

**THE STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF TRANSPORTATION**



**WILLIAM CASS, P.E.**  
**ASSISTANT COMMISSIONER**

Bureau of Bridge Design  
 August 11, 2015

Her Excellency, Governor Margaret Wood Hassan  
 and the Honorable Council  
 State House  
 Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Transportation to enter into an Agreement with McFarland-Johnson, Inc., (Vendor 164736) of Concord, NH, for a total amount not to exceed of \$1,501,135.54, for the final design of the superstructure replacement and widening to address the Red List bridges carrying I-89 NB & SB over the Connecticut River between the City of Lebanon, New Hampshire, and the Town of Hartford, Vermont, effective upon Governor and Council approval, through June 30, 2018. 76% Federal Funds (NH's share) and 24% Other (Vermont's share) Funds.

Funds to support this request are anticipated to be available in State FY 2016, State FY2017, and State FY 2018 upon the availability and State continued appropriation of funds in the future operating budget, with the ability to adjust encumbrances between Fiscal Years through the Budget Office, if needed and justified:

	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
04-96-96-963515-3054			
Consolidated Federal Aid			
046-500463 Eng Consultants Non-Benefit	\$380,000.00	\$380,000.00	\$380,863.01
Vermont share to be reimbursed	\$120,000.00	\$120,000.00	\$120,272.53

**EXPLANATION**

The Department requires professional engineering design and environmental consultant services to prepare final design, environmental documents, and estimates of quantities and costs to rehabilitate (superstructure replacement and substructure rehabilitation) and widen the two bridges (Br. No. 044/104 and 044/103) carrying I-89 NB & SB over Connecticut River between the City of Lebanon, NH, and the Town of Hartford, VT. These bridges are on the State's Red List and are #21 & #22 on the 2015 Bridge Priority List. Constructed in 1966, these 6-span, 846-foot long, steel girder bridges have concrete decks and an existing roadway width of 30 feet each (2-12-foot lanes and 3-foot shoulder). The proposed work will include a design that will accommodate 3-lanes of traffic in each direction with appropriate shoulders. Development of the preliminary engineering for this project is being performed in two phases (Parts "A" and "B"). This contract is only for the second phase (Part "B"). This project is currently included in the State's Ten-Year Transportation Improvement Plan (Lebanon, NH – Hartford, VT 16148).

On October 17, 2012, the Governor and Council authorized the Part "A" Agreement (Item #88, copy attached) to prepare preliminary design, environmental documents, and preliminary plans to develop the project through the environmental permitting process, and to prepare estimates of quantities for the alternative selected to address these Red List bridges. The Part "A" preliminary design and environmental documentation process incorporated context sensitive solutions and techniques, which were presented and discussed at meetings with public officials and citizens of the Lebanon, NH, and Hartford, VT area.

In Part "A" of the Agreement, the Department reserved the right to either negotiate a scope of work and fee for the Part "B" final design services or to terminate the contract. Since the firm of McFarland-Johnson, Inc., satisfactorily completed the preliminary plans and environmental documentation efforts in Part "A" for this project, the Department proposes to continue with this firm to perform the final design. Part "B" will develop final contract plans and documents for the selected alternative for addressing these Red List bridges.

The Consultant Selection Committee made the recommendation to continue with the consultant that was selected for Part "A" to perform the Part "B" tasks for final design engineering and associated environmental services for this project. A memo dated January 28, 2015 was prepared requesting consideration and approval by the Assistant Commissioner for proceeding with McFarland-Johnson, Inc., for the Part "B" services. Upon receipt of that approval, McFarland-Johnson, Inc., was asked to submit a scope of work and fee proposal to initiate negotiations.

McFarland-Johnson, Inc., has agreed to furnish the required services for a total amount not to exceed of \$1,501,135.54. This is a reasonable fee and is commensurate with the complexity of the project and the scope of engineering and technical services to be furnished.

Funding for this project is shared 76% by the New Hampshire Department of Transportation and 24% by the Vermont Agency of Transportation. New Hampshire's share of funding for this contract is 80% Federal funds with 20% State match. Turnpike toll credits are being utilized for New Hampshire's funding match requirement, effectively using 100% federal funds.

This Agreement has been approved by the Attorney General as to form and execution. The Department has verified that the necessary funds are available. Copies of the fully-executed Agreement are on file at the Secretary of State's Office and the Department of Administrative Services, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

It is respectfully requested that authority be given to enter into an Agreement for consulting services as outlined above.

Sincerely,

A handwritten signature in black ink, appearing to read "William Cass". The signature is fluid and cursive, written over a white background.

William Cass, P.E.  
Assistant Commissioner

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AGREEMENT  
FOR PROFESSIONAL SERVICES

PREAMBLE

THIS AGREEMENT made this 29 day of June in the year 2015 by and between the STATE OF NEW HAMPSHIRE, hereinafter referred to as the STATE, acting by and through its COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the COMMISSIONER, acting under Chapter 228 of the Revised Statutes Annotated, and McFarland-Johnson, Inc., with principal place of business at 49 Court Street, in the City of Binghamton, State of New York, hereinafter referred to as the CONSULTANT, witnesses that:

The Department of Transportation, State of New Hampshire, hereinafter referred to as the DEPARTMENT, proposes to rehabilitate the redlisted bridges (Br. No. 044/104 and 044/103) carrying I-89 Northbound and Southbound over the Connecticut River between the City of Lebanon, NH and the Town of Hartford, Vermont.

The DEPARTMENT intends to have prepared for said project final design, contract plans, specifications, special provisions, and estimates of quantities and costs. These services are outlined in the CONSULTANT'S technical proposal dated May 14, 2015 and fee proposal dated May 19, 2015, which are hereby adopted by reference and considered to be part of this AGREEMENT.

This AGREEMENT becomes effective upon approval by the Governor and Council.

## ARTICLE I

### **ARTICLE I - DESCRIPTION OF PROFESSIONAL SERVICES TO BE RENDERED**

NOW THEREFORE, in consideration of the undertakings of the parties hereinafter set forth, the DEPARTMENT hereby engages the CONSULTANT, who agrees to render services to the DEPARTMENT that shall include, but not be restricted to, the following items, in accordance with conditions and terms hereinafter set forth:

#### **A. LOCATION AND DESCRIPTION OF PROJECT**

This project involves the widening and rehabilitation of the two existing bridges (Br. No. 044/104 and 044/103) carrying I-89 Northbound and Southbound over the Connecticut River between the City of Lebanon, NH and the Town of Hartford, Vermont. The project begins just north of the I-89 bridges over NH Route 12A in New Hampshire and continues north, approximately one (1) mile, to a point that is located approximately 2,100 feet north of the bridge abutment in Vermont. These two Connecticut River Bridges were built in 1966 and are six-span steel girder bridges with concrete decks. The abutments and piers are to be rehabilitated and widen as required. The steel girders and the concrete decks will be replaced. The bridges and approaches will carry a total of six (6) lanes of traffic, two through lanes in each direction and auxiliary lanes, between Exit 20 in New Hampshire and the Interstate 91 interchange in Vermont. Traffic control will consist of phased construction utilizing temporary median crossovers. A minimum of two travel lanes will be maintained in each direction, throughout construction. All plans, calculations, etc. shall be submitted using Imperial Units. This project is in the STATE'S Ten Year Improvement Program and is scheduled for Fiscal Year 2019-2020.

ITS elements may be incorporated, in whole or in part, into the contract plans and documents for the project design. A Smart Work Zone will likely be required for the construction contract.

#### **B. SCOPE OF WORK (GENERAL)**

The scope of the work involves the final design and preparation of contract plans, specifications, and estimates for the layout described above and as approved in the Final Environmental Document.

Designs shall consider temporary and permanent erosion-control measures and Best Management Practices (BMPs) consistent with current New Hampshire Department of Environmental Services (NHDES) guidelines (or Vermont guidelines for impacts within the State of Vermont), traffic control measures, utility coordination, drainage and treatments to minimize environmental impacts, highway signage, and pavement markings.

Ground survey detail provided by the DEPARTMENT will be used to develop the required final design and contract plans.

The CONSULTANT will develop color plan graphics for the DEPARTMENT's use in meetings and coordination with the public. The colored plans will be developed at the Slope and Drain, PPS&E and PS&E submittals and incorporate necessary refinements based on DEPARTMENT review to date.

## ARTICLE I

The CONSULTANT shall prepare the final design and contract plans, specifications and estimates for the development of shoreland impacts, wetland impacts, erosion control, and water quality improvements. The CONSULTANT shall tabulate the shoreland and wetland impacts for the project, and complete the shoreland and wetland permit applications with all applicable attachments for impacts within the State of New Hampshire and the State of Vermont.

Coordination may be required between the DEPARTMENT and the City of Lebanon, NH and the Town of Hartford, Vermont. The CONSULTANT shall be prepared to support such efforts as required. Responsibilities of the CONSULTANT team shall include attendance at meetings when requested, preparation of minutes reflecting meeting commitments, and preparation of illustrative plans and exhibits for the meetings, as directed by the DEPARTMENT.

The work to rehabilitate and widen the bridge substructures will require construction access to the Connecticut River. As a result, the CONSULTANT shall assist the Department in coordination efforts with the Railroad, recreation trail and waterway users, and utility companies that have facilities along the river.

The DEPARTMENT and the CONSULTANT will complete the NEPA process and finalize the Categorical Exclusion document. The preliminary horizontal and vertical alignments previously developed will be used as a basis for developing the final horizontal and vertical alignments in preparation of the final plans.

### C. SCOPE OF WORK (GEOTECHNICAL)

A full geotechnical program including the following shall be provided by the CONSULTANT:

1. Submission of plan and narrative of the proposed geotechnical investigation for approval.
2. Subsurface investigation, including field inspection. The CONSULTANT shall obtain any necessary permits for geotechnical investigations if required and not previously obtained by the DEPARTMENT.
3. Field and/or laboratory testing as required.
4. Geotechnical report describing project and location, existing conditions, exploration logs, material testing results, geological features, potential geotechnical problems, and design recommendations. The report shall address excavation issues, soil types, fill requirements, foundation recommendations for all structural components of the project, slope stability, ledge limits, bearing capacities, groundwater elevation, underdrain requirements, water-quality features, erosion and sedimentation potential, artesian conditions, and other geotechnical factors affecting the design or construction of the project. The CONSULTANT shall consider economic and DEPARTMENT standards in making their recommendations. The report shall serve as an evaluation of soil conditions by which the design is influenced and shall also be available to Contractors to supplement their bid process and the construction.

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Geotechnical data and draft recommendations (five sets) shall be available for developing and reviewing the Slope and Drainage submission for the highway design and the Preliminary Plans submission for the bridge design. Following review and concurrence, a final report (ten (10) bound sets and a PDF) shall be submitted prior to the Preliminary PS&E submission.

Pavement recommendations shall be provided by the CONSULTANT and reviewed by the DEPARTMENT.

### **D. SCOPE OF WORK (ENVIRONMENTAL)**

The CONSULTANT shall be responsible for the following:

1. All applicable environmental permits and supporting documentation, including photographs. Anticipated permits include: NHDES Major Impact Dredge and Fill Permit, NHDES Section 401 Water Quality Certificate, US Army Corps of Engineers Section 404 Permit, NH Shoreland Permit, Vermont Stormwater Discharge Permit, Vermont Construction Stormwater Permit, and a Vermont Flood Hazard Area & River Corridor Permit.
2. Finalize the Categorical Exclusion document to complete the NEPA process.
3. Conduct an invasive species survey to identify the types and extent of invasive species in the project area.
  - Quantify, estimate and summarize the invasive species removal items for the PPS&E, PS&E and Mylar submissions.
4. Minimizing impacts to floodplain and wetland area to the greatest extent practicable during the final design.
5. The development of the Temporary Erosion Control and Stormwater Pollution Prevention Plan (SWPPP) (a permitting requirement during construction of the project) shall not be the responsibility of the CONSULTANT. However, recommended controls shall be addressed during the final design to the extent that appropriate items, quantities, and an appropriate layout are developed for bidding purposes.
6. The design of the permanent erosion and sedimentation control and water quality renovation features. Permanent erosion and sedimentation control and water quality features shall be shown at the Slope and Drain Plan - Roadway submission with design backup calculations complete. Conceptual erosion and sedimentation control and water quality plans shall be part of the Slope and Drain Plans - Roadway submission. The CONSULTANT shall furnish pre and post-development design calculations with Q2, Q10, Q25, and Q50 flows, and water quality volumes, as appropriate. Site locations for BMPs, estimated areas, and design elevations shall be proposed in sufficient detail to complete geotechnical investigations of each site.

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7. The CONSULTANT shall also be responsible for the development of erosion control plans substantially conforming to (NHDES) PART Env-Wt 501.02 to include existing and finished grade contours at 2-foot intervals, and erosion control strategies for the completed project condition. The DEPARTMENT will submit the plans to NHDES, as part of the Wetland Permit application. The plans shall be prepared in “roll plan” and “cut sheet” format. The plan package shall also include an erosion control strategy legend (developed by the DEPARTMENT), drainage note sheets, traffic control phasing notes and a preliminary construction schedule. The information will also be included in the project Proposal for the Contractors’ use during the bidding period.

In addition, the CONSULTANT shall be responsible for the following:

- Incorporate stormwater runoff treatment areas and detention basins and evaluate their environmental impacts (such as archaeological sensitivity, wetland impacts, hazardous materials, etc.).
- Incorporate water quality treatment measures [Best Management Practices (BMPs), treatment basins and swales] into the overall project design. The BMPs and stormwater management design shall meet the NHDES Alteration of Terrain regulations and the NH Stormwater Management Manual criteria for the work in New Hampshire, and the Vermont Stormwater Management Manual criteria for the work in Vermont. NHDES BMP worksheets shall be completed and submitted as part of the Drainage Report.
- As part of the drainage system, infiltration measures shall be investigated and evaluated as to their feasibility and prudence. Such measures would allow stormwater to infiltrate back into the ground following treatment. If such measures are determined feasible and prudent, they should be considered for incorporation into the final design.
- Inclusion of proposed scour countermeasures in the permitting documentation.

The CONSULTANT’S plans shall include all commitments made in the environmental documents, to the extent practicable.

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### **E. SCOPE OF WORK (FINAL DESIGN)**

The scope of work proposed by this AGREEMENT includes:

1. The development of base plans drafted by the CONSULTANT using updated ground survey provided by the DEPARTMENT. The CONSULTANT shall develop plans at a scale of 1"= 50', unless otherwise noted. The CONSULTANT shall be responsible for the incorporation of environmental resource mapping, utility information, right-of-way and property line information, etc. All of these will be provided by the DEPARTMENT, or as noted elsewhere in this document.
2. The refinement of the alignment, grades, and intersections of the proposed roadway(s), as shown on the preliminary conceptual designs.
3. The preparation of complete designs, including all plans, specifications for work not included in the current specifications of the DEPARTMENT, computations, estimates, and documents for required submissions to the DEPARTMENT, the Federal Highway Administration, and/or any other STATE or Federal agency, that may be required.
4. The design and preparation of contract plans for construction of the roadway, structures, layout and design of overhead sign structures (conceptual design of foundations, including any geotechnical investigations, for purposes of developing quantities with final design based on shop drawings provided by the Contractor), traffic control, construction phasing, guardrail, and drainage facilities (including Best Management Practices for permanent erosion and sedimentation control and water quality features) in accordance with the policy and procedures of the DEPARTMENT and the provisions of this AGREEMENT.
5. The design and development of all permanent guide, warning and regulatory signs, and permanent construction signing into the contract plans, including the sign text sheets and the quantity summary sheets. Contract signing shall include site reviews and documentation of the existing signs (to be provided to the DEPARTMENT), including photographs. The permanent guide, warning, and regulatory signs shall be progressed such that, once reviewed and approved by the DEPARTMENT, the approved design can be incorporated into the PPS&E submission. The sign text layout details shall be formatted and submitted in a manner acceptable to the DEPARTMENT. All signing on the plans shall be closely coordinated with the location of guardrail installations, slopes, utility locations (including street lights and underground utilities), and drainage-system locations to avoid conflicts and to determine the type of support system required for installing the signs. The CONSULTANT shall be responsible for identifying all conflicts and to make necessary adjustments to highway signing plans and locations.

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6. The design and development of all pavement marking layouts, item numbers, item descriptions, and quantities for inclusion into the contract and appropriate summary tables within the plan sets. The pavement markings shall be progressed such that the design can be reviewed and approved by the DEPARTMENT for incorporation into the PPS&E submission.
7. The design of all supporting members for utilities that traverse any bridge structure.
8. The incorporation of utility relocations, as designed by others, into the contract plans. Municipal utility relocations (e.g., sewer and/or water), as provided by the DEPARTMENT, shall be included, as necessary, into the contract plans, summary sheets, and estimate. Municipal utility relocation items, as incorporated into the contract plans, shall be kept separate from the highway and/or bridge items in the estimates submitted. The unit item numbers and unit prices to be used for the utility relocations shall be provided by the DEPARTMENT.
9. The incorporation of all ITS and Smart Work Zones, as designed by others, into the contract plans.

The engineering design shall take into consideration all factors affecting the cost of the construction, such as foundation problems, earthwork quantities, erosion and sedimentation control, water-quality-treatment issues, construction phasing and complexity, utilities affected, environmental issues and commitments, construction materials, etc. During all phases of design, the CONSULTANT shall make a continuous effort to identify and minimize impacts on existing and proposed utilities.

The CONSULTANT shall, when requested by the DEPARTMENT, render such assistance as required, including the preparation and explanation of sketches and plans for, or at, any meetings or conferences held by the DEPARTMENT. Meeting notes and conference memos shall be the responsibility of the CONSULTANT and shall be provided in a timely manner.

The CONSULTANT shall submit for review, as requested, progress prints (black line) showing grades, cross-sections, special details, and general design. Paper prints shall be submitted upon request for right-of-way use, evaluation of utility impacts, and other purposes. The DEPARTMENT will provide the existing right-of-way layout and property layout in the appropriate CAD/D format. The CONSULTANT shall incorporate the abstracting information into the base plans.

Designs shall conform to the current standards, specifications, policies, and guidelines enumerated in the Federal-Aid Policy Guide, Subchapter 6, Part 625, or to 23 Code of Federal Regulations, Part 625, and the DEPARTMENT'S Design Manuals and Standard Plans for Road Construction, except as approved.

Data from survey notes shall be transcribed and plotted on base plans, profiles, and cross-sections as required, if not furnished by the DEPARTMENT under Article I-G.

Multiple visits to the site shall be made during the design to detect changed field conditions, assess drainage features and, if required, additional surveys will be performed by the DEPARTMENT upon

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request. The DEPARTMENT will process additional survey requests to the extent necessary to ensure continuity between new and current detail model files. The DEPARTMENT will incorporate these files into the current detail base plans and digital terrain models (DTM) to include all drafting, labeling, detailing and field checking of the detail. Additional surveys may be required throughout the design process, and the CONSULTANT shall modify the design, as necessary, based upon the updated survey information.

The CONSULTANT shall examine which elements of design, such as horizontal and vertical alignments, typical sections, traffic control, earthwork utilization, drainage pipes and structures, as well as soils suitability, might affect aerial and underground utilities. Any conflict between design elements and utilities shall be identified and brought to the attention of the DEPARTMENT. A special effort shall be made by the CONSULTANT to modify drainage features to avoid conflicts with underground utilities.

All plotting, drafting, and calculations performed by the CONSULTANT shall be independently checked by members of the CONSULTANT'S staff other than those who performed the original work. The work of each stage submission (including quantity estimates) shall have been appropriately checked and include appropriate supporting calculations and materials (i.e. plan areas). The PS&E submission and final mylars shall have had complete final and "three-way" checking.

The CONSULTANT shall verify all computations and design calculations. The CONSULTANT shall furnish two (2) permanent, single sided, legible copies of the design calculations, suitably bound, and when directed, all study plans, work plans, alternate studies, and estimates indexed in accordance with DEPARTMENT procedures.

The CONSULTANT'S Licensed Professional Engineer stamp for the State of New Hampshire shall appear on the construction plans, reports, and any other documents that will be submitted to the DEPARTMENT. Stamps shall be those of the professional engineers who prepared them or under whose direct supervisory control they were prepared.

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### **F. SCOPE OF WORK (UTILITIES)**

The utility coordination for this project will be performed by the DEPARTMENT. The CONSULTANT shall incorporate utility relocations, as designed by the individual utility owner, into the contract plans. Municipal utility relocations (e.g., sewer and/or water), as approved by the DEPARTMENT, shall be included, as necessary, into the contract plans, cross-sections, summary sheets, and estimate. Non-participating municipal utility relocation items shall be kept separate from the highway and/or bridge items in the estimates submitted. The DEPARTMENT will provide the unit item numbers and unit prices to be used for the utility relocations.

### **G. MATERIAL FURNISHED BY THE DEPARTMENT OF TRANSPORTATION**

The DEPARTMENT will furnish the following data to the CONSULTANT:

1. Electronic files in English units of the following information, in accordance with the DEPARTMENT'S CAD/D Procedures and Requirements, for incorporation into the plans by the CONSULTANT.
  - a. All existing survey and baseline data on disk, notes, and note reductions in the format outlined in the DEPARTMENT'S CAD/D Procedures and Requirements. An electronic ground model will be provided, if available, along with all existing information that can be used to create a model.
  - b. Any additional surveys of adjacent parcels, mitigation sites, wetland boundaries, or other pertinent items deemed necessary and processed by the DEPARTMENT. Incorporation of this information into the ground-terrain model and plans shall be the responsibility of the CONSULTANT.
  - c. Electronic drawings in Microstation format, along with reproducible sheets, of roadway typical cross-sections and other detail sheets, shall be provided, when available from the DEPARTMENT'S CAD/D library, upon request by the CONSULTANT, in accordance with the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time of execution of this AGREEMENT.
  - d. Electronic drawings in Microstation format of the existing underground utilities, if provided to the DEPARTMENT by the utility. The CONSULTANT shall be prepared to provide an electronic copy of preliminary base plans to the DEPARTMENT for use by the utilities. The CONSULTANT shall be responsible for the incorporation and manipulation of this information (either in paper or electronic format) into the plans, in accordance with the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time of execution of this AGREEMENT.
  - e. Electronic drawings in Microstation format of the Right-of-Way data, approximate property lines, and parcel owners. These electronic files containing abstracting information will

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be updated, as necessary, throughout the development of the project. The CONSULTANT shall be prepared to incorporate refinements from the Department, to the electronic files, as needed.

f. Prints of any information outlined in Article I.G.1.a. through f. above, both existing and proposed, when available, for verification by the CONSULTANT.

2. Prints of the following information:
  - a. Any additional information (e.g., abstracting, utilities, etc., not available electronically) for the CONSULTANT to incorporate into the plans in accordance with the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time of execution of this AGREEMENT.
3. Prints and data exchange files of existing conditions not previously provided to the CONSULTANT. Reduction and incorporation of this material shall be the responsibility of the CONSULTANT.
4. All required permits. The CONSULTANT shall be responsible for plans and computations for impacted areas. These plans shall provide all necessary data, area hatching (according to DEPARTMENT standards) and detail so that these plans can be forwarded to the respective regulatory agencies as appropriate attachments for the permit applications. The CONSULTANT shall be responsible to complete the permit applications and provide all supporting documentation (e.g. photographs).
5. Proposal for bidding and Standard Specifications for Road and Bridge Construction, Standard Plans for Road Construction, plus supplemental specifications and special provisions that the DEPARTMENT currently has.
6. The location of all existing utilities through direct contact with the various utility companies. Following the determination by the CONSULTANT of all unavoidable conflicts between existing utilities and the proposed construction, the DEPARTMENT will coordinate the necessary relocation of the conflicting utilities. The CONSULTANT shall be prepared to furnish CAD/D files in the current DEPARTMENT format to the DEPARTMENT for use in assisting with the Utility design.
7. The DEPARTMENT and the CONSULTANT will cooperatively develop the detailed Traffic Control Plans. The CONSULTANT shall develop the initial conceptual Traffic Control Plan and construction phasing. The DEPARTMENT will assist the CONSULTANT in the final design of the Traffic Control Plans as it relates to potential complications with concurrent work, utilities and closures. The CONSULTANT shall complete the final design and the associated quantity calculations.

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8. Conceptual design and layout of highway lighting (temporary and permanent), if deemed necessary. The CONSULTANT shall be responsible for incorporating the design and layout into the project documents and for recommending adjustments required to avoid conflicts.
9. Any updates of the DEPARTMENT-supplied CAD/D information will be released to the CONSULTANT throughout the duration of the AGREEMENT, as appropriate. The DEPARTMENT shall be held harmless from any and all loss, damage, expense or liability whatsoever resulting from the use of these programs and macros or translated information. The DEPARTMENT may supply the documentation for use with these programs and macros, but shall not be responsible for any training in their use.
10. ITS concept plans and specifications for incorporation into the final design plans, as appropriate.

### **H. WORK SCHEDULE AND PROGRESS REPORTS**

The CONSULTANT shall begin performance of the services designated in the Contract promptly upon receipt from the DEPARTMENT of a Notice to Proceed and the material to be furnished as herein described. The CONSULTANT shall complete these services without delay unless unable to do so for causes not under the CONSULTANT'S control.

The CONSULTANT'S sequence of operation and performance of the work under the terms of this AGREEMENT shall be varied at the direction of the DEPARTMENT to give priority in critical areas so that schedules and other STATE commitments, either present or future, can be met.

The CONSULTANT shall develop an acceptable reporting system capable of indicating project status on at least a monthly basis for all critical activities of the project. Monthly progress reports should be submitted by the CONSULTANT to the Project Manager, giving the percentage of completion of the work required by this AGREEMENT. These monthly progress reports should be received by the DEPARTMENT by the 10th day of each month. All correspondence should include the STATE and Federal project numbers.

### **I. SUBMISSION OF REPORTS, PLANS AND DOCUMENTS**

During the prosecution of this AGREEMENT, the CONSULTANT shall prepare and submit to the DEPARTMENT separate submissions as described hereinafter.

The CONSULTANT, with each submission, shall submit a transmittal describing the "design issues" addressed in that submission. In addition, the transmittal shall include anticipated or outstanding issues and the CONSULTANT'S recommendations to resolve these issues. All issues shall be noted as to whether the CONSULTANT feels that the issue is within the scope of work described in Article I. Meetings between the CONSULTANT and the DEPARTMENT shall be held prior to submissions to discuss design issues and recommendations.

All plan drawings, including size of sheets, lettering, symbols, and scale of said drawings, shall conform to the requirements and standards of the DEPARTMENT. Any and all CAD/D-related work

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completed during the course of this project shall be performed in conformance with the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time of execution of this AGREEMENT. Final construction plans and cross-section sheets shall be submitted on quality paper prints. Construction plans shall be submitted on 22 in. x 34 in. sheets.

In addition to the final reproducible plans being furnished as noted herein, the CONSULTANT shall provide electronic file copies of all highway and bridge project plan sheets with real State plane coordinates, including, but not limited to, final quantity sheets, typical and detail sheets, general plans and profiles, traffic-signal sheets, cross-sections, and right-of-way plans. In addition to these plan sheets, an electronic file of the entire project's final design shall be submitted in an "uncut" format showing all design features in a real State plane-coordinate system, unrotated. These final electronic files shall be indexed with file name, description of the contents of the file, and applicable project sheet number. The final electronic plan submittal shall also include one PDF per plan set for the project, and one PDF of each sheet; this is applicable to all plan sets provided (Construction, Right-of-Way, Wetlands, Shoreland, etc.). All files shall be submitted in conformance with the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time of execution of this AGREEMENT. Any plans (e.g., quantity summary sheets) produced from a spreadsheet (e.g., Excel, or equivalent) shall be submitted in ASCII file or a format suitable for incorporation into Microsoft Office or the current DEPARTMENT software. The final Special Provisions(s) and other documents, as requested, shall be submitted in both electronic format (Microsoft Word-compatible) and hard copy. The CONSULTANT shall also be prepared to submit separate electronic files of all alignments, ROW bound locations, and other project features, as requested, in a format acceptable to the DEPARTMENT, throughout the design contract, in conformance with the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time of execution of this AGREEMENT. The CONSULTANT shall also provide a hard copy of all proposed alignments (25-foot minimum station interval and curve control points) with associated State plane coordinates (x, y, z).

### 1. Roadway Design Submissions

The plan submissions for roadway design shall follow the procedures outlined below:

#### a. Pre-Preliminary Plans – Roadway

Not Required

#### b. Preliminary Plans – Roadway

Not Required

#### c. Slope and Drain Plans - Roadway

The Slope and Drainage Plans submission shall consist of five sets of cut sheet plans showing:

- 1) The recommended horizontal and vertical alignment of all necessary roadway construction.

## ARTICLE I

- 2) All roadway cross sections at 50-foot intervals (except 25-foot intervals in ledge areas). The CONSULTANT shall recognize that if geotechnical information is not available at this time, then the cross sections may need to be re-cut and reordered for subsequent submissions when soils/ledge information is available.
- 3) Proposed pavement layouts and major control elements.
- 4) The alignment (horizontal and vertical) of major diversions or construction phases that will have significant implications for the project in the final design. Critical cross sections (with superelevations) shall be developed, and labeled by phases, to assist in the assessment of the conceptual traffic control phasing and conceptual location of overhead sign structures (if needed), and traffic signal foundations.

Additionally, the submission shall include slope lines, drainage-system details and drainage features, including drainage, slope, and/or construction easements. The cut sheets shall include typical sections, plan views, profiles, guardrail locations, and cross-sections with complete template plotted and appropriate references on the plans relative to drainage design to assist with the review of the drainage design and the backup drainage calculations. The submission shall be supplemented with a list of utility conflicts that could not be avoided during the design. Complete Best Management Practices for permanent erosion and sedimentation control features and water-quality appurtenances shall be shown, accompanied by backup calculations. The BMPs shall be designed in accordance with the (NHDES) CHAPTER Env-Wq 1500 ALTERATION OF TERRAIN requirements, as well as the guidance in the New Hampshire Stormwater Manual and Vermont Stormwater Management Manual. The backup calculations shall also include a narrative, mapping, and computations addressing pre-construction and post-construction (and post-development, if applicable) drainage conditions and applicable drainage-control features. Two bound drainage-computation books shall be submitted with all backup drainage calculations illustrated and referenced to each drainage appurtenance shown, based on the drainage design.

At this time, a field inspection shall be held with the DEPARTMENT and any indicated design changes or corrections shall be made and incorporated into the plans for the Preliminary PS&E submission. Any indicated revisions required to fit actual field conditions, including any horizontal and vertical alignment revisions, found necessary during this field inspection, and any resulting corrections to the right-of-way requirements, shall be made by the CONSULTANT.

Also, with the Slope and Drainage submission, the CONSULTANT shall submit the Traffic Control Plans in near-final form (roll plans, as a minimum) showing temporary slopes, lane uses and widths, overhead-sign structures, temporary traffic signals, temporary guardrail and barrier locations, temporary drainage, temporary easements, profiles, temporary drives, detour cross-

## ARTICLE I

sections and superelevations, etc. with backup calculations. Construction phasing shall be shown with narratives for each phase.

At this submission, a design narrative and a revised estimate shall be prepared and submitted by the CONSULTANT. The estimate shall be based on the best information and design features shown in this submission relative to the anticipated construction, including any detours or temporary widening. The Consultant shall also prepare a formal Engineering Report as part of this submission.

Following incorporation of the DEPARTMENT'S comments on the Slope and Drainage Submission, the CONSULTANT shall submit Wetland Impact plans (with Erosion Control plans) and Shoreland Impact plans showing permanent and temporary impacts for each wetland and the shoreland for inclusion with the wetland and shoreland permit applications in New Hampshire and Vermont. These areas shall be shown "hatched" according to the DEPARTMENT'S standards. Accompanying these plans, the CONSULTANT shall provide a tabulated impact summary showing wetland identification numbers, areas of fill or dredged volumes in the temporary and permanent conditions for each construction contract, and the final build-out for this project.

d. Utility Plans (if required)

Upon approval in writing by the DEPARTMENT of the Slope and Drain submission, the CONSULTANT shall proceed to prepare and submit to the DEPARTMENT for approval the Utility Plans submission. The CONSULTANT shall incorporate DEPARTMENT Slope and Drain comments into the design layout. The CONSULTANT shall then furnish up to 5 sets of cut-sheet plans (paper prints) of front sheet, plans, profiles, up to five sets of cross-sections, and a list of revised utility conflicts, for use by the Design Services Section. The CONSULTANT shall also submit separate electronic files of this information, in a format acceptable to the DEPARTMENT, in conformance with the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time of execution of this AGREEMENT. This submission plan set is intended to facilitate the identification of the scope of work required by various utilities to comply with the planned construction. The plans are intended to reflect the near-final design of drainage systems with all appurtenances, erosion- and sedimentation-control features, other structures, right-of-way lines (existing and proposed permanent and temporary), curbing, pavement layout, sign structures, traffic signals, slope limits, guardrail, final template plotted on cross-sections, detours and detour cross-sections, traffic-control issues with construction phasing, underdrain, drive locations, sidewalks, clearing-and-grubbing limits, fencing requirements, building demolition, and lighting and signal conduit. Also,

## ARTICLE I

the plans shall reflect all existing detail, existing drainage, and existing utilities. The intent is to have incorporated all comments from the Slope and Drain submission, along with design work that has progressed. All final design notes may not be necessary, but the scope of construction shall be evident to the reviewing utilities. Copies of this plan set will be forwarded to the Design Services Section for review. Comments will be returned to the CONSULTANT to finalize the plans prior to the formal submission for relocations. The plans shall show the status of the design prior to preparation of the Preliminary PS&E submission.

e. Preliminary PS&E - Roadway

Upon approval in writing by the DEPARTMENT of the Slope and Drain submission, the CONSULTANT shall proceed to prepare and submit to the DEPARTMENT for approval the Preliminary PS&E submission. The Preliminary PS&E submission shall consist of three to five sets of plans (paper prints) of preliminary contract drawings, draft special provisions for items for which current specifications are not available from the DEPARTMENT, and a Preliminary PS&E estimate of quantities and costs. The plans shall include title sheet, typical sections, detail sheets, all plan sheets, profile sheets, curb and pavement layout plans, pavement marking and signing plans (including sign text layout sheets), ITS infrastructure, complete traffic control plans, cross-section sheets, and necessary detail sheets. Also, landscaping, seeding, and grading plans shall be included, if required. Quantity Summary sheets shall be submitted. All item summary boxes for drainage, clearing-and-grubbing, earthwork, surfacing and select materials, curbing, guardrail, sidewalks, traffic signs, construction signs and warning devices, pavement markings, lighting, conduit and pull boxes, ITS components, landscaping and slope protection, bounds, fencing, delineation and witness markers, and other items that are nearly complete, shall be shown and note line entries completed. Rounding and totals are not required. Item summary boxes of expected work not listed above shall be included and shown without line-entries completed. In developing the plans to the Preliminary PS&E stage, the DEPARTMENT will require a Design Narrative, an estimate of the quantities, expected unit costs, and total costs, prepared in the form and manner prescribed by the DEPARTMENT for the Preliminary PS&E submission. An electronic copy of the spreadsheet shall be submitted in Excel format. Roadway items shall be kept separate from bridge items. Two single sided bound copies of the quantity calculations shall be furnished with the estimate. Quantity calculations for this submission (and subsequent submissions) shall include adequate back-up (e.g. graphics and sample calculations) to clearly identify the location of item quantities and the method of calculation. Plans shall reflect all comments from the Slope and Drain Plans submission and issues that

## ARTICLE I

appear during final design. One bound copy of the drainage-computations book (as revised, based on Slope and Drain comments), including temporary drainage computations, shall be submitted with the Preliminary PS&E submission.

f. PS&E - Roadway

Upon approval in writing by the DEPARTMENT of the Preliminary PS&E submission, the CONSULTANT shall proceed to prepare and submit to the DEPARTMENT for approval the PS&E submission, which shall consist of three complete sets of paper prints of construction plans, a Design Narrative, Engineering Report, one bound copy of the revised quantities book, and a PS&E estimate. Special Provisions shall be submitted in both electronic format (Microsoft Word-compatible) and hard copy for all items not in the Standard Specifications for Road Construction of the STATE and for which a current special provision is not available.

g. Draft Contract Plans (Prints)

Upon approval of the foregoing in writing by the DEPARTMENT, the CONSULTANT shall proceed to prepare and submit to the DEPARTMENT for approval the Draft Contract Plan submission, which shall consist of three complete sets of paper prints of the construction plans, a Design Narrative, Engineering Report, one bound copy of the revised Quantity Book, any final Special Provisions required and a draft final estimate of costs. These draft contract plans and documents shall reflect all comments resulting from the PS&E review.

h. Contract Plans and Consultant Documents

Upon approval of the foregoing in writing by the DEPARTMENT, the CONSULTANT shall make the final submission of contract plans, any final special provisions required, and a final PS&E estimate of costs. These final contract plans and documents shall reflect all comments resulting from the PS&E review. The CONSULTANT shall be prepared to incorporate all comments, furnish drafting services for omissions found, and generally assist the DEPARTMENT in finalizing the contract plans. If changes are requested by the DEPARTMENT to be made to the CONSULTANT'S plans, the CONSULTANT shall be prepared to update the corresponding electronic files and submit them to the DEPARTMENT. Final acceptance of the contract plans will be made in writing. The final contract plans submitted shall include one set of paper prints. The paper set shall be submitted prior to the final paper submission. Also, all CONSULTANT backup documents shall be resubmitted to reflect the final PS&E comments and final contract-plan conditions. The CONSULTANT shall also submit a Design Narrative, finalized Engineering Report, two bound copies of the final Drainage Calculations, as well as two bound copies of the final Quantities Books.

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The final contract plans shall include:

- (1) A front sheet.
- (2) Typical sections of improvement.
- (3) Summary of quantities sheets.
- (4) Plan and profile sheets.
- (5) Detail sheets and/or special sheets required (including, but not limited to, standard symbols, sign text layout sheets, drainage notes, ITS sheets, BMP details).
- (6) Cross-section sheets.

Each of the plan sheets shall be labeled with its corresponding electronic file name.

### 2. Bridge Design Submissions

The plan submissions for bridge structures shall follow, in general, the "Instructions for Consulting Engineers Concerning Routine Procedures on Bridge Design Projects" formats prepared by the DEPARTMENT.

The content, completeness, and scales for all drawings shall be as approved by the DEPARTMENT, and shall be such as to accurately portray the placement and positioning of components, surfaces, and the general appearance of the structural units. Large-scale details shall be employed as directed for congested areas or connections between components.

The CONSULTANT shall perform a load-rating analysis for each bridge using the appropriate AASHTO Method, or as directed by the DEPARTMENT, to be submitted on a form provided by the DEPARTMENT.

The phases for the development of the project are as follows, unless approved otherwise during scope development between the Department and the Consultant:

- Preliminary PS&E Plans (80% complete)
- PS&E Plans (95% complete)
- Contract Plans
  - a. TSL (Type-Span-Location) Studies  
Not Required
  - b. Boring Layout  
Not Required
  - c. Preliminary Plans - Bridge  
Not Required
  - d. Preliminary PS&E - Bridge

This final design shall incorporate revisions, if any, in the Preliminary Plans as previously approved by the DEPARTMENT. The plan and elevation, survey plan and profiles, and boring logs, as submitted for the Preliminary Plans, shall be refined as necessary and shall become a part of

## ARTICLE I

the final contract plans. Estimates of quantities shall be prepared for all materials of construction, and shall be tabulated on the plans and summarized for each bridge.

Upon completion of these contract plans, except for quantities and reinforcing-bar lists, copies of the plans shall be submitted to the DEPARTMENT for review and comment, the plans at this stage representing about 80% completion.

e. PS&E - Bridge

Comments resulting from the DEPARTMENT's review of the Preliminary PS&E submission shall be incorporated into the design and contract plans. The estimate of quantities shall be completed and tabulated. (Reinforcing bar schedules will be completed by the Contractor.)

Upon completion of these contract plans, copies of the plans shall be submitted to the DEPARTMENT for review and comment, the plans at this stage representing about 95% completion.

f. Contract Plans

Comments resulting from the DEPARTMENT's review of the PS&E submission shall be incorporated into the design and contract plans. The final contract plans submitted shall include one set of paper prints. Upon completion of these contract plans, they shall be submitted to the DEPARTMENT, the plans at this stage representing 100% completion.

3. Right-of-Way Plans

Not Required

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### J. SCOPE OF WORK (CONSTRUCTION SUPPORT SERVICES)

If a contract for construction of the project, or part of it, is entered into within two years after completion by the CONSULTANT of the services outlined in Articles I, III and IV, the CONSULTANT shall, without additional compensation therefor, render services to the DEPARTMENT, including, but not restricted to, the following:

#### 1. Construction

If and when required by the DEPARTMENT during the construction of the project, the CONSULTANT shall:

- a. At the CONSULTANT'S sole expense, correct and resolve errors and/or omissions within the contract plans and specifications found during construction.
- b. Render interpretations, as necessary, of the contract plans and specifications and submit recommendations for necessary modifications in either or both and, upon approval of recommendations by the DEPARTMENT, revise the contract plans and specifications to cover same and prepare other detailed drawings as may be needed to supplement the contract plans in order to permit the proper completion of the project. This work effort, if required, will be viewed as additional services, subject to an adjustment in the fee.

#### 2. Shop Drawings

The CONSULTANT shall:

- a. Review, check and approve all working drawings prepared by others including the construction contractors or their subcontractors subject to the provisions of Section 105.02 of the Standard Specifications for Road and Bridge Construction. Only that work designed by the DEPARTMENT will be excluded from this requirement.
- b. Design and prepare drawings for the substructure elements required for overhead sign structures. The Contractor shall submit fabrication plans and design parameters for overhead sign structures that, in combination with soils information obtained by the DEPARTMENT, shall be used by the CONSULTANT to develop the designs and drawings for substructure elements.

### K. DATE OF COMPLETION

In accordance with the Governor and Council Resolution authorizing this AGREEMENT, the date of completion for the professional design services rendered under this AGREEMENT is **June 30, 2018**. Completion of Construction Services shall be in accordance with Article I-J – Construction Services.

## ARTICLE II

### ARTICLE II - COST PLUS FIXED FEE COMPENSATION OF CONSULTANT

#### A. GENERAL FEE

In consideration of the terms and obligations of this AGREEMENT, the STATE, through the DEPARTMENT, hereby agrees to pay and the CONSULTANT agrees to accept as full compensation for all services rendered to the satisfaction of the DEPARTMENT under this AGREEMENT (except as otherwise herein provided) an amount equal to the sum of the following costs:

1. Actual salaries\* approved by the DEPARTMENT paid to technical and other employees by the CONSULTANT, including salaries to principals, for the time such employees are directly utilized on work necessary to fulfill the terms of this AGREEMENT. A list of those personnel working on the project with their classifications and current salary rates shall be submitted to the DEPARTMENT for approval. The rates of any additional personnel working on the project, if any, shall require written approval of the DEPARTMENT prior to working on the project. The CONSULTANT shall submit classifications and rates for any additional personnel a minimum of 14 days prior to using the additional personnel.

\*In accordance with DEPARTMENT policy, the maximum direct-labor rate allowed for all positions under this AGREEMENT shall be \$50.00 per hour unless a waiver to the salary cap has been specifically approved for specialty services.

2. Costs that are directly applicable to the salaries, salary burden, and direct and indirect costs, including administration costs. These costs may be applied to only straight-time salary extensions where overtime is employed. These amounts shall be based on actual costs to the CONSULTANT for such items during the period of the AGREEMENT and those allowable in accordance with the applicable cost principles contained in Federal Acquisition Regulations Subpart 31.2 and Subpart 31.105. Further, any overtime required for this project shall have the prior written approval of the DEPARTMENT.
3. A fixed fee amount as shown in Article II, Section B for profit and non-reimbursed costs. The fixed fee shall be a negotiated amount based on the estimated risk to be borne by the CONSULTANT (maximum 10.00% of total labor + total overhead).
4. Reimbursement for direct expenses, including work performed by other parties, such as borings, laboratory tests, field survey, special electronic computer services, services of other specialists, printing, photogrammetry, traffic counts, reproductions and travel not included in normal overhead expenses. The reimbursable costs for mileage and for per diem (lodging and meals) shall be that allowed by the CONSULTANT'S established policy but shall not exceed that allowed in the Federal Acquisition Regulations (Subpart 31.205-46) and in the Federal Travel Regulations. The General Services Administration (GSA), Regulation 41 CFR Part 301-4,

## ARTICLE II

specifies the FTR automobile mileage reimbursement. Mileage and per diem costs shall be subject to approval by the DEPARTMENT.

All costs as described in the foregoing paragraphs are to be determined by actual records kept during the term of the AGREEMENT, which are subject to audit by the STATE and Federal Governments. The final payment and all partial payments made may be adjusted to conform to this final audit. In no case will any adjustments exceed the total amount to be paid shown in the following paragraph and in Article II, Section C.1. All Subconsultant costs may also be subject to audit by the STATE and Federal Governments.

The total amount to be paid under this AGREEMENT shall not exceed \$1,501,135.54, the sum of the amounts shown in Article II, Section B (which amount is based on the CONSULTANT'S fee and man-hour estimates of May 19, 2015), except by agreement of all parties made after supplemental negotiations, and documented by a formal amendment to the AGREEMENT. Should circumstances beyond the control of the CONSULTANT require extension of the time of completion by more than one (1) year, the general fee may be renegotiated; however, the fixed fee (b) shall not change for reasons of work duration alone. The fixed fee (b) may only be adjusted (increased or decreased) if there is a significant change in the scope or character of the work outlined in this AGREEMENT, as determined by the DEPARTMENT.

All salaries and increases thereof paid to technical or other employees assigned to this project shall be the result of a company-wide evaluation of all employees and shall not be restricted to employees assigned to this project.

If, in the opinion of the DEPARTMENT, any salary or increase thereof of engineering or technical personnel assigned to this project is unreasonable, it shall notify the CONSULTANT of its opinion with regard thereto and request the CONSULTANT to justify said salary or increase thereof. In the event that the CONSULTANT furnishes justification satisfactory to the DEPARTMENT for said salary or increase thereof, then such salary or increase thereof shall be approved as a payroll expense.

The DEPARTMENT shall have the right to exercise the power of review and approval of salary increases thereof, for a period of thirty (30) days after the submission of a monthly invoice by the CONSULTANT. Unless the DEPARTMENT notifies the CONSULTANT in writing during the thirty-day period that such salary increase thereof is, in its opinion, unreasonable, such lack of notice shall constitute approval of said salary increase thereof from the first day of the preceding month.

The DEPARTMENT shall have the right, at the time of audit, to review all items charged to overhead on this project. If, in the opinion of the DEPARTMENT, such payment is unreasonable, the CONSULTANT shall be required to justify such payment or payments before they will be approved as direct or indirect cost.

The CONSULTANT shall maintain adequate cost records for all work performed under this AGREEMENT. All records and other evidence pertaining to cost incurred shall be made available at all

## ARTICLE II

reasonable times during the contract period and for three (3) years from the date of final voucher payment for examination by the STATE, Federal Highway Administration, or other authorized representatives of the Federal Government, and copies thereof shall be furnished if requested. Applicable cost principles are contained in the Federal Acquisition Regulation (FAR) in Title 48 of the Code of Federal Regulations (Subpart 31.2 and Subpart 31.105).

### **B. SUMMARY OF FEES**

The STATE, through the DEPARTMENT, hereby agrees to pay and the CONSULTANT agrees to accept as full compensation the following:

- a. Actual CONSULTANT'S salaries\*, costs applicable to actual salaries, salary burden (direct and indirect) and administrative costs attributable to overhead, the sum of which is estimated at \$1,229,561.40. For billing purposes, salary burden and overhead costs are currently estimated at 175% of actual salaries.
- b. A fixed fee to cover profit and non-reimbursed costs at \$122,956.14.
- c. Reimbursement for direct, out-of-pocket expenses estimated at \$8,550.00.
- d. Reimbursement for actual cost\* of subconsultants estimated as follows:
  - GZA GeoEnvironmental, Inc. \$119,048.00
  - Terracon Consultants, Inc. \$21,020.00

The actual amount payable under each category (a), (c) and (d) is only estimated and shall be changed only upon mutual agreement of the DEPARTMENT and CONSULTANT and documented by a formal amendment to the AGREEMENT.

\*In accordance with DEPARTMENT policy, the maximum direct-labor rate allowed for all positions under this AGREEMENT shall be \$50.00 per hour unless a waiver to the salary cap has been specifically approved for specialty services.

### **C. LIMITATION OF COSTS**

1. Costs incurred against this AGREEMENT shall not exceed \$1,501,135.54 unless otherwise authorized. The CONSULTANT shall give the DEPARTMENT a ninety (90)-day written notice when it appears that this limit will be exceeded.
2. It is expected that the total cost to the STATE shall be the cost set forth under Article II, Section A and the CONSULTANT agrees to use its best efforts to perform the work specified in the AGREEMENT and all obligations under this contract within such limiting amount.
3. The STATE shall not be obligated to reimburse the CONSULTANT for costs incurred in excess of the limiting amount set forth in Article II, Section A.
4. Change orders issued under this Contract shall not be considered an authorization to the CONSULTANT to exceed the limiting amount set forth in the Summary in the absence of a statement in the change order, or other contract modifications, increasing the limiting amount.

## ARTICLE II

### D. PAYMENTS

Payments on account of services rendered under this AGREEMENT shall be made as follows:

1. Monthly payments on account may be made upon written request by the CONSULTANT. Detailed vouchers shall include certification of man-hours of effort by employee classification and actual salaries and other costs incurred accompanied by satisfactory evidence of work performed during the period. Actual salaries paid and percentage factor shown in Article II, Section B, part (a) as well as for all approved subconsultants, including those listed in part (d) of Section B, shall be used until such time as true costs of salary burden and overhead are fixed by audit. At that time, payments shall be adjusted to agree with the percentage factors as determined by audit for the period in which the work was performed, as approved by the DEPARTMENT. The fixed fee shall be invoiced during the billing period based upon the overall percent complete of the project's scope of work as approved by the DEPARTMENT.
2. The CONSULTANT shall submit a final voucher upon completion of services required by this AGREEMENT, which includes any unbilled portion of the allowable costs or fixed fee and adjustments, if necessary, for audited actual costs and deliver all required plans, documents and records.

## ARTICLE III

### ARTICLE III - GENERAL PROVISIONS

#### A. HEARINGS, ETC.

Not Required

#### B. CONTRACT PROPOSALS

After the CONSULTANT has furnished to the DEPARTMENT contract drawings, special provisions, specifications, and estimate of quantities and unit cost by items, the DEPARTMENT will prepare the documents for receipt of proposals from construction contractors and for execution of a construction contract.

## ARTICLE IV

### ARTICLE IV - STANDARD PROVISIONS

#### A. STANDARD SPECIFICATIONS

The CONSULTANT agrees to follow the provisions of the Design Manuals, Standard Specifications for Road and Bridge Construction, and Standard Plans for Road and Bridge Construction of the DEPARTMENT; A Policy on Geometric Design of Highways and Streets and LRFD Bridge Design Specifications of the American Association of State Highway and Transportation Officials (AASHTO), and amendments thereto, and/or other professional codes or standards applicable to the services to be performed under this AGREEMENT. When a publication (including interim publications) is specified, it refers to the most recent date of issue in effect at the time of execution of this AGREEMENT.

#### B. REVIEW BY STATE AND FHWA - CONFERENCES - INSPECTIONS

It is mutually agreed that all portions of the work covered by this AGREEMENT shall be subject to the inspection by duly-authorized representatives of the STATE and Federal Highway Administration, United States Department of Transportation, at such time or times as the STATE or Federal Highway Administration deems appropriate.

The location of the office where the work will be available for inspection by STATE and Federal Highway Administration representatives is 53 Regional Drive, Concord, NH.

It is further mutually agreed that any party, including the duly-authorized representatives of the Federal Highway Administration, may request and obtain conferences, visits to the site, and inspection of the work at any reasonable time.

#### C. EXTENT OF CONTRACT

##### 1. Contingent Nature of AGREEMENT

Notwithstanding anything in this AGREEMENT to the contrary, all obligations of the STATE, including, without limitation, the continuance of payments, are contingent upon the availability and continued appropriation of funds, and in no event shall the STATE be liable for any payments in excess of such available appropriated funds. In the event of a reduction or termination of those funds, the STATE shall have the right to terminate this AGREEMENT.

##### 2. Termination

The DEPARTMENT shall have the right at any time, and for any cause, to terminate the work required of the CONSULTANT by this AGREEMENT by written notice of such termination provided to the CONSULTANT by the DEPARTMENT, and, in the event of such a termination of this AGREEMENT without fault on the part of the CONSULTANT, the CONSULTANT shall be entitled to compensation for all work theretofore satisfactorily performed, pursuant to this AGREEMENT, such compensation to be fixed, insofar as possible, based upon the work performed prior to termination. If no contract or contracts for construction of the project

## ARTICLE IV

contemplated by this AGREEMENT is (are) entered into within two (2) years after satisfactory completion of the services outlined in Article I, all of the services contemplated by this AGREEMENT shall be deemed to have been completed.

It shall be a breach of this AGREEMENT if the CONSULTANT shall fail to render timely the services required under this AGREEMENT, in accordance with sound professional principles and practices, to the reasonable satisfaction of the DEPARTMENT, or shall be in such financial condition as to be unable to pay its just debts as they accrue, or shall make an assignment for the benefit of creditors, or shall be involved in any proceeding, voluntary or involuntary, resulting in the appointment of a receiver or trustee over its affairs, or shall become dissolved for any cause. In the event of the happening of any one or more of the foregoing contingencies, or upon the substantial breach of any other provisions of this AGREEMENT by the CONSULTANT, its officers, agents, employees, and subconsultants, the DEPARTMENT shall have the absolute right and option to terminate this AGREEMENT forthwith, and, in addition, may have and maintain any legal or equitable remedy against the CONSULTANT for its loss and damages resulting from such breach or breaches of this AGREEMENT; provided, however, that as to all plans, drawings, tracings, estimates, specifications, reports, proposals, sketches, diagrams, and calculations, together with all material and data theretofore furnished to the DEPARTMENT by the CONSULTANT, of a satisfactory nature in accordance with this AGREEMENT, which plans, drawings, tracings, etc., are of use to the DEPARTMENT, the CONSULTANT shall be entitled to a credit, based on the contract rate for the work so performed in a satisfactory manner and of use and benefit to the DEPARTMENT.

### **D. REVISIONS TO REPORTS, PLANS OR DOCUMENTS**

The CONSULTANT shall perform such additional work as may be necessary to correct errors in the work required under the AGREEMENT caused by errors and omissions by the CONSULTANT without undue delays and without additional cost to the DEPARTMENT.

Furthermore, prior to final approval of plans, specifications, estimates, reports, or documents by the DEPARTMENT, the CONSULTANT shall make such revisions of them as directed by the DEPARTMENT, without additional compensation therefor, except as hereinafter provided:

1. If, after its written approval thereof, the DEPARTMENT shall require changes to the plans or documents that revise engineering or other factors specifically approved, thereby necessitating revisions of the contract plans or documents, or,
2. When applicable, if during the term of this AGREEMENT, a revision of the alignment is ordered by the DEPARTMENT to the extent that the revised alignment will lie completely or partially outside the limit of the survey data plotted by the CONSULTANT (this does not apply to those adjustments and refinements to the alignments anticipated under the scope of work), or,

## ARTICLE IV

3. If, after approval by the DEPARTMENT of the final contract plans or documents, the CONSULTANT shall be ordered in writing by the DEPARTMENT to make revisions, or to perform services other than those necessary to adapt said plans, reports, or documents to conditions observed during field inspections and encountered during construction; the CONSULTANT shall be entitled to compensation therefor in accordance with Article II, Section B, such compensation to be in addition to the fee specified in Article II, Section A, for its original work on the plans, reports or documents.

### **E. ADDITIONAL SERVICES**

If, during the term of this AGREEMENT, additional professional services are required due to a revision in the limits of the project, or it becomes necessary to perform services not anticipated during negotiation, the DEPARTMENT may, in writing, order the CONSULTANT to perform such services, and the CONSULTANT shall be paid a fee in accordance with the provisions of Article II, Section B.

If, during the term of this AGREEMENT, additional professional services are performed by the CONSULTANT due to the fact that data furnished by the DEPARTMENT are not usable or applicable, the STATE will, upon written approval by the DEPARTMENT, reimburse the CONSULTANT for such additional design services in accordance with the provisions of Article II, Sections A and B.

If additional services are performed by the CONSULTANT through its own acts, which are not usable or applicable to this project, the cost of such additional services shall not be reimbursable.

### **F. OWNERSHIP OF PLANS**

All data, plans, drawings, tracings, estimates, specifications, proposals, sketches, diagrams, calculations, reports, or other documents collected, prepared, or undertaken either manually or electronically by the CONSULTANT under the provisions of this AGREEMENT, immediately shall become the property of the DEPARTMENT, and, when completed, shall bear the CONSULTANT'S endorsement. The CONSULTANT shall surrender to the DEPARTMENT, upon demand at any time, or submit to its inspection, any data, plan, drawing, tracing, estimate, specification, proposal, sketch, diagram, calculation, report, or document which shall have been collected, prepared, or undertaken by the CONSULTANT pursuant to this AGREEMENT, or shall have been hitherto furnished to the CONSULTANT by the DEPARTMENT. The CONSULTANT shall have the right, with the written approval of the DEPARTMENT, to use any of the data prepared by it and hitherto delivered to the DEPARTMENT at any later stage of the project contemplated by this AGREEMENT.

## ARTICLE IV

### **G. SUBLETTING**

The CONSULTANT shall not sublet, assign, or transfer any part of the CONSULTANT'S services or obligations under this AGREEMENT without the prior approval and written consent of the DEPARTMENT.

All subcontracts shall be in writing and those exceeding \$10,000 shall contain all provisions of this AGREEMENT, including "Certification of CONSULTANT/Subconsultant". For subconsultants working on wetland evaluations, mapping, noise studies, and air-quality studies, the minimum limits of their professional liability (errors and omissions) insurance coverage shall be not less than \$1,500,000 in the aggregate. If coverage is claims made, the period to report claims shall extend for not less than three years from the date of substantial completion of the construction contract. No retention (deductible) shall be more than \$25,000. A copy of each subcontract shall be submitted for the DEPARTMENT'S files.

### **H. GENERAL COMPLIANCE WITH LAWS, ETC.**

The CONSULTANT shall comply with all Federal, STATE, and local laws and ordinances applicable to any of the work involved in this AGREEMENT and shall conform to the requirements and standards of STATE, municipal, railroad, and utility agencies whose facilities and services may be affected by the construction of this project. The services shall be performed so as to cause minimum interruption to said facilities and services.

### **I. BROKERAGE**

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the STATE shall have the right to annul this Contract without liability, or, at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

### **J. CONTRACTUAL RELATIONS**

#### **1. Independent Contractor**

The CONSULTANT agrees that its relation to the STATE is as an independent contractor and not as an agent or employee of the STATE.

#### **2. Claims and Indemnification**

##### **a. Non-Professional Liability Indemnification**

The CONSULTANT agrees to defend, indemnify and hold harmless the STATE and all of its officers, agents, and employees from and against any and all claims, liabilities, or suits arising from (or which may be claimed to arise from) any (i) acts or omissions of the

## ARTICLE IV

CONSULTANT or its subconsultants in the performance of this AGREEMENT allegedly resulting in property damage or bodily injury, and/or, (ii) misconduct or wrongdoing of the CONSULTANT or its subconsultants in the performance of this AGREEMENT.

b. Professional Liability Indemnification

The CONSULTANT agrees to defend, indemnify and hold harmless the STATE and all of its officers, agents, and employees from and against any and all claims, liabilities, or suits arising from (or which may be claimed to arise from) any negligent acts or omissions of the CONSULTANT or its subconsultants in the performance of professional services covered by this AGREEMENT.

- c. These covenants shall survive the termination of the AGREEMENT. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the STATE, which immunity is hereby reserved by the STATE.

3. Insurance

a. Required Coverage

The CONSULTANT shall, at its sole expense, obtain and maintain in force the following insurance:

1. Commercial or comprehensive general liability insurance, including contractual coverage, for all claims of bodily injury, death, or property damage, in policy amounts of not less than \$250,000 per occurrence and \$2,000,000 in the aggregate (STATE to be named as an additional insured); and
2. Comprehensive automobile liability insurance covering all motor vehicles, including owned, hired, borrowed, and non-owned vehicles, for all claims of bodily injury, death, or property damage, in policy amounts of not less than \$500,000 combined single limit; and
3. Professional liability (errors and omissions) insurance coverage of not less than \$2,000,000 in the aggregate. If coverage is claims made, the period to report claims shall extend for not less than three years from the date of substantial completion of the construction contract. No retention (deductible) shall be more than \$75,000; and
4. Workers' compensation and employer's liability insurance as required by law.

b. Proof of Insurance

The policies described in paragraph (a) of this section and Section G shall be in the standard form employed in the STATE, issued by underwriters licensed or approved by the Department of Insurance of the STATE. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than 30 days, or 10 days in cases of non-payment of premium, after written notice thereof has been received by the STATE. The

## ARTICLE IV

CONSULTANT shall provide to the STATE a certificate of insurance evidencing the required coverages, retention (deductible), and cancellation clause prior to submittal of the AGREEMENT to Governor and Council for approval and shall have a continuing duty to provide new certificates of insurance as the policies are amended or renewed.

### 4. No Third-Party Rights

It is not intended by any of the provisions of the AGREEMENT to make the public, or any member thereof, a third-party beneficiary of the AGREEMENT, or to authorize anyone not a party to this AGREEMENT to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract. The duties, obligations, and responsibilities of the parties to this AGREEMENT with respect to third parties shall remain as imposed by law. No portion of this AGREEMENT shall be understood to be a waiver of the STATE'S sovereign immunity.

### 5. Construction of AGREEMENT

This AGREEMENT is executed in a number of counterparts, each of which is an original and constitutes the entire AGREEMENT between the parties. This AGREEMENT shall be construed according to the laws of the STATE.

## **K. AGREEMENT MODIFICATION**

The assignment of the CONSULTANT, generally established by the scope of work in this AGREEMENT, shall not be modified in any way without prior approval of the Governor and Council.

## **L. EXTENSION OF COMPLETION DATE(S)**

If, during the course of the work, the CONSULTANT anticipates that one or more of the completion dates specified in this AGREEMENT cannot be met, it shall be the CONSULTANT'S responsibility to notify the DEPARTMENT in writing at least ninety (90) days prior to the completion date(s) in question. The CONSULTANT shall state the reasons that a completion date(s) cannot be met and request a revised date(s) for consideration by the DEPARTMENT.

## **M. TITLE VI (NONDISCRIMINATION OF FEDERALLY-ASSISTED PROGRAMS)**

### **COMPLIANCE**

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

- (1) Compliance with Regulations: The CONSULTANT shall comply with Title VI of the Civil Rights Act of 1964 regulations relative to nondiscrimination in federally-assisted programs of the DEPARTMENT, such regulations entitled Title 49 Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the REGULATIONS), and which are herein incorporated by reference and made a part of this AGREEMENT.

## ARTICLE IV

- (2) Nondiscrimination: The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, religion, age, sex, handicap, sexual orientation, or national origin in the selection and retention of subconsultants, including procurements of materials and leases of equipment specific to this project. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
- (3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment specific to the project, each potential subconsultant or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this AGREEMENT and the REGULATIONS relative to nondiscrimination on the grounds of race, color, religion, age, sex, handicap, sexual orientation, or national origin.
- (4) Information and Reports: The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the DEPARTMENT or the Federal Highway Administration to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the DEPARTMENT or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the CONSULTANT'S noncompliance with nondiscrimination provisions of this AGREEMENT, the DEPARTMENT shall impose sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
- (a) Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies; and/or
  - (b) Cancellation, termination, or suspension of the AGREEMENT, in whole or in part.
- (6) The CONSULTANT shall take such action with respect to any subcontract or procurement as the DEPARTMENT or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the CONSULTANT may request the DEPARTMENT to

## ARTICLE IV

enter into such litigation to protect the interests of the STATE, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

- (7) 23 CFR 710.405(b) and Executive Order 11246 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented in Department of Labor REGULATIONS (41 CFR Part 60), shall be applicable to this AGREEMENT and any subagreements hereunder.
- (8) Incorporation of Provisions: The CONSULTANT shall include the provisions of paragraphs (1) through (7) in every subcontract, including procurements of materials and leases of equipment specific to the project, unless exempt by the REGULATIONS, or directives issued pursuant thereto.

In accordance with EXECUTIVE ORDER 11246, the DEPARTMENT has the authority and responsibility to notify the Office of Federal Contract Compliance Programs of the United States Department of Labor if they become aware of any possible violations of Executive Order 11246 and 41 CFR Part 60. The Office of Federal Contract Compliance Programs is solely responsible for determining compliance with Executive Order 11246 and 41 CFR Part 60 and the CONSULTANT should contact them regarding related compliance issues.

### **N. DISADVANTAGED BUSINESS ENTERPRISE POLICY AGREEMENT REQUIREMENTS**

1. Policy. It is the policy of the United States Department of Transportation (USDOT) to ensure nondiscriminatory opportunity for Disadvantaged Business Enterprises (DBE's), as defined in 49 Code of Federal Regulations (CFR) Part 26, to participate in the performance of agreements and any subagreements financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 apply to this AGREEMENT.
2. Disadvantaged Business Enterprise (DBE) Obligation. The STATE and its CONSULTANTS agree to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 CFR Part 26, to participate in the performance of agreements and any subagreements financed in whole or in part with Federal funds. In this regard, the STATE and its CONSULTANTS shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the opportunity to compete for and perform work specified in the agreements. The STATE and its CONSULTANTS shall not discriminate on the basis of race, color, religion, age, sex, handicap, sexual orientation, or national origin in the award and performance of agreements financed in whole or in part with Federal funds.
3. Sanctions for Non-Compliance. The CONSULTANT is hereby advised that failure of the CONSULTANT, or any Subconsultant performing work under this AGREEMENT, to carry out

## ARTICLE IV

the requirements set forth in paragraphs 1 and 2 above, shall constitute a breach of agreement and, after the notification of the United States Department of Transportation, may result in termination of this AGREEMENT by the STATE or such remedy as the STATE deems appropriate.

### **O. DOCUMENTATION**

The CONSULTANT shall document the results of the work to the satisfaction of the DEPARTMENT and the Federal Highway Administration. This shall include preparation of progress reports, plans, specifications, and estimates and similar evidences of attainment of objectives called for in this AGREEMENT.

### **P. CLEAN AIR AND WATER ACTS**

If the amount of the AGREEMENT or subcontract thereunder exceeds \$100,000, the CONSULTANT or subconsultant shall comply with applicable standards, orders, or requirements issued under Section 306 of the Federal Clean Air Act (43 U.S.C. 1857(h)), Section 508 of the Federal Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants, or loans of facilities included on the EPA List of Violating Facilities. The CONSULTANT or subconsultant shall report violations to the FHWA and to the U. S. Environmental Protection Agency Assistant Administrator for Enforcement (EN-329).



*Attachment 2*

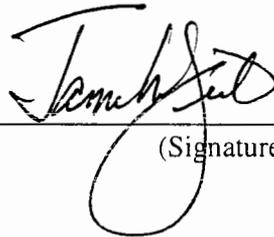
**CONSULTANT DISCLOSURE STATEMENT  
FOR PREPARATION OF  
ENVIRONMENTAL EVALUATIONS**

I hereby affirm that I have read and reviewed the Council on Environmental Quality (CEQ) regulation [40 CFR 1506.5(C)] and related guidance issued by CEQ and that pursuant thereto this firm has no financial or other interest in the outcome of this project.

I further hereby affirm that the information provided herein is true and correct and acknowledge that any knowingly false statement or false representation as to any material part contained herein may subject me to a fine and/or imprisonment, pursuant to pertinent provisions of the United States Code.

6/29/15

\_\_\_\_\_  
(Date)

A handwritten signature in black ink, appearing to read "James G. ...", written over a horizontal line.

\_\_\_\_\_  
(Signature)

Attachment 3

CERTIFICATION OF CONSULTANT/SUBCONSULTANT

I hereby certify that I am the Senior Vice President/COO and duly-authorized representative of the firm of McFarland-Johnson, Inc., and that neither I nor the above firm I here represent has:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this Contract,
- (b) agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the Contract:

I/WE do also, under penalty of perjury under the laws of the United States, certify that, except as noted below, the company or any person associated therewith in the capacity of (owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of Federal funds): (a) is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency; (b) has not been suspended, debarred, voluntarily excluded or determined ineligibility by any Federal agency within the past three years; (c) does not have a proposed debarment pending; and (d) has not been indicted, convicted or had a civil judgment rendered against (it) by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

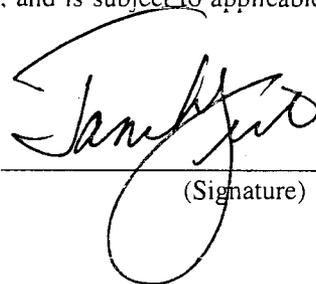
except as here expressly stated (if any):

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate below to whom it applies, the initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

I acknowledge that this certificate is to be furnished to the State Department of Transportation and the Federal Highway Administration, U. S. Department of Transportation, in connection with this Contract involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

6/29/15

(Date)



(Signature)

Attachment 4

**CERTIFICATION OF STATE DEPARTMENT OF TRANSPORTATION**

I hereby certify that I am the DIRECTOR OF PROJECT DEVELOPMENT of the Department of Transportation of the State of New Hampshire, and the above consulting firm or its representatives has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Contract, to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind:

except as here expressly stated (if any):

7/7/15  
(Date)

  
(Signature)

*Attachment 5*

**CERTIFICATION FOR FEDERAL-AID CONTRACTS  
EXCEEDING \$100,000 IN FEDERAL FUNDS**

The prospective participant certifies, by signing and submitting this agreement, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower-tier subcontracts which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Attachment 6

IN WITNESS WHEREOF the parties hereto have executed this AGREEMENT on the day and year first above written.

**Consultant**

WITNESS TO THE CONSULTANT

By: Linda M. Monahan  
Linda M. Monahan  
Administrative Assistant

Dated: 6/29/15

CONSULTANT

By: James M. Festa  
James M. Festa, P.E.  
Senior Vice President/COO  
(TITLE)

Dated: 6/29/15

**Department of Transportation**

WITNESS TO THE STATE OF NEW HAMPSHIRE

By: Michelle Brown

Dated: 7/7/15

THE STATE OF NEW HAMPSHIRE

By: For [Signature]  
For DOT COMMISSIONER

Dated: 7/7/15

**Attorney General**

This is to certify that the above AGREEMENT has been reviewed by this office and is approved as to form and execution.

Dated: 8/13/15

By: [Signature]  
Assistant Attorney General

**Secretary of State**

This is to certify that the GOVERNOR AND COUNCIL on \_\_\_\_\_ approved this AGREEMENT.

Dated: \_\_\_\_\_

Attest:  
By: \_\_\_\_\_  
Secretary of State

**CERTIFICATE OF SECRETARY  
OF  
McFARLAND-JOHNSON, INC.  
ATTESTING TO THE ADOPTION OF BOARD RESOLUTION**

I, Frank J. Greco, Secretary of McFarland-Johnson, Inc., certify that on March 11, 2015, at a Meeting of the Board of Directors of McFarland-Johnson, Inc., the Directors, acting unanimously, adopted the following resolution:

RESOLVED, that the following elected Officers and employees of the Corporation are authorized to sign contracts in the name of, and on behalf of, the Corporation, in accordance with corporate policies and rules:

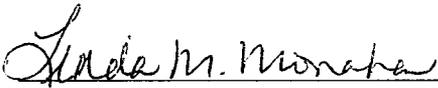
<u>Name</u>	<u>Office</u>
Richard J. Brauer	- President/CEO – Engineering
James M. Festa	- Sr. Vice President/COO/Chief Engineer/ Binghamton Regional Office Manager
Frank J. Greco	- Sr. Vice President/CFO/Secretary/Treasurer
Chad G. Nixon	- Sr. Vice President/BDO
Frederick D. Mock	- Vice President
Michael D. Long	- Concord Regional Office Manager

I certify that as a result of the action of the Board of Directors, James M. Festa, Senior Vice President/COO/Chief Engineer/Binghamton Regional Office Manager of McFarland-Johnson, Inc., is fully authorized to enter into any contracts, including Lebanon, NH – Hartford, VT, A001(154) 16148 (Final Design), in the name of and on behalf of the Corporation for the rendering of services by the Corporation.

  
Frank J. Greco, Secretary

[CORPORATE SEAL]

SUBSCRIBED AND SWORN TO  
this 29<sup>th</sup> day of June 2015

  
Notary Public

LINDA M. MONAHAN  
Notary Public, State of New York  
12/17/09  
Qualified in Orange County  
My commission expires 7/2/18

# State of New Hampshire Department of State

## CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that MCFARLAND-JOHNSON, INC. a(n) New York corporation, is authorized to transact business in New Hampshire and qualified on February 14, 1969. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 1<sup>st</sup> day of April, A.D. 2015

A handwritten signature in cursive script, appearing to read "Wm Gardner".

William M. Gardner  
Secretary of State



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/29/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Robert J Hanafin a Division of IOA Northeast Inc 204 Washington Ave. Endicott NY 13760	CONTACT NAME: Renee Davidson	
	PHONE (A/C No. Ext): (607) 754-3500 FAX (A/C No.): (607) 754-9797 E-MAIL ADDRESS: renee.davidson@ioausa.com	
INSURED McFarland Johnson, Inc. 49 Court Street PO Box 1980 Binghamton NY 13902-1980	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Trumbull Insurance Company	27120
	INSURER B: Hartford Fire Insurance Company	19682
	INSURER C: Hartford Casualty Insurance Co	29424
	INSURER D: Hartford	100
	INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: 15-16 Master REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY						EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		01SBAAQ4702 (NY) 01SBAAQ4699 (VT) 01SBAAQ4704 (CT, NH)	1/1/2015	1/1/2016	ME EXP (Any one person) \$ 10,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY \$ 1,000,000
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC					GENERAL AGGREGATE \$ 2,000,000	
						PRODUCTS - COMP/OP AGG \$ 2,000,000	
						\$	
B	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO			01UECGF9204	1/1/2015	1/1/2016	BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
						Uninsured motorist combined \$	
C	<input checked="" type="checkbox"/> UMBRELLA LIAB						EACH OCCURRENCE \$ 10,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB						AGGREGATE \$ 10,000,000
	<input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			01XHWUZ3498	1/1/2015	1/1/2016	\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)			01WBCPT5691	1/1/2015	1/1/2016	E.L. EACH ACCIDENT \$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				E.L. DISEASE - EA EMPLOYEE \$ 500,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000
A	VALUABLE PAPERS & RECORDS						BLANKET LIMIT \$150,000
	01SBAAQ4704 (CT, NH)			01SBAAQ4702 (NY) 01SBAAQ4699 (VT)	1/1/2015	1/1/2016	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
Project: Lebanon, NH - Hartford, VT, A001(154) 16148 (Final Design)  
The State of New Hampshire shall be named as additional insured on the General Liability policy.

CERTIFICATE HOLDER CANCELLATION

New Hampshire Department of Transportation PO Box 483 Concord, NH 03302-0483	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  Debbie Blanchard/LORI <i>Deborah K Blanchard</i>

# ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)  
06/29/2015

**PRODUCER**  
Fenner & Esler Agency, Inc.  
PO Box 60  
Oradell, NJ 07649

1-201-262-1200

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**INSURERS AFFORDING COVERAGE**

**INSURED**  
McFarland-Johnson, Inc.  
att: Frank J. Greco  
49 Court Street, Metrocenter  
PO Box 1980  
Binghamton, NY 13902-1980

INSURER A: Atlantic Specialty Insurance  
INSURER B:  
INSURER C:  
INSURER D:  
INSURER E:

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS								
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPI/OP AGG \$								
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$								
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$								
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$								
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>				<table border="1"> <tr> <td>WC STATU-TORY LIMITS</td> <td>OTH-ER</td> </tr> <tr> <td>E.L. EACH ACCIDENT</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - EA EMPLOYEE</td> <td>\$</td> </tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td> <td>\$</td> </tr> </table>	WC STATU-TORY LIMITS	OTH-ER	E.L. EACH ACCIDENT	\$	E.L. DISEASE - EA EMPLOYEE	\$	E.L. DISEASE - POLICY LIMIT	\$
WC STATU-TORY LIMITS	OTH-ER												
E.L. EACH ACCIDENT	\$												
E.L. DISEASE - EA EMPLOYEE	\$												
E.L. DISEASE - POLICY LIMIT	\$												
A	<b>OTHER Professional Liability</b>	DPL-4423-15 FULL PRIOR ACTS	06/15/15	06/15/16	Per Claim \$ 5,000,000 Annual Aggregate \$ 5,000,000 Deductible per clm \$ 50,000								

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

Lebanon, NH ? Hartford, VT, A001(154) 16148 (Final Design)

<b>CERTIFICATE HOLDER</b>	<b>ADDITIONAL INSURED; INSURER LETTER:</b>	<b>CANCELLATION</b>
New Hampshire Department of Transportation		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
P. O. Box 483 7 Hazen Drive Concord, NH 03302-0483	USA	AUTHORIZED REPRESENTATIVE



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



Sanville

CHRISTOPHER D. CLEMENT, SR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

Bureau of Bridge Design
September 13, 2012

His Excellency, Governor John H. Lynch
and the Honorable Council
State House
Concord, New Hampshire 03301

Approved
GBC
10/17/2012
Agenda # 88

REQUESTED ACTION

Authorize the Department of Transportation to enter into an Agreement with McFarland-Johnson, Inc., Concord, NH and Binghamton, NY, Vendor #164736, for a total fee not to exceed \$755,835.76, for preliminary design for the rehabilitation and widening of the bridges carrying I-89 Southbound (SB) & Northbound (NB) over the Connecticut River and the New England Central Railroad (NECRR) between the City of Lebanon, NH and the Town of Hartford, VT, effective upon Governor and Council approval, through December 31, 2014. 76% Federal Funds (NH's share) and 24% Other (State of VT) Funds.

Funding is available as follows:

04-96-96-963515-3054 FY 2013
Consolidated Federal Aid
046-500463 Eng Consultants Non-Benefit \$574,435.18

State match receipt as follows:

04-96-96-963515-3054
005 Private Local Funds
402851 Primary - Local Match \$181,400.58
Total \$755,835.76

EXPLANATION

The Department requires professional engineering design and environmental consultant services to prepare preliminary plans for the rehabilitation and widening of the 6-span steel girder bridges (NHDOT Br. No. 044/103 & 044/104) carrying I-89 SB and NB over the Connecticut River and the NECRR between the City of Lebanon, NH and the Town of Hartford, VT. These bridges are on the State's Red List with a 2012 priority number of 44 and 45, respectively. The widening structures each will accommodate 2-lanes (and potentially 3-lanes) of traffic, plus roadway shoulders. Any environmental permitting required will be identified and the necessary documentation required to comply with the National Environmental Policy Act (NEPA) will be provided by the consultant. The consultant will also assist the Department in public coordination effort with the city and town for the project. Assuming a successful completion of the NEPA process, the Department reserves the right to either negotiate a scope and fee for the final design for the bridge project with McFarland-Johnson, Inc., or terminate the contract. This project is currently included in the State's Ten-Year Transportation Improvement Plan (Lebanon, NH-Hartford, VT. 16148).

The consultant selection process employed by the Department for this qualifications-based contract is in accordance with RSAs 21-I:22, 21-I:22-c and 21-I:22-d, all applicable Federal laws and the Department's "Consultant Selection and Service Agreement Procedures" dated December 1999. The Department's Consultant Selection Committee is a standing committee that meets regularly to administer the process and make determinations. The Committee is comprised of the Assistant Director of Project Development (chair), the Chief Project Manager, the Administrators of the Bureaus of Highway Design, Bridge Design, Environment, and Materials and Research, and the Municipal Highways Engineer.

The consultant selection process for this qualifications-based contract was initiated by a solicitation for consultant services for preliminary engineering design and environmental services for the Lebanon, NH-Hartford, VT. 16148 bridge rehabilitation and widening project. The assignment was listed as a "Possible Action Project" on the

Department's website on January 31, 2011, asking for letters of interest from qualified firms. From the list of firms that submitted letters of interest, the Committee prepared a long and then short list of Consultants on March 10, 2011 for consideration and approval by the Assistant Commissioner. Upon receipt of that approval, three shortlisted firms were notified on April 29, 2011 through a technical "Request For Proposal" (RFP). Committee members individually rated the firms on July 28, 2011 using a written ballot to score each firm on the basis of comprehension of the assignment, clarity of the proposal, capacity to perform in a timely manner, quality and experience of the project manager and the team, previous performance, and overall suitability for the assignment. (The completed individual rating ballots and the ranking summary form is attached.) The individual rankings were then totaled to provide an overall ranking of the three firms, and the Committee's ranking was submitted to the Assistant Commissioner for consideration and approval. Upon receipt of that approval, the short listed firms were notified of the results and the highest-ranking firm was asked to submit a fee proposal for negotiations.

The long list of fourteen (14) consultant firms that were considered for this assignment, with the three short-listed firms shown in bold, is as follows:

Consultant Firm

Ammann & Whitney  
 Louis Berger Group, Inc.  
 Diversified Technology Consultants, Inc.  
**Fay, Spofford, & Thorndike, LLC**  
**GM2 Associates, Inc.**  
 Greenman-Pedersen, Inc.  
 Jacobs Engineering Group, Inc.  
 Maguire Group, Inc.  
**McFarland-Johnson, Inc.**  
 Parsons  
 PB Americas  
 Stantec Consulting Services, Inc.  
 STV  
 Vanasse Hangen Brustlin, Inc.

Office Location

Boston, MA  
 Manchester, NH  
 Andover, MA  
**Bedford, NH**  
**Concord, NH**  
 Stoneham, MA  
 Manchester, NH  
 Portsmouth, NH  
**Concord, NH**  
 Boston, MA  
 Manchester, NH  
 Auburn, NH  
 Boston, MA  
 Bedford, NH

The firm of McFarland-Johnson, Inc. has been recommended for this contract. This firm has an excellent reputation and has demonstrated their capability to perform the necessary engineering and technical services for this assignment. Background information on this firm is attached.

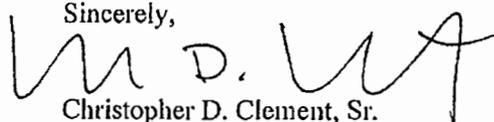
McFarland-Johnson, Inc. has agreed to furnish the required services for a total fee not to exceed \$755,835.76. This is a reasonable fee and is commensurate with the complexity of the project and the scope of engineering and technical services to be furnished.

Funding for this project is shared 76% by the New Hampshire Department of Transportation and 24% by the Vermont Agency of Transportation. The New Hampshire share of this contract's funding is 80% Federal funds with 20% State match. Turnpike toll credit is being utilized for New Hampshire's match requirement, effectively using 100% federal funds.

This Agreement has been approved by the Attorney General as to form and execution. The Department has verified that the necessary funds are available. Copies of the fully-executed Agreement are on file at the Secretary of State's Office and the Department of Administrative Services, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

It is respectfully requested that authority be given to enter into an Agreement for consulting services as outlined above.

Sincerely,



Christopher D. Clement, Sr.  
 Commissioner