

**RESOLUTION NO. 19-47**

**RESOLUTION OF THE NEW JERSEY INFRASTRUCTURE BANK  
APPROVING A COOPERATIVE AGREEMENT WITH THE FEDERAL HIGHWAY ADMINISTRATION OF THE  
UNITED STATES DEPARTMENT OF TRANSPORTATION**

**WHEREAS**, the New Jersey Infrastructure Bank (the “I-Bank”), is organized and existing under the “New Jersey Infrastructure Trust Act”, constituting Chapter 334 of the Pamphlet Laws of 1985 of the State of New Jersey (codified at N.J.S.A. 58:11B-1 et seq.), as the same may from time to time be amended and supplemented (the “Act”); and

**WHEREAS**, the Act was amended effective January 2018 establishing the New Jersey Transportation Infrastructure Financing Program (the “Transportation Bank”) within the I-Bank authorizing the I-Bank to fund certain transportation infrastructure projects in partnership with the New Jersey Department of Transportation; and

**WHEREAS**, the Act establishes a federally-funded subaccount within the State Transportation Infrastructure Bank Fund to receive federal funds as a State Infrastructure Bank (“SIB”) and to receive state funds, which are prioritized for deposit into the federal sub-account for federal requirements over deposit into the state funded sub-account; and

**WHEREAS**, the Act authorizes the I-Bank to maintain administrative responsibilities for financing projects through the Transportation Bank in accordance with federal laws regarding the use of federal funds on transportation projects; and

**WHEREAS**, the I-Bank is lawfully authorized to administer the SIB in accordance with 23 U.S.C. 610, SIB and TIFIA Guidance, and the Act, including, specifically, N.J.S.A. 58:11B-5(m)(4) and -10.5 or any successor provision(s) of the Act; and

**WHEREAS**, it is the desire of the I-Bank to enter into a cooperative agreement with the Federal Highway Administration (“FHWA”) of the United State Department of Transportation (“USDOT”) for the purpose of establishing the SIB Program for the State of New Jersey and designating the I-Bank as the administrator of the SIB for the purpose set forth by 23 U.S.C. 610.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the New Jersey Infrastructure Bank (the “Board”) that the Board approves the Cooperative Agreement (the “Agreement”) between the FHWA of the USDOT and the I-Bank, in the form attached as Exhibit A and made a part hereof, with such immaterial modifications thereto as the Executive Director of the I-Bank shall approve; and

**BE IT FURTHER RESOLVED** that the Board authorizes the Executive Director to execute the Agreement on behalf of the I-Bank.

Adopted Date: September 12, 2019

Motion Made By: Mark Longo

Motion Seconded By: Kimberly Holmes

Ayes: 6

Nays: 0

Abstentions: 0

COOPERATIVE AGREEMENT  
BETWEEN  
THE FEDERAL HIGHWAY ADMINISTRATION,  
AN AGENCY OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION,  
AND  
THE NEW JERSEY INFRASTRUCTURE BANK, STATE OF NEW JERSEY

**1. INTRODUCTION**

This Cooperative Agreement (this “Agreement”) is entered into by and between the Federal Highway Administration (“FHWA”), an agency of the United States Department of Transportation (the “USDOT”) and the New Jersey Infrastructure Bank (“I-Bank”), a body corporate and politic and an instrumentality of the State of New Jersey (the “State”) exercising public and essential governmental functions, pursuant to the authority originating in Section 2001 of the FAST Act, and the New Jersey Infrastructure Trust Act (as amended and supplemented from time to time, the “Act”) constituting Chapter 334 of the Pamphlet Laws of 1985, as amended, of the State (codified at N.J.S.A. 58:11B-1 *et seq.*).

The I-Bank, with an address of 3131 Princeton Pike, Building 4, Suite 216, Lawrenceville, New Jersey 08648, is the designated agency of the State for the administration of the SIB Program (as defined in Section 2 hereof), pursuant to Section 10.4 of the Act, and is lawfully authorized to administer the SIB (as defined in Section 2 hereof) in accordance with 23 U.S.C. § 610, SIB and TIFIA Guidance (as defined in Section 2 hereof), and the Act, including, specifically, N.J.S.A. 58:11B-5(m)(4) and -10.5 or any successor provision(s) of the Act.

The purpose of this Agreement is to establish the SIB for the State and set forth its structure, including designating the I-Bank as the administering agency, financial assistance provisions, accounting and auditing procedures, and compliance and remedies. The execution of this Agreement does not commit any Federal funds to the SIB or to the potential Eligible Projects that may be funded from Federal monies deposited into the SIB.

**2. DEFINITIONS**

As used in this Agreement, the following words and terms shall have, unless the context clearly indicates otherwise, the meanings set forth below:

“Account” has the meaning provided in Section 3(a) hereof; the Account shall serve as the State’s SIB pursuant to 23 U.S.C. § 610.

“Act” has the meaning provided in Section 1 hereof.

“Agreement” has the meaning provided in Section 1 hereof.

“Authorized Officer of the I-Bank” means any person authorized by the I-Bank to perform any act or execute any document in connection with or relating to this Agreement.

“Business Day” means any day other than a Saturday, a Sunday or a day on which offices of the USDOT, FHWA or the State are authorized or required by law, regulation or executive order to be closed.

“Eligible Project” shall mean an eligible project as defined in 23 U.S.C. § 610 and as further defined pursuant to the terms of the applicable TIFIA Loan Agreement.

“FAST Act” means the Fixing America’s Surface Transportation Act of 2015 (Public Law 114-94) and any successor legislation thereto.

“Federal Funds” mean all federal funds deposited into the Account.

“FHWA” has the meaning provided in Section 1 hereof.

“I-Bank” has the meaning provided in Section 1 hereof.

“Local Government Unit” means a county, municipality, municipal, county or regional transportation authority, or any other political subdivision of the State authorized to construct, operate, and maintain public highways or transportation projects as defined pursuant to the Act.

“NEPA” means the National Environmental Policy Act of 1969, codified as 42 U.S.C. 4321 *et seq.* (as amended from time to time, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time).

“Rural Infrastructure Project” has the meaning provided in Section 4(f)(iii).

“Rural Projects Fund” has the meaning given the term in 23 U.S.C. § 601.

“Rural Projects Fund Subaccount” means the account established pursuant to Section 3(b)(i)(1) hereof.

“SIB” or “State Infrastructure Bank” means the Account as the federally-funded State Infrastructure Bank established by the State pursuant to this Agreement and Section 10.4 of the Act and in accordance with 23 U.S.C. § 610.

“SIB Financial Assistance” means assistance in the form of a loan for a qualified Rural Infrastructure Project provided by the SIB under the provisions of 23 U.S.C. § 610 with the proceeds of a TIFIA Loan, and pursuant to the provisions of the 23 U.S.C. § 610.

“SIB Financing Agreement” means the binding agreement between the I-Bank, in its capacity as the SIB administrator, and the Sub-borrower, in the form of a loan agreement or other legal agreement setting forth the terms and conditions of SIB Financial Assistance, as further set forth in Section 4(b) hereof, and the applicable requirements of 23 U.S.C. § 610.

“SIB Program” means the framework and requirements for the establishment, funding and administration of, and credit assistance to and from, state infrastructure banks set forth in 23 U.S.C § 610.

“SIB and TIFIA Guidance” mean the documents issued from time to time by the USDOT or its agencies that address policies, procedures, or technical matters applicable to the SIB Program.

“State” has the meaning provided in Section 1 hereof.

“State Match Funds” means any funds provided by the I-Bank to fund a Rural Infrastructure Project that do not constitute proceeds of a TIFIA Loan.

“State Match Funds Financing Agreement” means the binding agreement between the I-Bank and the Sub-borrower, in the form of a loan agreement or other legal agreement setting forth the terms and conditions of State Match Funds Financial Assistance.

“State Match Funds Financial Assistance” means assistance in the form of a loan provided by the I-Bank under the provisions of the Act, which State Match Funds Financial Assistance is intended to meet the state match requirements of the receipt of Federal Funds.

“Sub-borrower” means any qualified public entity, including a Local Government Unit, that receives SIB Financial Assistance pursuant to a SIB Financing Agreement and/or State Match Funds Financial Assistance pursuant to a State Match Funds Financial Agreement.

“TIFIA” means the Transportation Infrastructure Finance and Innovation Act of 1998 § 1501 *et seq.* of Public Law 105-178 (as amended by Public Law 105-206, Public Law 109-59, Public Law 112-141, and Public Law 114-94), codified as 23 U.S.C. §§ 601-609, and any successor legislation thereto.

“TIFIA Loan” means any secured loan made to the I-Bank, in its capacity as administrator of the SIB, by the USDOT pursuant to a TIFIA Loan Agreement in accordance with 23 U.S.C. §§ 602 and 603.

“TIFIA Loan Agreement” means the definitive agreement between the USDOT and the I-Bank to provide credit assistance in the form of a loan to capitalize a Rural Projects Fund within the SIB.

“TIFIA Term Sheet” means the contractual agreement between the USDOT and the I-Bank that sets forth certain business terms and conditions of the credit assistance and serves as the obligating instrument for the credit assistance.

“USDOT” has the meaning provided in Section 1 hereof.

### 3. ESTABLISHMENT AND ADMINISTRATION OF STATE INFRASTRUCTURE BANK

#### (a) Establishment of SIB; Due Authorization

- i. This Agreement establishes a State Infrastructure Bank pursuant to, and sets forth the manner in which such bank shall be administered in accordance with, the provisions in 23 U.S.C. §610. The Act designates the I-Bank to administer the SIB and authorizes the I-Bank to serve as SIB administrator for the purposes of 23 U.S.C. § 610.
- ii. The I-Bank represents and warrants that it has the legal, managerial, technical and operational capabilities to administer the SIB for the purposes of 23 U.S.C. § 610. The undersigned Authorized Officer of the I-Bank hereby certifies that the Act and the powers it confers on the I-Bank are consistent with the Constitution of the State and that the State, acting through an Authorized Officer of the I-Bank, may legally bind itself to the terms of this Agreement.
- iii. The Act establishes a special fund known as the State Transportation Infrastructure Bank Fund and, within such fund, a Federally-funded subaccount (hereinafter, the “**Account**”) that shall be approved to receive Federal Funds and related State matching funds if the deposit of such related State matching funds into such Federally-funded subaccount, as opposed to into another account or subaccount, is required by the Act. The Account shall serve as the State’s SIB pursuant to 23 U.S.C. § 610. The SIB shall be held and administered by the I-Bank.

#### (b) Rural Projects Fund Subaccount; Other Subaccounts

- i. The I-Bank shall create, within the Account, a separate subaccount to be designated as the “Rural Projects Fund Subaccount” pursuant to 23 U.S.C § 610(d)(4), which, except as provided in Section 3(d) hereof, shall be dedicated solely to providing loans to Local Government Units for Rural Infrastructure Projects consistent with the provisions of 23 U.S.C. § 610 and as permitted under the Act. All TIFIA Loan proceeds disbursed to the I-Bank pursuant to any TIFIA Loan Agreement shall be deposited directly into the Rural Projects Fund Subaccount. All amounts on deposit in the Rural Projects Fund Subaccount shall be invested in accordance with the provisions of 23 U.S.C. § 610(g)(3)(C); earnings on amounts deposited in the Rural Projects Fund Subaccount shall be applied in accordance with the provisions of 23 U.S.C. § 610(g)(3)(A) and (B), and SIB and TIFIA Guidance.
- ii. In addition to the Rural Projects Fund Subaccount, the I-Bank may establish other subaccounts in the Account, as permitted by 23 U.S.C. § 610, provided that, prior to the establishment of any such additional subaccounts, FHWA and the I-Bank execute and deliver an agreement amending this Agreement to incorporate provisions governing establishment and administration of such subaccounts in accordance with 23 U.S.C. § 610.

(c) Debt Rating

The SIB shall either maintain on a continuing basis an investment grade rating on its debt, or ensure that it has a sufficient level of bond or debt financing instrument insurance, to maintain the viability of the SIB. To the extent that the SIB has no debt outstanding, this provision, by its terms, shall be inapplicable.

(d) SIB Administration Costs

The I-Bank may expend not more than 2 percent of the Federal Funds contributed to the SIB established hereunder to pay the reasonable costs of administering such SIB in each fiscal year when such limitation is imposed pursuant to 23 U.S.C. § 610. Such 2 percent limitation shall not apply to State Match Funds held outside of the SIB or to State Match Funds Financial Assistance provided by the I-Bank.

(e) SIB Fees

The I-Bank may charge a Sub-borrower receiving SIB Financial Assistance a reasonable fee for the purpose of reimbursing the costs of administering the SIB pursuant to its authority under the Act. The I-Bank shall not implement a fee method based on a mark-up of the interest rate charged to a Sub-borrower receiving SIB Financial Assistance from the Rural Projects Fund Subaccount. In accordance with the provisions in 23 U.S.C § 603 and 23 U.S.C §610(g)(4), the I-Bank shall limit the maximum interest rate that can be charged on the SIB Financial Assistance disbursed to a Sub-borrower receiving such SIB Financial Assistance.

**4. FUNDING AND SIB FINANCIAL ASSISTANCE**

(a) Capitalization of the Rural Projects Fund Subaccount

Any decision by USDOT to make TIFIA Loan proceeds available to capitalize the Rural Projects Fund Subaccount shall be made subsequent to the execution of this Agreement and shall be subject in all respects to compliance with this Agreement and all applicable Federal requirements, including but not limited to NEPA, as set forth in Section 4(e) hereof. The Rural Projects Fund Subaccount shall be capitalized with the proceeds of each TIFIA Loan (if any) made pursuant to the terms and conditions of the applicable TIFIA Loan Agreement, and as specified in Section 3(b)(i) hereof. Any such capitalization shall be subject to the execution of a TIFIA Term Sheet and concurrent TIFIA Loan Agreement.

(b) SIB Financing Agreements with Sub-borrowers; TIFIA Loan Commitment

- i. The I-Bank shall, in its capacity as the SIB administrator, enter into a SIB Financing Agreement with each qualified Sub-borrower for the SIB Financial Assistance, which assistance shall be for an Eligible Project. Such SIB Financing Agreement shall include the financial terms, including interest rates, pledged security, and repayment terms, provisions relating to disbursements, compliance with Federal requirements, insurance requirements, project monitoring and status reporting, and other terms and provisions in accordance with the requirements of 23 U.S.C. § 610 and SIB and TIFIA Guidance.

- ii. Not later than 2 years after the date on which a TIFIA Loan Agreement is executed and the secured TIFIA Loan is obligated in connection therewith, the I-Bank shall, in its capacity as the SIB administrator, execute at least one SIB Financing Agreement with a Sub-borrower utilizing the proceeds of such TIFIA Loan to carry out a Rural Infrastructure Project, as required by 23 U.S.C. § 602(a)(10)(B).
- iii. At the end of such two-year period described in clause (ii) above, to the extent the I-Bank has not used the TIFIA Loan commitment, the USDOT may extend the term of such TIFIA Loan or withdraw the TIFIA Loan commitment.
- iv. Following the execution of a SIB Financing Agreement, the I-Bank may draw upon the TIFIA Loan pursuant to the disbursement provisions in the applicable TIFIA Loan Agreement.

(c) Disbursements to Sub-borrowers

The I-Bank, in its capacity as the SIB administrator, shall disburse funds from the Rural Projects Fund Subaccount to the Sub-borrower as project or financing costs are incurred for a Rural Infrastructure Project, as set forth in each respective SIB Financing Agreement, or as otherwise directed by the I-Bank, consistent with 23 U.S.C. § 610 and the TIFIA Loan Agreement.

(d) Applicability of Federal Law

The I-Bank shall comply with all applicable Federal laws and regulations, including, but not limited to, the requirements specified under 23 U.S.C. § 602(c) and 23 CFR. The provisions of and limitations set forth in 23 U.S.C. § 610 and other applicable Federal laws and regulations shall apply only to the (i) the funds made available under such title and deposited into the Account, (ii) the Eligible Projects assisted by the SIB through the use of such funds in the Account, and (iii) the non-Federal funds contribution required under such title and deposited into the Account, in each case subject to Section 4(g) of this Agreement. Further, the I-Bank shall ensure that each SIB Financing Agreement and each State Match Funds Financing Agreement shall require the Sub-borrower to comply with the applicable Federal laws and regulations.

(e) Environmental Reviews and Approvals

Each USDOT decision to provide a TIFIA Loan to capitalize the SIB, and to permit the SIB to use the TIFIA Loan proceeds to financially assist Eligible Projects, shall be subject to review under the NEPA. Prior to executing any TIFIA Term Sheet and the concurrent TIFIA Loan Agreement, the USDOT shall establish a process for meeting NEPA requirements applicable to the TIFIA Term Sheet, TIFIA Loan Agreement, and SIB Financial Assistance to Eligible Projects. Each TIFIA Loan Agreement will stipulate the required actions, process, and timing for complying with NEPA requirements.

(f) Special Requirements for SIB Financial Assistance and Rural Infrastructure Projects

When providing SIB Financial Assistance to Sub-borrowers carrying out a Rural Infrastructure Project to be financed through the Rural Projects Fund Subaccount, the I-Bank hereby agrees that it shall comply with all terms and conditions that will be set forth in the applicable TIFIA Loan Agreement. Specifically, the following requirements shall apply to each such Eligible Project and SIB Financial Assistance related thereto:

- i. the amount of SIB Financial Assistance provided to a Sub-borrower shall not exceed 80 percent of the cost of carrying out a Rural Infrastructure Project as required by 23 U.S.C §610(e)(3)(B);
- ii. the I-Bank will fund, from State Match Funds, no less than 20 percent of the costs of Eligible Projects. The timing and conditions to disbursement of State Match Funds and TIFIA Loan proceeds shall be set forth in the TIFIA Loan Agreement and/or State Match Funds Financing Agreement, as the parties deem necessary.
- iii. each such Rural Infrastructure Project shall be a surface transportation infrastructure project located in an area that is outside an urbanized area with a population greater than 150,000 individuals, as determined by the Bureau of Census, as set forth in 23 U.S.C § 601(a)(15), and that complies with the terms of the Act;
- iv. any SIB Financial Assistance provided to a Sub-borrower through disbursements from the Rural Projects Fund Subaccount shall bear interest at or below the interest rate charged for the TIFIA Loan provided to the SIB under 23 U.S.C § 603, as required by 23 U.S.C §610(g)(4); and
- v. the repayment of any loan extended as part of the SIB Financial Assistance shall commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever occurs later, and the term for repaying any such loan shall not exceed 30 years after the date of the first payment on such loan, as required by 23 U.S.C §§ 610(g)(5) and (6) and the Act.

(g) Use of Repayments of SIB Financial Assistance

The I-Bank hereby agrees that all repayments of SIB Financial Assistance made from non-Federal sources, i.e., repayments from a Sub-borrower of a loan made with TIFIA Loan proceeds, shall be applied as follows: (i) to repay all or a portion of the TIFIA Loan and/or (ii) to fund projects eligible for assistance under the provisions of title 23 and title 49 of the United States Code, or other surface transportation projects as determined by the USDOT. The I-Bank acknowledges and agrees that any such repayment proceeds used for Eligible Projects shall be considered to be Federal funds. Applicable Federal and State requirements shall apply to the use of such repayment proceeds by the I-Bank for Eligible Projects in accordance with 23 U.S.C. § 610(h)(2).

## **5. ACCOUNTING, MONITORING, REPORTING AND AUDIT PROCEDURES**

### **(a) Fiscal Controls and Procedures**

The I-Bank shall establish and maintain fiscal controls and accounting procedures sufficient to assure proper accounting for payments received and disbursements made through all accounts created within the SIB, including the accounting of SIB balances at the beginning and end of the accounting period, so that audits may be performed to ensure compliance with this Agreement. The I-Bank shall use accounting, audit and fiscal procedures conforming to generally accepted accounting principles as promulgated by the Governmental Accounting Standards Board.

### **(b) Monitoring**

The I-Bank agrees that, in its capacity as the SIB administrator, it shall establish compliance monitoring requirements to ensure that each Sub-borrower remains in compliance with applicable Federal requirements.

### **(c) Sub-borrower Accounting and Audit Procedures**

The I-Bank shall ensure that each SIB Financing Agreement and each State Match Funds Financing Agreement shall require each Sub-borrower to maintain project accounts in accordance with generally accepted accounting standards.

### **(d) Annual Compliance Audit**

The I-Bank shall conduct or shall cause to be conducted an annual independent financial and compliance audit of the Account and the operations of the I-Bank in its capacity as the SIB in accordance with 2 C.F.R. Part 200 Subpart F and 31 U.S.C. § 7501 *et seq.* Further, on or before November 1 of each year, the I-Bank shall submit such audit to the FHWA.

The audit required pursuant to the applicable TIFIA Loan Agreement shall satisfy the above requirement. The I-Bank shall promptly provide a copy of the audit to FHWA upon its completion.

### **(e) Annual Report**

The I-Bank shall submit an annual report to the FHWA on the status of the SIB no later than September 30 of each year. The report shall conform with the SIB and TIFIA Guidance adopted from time to time.

### **(f) Other Documents**

In addition to the annual report and the annual audit, the I-Bank shall provide in a timely fashion other reports and records that the USDOT may require in connection with the SIB Program administration under 23 U.S.C §610.

(g) Records Retention

The I-Bank shall maintain and retain all official project files relating to the SIB until the later of the date on which (i) all SIB Financial Assistance has been repaid and necessary audits have been performed or (ii) all rights and duties under each TIFIA Loan Agreement have been fulfilled. Retention and ultimate disposition of the SIB project files shall be in accordance with State law unless such period for retention conflicts with the requirement above or the 3-year minimum requirement of 2 CFR 200.333, in which event the later period of retention shall prevail.

**6. COMPLIANCE AND REMEDIES**

(a) Corrective Actions

If the FHWA determines that the I-Bank has not complied with the terms of this Agreement and/or the requirements of the 23 U.S.C. § 610, the FHWA shall notify the I-Bank, in writing, of the noncompliance and of the requested corrective action. The I-Bank shall, within 60 days from the date of receipt of such notice (the “Cure Period”), (i) take appropriate corrective actions satisfactory to the FHWA or (ii) submit an acceptable compliance plan to the FHWA, setting forth a course of action (including implementation schedule) for implementing corrective actions satisfactory to FHWA, and timely implement such corrective actions to the FHWA’s satisfaction. Notwithstanding the foregoing, if the I-Bank disagrees with the FHWA’s determination of non-compliance, the parties shall, in good faith, attempt to resolve such disagreement. Such good faith discussions shall pause the running of the Cure Period. If good faith discussions are unable to resolve the matter satisfactory to FHWA, FHWA shall provide notice in writing that the parties are unable to resolve the matter and reinstate the balance of the Cure Period. Should the matter not be resolved within the Cure Period, subject to the pause as noted above, FHWA shall advise the Bank of its action under its authority under 23 CFR 1.32(a) and 1.36.

In the event of a conflict between the provisions of Section 6(a) of this Agreement and any TIFIA Loan Agreement, the provisions of the TIFIA Loan Agreement shall be given precedence.

(b) Remedies of Failure to Comply with this Agreement

If the I-Bank fails to take corrective action or provide an acceptable compliance plan to correct the noncompliance within the Cure Period, the USDOT may prohibit the I-Bank from receiving additional Federal Funds for deposit into the Account, and/or suspend the disbursement of TIFIA Loan proceeds pursuant to the terms of each applicable TIFIA Loan Agreement.

In the event of a conflict between the provisions of Section 6(b) of this Agreement and any TIFIA Loan Agreement, the provisions of the TIFIA Loan Agreement shall be given precedence.

**7. EXECUTION, AMENDMENTS, AND TERM OF AGREEMENT**

(a) Amendments and Waivers

This Agreement may be amended at any time by mutual agreement of the parties hereto. No amendment, modification, termination or waiver of any provision of this Agreement shall in any event be effective without the written consent of each of the parties hereto.

(b) Effective Date

This Agreement shall be effective as of the [\_\_\_] day of [ ].

(c) Counterparts

This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Agreement or any document or instrument delivered in connection herewith shall be effective as delivery of an original executed counterpart of this Agreement or such other documents or instrument, as applicable.

(d) Termination

This Agreement shall remain in effect until terminated in writing by the parties hereto.

**8. MISCELLANEOUS**

(a) Governing Law

This Agreement shall be governed by the Federal laws of the United States of America if and to the extent such federal laws are applicable and the internal laws of the State, if and to the extent such Federal laws are not applicable.

(b) Severability

In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

(c) Successors and Assigns

This Agreement shall be binding upon the parties hereto and their respective permitted successors and assigns and shall inure to the benefit of the parties hereto and their permitted

successors and assigns. None of the I-Bank's rights or obligations hereunder or any interest therein may be assigned, delegated or transferred by the I-Bank without the prior written consent of the USDOT.

(d) Notices

Notices hereunder shall be (a) in writing and (b) given by (i) nationally recognized courier service, (ii) hand delivery, or (iii) email, in each case to:

<u>If to FHWA:</u>	Federal Highway Administration Center for Innovative Finance Support United States Department of Transportation Room E74-302 1200 New Jersey Avenue, SE Washington, D.C. 20590 Attention: Director Email: Mark.Sullivan@dot.gov
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<u>If to New Jersey Infrastructure Bank:</u>	New Jersey Infrastructure Bank 3131 Princeton Pike Building 4, Suite 216 Lawrenceville, N.J. 08648 Attention: Executive Director Email: dzimmer@njib.gov
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With copies to: [Insert relevant parties]

Notices required to be provided herein shall be provided to such different addresses or to such further parties as may be designated from time to time by the parties' respective authorized representatives. Each notice, request or communication shall be effective (x) if delivered by hand or by nationally recognized courier service, when delivered at the address specified in this Section 8(d) (or in accordance with the latest unrevoked written direction from the receiving party) and (y) if given by email, when such email is delivered to the address specified in this Section (or in accordance with the latest unrevoked written direction from the receiving party); provided that notices received on a day that is not a Business Day or after 5:00 p.m. Eastern Time on a Business Day will be deemed to be effective on the next Business Day.

(e) Establishment of Federal-aid-funded State Infrastructure Bank

Nothing in this Agreement shall preclude the New Jersey Department of Transportation from establishing a Federal-aid-funded State Infrastructure Bank separate and apart from the State Infrastructure Bank established pursuant to the terms of the this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date written below.

**STATE OF NEW JERSEY  
NEW JERSEY INFRASTRUCTURE BANK**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

**FEDERAL HIGHWAY ADMINISTRATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_