by the SJTPO to the SJTA for administrative services shall be identified annually in the SJTPO UPWP budget.

B. Reimbursement

1. The SJTA shall maintain a complete set of time sheets, records and accounts to identify all salaries, payroll burden and non-salary direct expenses incurred by the SJTA personnel supporting the SJTPO's UPWP. These expenditures shall be documented to be in compliance with applicable SJTA, state and federal laws, rules, and regulations and made available for review.
2. If, during an annual audit and/or review, the documentation maintained by the SJTA and the SJTPO are found to not be in compliance with applicable federal or state laws, rules, or regulations, the SJTA and the SJTPO shall prepare an appropriate plan of corrective action to meet all guidelines or repay the undocumented costs to the STATE for remittance to the appropriate federal funding agency. If, pursuant to the approval of the federal funding agency, the STATE determines that the SJTA fails to comply with corrective action, the STATE may immediately terminate the Basic Agreement and/or Task Orders and not be responsible for any outstanding cost. The STATE and federal agencies may pursue any remedies available by law.

C. Method of Payment

1. The STATE shall reimburse the SJTA the amount of each approved invoice.
2. Subject to STATE approval, the STATE shall make such credits and debits on future payments as are submitted by the SJTA on subsequent applications.

D. Final Invoice

1. A Final Invoice shall be submitted to the STATE within sixty (60) calendar days after the completion date of the Task Order.
2. The following release clause shall be included on the Final Invoice:

“In consideration of the requested payment of this Final Invoice, the SOUTH JERSEY TRANSPORTATION AUTHORITY (“SJTA”) and the SOUTH JERSEY TRANSPORTATION PLANNING ORGANIZATION (“SJTPO”) hereby release the State of New Jersey and the New Jersey Commissioner of Transportation and their agents, employees, officers, directors, commissioners, successors and assigns from all claims and liability for work done or services performed by the SJTA and the SJTPO under this Agreement.” No payment will issue if this language is not included.
3. Payment of a Final Invoice to the SJTA for services does not waive either the right of the STATE to establish adjustments and collect overpayments that are disclosed by audits performed subsequent to payment of the Final Invoice, or the right of the SJTA to collect underpayments based upon adjustments disclosed by said audits, subject to the Task Order ceiling limitations.

XVII. RECORDS.

- A. The SJTA and the SJTPO 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 documents pertaining to costs; and shall make such records available at the offices of the SJTA and the SJTPO at all reasonable times during the contract period and for three (3) years from the date of payment of the applicable Final Invoice, for inspection by the STATE, FHWA, FTA, or any authorized representative of the STATE or federal government; and shall furnish copies of the records if requested at no cost to the STATE. Following passage of three (3) years from the date of payment of the applicable Final Invoice as defined in Article XVI, the STATE may, at its option, ask the SJTA and/or the SJTPO to destroy the records or surrender the records to the STATE at no cost to the State.
- B. The SJTA and the SJTPO acknowledge that provisions of FHWA and FTA federal funding agreements with the STATE require the preparation of suitable reports to document the results of actual activities performed with federal planning funds and federal funding agency approval prior to publishing such reports. The STATE may request a waiver of this requirement for prior approval. Federal or state funding agency approval constitutes acceptance of such reports as evidence of work performed but does not imply endorsement of a report's findings or recommendations.
- C. Reports prepared shall include the necessary and appropriate credit references and disclaimer statements required by law and/or state or federal agency. The SJTA and the SJTPO shall deliver to the STATE, at no cost, all documents of every nature prepared in pursuance of the terms of this Agreement and the documents shall become the property of the STATE.

XVIII. COMPLETION.

- A. When it appears that all or part of a schedule for completion of a Task Order cannot be met, the SJTA and the SJTPO collectively shall request in writing an extension of time from the STATE, but in no event shall said request be made less than forty-five (45) business days prior to the Task Order scheduled completion date.
- B. The STATE may, in its sole discretion, authorize all or part of the extension of time. However, any extension of time is subject to the approval of the FHWA and/or the FTA.
- C. The SJTA and the SJTPO shall notify the STATE in writing when, in the opinion of the SJTA and the SJTPO, all services required by the Task Order have been completed. Said notification shall be submitted to the STATE within thirty (30) business days of said completion date.
- D. The STATE shall respond to the SJTA and the SJTPO within a reasonable time either acknowledging that all services required by the Task Order have been completed satisfactorily or describing the services that remain to be completed.
- E. Once the Parties agree that the services performed pursuant to a Task Order are complete, the STATE shall notify the SJTA and the SJTPO in writing that the STATE will immediately perform an audit of the costs previously unaudited or defer audit for later scheduling.

XIX. AUDITS.

- A. The SJTA shall provide the STATE with a fiscal year, organization wide audit that has been conducted in accordance with the requirements of 2 C.F.R. Chapter I, Chapter II, Part 200, et al. The SJTA shall ensure that the STATE receives the annual audit within the time frame requested absent exigent circumstances requiring an extension.
- B. The STATE, FHWA and/or FTA, or their agents, shall be entitled to perform an audit at the following times:
 - 1. At any time during the performance of work set forth in applicable Task Order(s); and
 - 2. During a period of up to three (3) years after either the date of payment of the applicable Final Invoice or a date mutually agreed to by the parties.
- C. The SJTA and the SJTPO acknowledge that changes in payment due the SJTA resulting from audits performed by the STATE shall be made as follows:
 - 1. In the event of overpayment by the STATE, the SJTA shall refund the amount of such overpayment within sixty days of the request by the STATE. In the event the SJTA fails to comply with said request, the STATE is hereby authorized to deduct such overpayment amounts from other monies due the SJTA under the terms of this Agreement. Furthermore, the SJTA expressly understands and agrees that the provisions of this Article XIX shall in no way be construed to relieve the SJTA from any liability, or preclude the STATE from taking any other actions as are available to it under any other provisions of this Agreement or otherwise at law. The terms of this Article XIX shall survive the expiration or termination of the Agreement.
 - 2. In the event of underpayment by the STATE, the STATE shall pay sufficient funds to the SJTA to correct the underpayment as soon as is practicable.