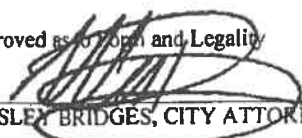


# RESOLUTION

No. 22-218Date of Adoption MAY 19 2022

Approved as to Form and Legality

Factual content certified by

  
WESLEY BRIDGES, CITY ATTORNEY  
WAHAB ONITIRI, DIRECTOR OF PUBLIC WORKS

Councilman/woman \_\_\_\_\_

presents the following Resolution:

**RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 WITH S. BATATA CONSTRUCTION INC. FOR THE RECONSTRUCTION OF LAMBERTON STREET AND WHITTAKER AVENUE IN THE AMOUNT OF \$7,297.31- BID 2021-10**

**WHEREAS**, Resolution 21-133 authorized the City of Trenton to enter into a contract with S. Batata Construction, Inc. with the Department of Transportation for the Lamberton Street and Whittaker Avenue Reconstruction project; and

**WHEREAS**, the contract price was increased from \$1,133,962.80 to the amount of \$1,141,260.11, an increase of \$7,297.31; and

**WHEREAS**, during the reconstruction of Lamberton Street, a subsurface trench measuring about (73') seventy-three feet in length and (4') four feet in width was observed and had to be repaired in order to complete the project; and

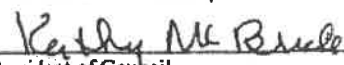
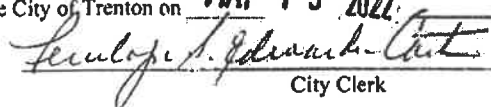
**WHEREAS**, funding is available in Capital Account Number C-04-20-55-053c-001 in the amount of \$7,297.31; and

**WHEREAS**, the aforesaid modification necessitates a change order to reflect the actual contract amount which the change order is permissible under Local Public Contract Law and the Local Government Services regulations with the respect to the same.

**NOW, THEREFORE, IT IS RESOLVED**, by the City Council of the City of Trenton that the Mayor is hereby authorized to submit change order No. 1 in the amount of \$7,297.31 on behalf of the City of Trenton, Department of Public Works, Division of Engineering for the purposes in the manner prescribed by law.

	Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent
CALDWELL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	RODRIGUEZ	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	MCBRIDE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WILSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	VAUGHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HARRISON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	WILKINS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MUSCHAL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This Resolution was adopted at a Meeting of the City Council of the City of Trenton on

MAY 19 2022  
President of Council  
City Clerk

**RESOLUTION # 22-218**  
**CHANGE ORDER #1 FOR THE RECONSTRUCTION OF LAMBERTON STREET AND WHITTAKER AVENUE, TRENTON,**  
**NEW JERSEY FOR THE CITY OF TRENTON, DEPARTMENT OF PUBLIC WORKS, DIVISION OF TRAFFIC AND**  
**TRANSPORTATION AWARDED TO S. BATATA CONSTRUCTION, INC.**  
**BID2021-10**

**THE AGREEMENT** made this 20<sup>TH</sup> day of MAY 2022, by and between the **CITY OF TRENTON**, a municipal corporation, of the State of New Jersey, with principal offices located at **319 EAST STATE STREET, TRENTON, NEW JERSEY 08608** (hereinafter the "City") and **S. BATATA CONSTRUCTION, INC., 238 ERNSTEIN ROAD, SUITE 1R, PARLIN, NEW JERSEY 08859** (hereinafter "CONTRACTOR")

**WHEREAS**, Resolution 21-133 awarded a contract on April 15, 2021, to S. Batata Construction, Inc., 238 ErNSTEIN Road, Suite 1R, Parlin, New Jersey 08859 for the Reconstruction of Lambertton Street and Whittaker Avenue, Trenton, New Jersey in an amount not to exceed \$1,133,962.80 for a period of one (1) year from April 1, 2021 to March 31, 2022 for the City of Trenton, Department of Public Works, Division of Traffic and Transportation; work shall be completed within seventy-five (75) calendar days from "Notice to Proceed"; and

**WHEREAS**, Resolution No. #22-218 dated May 19, 2022, authorized change order #1 to S. Batata Construction, Inc., 238 ErNSTEIN Road, Suite 1R, Parlin, New Jersey 08859 for the reconstruction of Lambertton street and Whittaker Avenue in the amount of \$7,297.31; and

**WHEREAS**, during the reconstruction of Lambertton Street, a subsurface trench measuring about (73') seventy-three feet in length and (4') four feet in width was observed and had to be repaired in order to complete the project; and

**WHEREAS**, the aforesaid modification necessitates a change order to reflect the actual contract amount which the change order is permissible under Local Public Contract Law and the Local Government Services regulations with the respect to the same; and

**NOW THEREFORE**, the parties mutually agree as follows:

1. The total amount of the change order #1 shall be in an amount not to exceed \$7,297.31. The total amount of this change order is less than 20% of the original contract.; and
2. The Mayor is hereby authorized change order #1 with S. Batata Construction, Inc., 238 ErNSTEIN Road, Suite 1R, Parlin, New Jersey 08859 for said purposes in the manner prescribed by law. The total of the project with change order#1 of \$7,297.31 is \$1,141,260.11.

**IN WITNESS WHEREOF**, the parties have hereunto set their bands and seals the day and year first above written.

ATTEST:

  
MUNICIPAL CLERK

Witness:

  
DATE 8/30/22

CITY OF TRENTON

  
HONORABLE W. REED GUSCIORA, ESQ.

  
S. BATATA CONSTRUCTION, INC.,  
238 ERNSTEIN ROAD, SUITE 1R  
PARLIN, NEW JERSEY

below in strict accordance with the terms and conditions of the bid specifications, the bid response and the authorizing resolution, which are included above and is incorporated by reference,. Additionally, Contractor will furnish good and ample security in a sum equal to the said contract price for the said articles and services.

SECOND. The City of Trenton will pay Contractor the total sum mentioned herein when the appropriate Department Director has executed a certification that the said articles or services have been furnished, delivered and accepted in full conformity to the aforementioned specifications and offer or proposal.

THIRD. The City of Trenton reserves the right to order a greater or lesser quantity, not to exceed twenty-five percent, of any or all of the articles named in the said offer or proposal than is stated therein, and it is distinctly agreed between the said parties that the price quoted in the offer or proposal of Contractor shall be regarded as a standard of prices, and the total sum mentioned herein as the consideration of this contract shall not be regarded as limiting the right of the City of Trenton to order such greater or lesser quantity.

FOURTH. In the event of the failure of Contractor to deliver to the City of Trenton, such articles or perform such work or labor as described in such quantities as ordered at the time stated for such delivery by the City of Trenton, or in the event that such articles as are delivered or work and labor performed do not meet the specifications or standards, as established by the City of Trenton for such articles or acceptance of such work and labor, then such delivery shall be rejected by telephone or written notice to the Agent or address indicated by the Contractor and by simultaneous and like notice to his surety. Additionally, if Contractor or his surety does not cure the default within the time set by the said Agent on behalf of the City of Trenton, then the said Agent on behalf of the City, shall have the right to procure such services or purchase such articles in their place and stead in the open market as are needed for replacement, and from the best source available in the judgment of the said Agent and to charge the expense of such articles or work performed to Contractor and to deduct the amount thereof from any moneys due or to become due to Contractor by virtue of this agreement. Provided, however, that the surety on the bond of Contractor for the faithful performance of this agreement shall be first notified of the necessity for such replacement, and given the same time allowance for such replacement as is given Contractor.

FIFTH. This contract shall not be amended, assigned or subcontracted without the consent of the City of Trenton in writing (if the total compensation payable thereunder shall thereby exceed \$2,500.00, approval by Resolution of the Governing Body shall be required), and any breach of this covenant shall authorize the City of Trenton, by its said Agent, to declare this contract null and void and to refuse to make any further payments thereunder to Contractor.

SIXTH. In case of any conflict between the provisions of this agreement and of any of the provisions of the specifications, the latter shall govern and control. The Bid documents and Bidders Response are made a part hereof by reference and all requirements provided therein shall be made a part of this agreement.

Applicable for Public Construction Contracts Only: "Dispute Resolution Procedures (NJSA 40A:11-50). Disputes arising under this contract shall be subject to mediation or non-binding arbitration at the sole discretion of the City of Trenton, before a construction industry mediator or arbitrator or panels thereof. The City of Trenton shall have the right to select a third party to mediate any disputes arising under this agreement and the mediation shall be conducted informally in a manner decided upon by the mediator".

SEVENTH. Contractor hereby agrees to pay all workmen as a minimum the prevailing wages rate in accordance with Chapter 150 of the New Jersey Laws of 1963, Prevailing Wages on Public Contracts and U.S. Department of Labor Wage Rates with the higher rate for any given occupation being the governing rate, and N.J.S.A. 10:2-1 et seq., prohibiting discrimination in employment on public contracts.

EIGHTH. During the performance of the contract, the CONTRACTOR agrees to comply with all applicable Federal laws and regulations including but not limited to the following:

1. **RESOLUTION OF PROGRAM NON-COMPLIANCE AND DISALLOWED COSTS:** As applicable to all contracts, subcontracts and subgrants of amounts in excess of \$150,000. For all such Contracts, all CONTRACTORS and subcontractors agree to the following requirements:

In the event of any dispute, claim, question, or disagreement arising from or relating to this Contract, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or City of Trenton CDBG program requirements, shall be subject to mediation or non-binding arbitration at the sole discretion of the City of Trenton, before a construction industry mediator or arbitrator or panels thereof. The City of Trenton shall have the right to select a third party to mediate any disputes arising under this agreement and the mediation shall be conducted informally in a manner decided upon by the mediator".

**2. TERMINATION OF CONTRACT:** This Contract may be terminated as follows:

**TERMINATION FOR CAUSE:** If, through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the CONTRACTOR shall violate any of the covenants, agreements, or stipulations of this contract, the City shall thereupon have the right to terminate this contract by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least ten (10) days before the effective date of such termination.

In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the CONTRACTOR under this contract shall, at the option of the City, become the City's property and the CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the contract by the CONTRACTOR, and the City may withhold any payments to the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due the City from the CONTRACTOR is determined.

**TERMINATION FOR CONVENIENCE:** The City may terminate this contract at any time by giving at least ten (10) days' notice in writing to the CONTRACTOR. If the contract is terminated by the City as provided herein, the CONTRACTOR will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the CONTRACTOR, "Termination of Contract for Cause" hereof relative to termination shall apply.

**3. EQUAL EMPLOYMENT OPPORTUNITY:** As applicable to all contracts, subcontracts and subgrants that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, the CONTRACTOR agrees as follows:

The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60), and the rules, regulations, and relevant orders of the Secretary of Labor.

The CONTRACTOR will not discriminate against any employee or applicant of reemployment because of age, race, creed, sex, color or national origin. The CONTRACTOR will take affirmative action to ensure that the applicants are employed, and that employees are treated during employment, without regard to their age, race, creed, sex, color or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; rates of pay of other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.

The CONTRACTOR will, in all solicitation of advertisement for employees to be placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, sex, or national origin.

The CONTRACTOR will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subcontractor,

provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

4. **COPELAND "ANTI-KICKBACK" ACT (18 U.S.C. 874, 40 U.S.C. 276c AND 40 U.S.C. 3145)** All contracts and subgrants in excess of \$2000 for construction or repair shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3), as applicable. The Act provides that each CONTRACTOR or sub-contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled.

5. **BYRD ANTI-LOBBYING AMENDMENT (31 USC 1352)**: The CONTRACTOR certifies, to the best of his or her knowledge and belief that:

CONTRACTORS that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

6. **DAVIS BACON ACT:** as amended ( 40 U.S.C. 3141- 3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ( 40 U.S.C. 3141- 3144) as supplemented by Department of Labor regulations ( 29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). As per attached HUD form 4010 Federal Labor Standards Provisions.

7. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:** As applicable to contracts in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each CONTRACTOR must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

8. **RECORDS AND REPORTS:** Records for nonexpendable real property purchased totally or partially with CDBG funds must be retained for five years after its final disposition. The (Unit of Local Government) must provide a quarterly progress report. All other pertinent grant records, including beneficiary data, financial records, supporting documents, and statistical records, shall be retained for a minimum of five years after final close-out of the Grant. If, however, any litigation, claim or audit is started before the expiration of the five year period, then records must be retained for five years after the litigation claim or audit is resolved.

9. **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT:** If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR

Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

10. **RECORDS AND AUDITS:** The CONTRACTOR shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City, the federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives.
11. **RETENTION OF RECORDS:** The CONTRACTOR further agrees to maintain such records for a period of five (5) years after final payment under this Agreement, and that on or before the end of the five (5) year audit/retention period.
12. **CLEAN AIR ACT AND CLEAN WATER ACT COMPLIANCE:** Compliance with the applicable standards, orders or requirements issues under the Clean Air Act (42 U.S.C. 7401-7671q.), the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), Executive Order 11738 and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15 is required for all contracts, subcontracts and subgrants of amounts in excess of \$150,000. For all such Contracts, all CONTRACTORS and subcontractors agree to the following requirements:
  - a. A stipulation by the CONTRACTOR or subcontractors that any facility to be utilized in the performance of any non-exempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
  - b. Agreement by the CONTRACTOR to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
  - c. A stipulation that as a condition for the award of the Contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA indicating that a facility utilized or to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities.
  - d. Agreement by the CONTRACTOR that he will include or cause to be included the criteria and requirements in paragraph (a) through (d) of this section in every nonexempt subcontract and requiring that the CONTRACTOR will take such action as the Government may direct as a means of enforcing such provision.
  - e. In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.
13. **ENERGY CONSERVATION PROVISIONS:** CONTRACTOR will comply with all mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871).
14. **SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 (12 U.S.C. 1801 U):** This agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1801 u) as amended. The Section 3 clause provides:
  - a. Every applicant, recipient, contracting party, CONTRACTOR and subcontractor shall incorporate, or cause to be incorporated, in all contracts for work in connection with a Section 3 covered project, the following clause (referred to as a Section 3 clause):
  - b. A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

- c. B. The parties to the contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- d. C. The CONTRACTOR agrees send to each labor organization or representative of workers with which the CONTRACTOR has a collective bargaining agreement or other understanding, if any, a notice advising the said labor organization or workers' representative of CONTRACTOR's commitments under this Section 3 clause and will post copies of the notice in conspicuous places available to at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the sections 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, and the name and location of the person(s) taking applications for each of the positions and the anticipated date the work shall begin.
- e. D. The CONTRACTOR agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The CONTRACTOR will not subcontract with any subcontractor where the CONTRACTOR has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- f. E. The CONTRACTOR will certify that any vacant employment positions, including training positions, that are filled (1) after the CONTRACTOR is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the CONTRACTOR's obligations under 24 CFR Part 135.
- g. F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

NINTH. During the performance of this contract, the CONTRACTOR agrees as follows:

a. CONTRACTOR or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, or sex. CONTRACTOR 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, gender identity or expression, affectional or sexual orientation, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. (N.J.S.A. 10:5-33; N.J.A.C. 17:27-3.4)

b. CONTRACTOR or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation, disability, nationality or sex. (N.J.S.A. 10:5-33; N.J.A.C. 17:27-3.4)

c. CONTRACTOR or subcontractor where applicable, will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of CONTRACTOR's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment. (N.J.S.A. 10:5-33; N.J.A.C. 17:27-3.4)

d. CONTRACTOR or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time. (N.J.A.C. 17:27-3.4)

Note: A public works contract for a subcontractor with a total work force of four or fewer employees or for a contractor or subcontractor performing under an existing Federally approved or sanctioned affirmative action program shall contain as mandatory language only paragraphs a, b, and c above, and the contract shall not contain any other mandatory language prescribed by N.J.A.C. 17:27. (N.J.A.C. 17:27-3.4) (c)

e. All bidders and all contractors who are negotiating for a procurement or service contract with the public agency which is not subject to a federally approved or sanctioned affirmative action program are required to submit to the public agency, prior to or at the time the contract is submitted for signing by the public agency (in accordance with N.J.A.C. 17:27-4.3 promulgated by the Treasurer pursuant to P.L. 1975, c. 127), one of the following three documents:

1. Appropriate evidence that the contractor is operating under an existing federally approved or sanctioned affirmative action program; or

2. A certificate of employee information report approval issued in accordance N.J.A.C. 17:27-4; or

3. An initial employee information report consisting of forms provided by the affirmative action office and completed by the contractor in accordance with N.J.A.C. 17:27-4. (N.J.A.C. 17:27-3.3) (a)

f. CONTRACTOR or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the affirmative action office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time. (N.J.A.C. 17:27-5.3)(a) (1)

g. CONTRACTOR or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status or sex, gender identity or expression, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices. (N.J.A.C. 17:27-5.3) (a) (2)

h. CONTRACTOR or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions. (N.J.A.C. 17:27-5.3) (a) (3)

i. CONTRACTOR or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions. (N.J.A.C. 17:27-5.3) (a) (4)

j. CONTRACTOR agrees that in the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor



any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity, or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates. (N.J.S.A. 10:2-1) (a)

k. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex. (N.J.S.A. 10:2-1) (b)

l. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract. (N.J.S.A. 10:2-1) (c)

m. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract. (N.J.S.A. 10:2-1) (d)

n. The parties of this contract do hereby agree that the provisions of N.J.S.A. 10:2-1 through 10:2-4, dealing with discrimination in employment on public contracts, and the rules and regulations promulgated pursuant thereto, are hereby made a part of this contract and are binding upon them. (N.J.A.C. 13:6-1.1)

o. Contractor and subcontractor agree and guarantee to afford equal opportunity in performance of the contract and, except with respect to affectional or sexual orientation, and gender identity or expression in accordance with an affirmative action program approved by the State Treasurer. (N.J.S.A. 10:5-32 and 10:5-35) (a)

p. The parties of this contract do hereby agree that the provisions of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Section 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. The contractor agrees to conduct all activities in compliance with the provisions of Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and the U.S. Department of Labor's regulations at 29 CFR Parts 31, 32 and 34.

Contractor shall cooperate with any state or federal reviews aimed at determining compliance with nondiscrimination laws and regulations authorized by State Law and expressly specified herein.

IN WITNESS WHEREOF, the City of Trenton has caused this agreement to be signed by the Mayor of the City of Trenton and its corporate seal to be hereto affixed, attested by the City Clerk, and Contractor has likewise caused this agreement to be executed the day and year first above written.