THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

28

William Cass, P.E.
Commissioner

David Rodrigue, P.E.
Assistant Commissioner
Andre Briere, Colonel, USAF (RET)
Deputy Commissioner

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Bureau of Highway Design
August 8, 2023

REQUESTED ACTION

1. Authorize the Department of Transportation (NHDOT) to amend a Memorandum of Agreement with the Pease Development Authority – Division of Ports and Harbors (PDA-PDH) relative to a Memorandum of Agreement for the final design and construction of the Functional Replacement of the Side Barge Wharf impacted by the replacement of the Sarah Mildred Long Bridge (NH Br. No 251/110) carrying the US Route 1 Bypass over the Piscataqua River between Portsmouth, New Hampshire and Kittery, Maine, effective upon Governor and Executive Council approval and continuing through design, construction, inspection, and final acceptance of the completed project. The original Memorandum of Agreement was approved by Governor and Executive Council on March 7, 2018 (Item #26). 99.98% Federal Funds, 0.02% State Funds.

2. Further authorize the Department of Transportation to increase the price limitation by $26,145,458, from $18,550,000 to $44,695,458, effective upon Governor and Council approval.

Funding is available in State Fiscal Year 2024 and FY 2025, and is anticipated to be available in Fiscal Year 2026 as follows, with the ability to adjust encumbrances through the Budget Office between State Fiscal Years if needed and justified:

Funding is available as follows:	FY 2024	FY 2025	FY 2026
04-96-96-962515-2945 Municipal Aid – Federal 085-588513 Interagency Transfer Out of Federal Funds	$27,700,000	$9,500,000	$7,495,458

EXPLANANTION

This Functional Replacement is part of, and necessitated by, the Sarah Mildred Long Bridge replacement. The overall project replaced the previous bridge on a new alignment immediately upstream. This new bridge is longer able to accommodate current and future marine needs. The new alignment for the new bridge directly impacted and removed part of the existing barge wharf. To compensate the Port for these impacts, it has been agreed to replace the functionality of the barge wharf through extensions to the main wharf. Functional Replacement is a federally authorized method of Right of Way compensation for public facilities. The PDA is managing the design and construction of the Functional Replacement.

As part of the Functional Replacement associated with the bridge replacement and as detailed to the Federal Highway Administration on February 23, 2022 and approved on April 28, 2022, a total of $44,695,458 is allocated for the Functional Replacement of the side barge wharf. This is a substantial increase over the cost estimate in the original MOA and is attributable to the age and quality of the initial estimates, inflation in marine construction costs since 2018, several additional items of work encountered during the design process as itemized in the agreement, and full accounting of all project engineering and permitting costs. This amount is based on a near final design and current cost estimate. This Memorandum of Agreement will allow PDA-DPH to continue with developing the detailed final design, refine the cost estimate, complete contract documents, competitively bid and construct the Functional Replacement.

This Memorandum of Agreement outlines responsibilities of each party. The NHDOT, through reimbursement of Federal Funds, will be responsible for 100% of the eligible costs as identified in the agreement. In the event that Federal Funds no longer become available, general funds will not be requested to support this program.

This agreement has been approved by the Office of the Attorney General's Office as to form, substance, and execution. Copies of the fully executed contract are on file at the Secretary of State's Office and the Department of Administrative Service's Office, and subsequent to Governor and Council approval, will be on file at the Department of Transportation.

We respectfully request your approval.

Sincerely,

PDA-DPH, Executive Director

William J. Cass
NHDOT Commissioner

Attachments

PROJECT AGREEMENT
FOR THE
SARAH MILDRED LONG BRIDGE REPLACEMENT
FUNCTIONAL REPLACEMENT OF THE NH PORT AUTHORITY SIDE BARGE

STATE PROJECT #: 15731 and 15731C
FEDERAL PROJECT #: A000(909) and A005(252)

AMENDMENT No. 1

This AMENDENT modifies the Memorandum of Agreement dated November 2, 2017, (hereinafter called the "AGREEMENT") approved by Governor and Executive Council on March 7, 2018 (Item #26), between the NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION, hereinafter called the "DEPARTMENT", and PEASE DEVELOPMENT AUTHORITY – DIVISION OF PORTS AND HARBORS (PDA-DPH) of Portsmouth, hereinafter called the "OWNING AGENCY", to reflect current cost estimates, itemization of design, permitting and construction engineering, and scope of work modifications that have come about as the project design has progressed.

The AGREEMENT is hereby amended as follows:

1. The fifth (5th) "WHEREAS" clause is deleted in its entirety and replaced with the following:

WHEREAS, the Functional Replacement is accepted by the DEPARTMENT and approved by FHWA, federal funds will be used to pay for all eligible costs. Matching funds required will be provided by the DEPARTMENT. The following items and estimated costs totaling **$44,695,458.00** outlined below are eligible for federal participation, with the exception of Item 11.

Item 1: South Extension to the Main Wharf	Estimated cost	**$9,546,132.00**
Item 2: North Extension to Main Wharf	Estimated cost	**$14,259,876.00**
Item 3: Shore Side Improvements for North Extension of Main Wharf	Estimated cost	**$5,427,717.00**
Item 4: Dredging Improvements in front of the North Extension to Elev. -35.0 plus 1-foot over dredge:	Estimated cost	**$2,596,494.00**
Item 5: Fender System Modification to the Main Wharf and on the new Extensions	Estimated cost	**$3,483,148.00**
Item 6: Removal of Bridge Pier 14:	**Estimated cost**	**$864,756.00**
Item 7: Relocation of the Floating Dock:	**Estimated cost**	**$942,877.00**
Item 8: Permitting (Mitigation):	**Estimated cost**	**$825,000.00**
Item 9: Construction engineering:	**Estimated cost**	**$4,373,216.00**
Item 10: Design:	**Estimated cost**	**$2,368,058.00**

Item 11: PIDP Grant Application: (non participating) **Estimated cost** **$8,184.00**

2. Section I. **DUTIES AND RESPONSIBILITIES OF THE OWNING AGENCY:** Subsections F. and G. are deleted in their entirety and replaced with the following:

   F. The OWNING AGENCY shall also submit 60%, 85% and 100% completed plans, specifications, and detailed estimates to the DEPARTMENT and FHWA for review and approval. Estimates shall be reasonably broken down into units of work with back up calculations that support the cost and quantities of all bid items.

   G. The OWNING AGENCY shall receive written approval to advertise from the DEPARTMENT and FHWA prior to advertising the project for construction bidding.

3. Effective Date of Amendment: This Amendment shall take effect upon the date of approval of this Amendment by the Governor and Executive Council of the State of New Hampshire.

4. Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties there under, shall remain in full force and effect in accordance with the terms and conditions set forth therein. Any replacement property will be acquired in accordance with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended and applicable FHWA directives.

NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION

By: William Cass
Commissioner
Department of Transportation

PEASE DEVELOPMENT AUTHORITY, DIVISION OF PORTS AND HARBORS

By: Paul E. Brean
Paul E. Brean, Executive Director
PDA-DPH

Approved by the Office of Attorney General this 8 day of Sept, 2023, as to form, substance, and execution.

Assistant
Attorney General

9/8/23
Date

I hereby certify that the foregoing contract was approved by the Governor and Executive Council of the State of New Hampshire at the meeting on _____.

Secretary of State

Date

New Hampshire DOT
Department of Transportation

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

VICTORIA F. SHEEHAN
COMMISSIONER

WILLIAM CASS, P.E.
ASSISTANT COMMISSIONER

G+C #26
Date 3-7-18

Bureau of Bridge Design
November 22, 2017

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Transportation (NHDOT) and the Pease Development Authority – Division of Ports and Harbors (PDA-DPH) to enter into a Memorandum of Agreement for up to $18,550,000.00 for final design and construction of the Functional Replacement of the Side Barge Wharf impacted by the replacement of the Sarah Mildred Long Bridge (NH Br. No. 251/110) carrying US 1 Bypass over the Piscataqua River between Portsmouth, New Hampshire, and Kittery, Maine, effective upon Governor and Executive Council approval and continuing through design, construction, inspection, and final acceptance of the completed project. 100% Federal Funds.

Funding is available as follows for FY 2018 and FY 2019, and is contingent upon the availability and continued appropriation of funds for FY 2020 with the ability to adjust encumbrances through the Budget Office between State Fiscal Years if needed and justified:

Funding is available as follows:	FY 2018	FY 2019	FY 2020
04-96-96-962515-2945 Municipal Aid - Federal 072-500576 Grants Federal	$2,000,000	$8,550,000	$8,000,000

EXPLANATION

This functional replacement is part of, and necessitated by, the Sarah Mildred Long Bridge replacement. The overall project replaced the previous bridge on new alignment immediately upstream. The new bridge is a longer hybrid steel tub girder vertical lift span (e.g. wider navigational opening) to accommodate current and future marine needs, and a lower level rail span to maintain rail connectivity to the Portsmouth Naval Shipyard.

The new alignment for the new bridge directly impacts and removes the existing barge wharf. To compensate the Port for these impacts, it has been agreed to replace the functionality of the barge wharf through extensions to the main wharf, and make the Port whole. Functional replacement is a federally authorized method of Right of Way compensation for public facilities.

As part of the functional replacement associated with the bridge replacement and as detailed by the Federal Highway Administration on December 23, 2016 and approved on October 12, 2017, a total of $18,550,000.00 is allocated for the Functional Replacement of the side barge wharf. This amount is based on a conceptual design and estimate. This Memorandum of Agreement will allow PDA-DPH to

proceed with developing the detailed final design, refined cost estimate, contract documents, competitively bid and construct the port improvements. We will update and revise the MOA through Governor and Council when the construction bids are received.

This Right-of-Way effort is a result of the Sarah Mildred Long Bridge Replacement project. Per agreement with MaineDOT, while the bridge construction costs are split 50/50 between the states, each state is responsible for their respective ROW costs.

This Memorandum of Agreement outlines overall responsibilities for each party. The PDA will manage the design, mitigation, and construction of the Functional Replacement efforts as well as finance the costs for the project prior to seeking reimbursement from the NHDOT. The NHDOT, through reimbursement with federal funds, will be responsible for 100% of eligible costs as identified in the agreement. In the event that Federal funds no longer become available, general funds will not be requested to support this program.

Functional Replacement efforts include design, mitigation, construction, and construction engineering of the following items:

1. South Extension to the Main Wharf
2. North Extension to the Main Wharf
3. Shore Side Improvements for North Extension of Main Wharf
4. Dredging Improvements in front of the North Extension to Elev. -35.0 plus 1-foot over dredge as is the industry norm
5. Fender System Modification to the Main Wharf and the new Extensions

This agreement has been approved by the Attorney General's Office as to form, substance, and execution.

We respectfully request your approval.

Sincerely,

David R. Mullen
PDA-DPH, Executive Director

Victoria F. Sheehan
NHDOT Commissioner

RECEIVED
COMMISSIONERS OFFICE
FEB 13 2018
THE STATE OF NEW HAMPSHIRE
DEPT. OF TRANSPORTATION

Attachments

VS

PROJECT AGREEMENT
FOR THE
SARAH MILDRED LONG BRIDGE REPLACEMENT
FUNCTIONAL REPLACEMENT OF THE NH PORT AUTHORITY SIDE BARGE

STATE PROJECT #: 15731
FEDERAL PROJECT #: A000(909)

THIS AGREEMENT, executed in ***triplicate***, is made and entered into this 2nd day of November, 2017, between the NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION, hereinafter called the "DEPARTMENT", and PEASE DEVELOPMENT AUTHORITY – DIVISION OF PORTS AND HARBORS (PDA-DPH) of Portsmouth, hereinafter called the "OWNING AGENCY".

WITNESSETH that,

WHEREAS, the Sarah Mildred Long Bridge Replacement project has impacted the side barge wharf at the PDA-DPH Market Street Terminal facility in the city of Portsmouth; and

WHEREAS, the DEPARTMENT and FHWA have determined that a project to functionally replace the side barge wharf is eligible for federal funding; and

WHEREAS, the OWNING AGENCY was offered the choice of being compensated for the direct impacts to the wharf or the Functional Replacement, and chose the Functional Replacement; and

WHEREAS, the DEPARTMENT has an existing project Portsmouth – Kittery 15731 Sarah Mildred Long Bridge Replacement that will be used to fund the Functional Replacement; and

WHEREAS, the Functional Replacement is accepted by the DEPARTMENT and approved by FHWA, federal funds will be used to pay for all eligible costs. Matching funds required will be provided by the Department. The following items and estimated cost totaling $18.55 million outlined below and detailed in DEPARTMENT correspondence to FHWA dated December 23, 2016 are eligible for federal participation.

Item South Extension to the Main Wharf

1 (Estimated cost $4,550,000)

Item North Extension to Main Wharf

2 (Estimated cost $7,300,000)

Item Shore Side Improvements for North Extension of Main Wharf

3 (Estimated cost $2,550,000)

Item Dredging Improvements in front of the North Extension to Elev -35.0 the plus 1-foot over dredge as is the industry norm.

4 (Estimated cost $2,350,000)

Item Fender System Modification to the Main Wharf and on the new Extensions

5 (Estimated cost $1,800,000)

Estimated costs include Design, Permitting, Construction, and Construction Engineering for the above items; and

WHEREAS, all work determined to be outside of the scope of the approved and accepted items detailed above are identified as Betterment. Costs related to Betterment work will be the sole responsibility of the OWNING AGENCY

WHEREAS, the letter to FHWA noted above, by reference, is hereby made a part of this AGREEMENT; and

WHEREAS, the OWNING AGENCY desires to act as Sponsor and Manager of the Project; and

WHEREAS, the DEPARTMENT desires to cooperate with the OWNING AGENCY in accomplishing the Project;

NOW, THEREFORE, in consideration of the above premises and in further consideration of the agreements herein set forth by and between the parties hereto, it is mutually agreed as follows:

I. DUTIES AND RESPONSIBILITIES OF THE OWNING AGENCY:

A. The OWNING AGENCY shall comply with all Federal and State of New Hampshire laws and rules, regulations, and policies as applicable under the Federal-aid Highway Program for Federal Aid Construction Contracts.

B. The OWNING AGENCY shall manage the design, environmental study, right-of-way acquisition and construction of the Project. Management responsibilities are described in the current version of the DEPARTMENT's document titled "Local Public Agency Manual for the Development of Projects", as it may be amended from time to time, and, by reference, is hereby made a part of this AGREEMENT.

C. The OWNING AGENCY shall manage the design, environmental study, and construction of the Project in accordance with "NHDOT's Functional Replacement" policy, dated February 17, 2016.

D. If the OWNING AGENCY wishes to contract with a consultant service, it must receive prior approval from the DEPARTMENT and FHWA, and follow all Title 23 Federal Aid Requirements. All consultant Agreements and change orders shall be reviewed and approved by the DEPARTMENT and FHWA before Notice to Proceed. Any costs incurred prior to the Notice to Proceed will not be eligible for reimbursement and will be the responsibility of the OWNING AGENCY.

E. The OWNING AGENCY shall submit Draft NEPA and Final NEPA documents to the DEPARTMENT for review.

F. The OWNING AGENCY shall also submit 60% completed plans, specifications, and estimates to the DEPARTMENT for review.

G. The OWNING AGENCY shall receive written approval to advertise from the DEPARTMENT prior to advertising the project for construction bidding.

H. The OWNING AGENCY shall submit bid results and a recommendation to award to the DEPARTMENT and FHWA for concurrence. DEPARTMENT and FHWA will review the documents and provide approval to the OWNING AGENCY prior to acceptance and Notice to Proceed is provided to the Contractor. Any costs incurred prior to DEPARTMENT and FHWA approval will not be eligible for reimbursement and will be the responsibility of the OWNING AGENCY.

I. The OWNING AGENCY shall submit completed plans, specifications, and estimates to the DEPARTMENT and FHWA for review and approval. Advertising for bids and letting of the contract to construct the Functional Replacement may follow the general procedures utilized by the OWNING AGENCY, if acceptable to the DEPARTMENT and FHWA. The OWNING AGENCY shall assign or engage through contract a Clerk of the Works to oversee Construction. The DEPARTMENT will be responsible for periodic on-site inspections to note any changes from the approved plans and to ensure that betterments that were not approved as items in the Functional Replacement agreement are not included at FHWA or DEPARTMENT cost.

J. If, during design or construction, change orders are needed, the OWNING AGENCY shall timely submit the documents supporting the change to the DEPARTMENT. The DEPARTMENT will transmit all change orders to FHWA for review and approval.

K. The OWNING AGENCY shall submit monthly progress reports and invoices to the DEPARTMENT for reimbursement of its share of the amounts paid to engineering, environmental and/or right-of-way consultants and construction contractors for the performance of the work set forth in the AGREEMENT. The invoice structure shall include details of work completed consistent with the Scope of Work as defined in the AGREEMENT, as well as backup information to support the charges. The OWNING AGENCY shall certify that the invoices properly represent payment for work that has been completed and paid for by the OWNING AGENCY.

L. The OWNING AGENCY is required to maintain all project and financial records pertinent to the development of the Project for three (3) years beyond the date of the DEPARTMENT's final voucher. The DEPARTMENT will send a letter to the OWNING AGENCY with the date of this approval. If there is a failure to maintain this documentation, NHDOT and/or Federal Highway Administration could take an action up to and including requesting a refund of all reimbursed project costs.

M. DELETED (PDA-DPH, an agency of the State of NH cannot indemnify another State agency)

N. Non-Discrimination:

1. The OWNING AGENCY agrees that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d—2000d-4 (referred to as the ACT), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, US Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Non-discrimination in Federally-Assisted Programs of The Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964" (referred to as the "REGULATIONS"), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that no person shall on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the OWNING AGENCY receives Federal financial assistance extended by the State of New Hampshire. This AGREEMENT obligates the OWNING AGENCY for the period during which Federal financial assistance is extended.

2. The OWNING AGENCY hereby gives assurance as required by subsection 21.7(a)(1) of the REGULATIONS that it will promptly take any measures necessary to effectuate this AGREEMENT, including but not limited to the following specific assurances:

a. That each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the REGULATIONS will be conducted or operated in compliance with all requirements of the REGULATIONS.

b. That the OWNING AGENCY shall insert the following notification in all solicitations for negotiated agreements or bids for work or material made in connection with this Project: *The OWNING AGENCY hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, or disability in consideration for an award.*

c. That the OWNING AGENCY shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DEPARTMENT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The OWNING AGENCY shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DEPARTMENT-assisted contracts. The DEPARTMENT's DBE program, as required by 49 CFR part 26 and as approved by the United States Department of Transportation, is incorporated by reference in this AGREEMENT. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this AGREEMENT. Upon notification to the OWNING AGENCY of its failure to carry out its approved program, the DEPARTMENT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*

d. That the OWNING AGENCY shall include the following assurance in each contract signed with a contractor and each subcontract the prime contractor signs with a subcontractor: *The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, sex, age, or disability in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of* DEPARTMENT-*assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of the contract or such other remedy, as the recipient deems appropriate.*

3. The OWNING AGENCY shall insert a copy of the required provisions of Federally-assisted construction contracts in accordance with Executive Order 11246, Equal Employment Opportunity, and 41 CFR Part 60-4, Affirmative Action Requirements, in each contract entered into pursuant to this AGREEMENT. Required Federal contract provisions can be obtained through the DEPARTMENT's Labor Compliance Office (271-6612) or Online at: http://www.nh.gov/dot/org/administration/ofc/documents.htm

O. If there is a default of any nature to this AGREEMENT, the OWNING AGENCY shall be required to reimburse the DEPARTMENT and/or the Federal Highway Trust Fund for all funds expended under this Project.

P. Notwithstanding anything in this Agreement to the contrary, all obligations of the OWNING AGENCY, including without limitation, the obligation to make any payments, are contingent upon the availability and continued appropriation of funds, and in no event shall the OWNING AGENCY be liable for any payments in excess of such available appropriated funds.

II. DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT:

A. The DEPARTMENT shall review the Project engineering plans, environmental documents and contract documents applicable to the Federal Highway Administration and State of New Hampshire requirements for a Federally-funded project and submit appropriate documentation to the Federal Highway Administration to receive Federal approval.

B. The DEPARTMENT shall reimburse 100% of eligible costs to the OWNING AGENCY after receipt and approval of properly documented invoices that have been certified by the OWNING AGENCY as properly representing work eligible under the Functional Replacement Agreement that has been completed and paid for by the OWNING AGENCY.

C. The DEPARTMENT will perform review and oversight on the replacement project to insure compliance with the Agreement, including the following elements:

a. Site selection,
b. Replacement facility plans and specifications,
c. Contract documents,
d. Progress inspections during construction, and
e. Final inspection at completion.

D. If, during design or construction, change orders are needed, the DEPARTMENT shall be responsible for review of the change(s) to ensure that betterments are not included at project cost. DEPARTMENT will transmit all changes orders to FHWA for review and approval.

E. The DEPARTMENT shall use its best efforts to obtain FHWA approval necessary to issue a Notice to Proceed for award of contracts to complete the Functional Replacement.

III. IT IS FURTHER UNDERSTOOD AND AGREED BETWEEN THE DEPARTMENT AND THE OWNING AGENCY:

A. That the OWNING AGENCY will not incur any Project costs nor enter into any agreement with any third party, including but not limited to consultants, contractors, or engineers until such time that it receives a written notice to proceed from the DEPARTMENT to do so. Any costs incurred prior to the notice to proceed will not be eligible for reimbursement and will be the responsibility of the OWNING AGENCY.

B. That the maximum amount of funds available for this Project for reimbursement under this AGREEMENT from the DEPARTMENT shall be as set forth on page 1 of this Agreement. As the scope of the Project is finalized, should the costs for the Project exceed the amount budgeted, the DEPARTMENT agrees to review Project costs for consideration of additional funding. Neither the DEPARTMENT nor the Federal Highway Administration will be responsible for any expenses or costs incurred by the OWNING AGENCY under this AGREEMENT in excess of the estimated amounts detailed in each Item unless the DEPARTMENT expressly authorizes additional funding prior to the work being performed.

C. That the OWNING AGENCY shall invoice the DEPARTMENT for incurred costs on a monthly basis and the DEPARTMENT will process these invoices for payment in an expeditious manner.

D. That the OWNING AGENCY agrees to commence the Project within three (3) months after the date of this AGREEMENT and substantially complete the Project within six (6) years after the date of the Agreement approval by G&C, unless earlier terminated as provided herein. The OWNING AGENCY may apply to the DEPARTMENT for an extension. Failure to meet either deadline without good cause may cancel the DEPARTMENT's participation in this Project at its discretion. Any remaining funds will be forfeited. The OWNING AGENCY is responsible for informing and coordinating a new Project completion date that will need to be approved by the DEPARTMENT if any condition arises that may result in either deadline being unattainable.

E. That the OWNING AGENCY will attend a meeting with the DEPARTMENT's representative and FHWA after signing this AGREEMENT to discuss the Project's scope, budget and schedule. The OWNING AGENCY will subsequently provide a schedule showing project milestones with dates. Failure to meet these dates could delay funding for construction.

F. That this AGREEMENT is contingent upon the appropriation of sufficient funds from the State of New Hampshire Legislature and/or the Federal Highway Administration. If sufficient funds are not appropriated, the DEPARTMENT may terminate this AGREEMENT upon thirty (30) days' written notice to the OWNING AGENCY. Such termination shall relieve the DEPARTMENT and the OWNING AGENCY from obligations under this AGREEMENT after the termination date.

NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION

By: _____
Commissioner
Department of Transportation

PEASE DEVELOPMENT AUTHORITY, DIVISION OF PORTS AND HARBORS

By: _____
Title: Executive Director

Authorized to enter into Agreement as approved by Governor & Council on MAR 07 2018

~~Assistant~~ Attorney ~~General~~

Allen B. Greenstein

DEPUTY SECRETARY OF STATE