



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.
Commissioner

David Rodrigue, P.E.
Assistant Commissioner

Her Excellency, Governor Kelly A. Ayotte
and the Honorable Council
State House
Concord, New Hampshire 03301

Bureau of Planning & Community Assistance
June 25, 2025

REQUESTED ACTIONS

Authorize the Department of Transportation to enter into an agreement with the Town of Newmarket (vendor #177449) for the Town to perform in-kind replacements of the existing drainage systems, as well as associated trench paving, curbing re-installation and sidewalk repairs on Packers Falls Rd, a Class II state highway located between NH 152 (South Main St) and the Durham town line. The Department will contribute up to \$375,000 of Betterment funds for in-kind drainage replacements to this section of road, effective upon Governor and Council approval through July 1, 2026. (100% Betterment Funds)

Funds to support this request are available in the following account in Fiscal Year 2026:

Funding is available as follows:	<u>FY 2026</u>
04-96-96-963015-3039	
Betterment	
400-500870 Highway Contract Payments	\$375,000

EXPLANATION

The Town of Newmarket approached the Department relative to having additional local control along NH 108 and surrounding roads in their downtown area to allow for more flexibility in managing and potentially modifying these corridors in the future to better suit the communities' needs. The town has goals to incorporate traffic calming elements and wayfinding signs within the downtown streetscape to help reduce speeds and increase pedestrian and bicycle safety and walkability with the downtown village area. Allowing local control of NH 108 and surrounding state highways thru the reclassification process will reduce Department maintenance expenditures as well as reduce oversight efforts associated with issuance of permits and management of these corridors.

Packers Fall Rd had been determined to need drainage improvements to ensure proper drainage and performance of the roadway system. This contribution will meet the Department's responsibility to rehabilitate the road prior to the reclassification from Class II to Class V.

Upon reclassification of NH-108, Gerry Avenue, Grant Rd, and Packers Falls Rd future allocations of Block Grant Aid distributed by the Department to the Town of Newmarket would reflect the additional proportional share of Class IV & V mileage that the Town would be responsible for maintaining as a result of this reclassification.

Upon completion of the project, the Department will reclassify the following sections of state owned and maintained highways to become town owned and maintained highways:

Roadway	Reclassification Limits	Length (miles)	Existing Classification	Proposed Classification
Packers Falls Rd	Entire Length	0.9	Class II	Class V
Gerry Ave	Entire Length	0.2	Class II	Class V
Grant Road	From NH 152 to End State Maintenance	2.3	Class II	Class V
NH 108	From the Durham Town line south to #92 Exeter Rd (Car Wash)	1.5	Class I	Class IV Urban Compact

As part of the agreement, a Memorandum of Understanding (MOU) will be developed to allow the Town more flexibility and autonomy in managing and potentially modifying the NH 108 corridor in the future, while still emphasizing the regional importance of the corridor and the need to accommodate thru traffic without unnecessary interruptions to the travelling public during town activities and other events and/or traffic incidents. The future MOU will establish protocols for communication between the town and the state.

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

It is respectfully requested that this item be approved.

Sincerely,



William J. Cass, P.E.
Commissioner

Attachment

**PROJECT AGREEMENT
FOR**

TOWN OF NEWMARKET

Packers Falls Road in-kind drainage replacement and associated trench paving, curbing re-installation,
and sidewalk repair

STATE PROJECT #: 45231
STATE VENDOR #: 177449

THIS AGREEMENT, made and entered into this { } day of { }, 2025, between the State of New Hampshire, acting through its Department of Transportation, hereinafter called the "DEPARTMENT", and the TOWN OF NEWMARKET, hereinafter called the "PROJECT SPONSOR".

WHEREAS, the DEPARTMENT and the PROJECT SPONSOR have determined that a project to replace the existing drainage on Packers Falls Road in the Town of Newmarket is an eligible project; and

WHEREAS, the DEPARTMENT and the PROJECT SPONSOR reached consensus that the DEPARTMENT's share of the cost of the Project is not to exceed three hundred seventy-five thousand dollars (\$375,000.00); and

WHEREAS, the DEPARTMENT has established Project # 45231 (the "Project") for the project in the amount not to exceed three hundred seventy-five thousand (\$375,000.00); and

WHEREAS, the PROJECT SPONSOR desires to act as Sponsor and Manager of the Project; and

WHEREAS, the DEPARTMENT desires to cooperate with the PROJECT SPONSOR 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 PROJECT SPONSOR:

- A. The PROJECT SPONSOR shall comply with all Federal and State of New Hampshire laws and rules, regulations, and policies.
- B. The PROJECT SPONSOR shall manage the design and construction of the Project.
- C. The PROJECT SPONSOR shall provide or cause to provide for both the maintenance of the Project during construction and subsequent maintenance of all Project elements once the work under this AGREEMENT is completed.
- D. The PROJECT SPONSOR shall submit an invoice to the DEPARTMENT for the agreed amount upon completion and acceptance of the in-kind drainage replacement and associated trench paving, curbing re-installation, and sidewalk repair. The invoice structure shall include sufficient details of work completed.
- E. The PROJECT SPONSOR agrees to maintain financial records pertinent to the development of the Project for three (3) years beyond the date of the Project's final

reimbursement letter from the DEPARTMENT, and to make the records available to the DEPARTMENT upon request.

- F. The PROJECT SPONSOR shall defend, indemnify and hold harmless the DEPARTMENT and its officials, agents and employees from and against any and all claims, liabilities or suits arising from (or which may be claimed to arise from) any act or omission of the PROJECT SPONSOR or its subcontractors in the performance of this AGREEMENT. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State of New Hampshire or the DEPARTMENT, which immunity is hereby reserved. This covenant shall survive the termination of this AGREEMENT.
- G. If the PROJECT SPONSOR defaults or fails to fulfill any part of this AGREEMENT, the PROJECT SPONSOR shall be required to reimburse the DEPARTMENT for all funds expended under this Project.

II. DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT:

- A. The DEPARTMENT shall reimburse its share to the PROJECT SPONSOR after receipt and approval of properly documented invoices that have been certified by the PROJECT SPONSOR as properly representing work that has been completed and paid for by the PROJECT SPONSOR.
- B. Upon acceptance of the in-kind drainage replacements, The DEPARTMENT will reclassify the following sections of state owned and maintained highways to become town owned and maintained highways:

Roadway	Reclassification Limits	Length (miles)	Existing Classification	Proposed Classification
Packers Falls Rd	Entire Length	0.9	Class II	Class V
Gerry Ave	Entire Length	0.2	Class II	Class V
Grant Road	From NH 152 to End State Maintenance	2.3	Class II	Class V
NH 108	From the Durham Town line south to #92 Exeter Rd (Car Wash)	1.5	Class I	Class IV Urban Compact

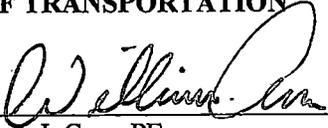
III. IT IS FURTHER UNDERSTOOD AND AGREED BETWEEN THE DEPARTMENT AND THE PROJECT SPONSOR:

- A. That the DEPARTMENT agrees to reimburse the PROJECT SPONSOR up to \$375,000.00 as the DEPARTMENT's full share of the PROJECT SPONSOR's efforts to perform in-kind drainage replacements and associated trench patch, curbing re-installation, and sidewalk repair as shown on the approved sketch plans.
- B. That the PROJECT SPONSOR 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.
- C. That the maximum amount of funds available for this Project for reimbursement under this AGREEMENT from the DEPARTMENT shall be as set forth in paragraph 4 of page 1 herein.

- D. Prior to reclassification the DEPARTMENT and PROJECT SPONSOR shall develop and execute a Memorandum of Understanding (MOU) for the maintenance and operational responsibilities of the proposed 1.5-mile Class IV Urban Compact section of NH 108. The proposed MOU will emphasize the regional importance of the NH 108 corridor and the need to accommodate thru traffic without unnecessary interruptions to the traveling public during town activities and other events and/or traffic incidents. The future MOU will establish protocols for communication between the town and the state
- E. The DEPARTMENT will continue to own and maintain the NH 108 bridge over the Lamprey River (Bridge # 127/097) until such time as it is rehabilitated. The bridge is currently listed in the DEPARTMENT's Ten-Year Plan for rehabilitation in fiscal year 2030. Upon rehabilitation, Bridge #127/097 will be reclassified to PROJECT SPONSOR ownership and maintenance responsibility.
- F. This AGREEMENT is contingent upon the approval from the Governor and Council.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the date first written above.

**NEW HAMPSHIRE DEPARTMENT
OF TRANSPORTATION**

By: 
William J. Cass, PE
Commissioner
State of New Hampshire
Department of Transportation

TOWN OF NEWMARKET

Signature: 
Stephen R. Fournier
Town Manager
Town of Newmarket, NH

**NEW HAMPSHIRE DEPARTMENT
OF TRANSPORTATION**

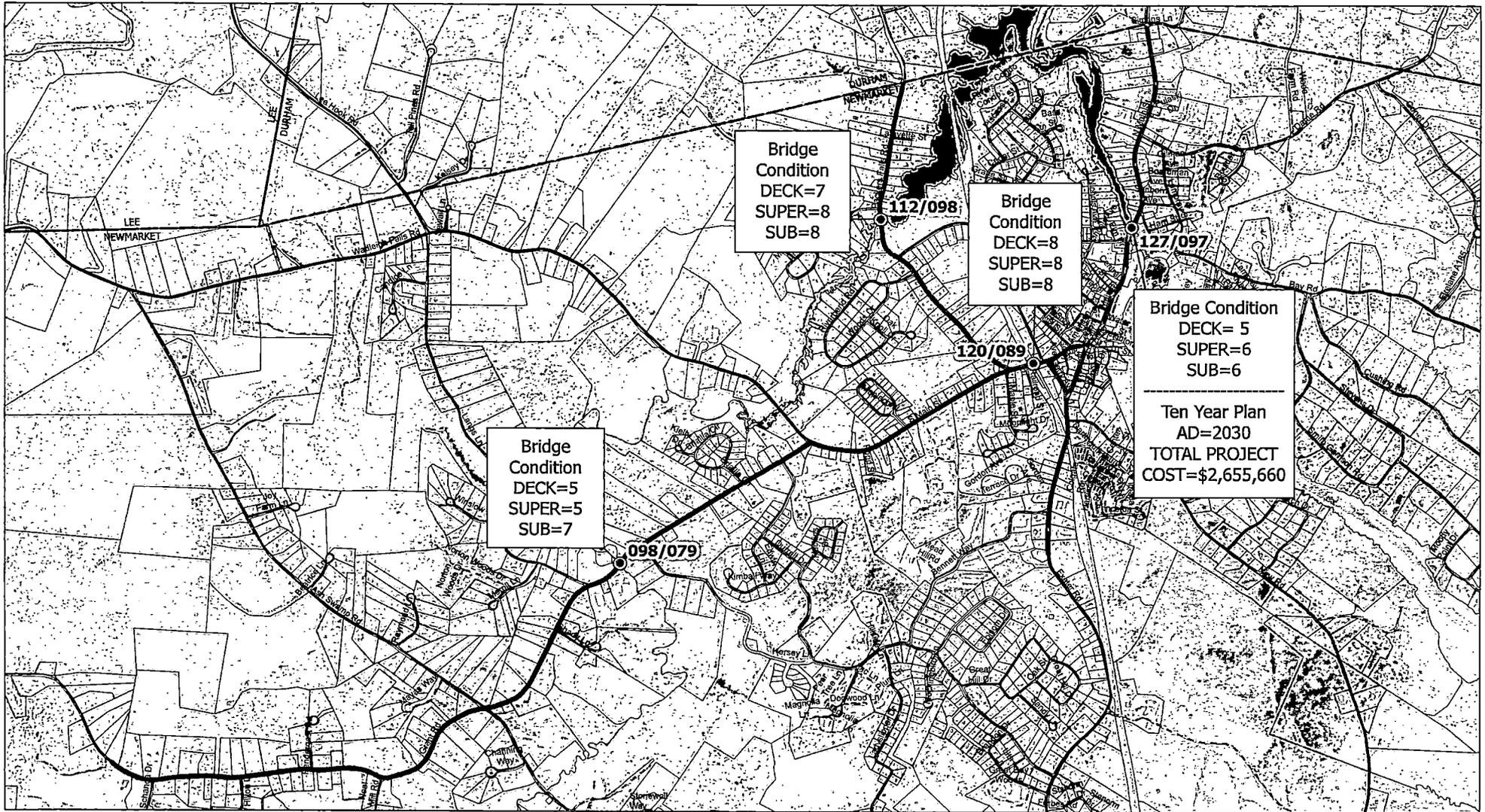
Signature: 

Name (typed): Christina Wilson

Title: Sr. Asst. Atty. General

NH Attorney General

NEWMARKET ROADWAY RECLASSIFICATION REQUEST 2024



Existing Classification	Existing Maintenance	Layer	Road Name	Miles	Proposed Classification	Proposed Maintenance
Class I	District 6	██████████	NH 108	1.5 Miles	Class IV	Town
Class II	District 6	██████████	Gerry Avenue	0.2 Miles	Class V	Town
Class V	Town	██████████	NH 152 South Main Street	0.8 Miles	Class IV	Town
Class II	Winter-Town/Summer-District 6	██████████	Packer's Falls Road	0.9 Miles	Class V	Town
Class II	Winter-Town/Summer-District 6	██████████	Grant Road	2.3 Miles	Class V	Town