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State of New Hampshire
DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
25 Capitol Street – Room 120
Concord, New Hampshire 03301

VICKI V. QUIRAM
Commissioner
(603)-271-3201

JOSEPH B. BOUCHARD
Assistant Commissioner
(603)-271-3204

February 17, 2016

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

REQUESTED ACTION

Authorize the Department of Administrative Services, to amend an existing memorandum of agreement with the Friends of Bridges House Inc., Concord. The Memorandum of Agreement was approved by Governor and Council on December 23, 2014, item # 57. The term of the Memorandum of Agreement will endure until one or both parties decide to terminate the agreement.

EXPLANATION

The Friends of Bridges House, Inc. is an independent charitable corporation that is dedicated to the preservation, utilization and stewardship of the Bridges House. Part of their mission includes holding charity events to raise funds to improve the facility and also educate the public regarding the building's architectural and historical significance. Through their efforts and generosity they have been able to make some significant improvements to the facility representative of the official Governor's residence. The Memorandum of Agreement details the responsibilities of the State and the Friends of Bridges House Inc., regarding the acceptance of gifts, use of the facility, any future improvements, insurance and maintenance responsibilities.

The Friends of Bridges House is requesting an amendment to the existing Memorandum of Agreement to add a provision regarding the disposal of any surplus books from the library within the Bridges House. The deaccession of any books will be overseen by the State Librarian.

Respectfully Submitted,

Vicki V. Quiram
Vicki V. Quiram
Commissioner

AGREEMENT BETWEEN
FRIENDS OF BRIDGES HOUSE, INC. AND STATE OF NEW HAMPSHIRE
2/10/16

This Agreement (this "Agreement") is made this 10th day of FEBRUARY, 2016 by and between the State of New Hampshire (the "State"), acting by and through its DEPARTMENT OF ADMINISTRATIVE SERVICES ("DAS"), and FRIENDS OF BRIDGES HOUSE, INC., a New Hampshire nonprofit corporation having a mailing address of P.O. Box 3967, Concord, New Hampshire 03302-3967 ("FOBH").

WHEREAS, the State is the owner of a certain tract of land and the buildings situated thereon located at 21 Mountain Road, Concord, New Hampshire, known as "Bridges House," which is the Governor's official residence (the "Premises");

WHEREAS, FOBH is an independent charitable corporation qualified under section 501(c)(3) of the Internal Revenue Code that is dedicated to the preservation, utilization, and stewardship of Bridges House as the official premises of the Governor of New Hampshire, and to educating the public about the architectural and historical significance of the Bridges House, its furnishings, and its grounds, and, as such, FOBH regularly engages in fundraising efforts and activities for the sole purpose of fulfilling its foregoing charitable purpose;

WHEREAS, the Governor of New Hampshire uses Bridges House as an official residence for the benefit of the citizens of New Hampshire;

WHEREAS, FOBH desires from time to time to make gifts to the State of funds, furnishings, fixtures, services, and capital improvements (collectively "Personal Property") for the restoration, preservation, and maintenance of the Premises, and to lease or lend furnishings for the Premises to the State, all in fulfillment of its charitable purpose; and

WHEREAS, the State is willing to accept such gifts and to cooperate with such FOBH undertakings for the sustained benefit and preservation of the Premises, subject to certain conditions.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements herein contained, and for other good and valuable consideration, the parties hereby define their corresponding rights, obligations, and responsibilities with respect to the Premises as follows.

1. GIFTS.

Any and all gifts of funds, furnishings, and services (excluding maintenance services) or fixtures to be made to the State by FOBH shall be accepted by the Governor in accordance with RSA 4:8. Each gift of maintenance services and/or capital improvements to the State by FOBH shall be appropriately documented and its acceptance is subject to the approval of the Governor and Executive Council (G&C). Upon acceptance by the Governor and/or approval by G&C, as the case may be, any such gifts that are not capital improvements shall become the sole property and responsibility of the State. Gifts of capital improvements shall become the sole responsibility

and property of the State upon completion of the improvements, upon earlier termination of the written agreement pursuant to which the improvements are being made, or as otherwise agreed in writing by the parties. The improvement shall be deemed to be completed when the work has been completed in accordance with the terms and conditions of the governing-contract documents and upon completion of all punch list items.

2. OWNERSHIP OF THE PREMISES.

The State has sole ownership of and ultimate responsibility for the Premises and Personal Property located thereon that are not explicitly subject to a separate written lease or loan agreement with FOBH. DAS has ultimate responsibility for maintaining the Premises and such Personal Property and for maintaining property and liability insurance coverage (including host liquor liability coverage) for the Premises and Personal Property, such coverage to be in an amount sufficient to cover the full cost of replacement of the Premises and Personal Property in kind. The liability policy shall name the FOBH as an insured at no expense to the FOBH.

3. FURNISHINGS OR FIXTURES DONATED TO FOBH.

To the extent that any third party donates any furnishing, fixture or books intended for permanent residence within the Premises, FOBH shall promptly notify the Governor and DAS of such donation. Such furnishing or fixture shall become the sole property of the State upon acceptance of the gift by the Governor in accordance with RSA 4:8, and shall remain in the inventory of the Bridges House for exclusive use (or storage) by the Bridges House, unless otherwise directed by the Governor. The disposition of books shall be governed by Section 4, below.

4. BOOKS.

Books in the Bridges House Library may be deaccessioned by the State Librarian, in consultation with the FOBH. All proceeds from the deaccession of any books in the Bridges House Library shall be used solely for the Bridges House as directed by the FOBH.

5. ANONYMOUS GIFTS.

The State shall honor any requests to maintain third party donor anonymity or confidentiality concerns regarding gifts to FOBH; provided, however, that the gift, itself, shall be sufficiently publicly identified or described for the Governor or G&C, as the case may be, to be able to discern what is being accepted on behalf of the State. The parties acknowledge and agree that any gift donated by a third party to FOBH that is subsequently donated by FOBH to the State shall be publicly identified as a gift from FOBH only unless otherwise requested by the original donor.

6. LEASED ITEMS.

To the extent that any furnishing or other item is leased to the State by FOBH, the State shall assume custody of and responsibility for such leased furnishing or item to the extent provided in the written lease agreement upon G&C approval of such agreement, or upon execution of such

agreement by the DAS Commissioner in the event that such agreement does not meet the minimum threshold amount to require G&C approval and such approval is not sought. The State shall insure such leased furnishings or items to the extent required by the lease agreement or, if the agreement is silent on the topic of insurance coverage, in an amount appropriate for the type and value of property insured.

7. ITEMS ON LOAN.

FOBH may loan a furnishing or other item to the State for placement of display within the Premises by separate written agreement.

8. MAINTENANCE AND IMPROVEMENTS.

In the event that FOBH desires to make a gift of maintenance services or capital improvements, a written proposal describing the maintenance services and/or improvements, any third party funding source, and any associated conditions shall first be submitted to the Governor and DAS for preliminary review. Following such review, a written agreement between FOBH and the State reflecting the terms and conditions of such gift and of the State's acceptance thereof shall be executed and submitted to G&C for approval. No work may begin on the Premises until after such an agreement has been authorized by G&C. Any such work shall be subject to the oversight and approval of the Governor, DAS Division of Plant and Property Management, Bureau of General Services, as set forth in the corresponding agreement. Sample "Design and Construction" provisions of the type to be included in any such agreement are attached hereto as Exhibit A.

9. USE OF PREMISES BY PERSONS OR ENTITIES OTHER THAN THE STATE.

No non-State employee or non-State agency desiring to enter and/or use the Premises, whether to host an event or otherwise, may do so without the prior express permission of the Governor's Office, which permission shall be subject to the user's execution of a written agreement to abide by applicable policies and procedures regarding such use.

10. ALCOHOLIC BEVERAGES.

Any alcoholic beverages for on-site consumption at an event to be held on the Premises by any person or organization (including FOBH) shall be sold or dispensed by a person or entity properly licensed to do so under applicable laws and regulations. If a group using the premises is furnishing alcohol for a charge, they shall provide event insurance with host liquor liability coverage naming the State as an Additional Insured as follows: Comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$1,000,000 per incident and no less than \$1,000,000 in excess/umbrella liability each occurrence.

11. TERMINATION.

Except as otherwise provided herein, either party hereto may terminate this Agreement at any time by providing written notice of termination to the other party.

12. TERM OF AGREEMENT.

This Agreement shall remain in effect until such time as it is terminated by one or both of the parties hereto.

13. STATE CONTACT.

The primary contacts for all purposes of this Agreement and the Project, including any notices or other communications required hereby or contemplated herein, shall be:

State Contact

Ronald White, Administrator, or his successor
State of New Hampshire, Bureau of General Services
25 Capitol Street, Room 408
Concord, New Hampshire 03301
Telephone: (603) 271-3148
Email: [Ronald.White@nh.gov]

FOBH Contact

Thomas Hassan, President/Chairman of FOBH, or his successor
Email: Tomehassan@gmail.com

14. SOVEREIGN IMMUNITY.

This Agreement does not abridge or limit, nor shall it be interpreted as abridging or limiting the sovereign immunity to which the State of New Hampshire is lawfully entitled.

15. STATUTORY REQUIREMENTS.

FOBH shall comply with all federal, state and local laws, ordinances, rules, and regulations (collectively "laws") that apply to FOBH in connection with its performance of this Agreement. To the extent that the Premises, being State government property, are exempt from any laws, FOBH may rely on DAS, at FOBH's sole option, to determine when, if, and to what extent compliance with any laws, shall be required.

16. AMENDMENT; NO ASSIGNMENT; EXTENT OF INSTRUMENT; CHOICE OF LAWS.

The terms of this Agreement may not be modified or amended except by written agreement between FOBH and the State. This Agreement shall not be assignable, in whole or in part, to any other party. Any purported assignment by either party to any third party of any rights

granted by this Agreement shall be null and void and ineffective as concerns the other party, and shall automatically render this Agreement terminated. Any amendment to this Agreement shall be subject to the written agreement of the parties, and further subject to the approval of the Governor and Executive Council of the State of New Hampshire. This Agreement, which may be executed in a number of counterparts, each of which shall have been deemed an original but which shall constitute one and the same instrument, is to be construed according to the laws of the State of New Hampshire.

17. TERM UNENFORCEABLE.

If any term or provision of this Agreement or any application thereof shall be invalid or unenforceable, then the remainder of this Agreement or any other application thereof shall not be affected thereby and shall remain valid and enforceable.

18. NO WAIVER OR BREACH.

No assent by either party, whether express or implied, to a breach of a covenant, condition, or obligation by the other party shall act as a waiver of any right of action as a result of such breach or be construed as a waiver of any subsequent breach of the covenant, condition, or obligation.

19. ENTIRE AGREEMENT.

This Agreement embodies the entire agreement and understanding between the parties hereto, and supersedes all prior agreements and understandings between said parties, relating to the subject matter hereof.

20. AUTHORITY.

By executing this Agreement in the space provided, the parties represent and warrant that each have the requisite power and authority to enter into and perform the terms of this Agreement, and that this Agreement shall constitute a valid and binding agreement and obligation of each party in accordance with its terms.

21. EFFECTIVE DATE.

This Agreement shall be subject to the prior approval of the Governor and Executive Council of the State of New Hampshire and shall only become effective on the date of such approval.

[Signatures appear on following page]

IN WITNESS WHEREOF, the parties hereto have set their hands below as of the date first above written.

STATE:

STATE OF NEW HAMPSHIRE

By and through its

DEPARTMENT OF ADMINISTRATIVE SERVICES

By: 
for Vicki Quiram, Commissioner

FOBH:

FRIENDS OF THE BRIDGES HOUSE, INC.

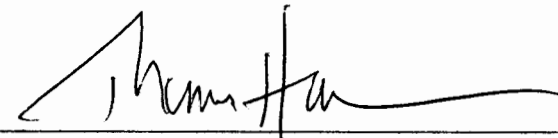
By: 
Thomas Hassan, President/Chairman

EXHIBIT A
Sample Design and Construction Provisions

- A. FOBH shall contract with a duly qualified and reputable architecture and engineering firm and a duly qualified and reputable construction firm for the design and construction of the Project. The selection of such firms shall be subject to the prior written approval to the State, in its sole discretion, which approval shall not be unreasonably withheld.
- B. FOBH shall cause to be performed by properly registered and qualified architects and engineers ("A/E") all necessary professional, architectural, and engineering services to design, prepare and detail the architectural plans and specifications for the Project (the "Project Design Documents"). FOBH shall be responsible for ensuring that the A/E performs the following architecture and engineering services at a minimum:
 - (1) Monitoring the progress and quality of the completed construction work and determining if the construction work is being performed in accordance with the Project Design Documents;
 - (2) Reviewing and approving, or taking other appropriate action upon, construction contractor submittals such as shop drawings, product data and samples;
 - (3) Ensuring that the registered design professional who is in responsible charge of any structural design provides special structural inspections in accordance with 2009 International Building Code, Chapter 17.
- C. FOBH shall provide signed affidavits from each of the registered design professionals for architecture, mechanical engineering, electrical engineering, structural engineering, and civil engineering. Such Design Affidavits shall be submitted at the conclusion of the design phase, but prior to the beginning of the construction phase, and shall state that the design professional's respective design meets all applicable local, state, and federal codes.
- D. FOBH shall provide a signed Installation Affidavit from the design professional after substantial completion of the Project, but before the issuance of a Certificate of Occupancy. The Installation Affidavit shall state that the design professional made periodic visits to the Project site to observe the work and, to the best of his, her, or their knowledge, information and belief, the Project was constructed in accordance with his, her, or their design. The frequency of site visits shall be such as to provide the design professional a reasonable assurance that the work is being done in accordance with the Project Design Documents.
- E. FOBH's agreements with said design and construction firms (the "Contractors") to perform services and provide materials relating to the Project shall be in

writing, together with any subsequent amendments or change orders, and each of the same shall be subject to the prior review and approval of the State. Each such agreement shall contain the insurance and indemnity provisions contained in Exhibit B attached hereto and incorporated herein by reference. Each such agreement shall further contain the following provisions, either explicitly or by reference to this Agreement.

- (1) The Contractors shall be permitted to enter the Property for purposes of completing the Project. Said Contractors shall not use the Property for any other purpose except by prior written permission by the State.
- (2) Detailed plans of all proposed restorations and improvements shall be submitted to the State along with any necessary permits for review and written approval prior to implementation.
- (3) Any and all costs associated with archeological surveys or other studies as may be required by the New Hampshire Division of Historical Resources or the New Hampshire Department of Environmental Services shall be the sole responsibility of FOBH.
- (4) All work on the Project shall be overseen and subject to the approval of the DAS Division of Plant & Property Management, Bureau of General Services (contact person: Ronald White, Administrator, State of New Hampshire, Bureau of General Services, 25 Capitol Street, Room 408, Concord, New Hampshire 03301, telephone: (603) 271-3148).
- (5) The Architect shall keep a log of all site visits, noting the dates and times of the visits and all pertinent observations. He shall submit periodic reports to the State and the Bridges House Building Committee noting the progress of the work, condition of the site, observed deviations from the contract documents and changes in the work that would alter compliance with building, life safety, and accessibility codes, and perceived threats to public safety.
- (6) The Contractor(s) shall obtain, at its own expense, local building permit(s) and appropriate inspections, including Certificates of Occupancy, in coordination with the State Fire Marshall for all buildings constructed in connection with the Project. Delay in obtaining such approvals and permits shall not relieve the Contractor(s) from its obligation to meet its milestones as scheduled in this Agreement. The Contractor(s) shall obtain and pay for all construction licenses, permits, certificates of approval, and impact fees, and shall pay all fees as may be required of the Contractor(s) by law for construction of the State's facility including electric, natural gas, or telephone utility back charges for their portion of the work. The work shall conform to all local, state, and federal laws and regulations governing this work, and where reference is made to published standard

specifications of technical societies, trade associations, governmental agencies, codes, and/or requirements of the Underwriters Laboratory and protective organizations the edition or version of said published standard specifications enforced at the job sites by the authorities having jurisdiction shall control.

- (7) Site and building design and construction shall meet all applicable federal, state and local codes and standards and comply with NH Barrier Free Design Code.
- (8) Notwithstanding any other provision contained in this Agreement, the State shall have no responsibility for the completion of the Project or any design, restoration, or improvement to the Property contemplated thereby or associated therewith. The State further disclaims responsibility for any payment obligation to any Contractor or Subcontractor, whether for services or materials rendered or any other expenses incurred in connection with the Project. The Contractors shall look solely to FOBH for fulfillment of any payment obligations arising under this Agreement in connection with the Project.
- (9) The primary construction Contractor shall be responsible for the round-the-clock safety and security of the Project site on the Property and hereby agrees to take all necessary measures to maintain a safe and secure Project site for the benefit of all Project personnel and any State personnel who may enter the Property while the Project is underway, as well as for the benefit of the general public. Such measures shall include, without limitation, security fences or barriers and other appropriate means of excluding members of the general public and any other unauthorized persons from the work site, security lighting, and appropriately placed signage warning of actual and potential safety hazards and forbidding unauthorized entry. Said Contractor shall further be responsible for securing all buildings contained within the Property while restoration, modification, or improvement of such buildings is underway, so as to prevent unauthorized entry from any work area into any other portions of said buildings. The Contractors expressly acknowledge that the State reserves the right to allow members of the public to enter portions of the Property that are not within Project work areas and to hold public events in such areas from time to time.
- (10) The primary construction Contractor shall be responsible for ensuring that all waste materials resulting from the Contractors' or Subcontractors' activities on the Property, or otherwise resulting from the Project, are removed from the Property and properly recycled or disposed of. Any hazardous materials shall be properly disposed of in compliance with all applicable codes and regulations.

F. All proposed restorations, improvements, and designs shall be subject to the prior review and approval of the State. Detailed plans of all proposed restorations and improvements shall be submitted to the State along with any necessary permits for review and written approval prior to implementation. FOBH shall provide the State with Design Deliverables as defined and outlined below. The Design Deliverables shall include, without limitation, detailed plans and specifications which shall be submitted for review and approval by the State at the following milestones:

- 30% Design Phase
- 80% Design Phase
- 100% Design Phase
- Record Drawings – Post-construction Phase (following completion and acceptance of construction)

EXHIBIT B

Contractor Insurance and Indemnity Provisions Referenced in Exhibit A (to be included in all agreements with contractors)

1. The Contractor shall deliver to the State of New Hampshire (the "State") at or prior to the effective date of this Agreement certificates insurance from all contractors working at the Bridges House required hereunder. The certificates of insurance shall contain a description of the Project, if and as appropriate, and shall state that the companies issuing insurance shall mail to the State thirty (30) days' prior notice of cancellation, (30) days' prior notice of alteration of material change of any listed policies, or ten (10) days' prior notice of cancellation in cases of non-payment of premium. The Contractor shall, at its sole expense, obtain and maintain in force the insurance required herein for the period of this Agreement. At the request of the State, the Contractor shall promptly make available a copy of any and all listed insurance policies. The required insurance shall be written by a company licensed to do business in the State of New Hampshire at the time the policy is issued. In addition, the company shall have a rating of no less than B+ based on the current A.M. Best rating guide. For all purposes herein, the contact person for the State and designated recipient of all notices, certificates, or other communications contemplated hereby shall be: Ronald White, Administrator, State of New Hampshire, Bureau of General Services, 25 Capitol Street, Room 408, Concord, New Hampshire 03301, telephone: (603) 271-3148 or his successor.
2. The Contractor shall require each Subcontractor employed on the Project to maintain the coverage listed below unless the Contractor's insurance covers activities of the Subcontractor on the Project.
3. No operations under this Agreement shall commence until certificates of insurance attesting to the below listed requirements have been filed with the State.
 - A. Workers' Compensation Insurance: In accordance with RSA 281-A.
 - (1) Employers Liability:
 - a. \$100,000 each accident.
 - b. \$500,000 Disease-policy limit.
 - c. \$100,000 Disease-each employee.
 - B. Commercial General Liability Insurance:
 - (1) Occurrence Form Policy: Include full Contractual Liability (see Indemnification Clause I), Explosion, Collapse, and Underground coverage:
 - a. Limits of Liability:
 - i. \$2,000,000 Each Occurrence Bodily Injury & Property Damage.
 - ii. \$3,000,000 General Aggregate – Include per Project Aggregate Endorsement.
 - iii. \$3,000,000 Products/Completed Operations Aggregate.
 - iv. State and FOBH shall be named as additional named insureds.

***** [OR] *****

- (2) Commercial General Liability Form: Include Premises/Operations, Independent Contractors, Products/Completed Operations, Personal Injury, Contractual Liability

(see Indemnification provisions herein), Collapse and Underground, Medical Payment coverages (Broad Form Comprehensive GL Endorsement)

a. Limits of Liability:

- i. \$2,000,000 Combined Single Limit of Liability for Bodily Injury & Property Damage.
- ii. State and FOBH shall be named as additional named insureds.

C. If blasting and/or demolition is required by this Agreement, the Contractor or Subcontractor shall obtain the respective coverage for those activities, and shall furnish to the State a Certificate of Insurance evidencing the required coverages prior to commencement of any operations involving blasting and/or demolition.

D. Owner's Protective Liability coverage for the benefit of the State of New Hampshire Department of Administrative Services and FOBH.

(1) Limits of Liability:

- a. \$2,000,000 Each Occurrence
- b. \$3,000,000 Aggregate
- ***** [OR] *****
- c. \$2,000,000 Bodily Injury & Property

E. Commercial Automobile Liability covering all motor vehicles including owned, hired, borrowed, and non-owned vehicles.

(1) Limits of Liability:

- a. \$1,000,000 Combined Single Limit for Bodily Injury & Property Damage

F. Commercial Umbrella Liability

(1) Limits of Liability:

- a. \$1,000,000 Each Occurrence
- b. \$1,000,000 Aggregate

G. Builder's Risk Insurance (Fire and Extended Coverage):

- (1) The Contractor shall insure the work included in this Agreement, including extras and change orders, on an "All Risk" basis, on one hundred percent (100%) completed value basis of this Agreement, as modified. Builder's Risk coverage shall include materials located at the Contractor's premises, on-site, in-transit, and at any temporary site. The policy by its own terms or by endorsement shall specifically permit partial or beneficiary occupancy prior to completion or acceptance of the entire work. The policies shall be in the names of the State of New Hampshire Department of Administrative Services and the Contractor. The policies shall provide for the inclusion of the names of all other Contractors, Subcontractors, and others employed on the premises as insured parties. The policies shall stipulate that the insurance companies shall have no right of subrogation against any Contractors, Subcontractors or other parties employed on the premises.

H. General Insurance Conditions

- (1) Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than thirty (30) days, or ten (10) days in cases of non-payment of premium, after written notice thereof has been received by the State.

I. Indemnification:

- (1) The Contractor shall indemnify, defend, and hold harmless the FOBH, the State of New Hampshire and its Agencies, and their agents and employees from and against any and all claims, liabilities, suits or penalties arising out of (or which may be claimed to arise out of) acts or omissions of the Contractor or Subcontractors in the performance of work covered by, or obligations under, this Agreement. This covenant shall survive the termination of this 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.

J. Additional Insurance for Design/Build Contracts:

- (1) In addition to the insurance requirements listed in the above paragraphs, the Designer/Builder Team shall provide the following coverage.
 - a. The Designer/Builder Team or the Designer, as appropriate, shall purchase and maintain professional liability coverage for this Project. The coverage shall provide the State of New Hampshire and FOBH with protection against design errors and omissions and shall have an annual aggregate limit of no less than \$2,000,000. The coverage shall be maintained through the legal stature of repose period, currently stipulated to be three (3) years from the date of Substantial Completion. If the professional liability coverage is maintained by any party other than the firm holding the prime contract with the State of New Hampshire for this Project, the prime contractor shall provide evidence of indemnifications, approved by the State of New Hampshire, that indicate that this insurance coverage is in place and available for the protection of the State. The indemnification may not create a re-assignment of contractual responsibilities between the State and the prime contractor.



LINDA M. HODGDON
Commissioner
(603) 271-3201

State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
25 Capitol Street – Room 120
Concord, New Hampshire 03301

01 JBM

JOSEPH B. BOUCHARD
Assistant Commissioner
(603) 271-3204

November 21, 2014

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

REQUESTED ACTION

Authorize the Department of Administrative Services, to enter into a memorandum of agreement with the Friends of Bridges House Inc., Concord, regarding the official premises of the Governor of New Hampshire, the Bridges House located in Concord, NH. The term of the Memorandum of Agreement will endure until one or both parties decide to terminate the agreement.

EXPLANATION

The Friends of Bridges House, Inc., is an independent charitable corporation that is dedicated to the preservation, utilization and stewardship of the Bridges House. Part of their mission includes holding charity events to raise funds to improve the facility and also educate the public regarding the building's architectural and historical significance. Through their efforts and generosity they have been able to make some significant improvements to the facility representative of the official Governor's residence. This Memorandum of Agreement details the responsibilities of the State and the Friends of Bridges House Inc., regarding the acceptance of gifts, use of the facility, any future improvements, insurance and maintenance responsibilities.

Respectfully Submitted,

Linda M. Hodgdon
Commissioner

AGREEMENT BETWEEN
FRIENDS OF BRIDGES HOUSE, INC. AND STATE OF NEW HAMPSHIRE
5/19/14

This Agreement (this "Agreement") is made this _____ day of _____, 2014 by and between the State of New Hampshire (the "State"), acting by and through its DEPARTMENT OF ADMINISTRATIVE SERVICES ("DAS"), and FRIENDS OF BRIDGES HOUSE, INC., a New Hampshire nonprofit corporation having a mailing address of P.O. Box 3967, Concord, New Hampshire 03302-3967 ("FOBH").

WHEREAS, the State is the owner of a certain tract of land and the buildings situated thereon located at 21 Mountain Road, Concord, New Hampshire, known as "Bridges House," which is the Governor's official residence (the "Premises");

WHEREAS, FOBH is an independent charitable corporation qualified under section 501(c)(3) of the Internal Revenue Code that is dedicated to the preservation, utilization, and stewardship of Bridges House as the official premises of the Governor of New Hampshire, and to educating the public about the architectural and historical significance of the Bridges House, its furnishings, and its grounds, and, as such, FOBH regularly engages in fundraising efforts and activities for the sole purpose of fulfilling its foregoing charitable purpose;

WHEREAS, the Governor of New Hampshire uses Bridges House as an official residence for the benefit of the citizens of New Hampshire;

WHEREAS, FOBH desires from time to time to make gifts to the State of funds, furnishings, fixtures, services, and capital improvements (collectively "Personal Property") for the restoration, preservation, and maintenance of the Premises, and to lease or lend furnishings for the Premises to the State, all in fulfillment of its charitable purpose; and

WHEREAS, the State is willing to accept such gifts and to cooperate with such FOBH undertakings for the sustained benefit and preservation of the Premises, subject to certain conditions.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements herein contained, and for other good and valuable consideration, the parties hereby define their corresponding rights, obligations, and responsibilities with respect to the Premises as follows.

1. GIFTS.

Any and all gifts of funds, furnishings, and services (excluding maintenance services) or fixtures to be made to the State by FOBH shall be accepted by the Governor in accordance with RSA 4:8. Each gift of maintenance services and/or capital improvements to the State by FOBH shall be appropriately documented and its acceptance is subject to the approval of the Governor and Executive Council (G&C). Upon acceptance by the Governor and/or approval by G&C, as the case may be, any such gifts that are not capital improvements shall become the sole property and responsibility of the State. Gifts of capital improvements shall become the sole responsibility

and property of the State upon completion of the improvements, upon earlier termination of the written agreement pursuant to which the improvements are being made, or as otherwise agreed in writing by the parties. The improvement shall be deemed to be completed when the work has been completed in accordance with the terms and conditions of the governing-contract documents and upon completion of all punch list items.

2. OWNERSHIP OF THE PREMISES.

The State has sole ownership of and ultimate responsibility for the Premises and Personal Property located thereon that are not explicitly subject to a separate written lease or loan agreement with FOBH. DAS has ultimate responsibility for maintaining the Premises and such Personal Property and for maintaining property and liability insurance coverage (including host liquor liability coverage) for the Premises and Personal Property, such coverage to be in an amount sufficient to cover the full cost of replacement of the Premises and Personal Property in kind. The liability policy shall name the FOBH as an insured at no expense to the FOBH.

3. FURNISHINGS OR FIXTURES DONATED TO FOBH.

To the extent that any third party donates any furnishing or fixture intended for permanent residence within the Premises, FOBH shall promptly notify the Governor and DAS of such donation. Such furnishing or fixture shall become the sole property of the State upon acceptance of the gift by the Governor in accordance with RSA 4:8, and shall remain in the inventory of the Bridges House for exclusive use (or storage) by the Bridges House, unless otherwise directed by the Governor.

4. ANONYMOUS GIFTS.

The State shall honor any requests to maintain third party donor anonymity or confidentiality concerns regarding gifts to FOBH; provided, however, that the gift, itself, shall be sufficiently publicly identified or described for the Governor or G&C, as the case may be, to be able to discern what is being accepted on behalf of the State. The parties acknowledge and agree that any gift donated by a third party to FOBH that is subsequently donated by FOBH to the State shall be publicly identified as a gift from FOBH only unless otherwise requested by the original donor.

5. LEASED ITEMS.

To the extent that any furnishing or other item is leased to the State by FOBH, the State shall assume custody of and responsibility for such leased furnishing or item to the extent provided in the written lease agreement upon G&C approval of such agreement, or upon execution of such agreement by the DAS Commissioner in the event that such agreement does not meet the minimum threshold amount to require G&C approval and such approval is not sought. The State shall insure such leased furnishings or items to the extent required by the lease agreement or, if the agreement is silent on the topic of insurance coverage, in an amount appropriate for the type and value of property insured.

6. ITEMS ON LOAN.

FOBH may loan a furnishing or other item to the State for placement of display within the Premises by separate written agreement.

7. MAINTENANCE AND IMPROVEMENTS.

In the event that FOBH desires to make a gift of maintenance services or capital improvements, a written proposal describing the maintenance services and/or improvements, any third party funding source, and any associated conditions shall first be submitted to the Governor and DAS for preliminary review. Following such review, a written agreement between FOBH and the State reflecting the terms and conditions of such gift and of the State's acceptance thereof shall be executed and submitted to G&C for approval. No work may begin on the Premises until after such an agreement has been authorized by G&C. Any such work shall be subject to the oversight and approval of the Governor, DAS Division of Plant and Property Management, Bureau of General Services, as set forth in the corresponding agreement. Sample "Design and Construction" provisions of the type to be included in any such agreement are attached hereto as Exhibit A.

8. USE OF PREMISES BY PERSONS OR ENTITIES OTHER THAN THE STATE.

No non-State employee or non-State agency desiring to enter and/or use the Premises, whether to host an event or otherwise, may do so without the prior express permission of the Governor's Office, which permission shall be subject to the user's execution of a written agreement to abide by applicable policies and procedures regarding such use.

9. ALCOHOLIC BEVERAGES.

Any alcoholic beverages for on-site consumption at an event to be held on the Premises by any person or organization (including FOBH) shall be sold or dispensed by a person or entity properly licensed to do so under applicable laws and regulations. If a group using the premises is furnishing alcohol for a charge, they shall provide event insurance with host liquor liability coverage naming the State as an Additional Insured as follows: Comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$1,000,000 per incident and no less than \$1,000,000 in excess/umbrella liability each occurrence.

10. TERMINATION.

Except as otherwise provided herein, either party hereto may terminate this Agreement at any time by providing written notice of termination to the other party.

11. TERM OF AGREEMENT.

This Agreement shall remain in effect until such time as it is terminated by one or both of the parties hereto.

12. STATE CONTACT.

The primary contacts for all purposes of this Agreement and the Project, including any notices or other communications required hereby or contemplated herein, shall be:

State Contact

Ronald White, Administrator, or his successor
State of New Hampshire, Bureau of General Services
25 Capitol Street, Room 408
Concord, New Hampshire 03301
Telephone: (603) 271-3148
Email: [Ronald.White@nh.gov]

FOBH Contact

Thomas Hassan, President/Chairman of FOBH, or his successor
Email: Tomehassan@gmail.com

13. SOVEREIGN IMMUNITY.

This Agreement does not abridge or limit, nor shall it be interpreted as abridging or limiting the sovereign immunity to which the State of New Hampshire is lawfully entitled.

14. STATUTORY REQUIREMENTS.

FOBH shall comply with all federal, state and local laws, ordinances, rules, and regulations (collectively "laws") that apply to FOBH in connection with its performance of this Agreement. To the extent that the Premises, being State government property, are exempt from any laws, FOBH may rely on DAS, at FOBH's sole option, to determine when, if, and to what extent compliance with any laws, shall be required.

15. AMENDMENT; NO ASSIGNMENT; EXTENT OF INSTRUMENT; CHOICE OF LAWS.

The terms of this Agreement may not be modified or amended except by written agreement between FOBH and the State. This Agreement shall not be assignable, in whole or in part, to any other party. Any purported assignment by either party to any third party of any rights granted by this Agreement shall be null and void and ineffective as concerns the other party, and shall automatically render this Agreement terminated. Any amendment to this Agreement shall be subject to the written agreement of the parties, and further subject to the approval of the Governor and Executive Council of the State of New Hampshire. This Agreement, which may be executed in a number of counterparts, each of which shall have been deemed an original but which shall constitute one and the same instrument, is to be construed according to the laws of the State of New Hampshire.

16. TERM UNENFORCEABLE.

If any term or provision of this Agreement or any application thereof shall be invalid or unenforceable, then the remainder of this Agreement or any other application thereof shall not be affected thereby and shall remain valid and enforceable.

17. NO WAIVER OR BREACH.

No assent by either party, whether express or implied, to a breach of a covenant, condition, or obligation by the other party shall act as a waiver of any right of action as a result of such breach or be construed as a waiver of any subsequent breach of the covenant, condition, or obligation.

18. ENTIRE AGREEMENT.

This Agreement embodies the entire agreement and understanding between the parties hereto, and supersedes all prior agreements and understandings between said parties, relating to the subject matter hereof.

19. AUTHORITY.

By executing this Agreement in the space provided, the parties represent and warrant that each have the requisite power and authority to enter into and perform the terms of this Agreement, and that this Agreement shall constitute a valid and binding agreement and obligation of each party in accordance with its terms.

20. EFFECTIVE DATE.

This Agreement shall be subject to the prior approval of the Governor and Executive Council of the State of New Hampshire and shall only become effective on the date of such approval.

[Signatures appear on following page]

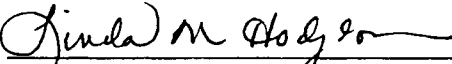
IN WITNESS WHEREOF, the parties hereto have set their hands below as of the date first above written.

STATE:

STATE OF NEW HAMPSHIRE

By and through its

DEPARTMENT OF ADMINISTRATIVE SERVICES

By: 
Linda M. Hodgdon, Commissioner

FOBH:

FRIENDS OF THE BRIDGES HOUSE, INC.

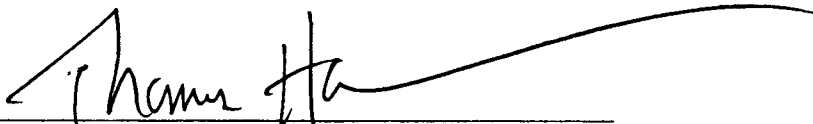
By: 
Thomas Hassan, President/Chairman

EXHIBIT A
Sample Design and Construction Provisions

- A. FOBH shall contract with a duly qualified and reputable architecture and engineering firm and a duly qualified and reputable construction firm for the design and construction of the Project. The selection of such firms shall be subject to the prior written approval to the State, in its sole discretion, which approval shall not be unreasonably withheld.
- B. FOBH shall cause to be performed by properly registered and qualified architects and engineers ("A/E") all necessary professional, architectural, and engineering services to design, prepare and detail the architectural plans and specifications for the Project (the "Project Design Documents"). FOBH shall be responsible for ensuring that the A/E performs the following architecture and engineering services at a minimum:
 - (1) Monitoring the progress and quality of the completed construction work and determining if the construction work is being performed in accordance with the Project Design Documents;
 - (2) Reviewing and approving, or taking other appropriate action upon, construction contractor submittals such as shop drawings, product data and samples;
 - (3) Ensuring that the registered design professional who is in responsible charge of any structural design provides special structural inspections in accordance with 2009 International Building Code, Chapter 17.
- C. FOBH shall provide signed affidavits from each of the registered design professionals for architecture, mechanical engineering, electrical engineering, structural engineering, and civil engineering. Such Design Affidavits shall be submitted at the conclusion of the design phase, but prior to the beginning of the construction phase, and shall state that the design professional's respective design meets all applicable local, state, and federal codes.
- D. FOBH shall provide a signed Installation Affidavit from the design professional after substantial completion of the Project, but before the issuance of a Certificate of Occupancy. The Installation Affidavit shall state that the design professional made periodic visits to the Project site to observe the work and, to the best of his, her, or their knowledge, information and belief, the Project was constructed in accordance with his, her, or their design. The frequency of site visits shall be such as to provide the design professional a reasonable assurance that the work is being done in accordance with the Project Design Documents.
- E. FOBH's agreements with said design and construction firms (the "Contractors") to perform services and provide materials relating to the Project shall be in

writing, together with any subsequent amendments or change orders, and each of the same shall be subject to the prior review and approval of the State. Each such agreement shall contain the insurance and indemnity provisions contained in Exhibit B attached hereto and incorporated herein by reference. Each such agreement shall further contain the following provisions, either explicitly or by reference to this Agreement.

- (1) The Contractors shall be permitted to enter the Property for purposes of completing the Project. Said Contractors shall not use the Property for any other purpose except by prior written permission by the State.
- (2) Detailed plans of all proposed restorations and improvements shall be submitted to the State along with any necessary permits for review and written approval prior to implementation.
- (3) Any and all costs associated with archeological surveys or other studies as may be required by the New Hampshire Division of Historical Resources or the New Hampshire Department of Environmental Services shall be the sole responsibility of FOBH.
- (4) All work on the Project shall be overseen and subject to the approval of the DAS Division of Plant & Property Management, Bureau of General Services (contact person: Ronald White, Administrator, State of New Hampshire, Bureau of General Services, 25 Capitol Street, Room 408, Concord, New Hampshire 03301, telephone: (603) 271-3148).
- (5) The Architect shall keep a log of all site visits, noting the dates and times of the visits and all pertinent observations. He shall submit periodic reports to the State and the Bridges House Building Committee noting the progress of the work, condition of the site, observed deviations from the contract documents and changes in the work that would alter compliance with building, life safety, and accessibility codes, and perceived threats to public safety.
- (6) The Contractor(s) shall obtain, at its own expense, local building permit(s) and appropriate inspections, including Certificates of Occupancy, in coordination with the State Fire Marshall for all buildings constructed in connection with the Project. Delay in obtaining such approvals and permits shall not relieve the Contractor(s) from its obligation to meet its milestones as scheduled in this Agreement. The Contractor(s) shall obtain and pay for all construction licenses, permits, certificates of approval, and impact fees, and shall pay all fees as may be required of the Contractor(s) by law for construction of the State's facility including electric, natural gas, or telephone utility back charges for their portion of the work. The work shall conform to all local, state, and federal laws and regulations governing this work, and where reference is made to published standard

specifications of technical societies, trade associations, governmental agencies, codes, and/or requirements of the Underwriters Laboratory and protective organizations the edition or version of said published standard specifications enforced at the job sites by the authorities having jurisdiction shall control.

- (7) Site and building design and construction shall meet all applicable federal, state and local codes and standards and comply with NH Barrier Free Design Code.
- (8) Notwithstanding any other provision contained in this Agreement, the State shall have no responsibility for the completion of the Project or any design, restoration, or improvement to the Property contemplated thereby or associated therewith. The State further disclaims responsibility for any payment obligation to any Contractor or Subcontractor, whether for services or materials rendered or any other expenses incurred in connection with the Project. The Contractors shall look solely to FOBH for fulfillment of any payment obligations arising under this Agreement in connection with the Project.
- (9) The primary construction Contractor shall be responsible for the round-the-clock safety and security of the Project site on the Property and hereby agrees to take all necessary measures to maintain a safe and secure Project site for the benefit of all Project personnel and any State personnel who may enter the Property while the Project is underway, as well as for the benefit of the general public. Such measures shall include, without limitation, security fences or barriers and other appropriate means of excluding members of the general public and any other unauthorized persons from the work site, security lighting, and appropriately placed signage warning of actual and potential safety hazards and forbidding unauthorized entry. Said Contractor shall further be responsible for securing all buildings contained within the Property while restoration, modification, or improvement of such buildings is underway, so as to prevent unauthorized entry from any work area into any other portions of said buildings. The Contractors expressly acknowledge that the State reserves the right to allow members of the public to enter portions of the Property that are not within Project work areas and to hold public events in such areas from time to time.
- (10) The primary construction Contractor shall be responsible for ensuring that all waste materials resulting from the Contractors' or Subcontractors' activities on the Property, or otherwise resulting from the Project, are removed from the Property and properly recycled or disposed of. Any hazardous materials shall be properly disposed of in compliance with all applicable codes and regulations.

F. All proposed restorations, improvements, and designs shall be subject to the prior review and approval of the State. Detailed plans of all proposed restorations and improvements shall be submitted to the State along with any necessary permits for review and written approval prior to implementation. FOBH shall provide the State with Design Deliverables as defined and outlined below. The Design Deliverables shall include, without limitation, detailed plans and specifications which shall be submitted for review and approval by the State at the following milestones:

- 30% Design Phase
- 80% Design Phase
- 100% Design Phase
- Record Drawings – Post-construction Phase (following completion and acceptance of construction)

EXHIBIT B
Contractor Insurance and Indemnity Provisions Referenced in Exhibit A
(to be included in all agreements with contractors)

1. The Contractor shall deliver to the State of New Hampshire (the "State") at or prior to the effective date of this Agreement certificates insurance from all contractors working at the Bridges House required hereunder. The certificates of insurance shall contain a description of the Project, if and as appropriate, and shall state that the companies issuing insurance shall mail to the State thirty (30) days' prior notice of cancellation, (30) days' prior notice of alteration of material change of any listed policies, or ten (10) days' prior notice of cancellation in cases of non-payment of premium. The Contractor shall, at its sole expense, obtain and maintain in force the insurance required herein for the period of this Agreement. At the request of the State, the Contractor shall promptly make available a copy of any and all listed insurance policies. The required insurance shall be written by a company licensed to do business in the State of New Hampshire at the time the policy is issued. In addition, the company shall have a rating of no less than B+ based on the current A.M. Best rating guide. For all purposes herein, the contact person for the State and designated recipient of all notices, certificates, or other communications contemplated hereby shall be: Ronald White, Administrator, State of New Hampshire, Bureau of General Services, 25 Capitol Street, Room 408, Concord, New Hampshire 03301, telephone: (603) 271-3148 or his successor.
 2. The Contractor shall require each Subcontractor employed on the Project to maintain the coverage listed below unless the Contractor's insurance covers activities of the Subcontractor on the Project.
 3. No operations under this Agreement shall commence until certificates of insurance attesting to the below listed requirements have been filed with the State.
 - A. Workers' Compensation Insurance: In accordance with RSA 281-A.
 - (1) Employers Liability:
 - a. \$100,000 each accident.
 - b. \$500,000 Disease-policy limit.
 - c. \$100,000 Disease-each employee.
 - B. Commercial General Liability Insurance:
 - (1) Occurrence Form Policy: Include full Contractual Liability (see Indemnification Clause I), Explosion, Collapse, and Underground coverage:
 - a. Limits of Liability:
 - i. \$2,000,000 Each Occurrence Bodily Injury & Property Damage.
 - ii. \$3,000,000 General Aggregate – Include per Project Aggregate Endorsement.
 - iii. \$3,000,000 Products/Completed Operations Aggregate.
 - iv. State and FOBH shall be named as additional named insureds.
- ***** [OR] *****
- (2) Commercial General Liability Form: Include Premises/Operations, Independent Contractors, Products/Completed Operations, Personal Injury, Contractual Liability

(see Indemnification provisions herein), Collapse and Underground, Medical Payment coverages (Broad Form Comprehensive GL Endorsement)

a. Limits of Liability:

- i. \$2,000,000 Combined Single Limit of Liability for Bodily Injury & Property Damage.
- ii. State and FOBH shall be named as additional named insureds.

C. If blasting and/or demolition is required by this Agreement, the Contractor or Subcontractor shall obtain the respective coverage for those activities, and shall furnish to the State a Certificate of Insurance evidencing the required coverages prior to commencement of any operations involving blasting and/or demolition.

D. Owner's Protective Liability coverage for the benefit of the State of New Hampshire Department of Administrative Services and FOBH.

(1) Limits of Liability:

- a. \$2,000,000 Each Occurrence
- b. \$3,000,000 Aggregate
- ***** [OR] *****
- c. \$2,000,000 Bodily Injury & Property

E. Commercial Automobile Liability covering all motor vehicles including owned, hired, borrowed, and non-owned vehicles.

(1) Limits of Liability:

- a. \$1,000,000 Combined Single Limit for Bodily Injury & Property Damage

F. Commercial Umbrella Liability

(1) Limits of Liability:

- a. \$1,000,000 Each Occurrence
- b. \$1,000,000 Aggregate

G. Builder's Risk Insurance (Fire and Extended Coverage):

- (1) The Contractor shall insure the work included in this Agreement, including extras and change orders, on an "All Risk" basis, on one hundred percent (100%) completed value basis of this Agreement, as modified. Builder's Risk coverage shall include materials located at the Contractor's premises, on-site, in-transit, and at any temporary site. The policy by its own terms or by endorsement shall specifically permit partial or beneficiary occupancy prior to completion or acceptance of the entire work. The policies shall be in the names of the State of New Hampshire Department of Administrative Services and the Contractor. The policies shall provide for the inclusion of the names of all other Contractors, Subcontractors, and others employed on the premises as insured parties. The policies shall stipulate that the insurance companies shall have no right of subrogation against any Contractors, Subcontractors or other parties employed on the premises.

H. General Insurance Conditions

- (1) Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than thirty (30) days, or ten (10) days in cases of non-payment of premium, after written notice thereof has been received by the State.

I. Indemnification:

- (1) The Contractor shall indemnify, defend, and hold harmless the FOBH, the State of New Hampshire and its Agencies, and their agents and employees from and against any and all claims, liabilities, suits or penalties arising out of (or which may be claimed to arise out of) acts or omissions of the Contractor or Subcontractors in the performance of work covered by, or obligations under, this Agreement. This covenant shall survive the termination of this 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.

J. Additional Insurance for Design/Build Contracts:

- (1) In addition to the insurance requirements listed in the above paragraphs, the Designer/Builder Team shall provide the following coverage.
 - a. The Designer/Builder Team or the Designer, as appropriate, shall purchase and maintain professional liability coverage for this Project. The coverage shall provide the State of New Hampshire and FOBH with protection against design errors and omissions and shall have an annual aggregate limit of no less than \$2,000,000. The coverage shall be maintained through the legal stature of repose period, currently stipulated to be three (3) years from the date of Substantial Completion. If the professional liability coverage is maintained by any party other than the firm holding the prime contract with the State of New Hampshire for this Project, the prime contractor shall provide evidence of indemnifications, approved by the State of New Hampshire, that indicate that this insurance coverage is in place and available for the protection of the State. The indemnification may not create a re-assignment of contractual responsibilities between the State and the prime contractor.