

1
2 **Resolution Relating to**

RESOLUTION
Sponsor(s) Councilors Keogh,
Wright, Paul, Mulvaney-Stanak: Bd. of Finance

Introduced: 06/27/11

Referred to: _____

Action: _____

Date: _____

Signed by Mayor: _____

3
4
5
6
7 AUTHORIZATION TO EXECUTE AGREEMENT WITH
8 WESTON & SAMPSON TO UPDATE STORMWATER AND
9 WATER DISTRIBUTION SYSTEMS MAPS
10

11
12 **CITY OF BURLINGTON**

13
14 In the year Two Thousand Eleven.....

15 Resolved by the City Council of the City of Burlington, as follows:

16
17 That WHEREAS, there is a great need to update the City's stormwater system database given
18 the outdated nature of the information contained in the existing information and the importance
19 of an accurate database in maintaining the City's stormwater system and complying with its state
20 and federal Clean Water Act permits; and

21 WHEREAS, the Department of Public Works issued a Request for Qualifications seeking
22 a consultant to (1) update the existing separate stormwater and combined sewer GIS database
23 and (2) enhance the database to include asset management components critical to tracking
24 maintenance activities, planning for capital improvements and developing hydraulic/hydrologic
25 models of the system; and

26 WHEREAS, there are efficiencies to be gained by mapping other city infrastructure
27 (namely water valves and hydrants within the water distribution system) while pursuing this
28 project; and

29 WHEREAS, DPW selected Weston & Sampson as the top ranked consultant and has
30 negotiated a project contract in the amount of \$130,000 for base services related to mapping the
31 stormwater and water distribution system with a supplemental scope of services included to
32 allow for additional tasks pending the availability of funds; and

* * * * *

ORIGINAL

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

RESOLUTION RELATING TO

.....
.....
.....

Adopted by the City Council

....., 20.....

..... Clerk

Approved....., 20.....

..... Mayor

Vol. Page

Attest:

* * * * *

Resolution Relating to AUTHORIZATION TO EXECUTE AGREEMENT WITH WESTON & SAMPSON TO UPDATE STORMWATER AND WATER DISTRIBUTION SYSTEMS MAPS

WHEREAS, DPW recommended to and received Board of Finance approval on June 20, 2011 to award the contract to Weston & Sampson with the following sources of funding in the FY 12 Budget:

| | | |
|--|-----------|------------------|
| Stormwater Special Revenue (Professional Services line item) | \$ | 25,910.00 |
| VTRANS Grant SW0052 (through Stormwater) | \$ | 80,000.00 |
| HUD Downtown/Waterfront Planning Grant | \$ | 8,200.00 |
| <u>Water Distribution Capital Fund</u> | <u>\$</u> | <u>15,890.00</u> |
| Total | \$ | 130,000.00 |

and

WHEREAS, no funds will be expended unless there are sufficient funds appropriated;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes Steven Goodkind, DPW Director/City Engineer, to execute a contract with Weston & Sampson to update and enhance the City's stormwater system and water distribution system GIS database in a form and substance substantially similar to the attached contract and to enter into any contract amendments that do not involve an increase to the contract cost, subject to the prior review and approval by the Chief Administrative Officer and the City Attorney.

* * * * *

ORIGINAL

DISTRIBUTION:

I hereby certify that this resolution
has been sent to the following
department(s) on

RESOLUTION RELATING TO

.....
.....
.....

Adopted by the City Council

....., 20.....

..... Clerk

Approved....., 20.....

..... Mayor

Attest:

Vol. Page

* * * * *

AGREEMENT FOR ENGINEERING SERVICES
BY AND BETWEEN THE
CITY OF BURLINGTON, VERMONT
AND
WESTON & SAMPSON ENGINEERS, INC.

THIS AGREEMENT is made this _____ day of _____, 20__, by and between the CITY OF BURLINGTON, VERMONT ("OWNER"), a municipal corporation organized under the laws of the state of Vermont and WESTON & SAMPSON ENGINEERS, INC., ("ENGINEER") with its principal place of business in offices at 98 South Main Street, Waterbury, Vermont.

WITNESSETH:

NOW, THEREFORE, in consideration of the above and the mutual covenants contained herein, the OWNER and ENGINEER enter into the following Agreement:

ARTICLE 1 - ENGAGEMENT OF THE ENGINEER

1.1 THE OWNER hereby engages the ENGINEER, and the ENGINEER hereby accepts the engagement to perform the following professional engineering services:

A. Base scope of services:

(1). A GIS-based assessment of the OWNER's stormwater infrastructure, including:

- (a) Asset inventory/management assessment;
- (b) GIS model update/verification;
- (c) Long-term asset management system development/procedures;
- (d) Stormwater feature detailed inventory for Englesby watershed;
- (e) Stormwater system hydraulic /hydrologic modeling options for Englesby watershed; and
- (f) Private stormwater GIS for Englesby watershed.

(2) GIS-based data collection of the water

The base scope of services shall consist of the services set forth in Attachment A, Base Scope of Services.

B. Supplemental scope of services: depending on the availability of funding, a supplemental scope of services will expand upon the previous task for a larger geographic area.

The supplemental scope of services shall consist of the services set forth in Attachment B, Supplemental Scope of Services.

- 1.2 The ENGINEER's services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing design professionals performing similar services in the same locality, at the same site and under the same or similar circumstances and conditions. The ENGINEER makes no other representations or warranties, whether expressed or implied, with respect to the services rendered hereunder, except as are further set forth in this Agreement.

ARTICLE 2 - TIME OF PROJECT

- 2.1 The ENGINEER will initiate work under this AGREEMENT following formal acceptance of this AGREEMENT by the OWNER. The ENGINEER agrees to provide services described as in the BASE SCOPE OF SERVICES for the estimated duration of work, starting within 7 days of signing this AGREEMENT and concluding within 150 days. Services described in the SUPPLEMENTAL SCOPE OF SERVICES may be completed prior to the expiration of this AGREEMENT on December 31, 2012.

ARTICLE 3 - RESPONSIBILITIES OF THE OWNER

The OWNER, without cost to the ENGINEER, shall do the following in a timely manner so as not to delay the services of the ENGINEER:

- 3.1 Designate in writing a person to act as the OWNER 's representative with respect to work to be performed under this AGREEMENT, such person to have complete authority to transmit instructions, receive information, interpret and define the OWNER'S policies and decisions with respect to materials, equipment elements and systems pertinent to the work covered by this AGREEMENT.
- 3.2 Through its officials and other employees who have knowledge of pertinent conditions, confer with the ENGINEER regarding both general and special considerations relating to the PROJECT.
- 3.3 Assist the ENGINEER by placing at the disposal of the ENGINEER, all available information pertinent to the PROJECT including previous reports and any other data relative to design or construction of the PROJECT.
- 3.4 Pay all application and permit fees associated with approvals and permits from all governmental authorities having jurisdiction over the PROJECT and such approvals and consents from others as may be necessary for completion of the PROJECT.
- 3.5 Arrange for access to and make all provisions for the ENGINEER to enter upon public and private lands as required for the ENGINEER to perform its work under this AGREEMENT.
- 3.6 Furnish the ENGINEER all available property, boundary and right-of-way maps.
- 3.7 Cooperate with and assist the ENGINEER in all additional work that is mutually agreed upon.

3.8 Pay the ENGINEER for work performed in accordance with the terms specified herein.

ARTICLE 4 – OBLIGATIONS OF THE ENGINEER

The ENGINEER agrees to the following terms and conditions:

- 4.1 ENGINEER shall comply with the requirements of the “Consultant Contract Provisions” on the VTRANSPassThrough Requirements (Attachment E). In the event that there is a provision in the VTRANS requirements that conflicts with the same requirement found in this Agreement, or an ordinance or other contract requirement of OWNER, the provision most protective of the OWNER and the public interest shall apply, except that provisions of federal law shall prevail in the event of a conflict with another provision.
- 4.2 ENGINEER shall comply with the requirements of the CITY OF BURLINGTON CONTRACTING PROVISIONS (Attachment C).
- 4.3 ENGINEER shall comply with the requirements of the CITY OF BURLINGTON LIVABLE WAGE ORDINANCE (Attachment D)

ARTICLE 5 - PAYMENTS TO THE ENGINEER

- 5.1 For services performed under this AGREEMENT, the OWNER agrees to pay the ENGINEER monthly as charges accrue on a cost plus fixed fee basis as referenced to the scope presented on **Table 1**. Monthly charges will include costs incurred during the billing period based on the amount and value of the work and services performed plus a 10% fixed fee based on the proportionate value of costs incurred to date. The cost ceiling (which does not include the fixed fee), which the ENGINEER will not exceed without the AGREEMENT being formally amended, and the fixed fee which will not be increased except for an AGREEMENT amendment increasing the scope of work, are as follows:

| | | |
|----------------|----|----------------|
| Cost ceiling: | \$ | <u>118,807</u> |
| Fixed fee: | \$ | <u>11,193</u> |
| Total Contract | \$ | <u>130,000</u> |

As requested by OWNER, ENGINEER will track costs associated with this work under separate phases as follows:

| | |
|---|-----------|
| Phase A. Stormwater Mapping for City (except Downtown): | \$ 98,439 |
| Phase B. Stormwater Mapping for Downtown Area : | \$ 8,200 |
| Phase C. Contingency for Stormwater Mapping: | \$ 7,471 |
| Phase D. Water System Mapping: | \$ 14,850 |
| Phase E. Contingency for Water System Mapping: | \$ 1040 |
| Total Contract: | \$130,000 |

- 5.2 It is agreed that the total cost plus fixed fee amounts represent estimated costs for Engineering Services outlined in BASE SCOPE OF SERVICES. At a minimum, Engineer shall complete the BASE SCOPE OF SERVICES within the Total Contract amount shown above.

- 5.3 In the event that the BASE SCOPE OF SERVICES is completed for less than the cost ceiling, it is agreed that items from the SUPPLEMENTAL SCOPE OF SERVICES will be completed until the cost ceiling amount shown above is reached.
- 5.4 In the event that additional funds become available within the overall term of this AGREEMENT, the Parties agree that this AGREEMENT may be amended to authorize a revised Total Contract amount to complete additional tasks from the SUPPLEMENTAL SCOPE OF SERVICES.
- 5.3 Costs as used herein, are defined as direct labor, indirect costs, and other direct costs.
- 5.3.1 Direct labor costs are salaries and wages paid to personnel for work directly charged to the PROJECT by the ENGINEER'S employees.
- 5.3.2 Indirect costs are allocation of overhead and general and administrative costs that are incurred by the ENGINEER.
- 5.3.3 Other direct costs are identifiable expenses which include transportation, printing and reproduction of plans and reports, telephone charges, postage, computer time, subconsultant charges such as specialty engineering, soils, surveying, and testing of materials and other identifiable expenses.
- 5.4 The Cost Summary, incorporated by reference into this AGREEMENT (Attachment F), presents the ENGINEER'S estimate of labor rates, overhead and general administration and other direct costs. Changes in these costs may occur during the course of this PROJECT in certain of these items and if such changes do occur, ENGINEER shall promptly notify OWNER of such change in writing.
- 5.5 If the OWNER fails to make any payment due the ENGINEER for services and expenses within thirty (30) days after receipt of the ENGINEER'S statement therefore, the ENGINEER may, after giving seven (7) days' written notice to OWNER, suspend services under this AGREEMENT. Unless the ENGINEER receives payment within seven (7) days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the ENGINEER shall have no liability to the OWNER for delay or damage caused the OWNER because of such suspension of services.

ARTICLE 6 - INSURANCE

The ENGINEER shall provide and maintain the following types and amounts of insurance for the term of this contract at no cost to the OWNER. This insurance shall be obtained from an insurer having an A.M. Best Insurance Rating of at least A-, financial size category VII or greater. [www.ambest.com]. ENGINEER shall require that any and all of its agents or subcontractors must comply with the same insurance requirements as ENGINEER. The ENGINEER shall provide the OWNER with Certificates of Insurance evidencing that the required insurance has been provided and is maintained prior to the commencement of the Agreement. All Certificates shall contain a provision stating that the coverage's afforded under said policies will not be cancelled, materially changed or not renewed without thirty (30) days written prior notice, except ten (10) days for non-payment of premium, to the OWNER.

6.1 General Liability Insurance

The ENGINEER shall secure and maintain, for the duration of this PROJECT Commercial General Liability Insurance including but not limited to Bodily Injury, Death, Personal/Advertising Injury, Broad Form Property Damage, Products and Completed Operations Liability and Contractual Liability with limits of, at a minimum, \$1,000,000 Combined Single Limit for each occurrence. The ENGINEER must list the Named Member as Additional Insured's on their Commercial General Liability Policy.

6.2 Automobile Liability Insurance

The ENGINEER shall secure and maintain, for the duration of this PROJECT, Automobile Liability Insurance covering the operation of all motor vehicles, including those hired or borrowed, used by the ENGINEER in connection with this AGREEMENT, in the following amount:

6.2.2 6.2.1 Commercial Auto Liability Insurance covering all Owned & Hired and Non-Owned vehicles, with limits of, at minimum, \$1,000,000 Combined Single Limit for each occurrence for all damages or claims arising out of property damage or bodily injuries to or death. The ENGINEER must list the Named Member as Additional Insured's on their Commercial Auto Liability Policy.

6.3 Umbrella Liability Insurance

In addition to the above-mentioned coverage, the ENGINEER shall carry a minimum of One Million Dollar (\$1,000,000) umbrella liability policy for the duration of the PROJECT.

6.4 Professional Services Liability Insurance

The ENGINEER shall secure, at its own expense, a Professional Services Liability Insurance policy with a limit of Three Million Dollars (\$3,000,000) per claim and in the aggregate, and maintain such policy for the duration of the PROJECT.

6.5 Workers Compensation Coverage

6.5.1 The ENGINEER shall maintain statutory Worker's Compensation insurance coverage for all of its employees at the PROJECT with limits of, at minimum, \$1,000,000 any one occurrence. The ENGINEER must show evidence of Workers Compensation and Employers Liability Insurance Coverage.

6.5.2 The OWNER shall maintain statutory Worker's Compensation insurance coverage for all of its employees at the PROJECT as required by the State of Vermont.

ARTICLE 7 - LIMITATION OF LIABILITY AND INDEMNIFICATION

7.1 To the fullest extent permitted by law the ENGINEER agrees to indemnify and hold harmless the OWNER and its officers, directors, employees, agents, and independent

professional associates, and any of them, from any claims, losses, damages or expense (including reasonable attorneys' fees) arising out of the death of, injuries, or damages to any person, or damage or destruction of any property, in connection with the ENGINEER'S services under this AGREEMENT to the extent caused by the negligent or intentional acts, errors, or omissions of the ENGINEER or its officers, directors, employees, agents or independent professional associates, or any one of them.

ARTICLE 8 - EXTENSION OF SERVICES

8.1 Additional Work

In the event the ENGINEER, as requested by the OWNER, is to make investigations or reports on matters not covered by the BASE SCOPE of this AGREEMENT, or is to perform other services not included herein and the cost ceiling has not yet been met, such services shall be incorporated into written amendments to this AGREEMENT. In the event the ENGINEER, as requested by the OWNER, is to make investigations or reports on matters not covered by the BASE SCOPE of this AGREEMENT, or is to perform other services not included herein and the agreement cost ceiling HAS already been reached, additional compensation shall be paid the ENGINEER as is mutually agreed upon by and between the OWNER and the ENGINEER. Such services shall be incorporated into written amendments to this AGREEMENT, or into a new written AGREEMENT.

8.2 Changes in Work

The OWNER, from time to time, may require changes or extensions in the Scope of Services to be performed hereunder. Such changes or extensions, including any increase or decrease in the amount of compensation, to be mutually agreed upon by and between the OWNER and the ENGINEER, shall be incorporated into written amendments to this AGREEMENT.

ARTICLE 9 - SOFTWARE OWNERSHIP AND WARRANTIES

9.1 Third-Party Software

9.1.1 All third-party software programs which are included or provided with the ENGINEER Software shall be sublicensed to OWNER by ENGINEER subject to the vendor's or ENGINEER'S standard licensing terms and conditions as in effect from time to time. OWNER'S rights and obligations set forth in such license shall be independent of this AGREEMENT.

9.1.2 ENGINEER shall transfer to OWNER any warranties provided to ENGINEER by third-party software vendors and ENGINEERS. ENGINEER itself makes no warranties or representations, either expressed or implied, as to any software provided by third-party vendors of ENGINEERS, including but not limited to warranties of merchantability or fitness for a particular purpose.

9.2 ENGINEER Software Warranties

9.2.1 ENGINEER warrants that, for a period of 365 days from the delivery of any ENGINEER Software, such products will conform to the then current product specifications. ENGINEER'S sole responsibility under this warranty shall be to repair or replace any materially non-conforming ENGINEER Software. ENGINEER'S obligations under this Paragraph shall be conditioned upon ENGINEER'S prompt receipt of nonconformance in writing from OWNER in each instance, specifying the details of the nonconforming ENGINEER Software.

9.3 Limitations of Liability

9.3.1 ENGINEER'S liability to OWNER for damages relating to ENGINEER'S Software, from any cause regardless of the form of action, whether statutory, in contract or tort or otherwise, shall be limited to actual damages up to a maximum of the price paid hereunder for the ENGINEER Software or the nonconforming component thereof.

9.3.2 Unless excepted below, in no event will ENGINEER at any time be liable under any contract, negligence, strict liability or other legal theory to the OWNER for loss of use, data or profits, the cost of procurement of substitute goods or services, or for consequential, incidental, special or punitive damages of any nature arising out of or in connection with any ENGINEER Software sold or licensed hereunder, even if ENGINEER has been advised of the possibility of such damages as long as ENGINEER has given notice to OWNER of the possibility of such damages, or for any claim against OWNER by any other party.

9.4 Confidentiality and Proprietary Rights

9.4.1 The OWNER shall retain ownership of the documents submitted to the OWNER by the ENGINEER pursuant to this AGREEMENT. However, such documents are not intended or represented to be suitable for reuse by the OWNER or others on extensions of the PROJECT or on any other PROJECT. Any reuse or adaptation by the OWNER without written verification by the ENGINEER shall be at the OWNER'S sole risk and without liability or legal exposure to the ENGINEER or to the ENGINEER'S independent sub-consultants, and the OWNER shall indemnify and hold harmless the ENGINEER and the ENGINEER'S sub-consultants from all claims, damages, losses and expenses, including reasonable attorneys' fees arising out of reuse or resulting therefrom. Any verification or adaptation performed by the ENGINEER shall entitle the ENGINEER to further compensation at rates to be agreed upon by the OWNER and the ENGINEER.

ARTICLE 10 – TERMINATION

- 10.1 The obligation to provide further services under this AGREEMENT may be terminated by either party upon not less than ten (10) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
- 10.2 If the PROJECT is suspended in whole or in part for more than three (3) months, the ENGINEER shall be compensated for all services performed prior to receipt of written notice from the OWNER of such suspension, together with other direct costs then due.
- 10.3 In the event of termination by the OWNER under Article 10.1, the ENGINEER shall be paid for all unpaid services and unpaid other direct costs incurred to the date of receipt of written notice of termination, including sub-consultants, for the services necessary to affect termination, plus a percentage of the fixed fee based on work completed on the PROJECT through the completion of services necessary to affect termination, in accordance with the provisions of Article 5 of this AGREEMENT.
- 10.4 In the event of termination by the ENGINEER under Article 10.1, or termination by the OWNER for the OWNER'S convenience, the ENGINEER will be paid for all unpaid services and unpaid other direct costs incurred to the date of receipt of written notice of termination, including sub-consultants, for the services necessary to affect termination, plus a percentage of the fixed fee based on work completed on the PROJECT through the completion of services necessary to affect termination, plus termination expenses. Payment for services will be in accordance with the provisions of Article 5 of this AGREEMENT. Termination expenses means additional costs of services and other direct costs directly attributable to termination, which shall be an additional amount computed as the costs the ENGINEER reasonably incurs relating to commitments, which had become firm before the termination.
- 10.5 In the event that the City Council does not make the necessary appropriation to pay for the services contract herein, the OWNER shall notify ENGINEER immediately as to the non-appropriation of these funds. In the event of non-appropriation, OWNER may terminate this Agreement upon not less than ten (10) days' written notice. The parties may also agree to suspend performance under this Agreement in the event of non-appropriation; such suspension shall be reduced to writing and signed by both parties or their representative.

Article 11 – Miscellaneous Provisions

11.1 Precedence

The terms and conditions in this AGREEMENT, including those adopted by reference, shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding the ENGINEER'S services.

11.2 Severability

If any of the terms and conditions in this AGREEMENT shall be finally determined to be invalid or unenforceable in whole or part, the remaining provisions hereof shall remain in full force and effect, and be binding upon the parties hereto. The parties agree to reform this AGREEMENT to replace any such invalid or unenforceable provision with a valid enforceable provision that comes as close as possible to the intention of the stricken provision.

11.3 Mediation

All claims, disputes or controversies arising between the OWNER and the ENGINEER shall be submitted to non-binding mediation prior to and as a condition precedent to the commencement of any litigation between those parties. The American Arbitration Association, or such other person or mediation service shall conduct the non-binding mediation as the parties mutually agree upon. The party seeking to initiate mediation shall do so by submitting a formal written request to the other party to this AGREEMENT and the American Arbitration Association or such other person or mediation service as the parties mutually agree upon. The costs of mediation shall be borne equally by the parties. All statements of any nature made in connection with the non-binding mediation shall be privileged and will be inadmissible in any subsequent court or other proceeding involving or relating to the same claim.

11.4 Consequential Damages

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the OWNER nor the ENGINEER, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the OWNER and ENGINEER shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project.

11.5 Sole Remedy

Notwithstanding anything to the contrary contained herein, OWNER and ENGINEER agree that their sole and exclusive claim, demand, suit, judgment or remedy against each other shall be asserted against each other's corporate entity and not against each other's shareholders, A/E's, directors, officers or employees.

11.6 Third Party Obligations

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the OWNER or the ENGINEER.

11.7 Statute of Limitations

Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of completion of services performed for acts or failures to act occurring prior to the date of completion of services performed or the completion date contained in this AGREEMENT for acts or failures to acts occurring after the date of completion of services performed. In no event shall such statutes of limitations commence to run any later than the date when the ENGINEER's services are substantially completed.

ARTICLE 12 – DISCLOSURE RIGHTS

12.1 OWNER agrees the ENGINEER has the authority to use its name as a client and a general description of the project as a reference for other prospective clients.

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

ACCEPTED FOR

CITY OF BURLINGTON, VERMONT

WESTON & SAMPSON ENGINEERS, INC.

By: _____
Duly Authorized

By: Kenneth J. Bisceglia, P.E.

DATE

DATE

APPROVED AS TO FORM:

By: _____
OWNER Counsel

Date: _____

OWNER'S Sales and Use Tax Certificate Exemption Number _____

T:\Marketing\Proposals\80211 VT\Burlington Stormwater Mapping\Scope & Cost Negotiation\DRAFT CONTRACT FORM BURLINGTON - 052711.DOC

Attachment A

Base Scope of Services

Tasks are in rough chronological order and some tasks will occur concurrently.

Task 1. Asset Inventory/Management Assessment

- a. Compile existing hard copy and digital data
- b. Assess user needs (short term and long term), for example:
 - i. User access to data
 - ii. Cross-disciplinary data sharing
 - iii. Mobile editing

Task 2. GIS Model Update/Verification

- a. Develop database management framework to ensure data integrity of stormwater infrastructure dataset, to include the following as necessary:
 - i. Feature Classes and Datasets
 - ii. Data domains
 - iii. Topology
 - iv. Improved Attribution
 - v. Geometric networks
 - vi. Management of feature inventory/inspection/maintenance data (related table vs. within feature attribute table)
- b. Verify, update, geo-reference and ensure a unique identifier exists for all stormwater features including manhole, catch basin, and outfall locations for the separate stormwater and combined sewer system (using a combination of orthophotos and GPS). Specifically:
 - i. Attempt to verify that all existing located data are correct and geo-referenced using the 2004 half foot orthophotos. (est 25%? Verification)
 - ii. Locate structures not verified in task 2.b.i. using sub-foot capable GPS, and capture all "new" catch basins, manholes, sewer lines and outfall locations and connectivity if available on plans. The City will be responsible for GPSing the outfall locations.
 - iii. Update GIS database to reflect any changes made to the system that are currently available on plan sheets (1988 storm sewer separation and other documented changes)
 - iv. Establish data integrity rules (domains, topology, geometric networks, attribution etc.) that will maintain data integrity during future data collection and edits
 - v. Ensure that all data complies with the data integrity rules
 - vi. Assign RIM elevation to all points using the DEM from 2004 LIDAR as a separate elevation attribute field for rough QA/QC of other elevation data. This task is automated through geoprocessing tools and can be easily updated after points are GPS located.
- c. Sub-watershed/sewershed Delineation for Englsby Brook separate storm tributary.
 - i. Delineate/verify sub-watersheds/sewersheds, including separate sewershed delineations for each of the outfall locations within the watersheds

Task 3. Long-term Asset Management System Development/Procurement

- a. Assist the City in the development or procurement of an asset management system to match documented needs in Assessment (task 1)
 - i. Provide recommendations on at least three (3) “off the shelf” asset management solutions and contrast with a possible “in-house” database management development (possibly to replicate South Burlington’s in-house stormwater asset management solution)
 - ii. Provide recommendations on mobile editing solutions (software/hardware)
 - iii. If appropriate (based on 3.a.i.) set up in-house elements of an asset management database to track infrastructure condition and maintenance activities [if only to act as a place holder until 3rd party software can be purchased]
- b. Develop/document correct protocol sheets for various workflow tasks, including:
 - i. Collecting and editing features with a GPS device
 - ii. Integrating GPS data into the GIS
 - iii. AutoCad file import/export and interoperability within GIS
 - iv. Exporting and emailing subsets of GIS data for use by developers/consultants

Task 4. Stormwater Feature Detailed Inventory (Englesby Brook)

- a. Obtain detailed manhole, catch basin, pipe, outfall information for any “new” infrastructure through structure inspection and/or plan review.
 - i. Inlet/outlet orientation, elevations of inverts and rims
 - ii. Pipe material and diameter
 - iii. Other features to be determined by consultant and the City (condition, depth of sump, grate type etc.)
- b. GPS all manholes with Real Time Kinematic (RTK) GPS for centimeter accurate RIM elevations.
- c. QA/QC existing paper combined sewer manhole inventory data (collected ~ early 1980s) and link/add the GIS

Task 5. System Hydraulic/Hydrologic Modeling Options

- a. Conduct needs analysis
- b. Ensure that dataset attribution reflects features that would be necessary for accurate H/H modeling (**Englesby Brook**)
- c. Provide recommendations for three (3) off the shelf H/H modeling solutions that interface with GIS dataset

Task 6. Incorporate a sample of private stormwater infrastructure information into the GIS (Englesby Brook)

- a. Up to three representative private stormwater systems will be included so that a database template can be set up and propulated with example data for future use by the City.
- b. Include details regarding conveyance, treatment/detention system location/type, and connections to the City infrastructure or outfall locations
- c. Incorporate linked State Permit and As-Built Plan information (as available) [The City has much of this information compiled]

Task 7. Sewer/Storm Deliverables

- a. Esri ArcGIS 10 File Geodatabase including all feature layers, datasets, attributes, tables, and, metadata developed as part of the scope.
- b. One (1) color "wall map" of the stormwater collection system feature dataset displayed at appropriate scale and size with appropriate symbology to distinguish collection system.
- c. One (1) 11x17 map book in digital format (PDF) of stormwater collection feature dataset at appropriate scale for field use and with appropriate symbology to distinguish collection system
- d. One (1) digital and four (4) color large format (24" x 36") hard copies of stormwater collection feature dataset with the subwatersheds delineations displayed.
- e. Workflow "methodology sheets" : Documented step by step procedure for common workflow tasks.
- f. Final Report. The Consultant will produce a final report that documents the methodology, accuracy of data, assumptions, data gaps, and identifies future data needs to support further stormwater management planning efforts.
- g. GIS Asset Management Development/Procurement Recommendations Report
- h. Hydraulic/Hydrologic Modeling Recommendations Report

Task 8. Water System GPS

- a. GPS locating of water system features based on 4,000 water structures: 1,000 hydrants, 1,000 hydrant valves and 2,000 system valves, using a sub-foot capable GPS.
- b. Create a water system geodatabase based on the Esri water utility data model and customize as needed. Load GPSed features into the geodatabase.
- c. Assist with integrating the water system geodatabase into the asset management system.

Attachment B

Supplemental Scope of Services

The supplementary scope identifies tasks that will be completed for subwatersheds outside of the specific areas identified in the base scope (Englesby Brook).

Task 1. GIS Model Update/Verification

- a. Sub-watershed/sewershed Delineation
 - i. Delineate/verify sub-watersheds/sewersheds for MS4 system not completed in base scope – draining to Lake Champlain, Winooski River, Potash Brook, Centennial Brook and unnamed tributaries, including separate sewershed delineations for each of the outfall locations within these watersheds
 - ii. Delineate/verify sub-watersheds/sewersheds for Combined sewer system – draining to each of the 3 WWTPs

Task 2. Stormwater Feature Detailed Inventory

- a. Obtain detailed manhole, catch basin, pipe, outfall information for any “new” infrastructure (assume 650 new structures)
 - i. Inlet/outlet orientation, elevations of inverts and rims
 - ii. Pipe material and diameter
 - iii. Other features to be determined by consultant and the City (condition, depth of sump, grate type etc.)
- b. QA/QC existing paper combined sewer manhole inventory data (collected ~ early 1980s) and link/add the GIS

Task 3. Incorporate private stormwater infrastructure information into the GIS

- a. Include details regarding conveyance, treatment/detention system location/type, and connections to the City infrastructure or outfall locations
- b. Link State Permit and As-Built Plan information (as available) [The City has much of this information compiled]

ATTACHMENT C

CITY OF BURLINGTON CONTRACTING PROVISIONS

This will be a "firm fixed-price" contract to cover the performance of all-eligible services, expenses, and materials. The amount and timing of payments will be determined during contract negotiations.

All rights, titles to and ownership of the data, material, and documentation resulting from this project and/or prepared for the City of Burlington pursuant to this contract shall remain with the City and/or VTRANS.

The City of Burlington will not be considered liable or obligated to the selected consultant(s) for all phases of this project in the event that the contract between the City and VTRANS is terminated for any reason.

All consultants, and any sub-consultants, must comply with any and all applicable laws, statutes, ordinances, rules, regulations, and/or requirements of federal, state, and local governments and agencies thereof, which relate to or in any manner affect the performance of this agreement. Those requirements imposed upon the City as a pass-through recipient of grant funds are thereby passed along to the consultant and any sub-consultants.

All consultants and any sub-consultants must carry adequate insurance coverage and proof of insurance will be required prior to contracts being issued for work. The Consultant shall, through its subcontracts, procure and maintain insurance during the term of this Agreement in the amounts and for the types of coverage indicated below.

With respect to all operations performed by the Consultant, contractors, agents or workers on this Agreement, the Consultant shall procure and maintain insurance as described in Attachment E. The policy shall conform to the requirements listed in Attachment E unless the requirements set forth in the body of the main contract are more protective of the City of Burlington.

Said insurance shall be maintained in full force and effect during the life of this Agreement and shall protect the Consultant, its employees, subcontractors, agents and representatives for personal injury and wrongful death, and for damages to property arising in any manner from the negligent or wrongful acts or intentional acts or failures to act of the Consultant, its employees, subcontractors, agents or representatives agents; or representatives in the performance of such work covered by this Agreement. Such insurance against legal liability shall be available so as to indemnify and save harmless the City, VTRANS and any or all of the officers, agents, and employees thereof resulting out of or in the consequences of acts, or failures to act, on the part of the Consultant in the performance of work covered by this Agreement.

Certificates showing the Consultant is carrying the above-described insurance in at least the above specified minimum amounts with a rated insurance company or companies authorized to do business in the State of Vermont shall be furnished to the City and its agent *by the insurance company* before commencement of the work and further provided that such policies of insurance shall be non-cancelable except after thirty days notice to the City, such notice of cancellation to be sent by the party proposing cancellation by registered mail, postage prepaid, with a return receipt of the addressee requested.

All consultants and any sub-consultants must affirm being an equal opportunity employer with an affirmative action plan. Consultant(s) shall further certify that it will comply with the provisions of the Americans with Disabilities Act and will comply with Burlington's Livable Wage Ordinance (Attachment D). Disadvantaged Business Enterprises (DBE) are encouraged to apply.

The City of Burlington is an Equal Opportunity Employer

ATTACHMENT D

LIVABLE WAGE ORDINANCE SUMMARY

Pursuant to Ordinance Sections 21-80 through 21-85, Bidders are advised that certain contractors and subcontractors are required to comply with the City of Burlington's livable wage ordinance. The livable wage ordinance is applicable to service contracts with the City of Burlington, as opposed to purchasing of goods, where the total amount of the contract or contracts with the same person or entity exceeds \$15,000 for any twelve-month period. As of February 24, 2004, the livable wage for employees who receive health care benefits (i.e. employer cost or contribution of at least \$1.20 per hour) is \$11.92 per hour. The livable wage for employees who do not receive health care benefits is \$15.42 per hour.

An employee of a covered contractor must be paid the livable wage during the period of time he or she expends on furnishing services funded by the City. Covered employees must agree to the payment of the livable wage as a condition of entering into a covered service contract with the City, and includes temporary service workers. A covered employer who violates the livable wage ordinance may be barred from receiving a contract or grant from the City for a period of up to 2 years and may be subject to other civil enforcement remedies.

The affected employer shall agree to post a notice regarding the applicability of this ordinance in any workplace or location where employees or other persons contracted for employment are working. The affected employer shall agree to provide payroll records or other documentation as deemed necessary by the chief administrative officer of the City of Burlington within 10 business days from the receipt of the City's request. The affected employer shall inform employees making less than \$12 per hour of their possible right to the Earned Income Tax Credit under federal and state law.

The affected employer is required, as a condition of any contract or grant covered by the law to submit a written certification under oath confirming the payment of a livable wage as a condition of entering into said contract or grant, pursuant to ordinance section 21-84(a).

Exemptions to this ordinance include:

1. Contract work or grants to the same person or entity for under \$15,000.
2. Person(s) working:
 - a. As volunteers without pay.
 - b. In an approved apprenticeship program.
 - c. In youth employment programs.
 - d. As student workers.
 - e. In established educational internship programs.
3. Workers whose compensation includes tips.
4. Employees covered by a bargaining unit or labor union pursuant to rights conferred by state or federal law.

See next page for affidavit of compliance with livable wage ordinance



AFFADAVIT OF LIVABLE WAGE COMPLIANCE

NAME OF FIRM: _____

ADDRESS: _____

PHONE NO.: () _____ FAX NO.: () _____

CONTACT PERSON: _____ TITLE: _____

TYPE OF FIRM: ☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Other

BURLINGTON PROJECT NAME: _____

DEPARTMENT: _____ CITY CONTACT: _____

The above firm is doing business for the City of Burlington as: ☐ General Contractor

☐ Subcontractor ☐ Consultant ☐ Other: _____

Briefly describe the nature of work supplied by the firm: _____

1. Have you read the attached Livable Wage Ordinance Summary? ☐ Yes ☐ No
2. Do all your employees working on the above project, with the exception of noted exemptions, meet the requirements of this ordinance? ☐ Yes ☐ No
3. If not, please provide the position, employee name, date of hire and current rate of pay for each employee who does not meet the livable wage requirement.

| POSITION | NAME | DATE OF HIRE | CURRENT RATE OF PAY |
|----------|------|--------------|---------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Note: Attach sheet with additional employees if necessary.

4. Total estimated additional compensation amount: \$ _____

APPLICANT UNDERSTANDS THAT INFORMATION PROVIDED HEREIN MAY BE AUDITED, AND FIRM MAY BE BARRED FROM FUTURE CONTRACTS FOR A PERIOD OF UP TO 2 YEARS AND SUBJECT TO CIVIL PENALTIES IF ANY OF THE ABOVE INFORMATION IS FALSIFIED.

Signature: _____ Title: _____

Date: _____

Subscribed and sworn to before me at Burlington, Vermont this _____ day of _____.

Notary Public
My commission expires _____.

ATTACHMENT E
VTRANSPassThrough Requirements

Consultant Contract Provisions
(Appendix E in Local Transportation Facilities Guidebook)

CONSULTANT CONTRACT ATTACHMENT:

CONTRACT PROVISIONS

Includes:

- 1. INDEMNIFICATION**
- 2. INSURANCE**
- 3. COMPLIANCE WITH LAWS**
- 4. CONTRACTUAL AGREEMENTS**
- 5. OPERATIONAL STANDARDS**
- 6. PROJECT DEVELOPMENT AND STANDARDS**
- 7. PAYMENT FOR SERVICES RENDERED**



ATTACHMENT
F

Table 1. Level of Effort and Cost Table

Stormwater Infrastructure GPS/GIS/AMS and H/H Modeling
Burlington, VT

Page 1 of 1
Weston & Sampson
DRAFT - May 27, 2011

| TASK NO. | TASK DESCRIPTION | Person-Hours | | | | | | | | | | Costs | | | | |
|-----------------------------|--|--------------|-------|---------|---------|----------|----------|---------|---------|----------|-------------|--------------|-------------|----------------------|-------------------|---------------------|
| | | | | | | | | | | | | Direct Costs | | Indirect Labor Costs | | TOTAL BILLING COSTS |
| | | GM | QA/QC | PM | SW ENG | GIS | GIS | GIS | GIS | GPS | TOTAL HOURS | EXPENSES | LABOR | OFFICE OVERHEAD | FIXED FEE AMOUNTS | |
| 1 | Asset Inventory/Management Assessment | | | | | | | | | | | | | | | |
| a. | Compile existing data | | | 1 | | 8 | | | | | 9 | | \$330.84 | \$618.37 | \$94.82 | \$1,044.13 |
| b. | Assess user needs | 2 | 2 | 4 | | 40 | | | | | 48 | \$600.00 | \$1,787.70 | \$3,304.01 | \$507.17 | \$6,178.88 |
| 2 | GIS Model Update/Verification | | | | | | | | | | | | | | | |
| a. | Database Development | 2 | | 2 | 4 | 8 | 24 | | | | 40 | | \$1,235.00 | \$2,300.46 | \$354.51 | \$3,889.97 |
| b. | Verify and Update GIS | | | | | | | | | | | | | | | |
| i. | Verify existing data using 2004 orthophotos | | | 4 | 4 | 16 | 40 | | | | 64 | | \$1,026.88 | \$3,801.53 | \$552.84 | \$5,381.25 |
| ii. | Locate and GPS all storm/sewer features | | | | | 19 | 24 | 20 | | 144 | 206 | \$1,200.00 | \$5,064.10 | \$9,521.35 | \$1,481.55 | \$17,277.00 |
| iii. | Update GIS based on plans (175 Plans @ 1hr each) | | | 4 | 4 | 24 | 160 | | | | 212 | | \$5,760.32 | \$10,766.61 | \$1,852.89 | \$18,179.82 |
| iv. | Establish data integrity rules | | | | | 8 | 24 | | | | 32 | | \$884.00 | \$1,670.08 | \$258.50 | \$2,812.47 |
| c. | Sub-watershed/sewerage delineation | | | | | | | | | | | | | | | |
| i. | Delineate for MS4 System | | | | | 8 | 1 | 4 | | | 13 | | \$480.20 | \$880.33 | \$132.06 | \$1,492.59 |
| ii. | Delineate for Combined System to 3 WWTPs | | | | | 8 | 1 | 4 | | | 13 | | \$480.20 | \$880.33 | \$132.06 | \$1,492.59 |
| 3 | Long Term Asset Management System Dev/Proc. | | | | | | | | | | | | | | | |
| a. | Asset In Dev. and Proc. To match needs assessment | 2 | 2 | 2 | 8 | 40 | | | | | 54 | | \$2,000.90 | \$3,739.89 | \$574.08 | \$6,314.87 |
| i. | Provide recommendations on three ASM solutions | | | | | 40 | | | | | 40 | | \$1,428.20 | \$2,871.32 | \$410.05 | \$4,709.57 |
| ii. | Provide recommendations on mobile editing | | | | | 20 | | | | | 20 | | \$714.60 | \$1,335.66 | \$205.03 | \$2,255.29 |
| iii. | Set-up in-house ASM if needed (Assume use of Burlington In-House Programming) | | | | | 40 | 12 | | | | 52 | | \$1,733.28 | \$3,239.87 | \$487.30 | \$5,460.45 |
| b. | Develop Protocols for Workflows | | | | | | | | | | | | | | | |
| i. | Collecting and Editing Data with GPS | | | | | 8 | | | | | 8 | | \$202.72 | \$378.90 | \$58.16 | \$639.78 |
| ii. | AutoCAD file import/export and Interop within GIS | | | | | 8 | | | | | 8 | | \$202.72 | \$378.90 | \$58.16 | \$639.78 |
| iii. | Exporting and subsetting of GIS data | | | | | 8 | | | | | 8 | | \$202.72 | \$378.90 | \$58.16 | \$639.78 |
| iv. | Other Tasks to be defined by Consultant | | | | | 8 | | | | | 8 | | \$202.72 | \$378.90 | \$58.16 | \$639.78 |
| 4 | Stormwater Feature Detailed Inventory | | | | | | | | | | | | | | | |
| a. | Obtain detailed storm feature data for "new" structures (Assume 50 New In Pilot) | | | | | 8 | 8 | | | 32 | 48 | | \$1,256.56 | \$2,348.84 | \$360.52 | \$3,965.92 |
| b. | QA/QC existing combined sewer manhole inventory (Assume 100 Sheets @ 0.5hr each) | | | | | 10 | 50 | | | | 60 | | \$1,624.30 | \$3,035.08 | \$468.03 | \$5,127.41 |
| 5 | System Hydraulic/Hydrologic Modeling | | | | | | | | | | | | | | | |
| a. | Needs Analysis | | | | | | | | | 10 | 10 | \$600.00 | \$653.78 | \$1,221.94 | \$187.57 | \$2,663.29 |
| b. | Database attribute QA/QC for modeling | | | | | 4 | | | | | 12 | | \$489.80 | \$978.10 | \$134.76 | \$1,602.66 |
| c. | Recommendations for three modeling software packages | | | | | | | | | 32 | 32 | | \$1,307.52 | \$2,443.89 | \$375.14 | \$4,126.55 |
| 6 | Incorporate Private Stormwater In GIS | | | | | | | | | | | | | | | |
| a. | Include basic connection data in GIS (Assume 24 Plans in Pilot) | | | | | 4 | 24 | | | | 28 | | \$751.08 | \$1,403.64 | \$215.40 | \$2,370.12 |
| b. | Link state permit and as-built plans | | | | | 1 | 8 | | | | 9 | | \$228.45 | \$445.69 | \$68.41 | \$742.55 |
| 7 | Sewer/Storm Deliverables | 2 | 2 | | | 4 | 40 | | | | 48 | \$2,500.00 | \$1,315.02 | \$2,457.90 | \$377.26 | \$6,650.22 |
| 8 | Water System GPS | | | | | | | | | | | | | | | |
| a. | GPS Water System Features | 2 | | 4 | | 4 | 16 | 120 | | | 146 | \$1,200.00 | \$3,139.15 | \$5,887.40 | \$900.86 | \$11,127.41 |
| b. | Water system geodatabase setup | | | | | 8 | 8 | | | | 16 | | \$488.56 | \$913.17 | \$140.17 | \$1,541.90 |
| c. | Asset management integration | | | | | 16 | | | | | 16 | \$400.00 | \$571.88 | \$1,088.53 | \$164.02 | \$2,204.43 |
| | Contingency | | | | | | | | | | 92 | \$381.82 | \$2,678.00 | \$4,814.80 | \$738.08 | \$8,612.70 |
| TOTAL HOURS | | 10 | 6 | 21 | 36 | 323 | 498 | 140 | 56 | 176 | 1358 | \$6,881.62 | \$39,010.77 | \$72,915.03 | \$11,192.58 | \$130,000.00 |
| LABOR COST PER STAFF MEMBER | | \$1,420 | \$649 | \$2,982 | \$4,590 | \$36,423 | \$39,827 | \$9,545 | \$7,221 | \$13,331 | | | | | | |

| | |
|--|-----------|
| General Contract Services | \$98,439 |
| Downtown Area | \$8,200 |
| Water System Mapping | \$14,850 |
| Contingency | \$8,511 |
| Base Scope of Services - Total Contract Amount | \$130,000 |

CONTRACT PROVISIONS:

Wherever used, abbreviations may be used in place of a word or phrase and definitions may be used to interpret statements for the meaning of words phrases or expressions. The intent and meaning for abbreviations and definitions shall be interpreted as herein set forth:

| | |
|--------|--|
| AASHTO | American Association of State Highway and Transportation Officials |
| AGC | Associated General Contractors of America |
| AIA | American Institute of Architects |
| ANR | Agency of Natural Resources |
| ANSI | American National Standards Institute |
| ASCE | American Society of Civil Engineers |
| AWS | American Welding Society |
| CADD | Computer Aided Drafting and Design |
| CES | Consultant Engineering Services |
| CFR | Code of Federal Regulations |
| DOT | United States Department of Transportation |
| EEO | Equal Employment Opportunity |
| EIS | Environmental Impact Statement |
| EDM | Electronic Data Media |
| FAA | Federal Aviation Administration |
| FAR | Federal Acquisition Regulation |
| FHWA | Federal Highway Administration, U.S. Department of Transportation |
| FRA | Federal Railroad Administration |
| FSS | Federal Specifications and Standards (General Services Administration) |
| FTA | Federal Transit Administration |
| SIR | Self Insured Retention |
| U.S.C. | United States Code |
| USEPA | United States Environmental Protection Agency |
| VAOT | Vermont Agency of Transportation |
| VOSHA | Vermont Occupational Safety and Health Act |
| VSA | Vermont Statutes Annotated |

1. INDEMNIFICATION

The Consultant agrees, to the fullest extent permitted by the law, that it shall indemnify and hold harmless the City of Burlington (hereinafter "Municipality"), its officers, agents and employees from liability for damages to third parties, together with costs, including attorney's fees, incurred in defending such claims by third parties, to the extent such liability is caused by the negligent or intentional acts, errors, or omissions of the Consultant, its agents or employees, committed, in the performance of professional services to be provided by the Consultant under this Agreement.

The Municipality is responsible for its own actions. The Consultant is not obligated to indemnify the Municipality or its officers, agents and employees for any liability of the Municipality, its officers, agents and employees attributable to its, or their own, negligent acts, errors or omissions.

In the event the Municipality, its officers, agents or employees are notified of any claims asserted against it or them to which this Indemnification clause may apply, the Municipality or its officers, agents and employees shall immediately thereafter notify the Consultant in writing that a claim to which the Indemnification Agreement may apply has been filed.

2. INSURANCE

GENERAL: Prior to beginning any work the Consultant shall obtain the following Insurance Coverage. The certificate of insurance coverage shall be documented on forms acceptable to the Municipality. Evidence of compliance with minimum limits and coverages, evidenced by a certificate of insurance showing policies and carriers that are acceptable to the Municipality, must be received prior to the effective date of the Agreement. The insurance policy (ies) shall provide that insurance coverage cannot be canceled or revised without fifteen (15) days' prior notice to the Municipality. In the event that this Contract extends to greater than one year, evidence of continuing coverage must be submitted to the Municipality on an annual basis. Certified copies of any insurance policies may be required.

The Consultant is responsible to verify that:

- (a) All subconsultants, agents or workers meet the minimum coverages and limits plus maintain current certificates of coverage for all subconsultants, agents or workers.
- (b) All coverages shall include adequate protection for activities involving hazardous materials.
- (c) All work activities related to the agreement shall meet minimum coverages and limits.

No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Consultant for the Consultant's operations. These are solely minimums that have been developed and must be met to protect the interests of the Municipality.

GENERAL LIABILITY AND PROPERTY DAMAGE:

- (a) With respect to all operations performed by the Consultant, subconsultants, agents or workers, it is the Consultant's responsibility to insure that general liability insurance coverage provides all major divisions of coverage including, but not limited to:
 - 1. Premises Operations
 - 2. Independent Contractors' Protective
 - 3. Products and Completed Operations
 - 4. Personal Injury Liability
 - 5. Contractual Liability
 - 6. Broad Form Property Damage
 - 7. Medical Expenses
 - 8. Collapse, Underground and Explosion Hazards
- (b) The policy shall be on an occurrence form with limits not less than:

| | |
|--|-------------|
| 1. General Aggregate | \$2,000,000 |
| 2. Products-Completed/Operations Aggregate | \$1,000,000 |
| 3. Personal & Advertising Injury | \$1,000,000 |
| 4. Each Occurrence | \$1,000,000 |
| 5. Fire Damage (Any one fire) | \$ 50,000 |
| 6. Med. Expense (Any one person) | \$ 5,000 |

WORKERS' COMPENSATION: With respect to all operations performed, the Consultant shall carry workers compensation insurance in accordance with the laws of the State of Vermont. Minimum limits for Employer's Liability:

- (a) Bodily Injury by Accident: \$100,000 each accident
- (b) Bodily Injury by Disease: \$500,000 policy limit, \$100,000 each employee

PROFESSIONAL LIABILITY INSURANCE:

- (a) General. This applies only to those Contracts specifically identified as requiring Errors & Omissions (E&O) Insurance. The Consultant shall carry architects/engineers professional liability insurance covering errors and omissions made during their performance of contractile duties with the following minimum limits:
 - \$1,000,000 - Annual Aggregate
 - \$1,000,000 - Per Occurrence
- (b) Deductibles. The consultant is responsible for any and all deductibles.
- (c) Coverage. Prior to performing any work, the Consultant agrees to provide evidence of E&O insurance coverage defined under this Section. In addition, the Contractor agrees to attempt to maintain continuous professional liability coverage for the period of the agreement and whenever applicable any construction work related to this agreement, and for a period of five years following substantial completion, if such coverage is reasonably available at commercially affordable premiums.

VALUABLE PAPERS INSURANCE: This applies only to those Contracts specifically identified as requiring Valuable Papers Insurance. The Consultant shall carry valuable papers insurance in a form and amount sufficient to ensure the restoration or replacement of any plans, drawings, field notes, or other data relating to the work, whether supplied by the Municipality or developed by the Consultant, subconsultant, worker or agent, in the event of loss, impairment or destruction of these documents. Such coverage shall remain in force until the final plans, and all related materials, have been delivered by the Consultant to, and accepted by, the Municipality.

The policy shall provide coverage on an each occurrence basis with limits not less than:

| | |
|-----------------------|----------|
| Valuable Papers | \$10,000 |
| Electronic Data Media | \$10,000 |

AUTOMOBILE LIABILITY: The Consultant shall carry automobile liability insurance covering all motor vehicles, including owned, non-owned and hired, used in connection with the agreement. Each policy shall provide coverage with a limit not less than: \$1,000,000 - Combined Single Limit

3. COMPLIANCE WITH LAWS

GENERAL COMPLIANCE WITH LAWS: The Consultant shall comply with all applicable Federal, State and local laws.

Provisions of the Agreement shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both parties. If, for any reason, a provision in the Agreement is unenforceable or invalid, that provision shall be deemed severed from the Agreement, and the remaining provisions shall be carried out with the same force and effect as if the severed provisions had never been a part of the Agreement.

ENVIRONMENTAL REGULATIONS: Any Contract in excess of one hundred thousand dollars shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. § 1857(h)), Section 508 of the Clean Air Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Municipality regulation (40 CFR Part 15), that prohibit the use, under non-exempt Federal Contracts, grants or loans, of facilities included on the EPA list of Violating Facilities. The provisions require reporting of violations to the grantor, Municipality and to the USEPA Assistant Administrator for Enforcement (EN-329).

CIVIL RIGHTS and EQUAL EMPLOYMENT OPPORTUNITY: During performance of the Agreement, the Consultant will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, national origin, physical disability or veteran status.

The Consultant shall comply with the applicable provisions of Title VI of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR Part 60). The Consultant shall also comply with the rules, regulations and relevant orders of the Secretary of Labor, Nondiscrimination regulations 49 CFR § 21 through Appendix C, and Regulations under 23 CFR § 710.405 (b) . Accordingly, all subcontracts shall include reference to the above.

The Consultant shall comply with all the requirements of Title 21, VSA, Chapter 5, Subchapter 6 and 7, relating to fair employment practices to the extent applicable. A similar provision shall be included in any and all subcontracts.

DEBARMENT CERTIFICATION: When signing a Contract in excess of twenty five thousand dollars, the Consultant certifies under the penalty of perjury as directed by Federal laws (48 CFR 52.209-5), that, except as noted in the Agreement, the Consultant or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds:

- (a) is not currently under suspension, debarment, voluntarily exclusion or determination of ineligibility by any Federal agency;
- (b) has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past three (3) years;
- (c) does not have a proposed debarment pending; and

- (d) has not been indicted, convicted, or had a civil judgement rendered against him/her by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Exceptions will not necessarily result in denial of the Contract but will be considered in determining the Consultant=s responsibility. The Agreement shall indicate any exception and identify to whom or to what Municipality it applies and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

Exceptions shall be noted in the Contract:

LOBBYING: For any Agreement exceeding one hundred thousand dollars, the Consultant certifies by signing the Agreement, that to the best of their knowledge and belief on behalf of their signature:

- (a) No Federal appropriated funds have been paid or will be paid by or to any person influencing or attempting to influence an officer or employee of a government agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, renewal, amendment or modification of any Federal Contract grant, loan or cooperative Agreement.
- (b) They will complete and submit, in accordance with its instructions, Standard Form-LLL "Disclosure Form to Report Lobbying", if any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of a government agency or a Member of Congress in connection with the Federal Agreement, grant loan, or cooperative Agreement.
- (c) They shall require that the language of this Certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact, upon which reliance was placed when the Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into the Agreement, imposed by Section 1352, Title 31, U.S.C..

Section 1352 of Title 31, U.S.C., provides, in part, that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any government agency, Member of Congress, officer or employee of Congress, or employee of a Member of Congress, in the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Agreement.

CHILD SUPPORT PAYMENTS: By signing the Contract the Consultant certifies, as of the date of signing the Agreement, that they are (a) not under an obligation to pay child support; or (b) is under such an obligation and is in good standing with respect to that obligation; or (c) has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan. If the

Consultant is a sole proprietorship, the Consultant's statement applies only to the proprietor. If the Consultant is a partnership, the Consultant's statement applies to all general partners with a permanent residence in Vermont. If the Consultant is a corporation, this provision does not apply.

TAX REQUIREMENTS: By signing the Agreement, the Consultant certifies, as required by law under 32 V.S.A., Section 3113, that under the pains and penalties of perjury, he/she is in good standing with respect to payment, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date of signature on the Agreement.

ENERGY CONSERVATION: The Consultant shall recognize mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act P.L. 94-165.

4. CONTRACTUAL AGREEMENTS

REGISTRATION: The Consultant agrees to become registered with the Vermont Secretary of State's office as a corporation doing business in the State of Vermont. This registration must be complete prior to contract execution.

ADMINISTRATION REQUIREMENTS: By signing the Agreement the Consultant agrees to comply with the following provisions and certifies that he/she or they are in compliance with the provisions of 49 CFR § 18.36 Procurement (i) Contract Provisions with principal reference to the following:

- (a) Copeland "Anti-Kickback" Act. For any Federal-Aid Contracts or subcontracts for construction or repair, the Consultant agrees to comply with the Copeland "Anti-Kickback" Act, 18 U.S.C. § 874, as supplemented by Department of Labor Regulations, 29 CFR § 3.
- (b) Davis-Bacon Act. For any Federal-Aid construction contracts in excess of \$2,000, the Consultant agrees to comply with the Davis-Bacon Act 40 U.S.C. §§ 276a to a-7, as supplemented by Department of Labor Regulations, 29 CFR § 5.
- (c) Work Hours. For any Federal-Aid construction contracts in excess of \$ 2,000, or in excess of \$ 2,500 for other contracts involving employment of mechanics or laborers, the Consultant agrees to comply with the Contract Working Hours and Safety Standards Act, 40 U.S.C. §§ 327-330, as annexed by Department of Labor Regulations, 29 CFR § 5.
- (d) Proprietary Rights. The parties under the Agreement hereby mutually agree that, if patentable discoveries or inventions should result from work performed under the Agreement, all rights accruing from such discoveries or inventions shall be the sole property of the Consultant. The Consultant, however, agrees to and does hereby grant to the Municipality, the State of Vermont and the United States Government an irrevocable, nonexclusive, non-transferable, and royalty-free license to practice each invention in the manufacture, use, and disposition, according to law, of any article or material or use of method that may be developed, as a part of the work under the Agreement.
- (e) Publications. All data, EDM, valuable papers and documents produced under the terms of the Agreement, shall become the property of the Municipality. The Consultant agrees to allow access to all data, EDM, valuable papers and documents at all times. The Consultant shall not copyright any material originating under the Agreement without prior written approval of the Municipality.

PERSONNEL REQUIREMENTS AND CONDITIONS: A Consultant shall employ only qualified personnel, for responsible authority to supervise the work. The Municipality shall have the right to approve or disapprove key personnel assigned to administer activities related to the Agreement.

Except with the approval of the Municipality, during the life of the Agreement, the Consultant shall not employ:

- (a) Personnel on the payroll of the Municipality who are directly involved with the awarding, administration, monitoring, or performance of the Agreement or any project(s) that are the subjects of the Agreement.
- (b) Any person so involved within one (1) year of termination of employment with the Municipality.

The Consultant warrants that no company or person has been employed or retained, other than a bonafide employee working solely for the Consultant, to solicit or secure this Agreement, and that no company or person has been paid or has an agreement with the Consultant to be paid, other than a bonafide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, the Municipality shall have the right to annul the Agreement, without liability to the Municipality, and to regain all costs incurred by the Municipality in the performance of the Agreement.

The Municipality reserves the right to require removal of any person employed by a Consultant, from work related to the Agreement, for misconduct, incompetence, or negligence, in the opinion of the Municipality in the due and proper performance of its duties, or who neglects or refuses to comply with the requirements of the Agreement.

TRANSFERS, SUBLETTING, ETC: A Consultant shall not assign, sublet, or transfer any interest in the work, covered by an Agreement, without prior written consent of the Municipality and further, if any subconsultant participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive prior written consent of the Municipality. The approval or consent to assign or sublet any portion of the work, shall in no way relieve the Consultant of responsibility for the performance of that portion of the work so transferred. The form of the subcontractor's agreement shall be as developed by the Consultant and approved by the Municipality. The Consultant shall ensure that adequate insurance coverage exists for any operations to be performed by any subconsultant.

The services of the Consultant, to be performed under the Agreement, are personal and shall not be transferred without written authorization of the Municipality and, when applicable, approved by the State of Vermont and FHWA. Any authorized subagreements, exceeding ten thousand dollars in cost, shall contain all of the same provisions specified for and attached to the original Agreement with the Municipality.

BEGINNING AND COMPLETION OF WORK: The Consultant agrees to begin performance of services, specified in the Agreement, in accordance with the terms of the Agreement, as arranged in negotiations with the Municipality, or within ten (10) days of the date of written notice to begin work by the Municipality, and to complete the contracted services by the completion dates specified in the Agreement.

Upon completion of all services covered under the Agreement and payment of the agreed upon fee, the Agreement with its mutual obligations shall be terminated.

CONTINUING OBLIGATIONS: The Consultant agrees that if, because of death or other occurrences, it becomes impossible to effectively perform its services in compliance with the Agreement, neither the Consultant nor its surviving members shall be relieved of their obligations to complete the Agreement. However, the Municipality may terminate the Agreement if it considers a death or incapacity of any members to be a loss of such magnitude that it would affect the firm's ability to satisfactorily execute the Agreement.

OWNERSHIP OF THE WORK: The Consultant agrees that the ownership of all studies, data sheets, survey notes, subsoil information, drawings, tracings, estimates, specifications, proposals, diagrams, calculations, EDM and other material prepared or collected by the Consultants, hereafter referred to as "instruments of professional service", shall become the property of the Municipality as they are prepared and/or developed during execution of the Agreement.

The Consultant shall surrender to the Municipality upon demand or submit for inspection at any time any instruments of professional service that have been collected, undertaken or completed by the Consultant pursuant to the Agreement. Upon completion of the work, in full, these instruments of professional service will be appropriately endorsed by the Consultant and turned over to the Municipality.

Data and publication rights to any instruments of service produced under this agreement are reserved to the Municipality and shall not be copyrighted by the Consultant at any time without written approval of the Municipality. No publications or publicity of the work, in part or in total, shall be made without the agreement of the Municipality, except that Consultants may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.

RECORDS RETENTION: The Consultant agrees to retain, in company files, all books, documents, EDM, valuable papers, accounting records, and other evidence, pertaining to costs incurred for work performed under the Agreement, for a period of at least three (3) years after the final "date of acceptance" by the Municipality, unless otherwise notified by the Municipality. The Consultant further agrees that the Municipality, the State of Vermont, FHWA or other authorized representatives of the Federal Government, shall have access to all the above information for the purpose of review and audit during the Agreement period and anytime within the aforementioned retention period. Copies of all the above referenced information shall be provided to the Municipality if requested.

APPEARANCES:

- (a) Hearings and Conferences. The Consultant shall provide professional services required by the Municipality and necessary for furtherance of any work covered under the Agreement. Professional services shall include appropriate representation at design conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify, explain and defend its contractual services covered under the Agreement.

The Consultant shall perform any liaison that the Municipality deems necessary for the furtherance of the work and participate in conferences with the Municipality, at any reasonable time, concerning interpretation and evaluation of all aspects covered under the Agreement.

The Consultant further agrees to participate in meetings with the Municipality, the State of Vermont, FHWA, and any other interested or affected participant, for the purpose of review or resolution of any conflicts pertaining to the Agreement. The Consultant shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the Contract document.

- (b) Appearance as Witness. If and when required by the Municipality, a Consultant, or an appropriate representative, shall prepare and appear for any litigation concerning any relevant project or related Agreement, on behalf of the Municipality. The Consultant shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto, in accordance with the Contract document.

CHANGES AND AMENDMENTS: No changes or amendments of the Agreement shall be effective unless documented in writing and signed by authorized representatives of the Municipality and the Consultant.

APPENDICES: The Municipality may attach, to these specifications, appendices containing various forms and typical sample sheets for guidance and assistance to the Consultant in the performance of the work. It is understood, however, that such forms and samples may be modified, altered, and augmented from time to time by the Municipality as occasions may require. It is the responsibility of the Consultant to ensure that they have the latest versions applicable to the Agreement.

EXTENSION OF TIME: The Consultant agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by the Consultant for delays or hindrances, from any cause whatsoever, during the progress of any portion of services specified in the Agreement. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as the Municipality may decide. Time extensions shall be granted by amendment, only for excusable delays, such as delays beyond the control of the Consultant and without the fault or negligence of the Consultant.

SETTLEMENTS OF MISUNDERSTANDINGS: In order to prevent misunderstandings and litigation, it is mutually agreed by all parties that the selectboard and/or city council shall act as referee on all questions arising under the terms of an Agreement and that the decision of this governing body in such cases shall be binding upon both parties.

Agreements subjecting costs to final audit, an administrative review regarding the audit will be sent to the Consultant. Any dispute arising from an administrative decision shall be appealed in writing within thirty (30) days of receipt.

FAILURE TO COMPLY WITH TIME SCHEDULE: It is mutually understood and agreed to, that neither party hereto shall be held responsible for delay in performing the work encompassed herein, when such delay is due to unforeseeable causes such as acts of God, or a public enemy, fire, strikes, floods, or legal acts of public authorities. In the event that any such causes for delay are of such magnitude as to prevent the complete performance of the Agreement within two (2) years of the originally scheduled completion date, either party may by written notice request to amend or terminate the Agreement.

MUNICIPALITY'S OPTION TO TERMINATE: The Agreement may be terminated in accordance with the following provisions:

- (a) Breach of Contract. Administrative remedies - the Municipality reserves the right to terminate a Contract for breach of Contract agreements. Termination for breach of Contract will be without further compensation to the Consultant.
- (b) Termination for Cause. The Municipality reserves the right, upon written notice to the Consultant, to terminate the Agreement, as of a date to be specified by the Municipality, if the Consultant fails to complete the designated work to the satisfaction of the Municipality, within the time schedule agreed upon. The Consultant shall be compensated on the basis of the work performed and accepted by the Municipality at the date of final acceptance of the Agreement.
- (c) Termination for Convenience. In addition to its rights and options to terminate an Agreement as provided herein, the Municipality may, at any time prior to completion of services specified under an Agreement, terminate the Agreement by submitting written notice to a Consultant, within not less than fifteen (15) days prior to the effective date, via certified or registered mail, of its intention to do so. If the termination is for the Municipality's convenience, payment to the Consultant will be made promptly for the amount of any fees earned to the date of the notice of termination, less any payments previously made. However, if a notice of termination is given to a Consultant prior to completion of twenty (20) percent of the estimated services, as set forth in the approved Work Schedule and Progress Report, the Consultant will be reimbursed for that portion of any reasonable and necessary expenses incurred to date of the notice of termination, that are in excess of the amount earned under its approved fee to the date of said termination. Such requests for reimbursement shall be supported with factual data and shall be subject to the Municipality's approval.

The Consultant shall make no claim for additional compensation against the Municipality by reason of such termination.

5. OPERATIONAL STANDARDS

RESPONSIBILITY FOR SUPERVISION: The Consultant shall assume primary responsibility for general supervision of Consultant employees and his/her or their subconsultants for all work performed under the Contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions and contents of work performed under the Agreement.

INDEPENDENCE: The Consultant shall act in an independent capacity and not as officers or employees of the Municipality.

WORK SCHEDULE AND PROGRESS REPORT: Prior to initiating any work, the Consultant shall prepare, and submit to the Municipality, a general work schedule showing how the consultant will complete the various phases of work in order to meet the completion date in the contract. The Municipality will use this general work schedule to monitor the consultant.

During the life of the Contract the Consultant will make monthly progress reports indicating the work achieved through the date of the report. The Consultant shall link the monthly progress reports to the general schedule submitted.

The report shall indicate any matters that have or are anticipated to adversely affect progress of the work. The Municipality may require the Consultant to prepare a revised work schedule, in the event that a specific progress achievement falls behind the scheduled progress by more than thirty (30) days.

UTILITIES: Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by any proposed construction, the Consultant will counsel with the Municipality, plus achieve any necessary contacts and discussions with the affected owners, regarding any requirement necessary for revisions of facilities or existing installations, both above and below ground. Any such installations must be completely and accurately exhibited on any detail sheets or plans. The Consultant shall inform the Municipality, in writing, of any such contacts and the results thereof.

PUBLIC RELATIONS: Whenever it is necessary to perform work in the field, particularly with respect to reconnaissance, the Consultant will endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the Consultant shall conduct themselves with propriety. The Consultant agrees to inform property owners and/or tenants, in a timely manner, if there is need for entering upon private property as an agent of the Municipality, in accordance with VSA Title 19 § 35 and § 503, in order to accomplish the work under the Agreement. The Consultant agrees that any work will be done with minimum damage to the land and disturbance to the owner. Upon request of the Consultant, the Municipality shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the Consultant is acting as an agent of the Municipality.

INSPECTION OF WORK: The Municipality shall, at all times, have access to the Consultant's work for the purposes of inspection, accounting, and auditing, and the Consultant shall provide whatever access is considered necessary to accomplish such inspections. At any time, the Consultant shall permit the Municipality or representative for the Municipality the opportunity to inspect any plans, drawings, estimates, specifications, or other materials prepared or undertaken by the Consultant pursuant to execution of the Agreement.

Conferences, visits to a site, or an inspection of the work, may be held at the request of any involved party or by representatives of the Municipality, the State of Vermont or FHWA.

WRITTEN DELIVERABLES: Written deliverables, presented under terms of the Agreement, shall be on 8 1/2" by 11 paper, consecutively printed on both sides. Reports shall be bound and have a title page that identifies the name and number of the project and publication date. The report shall have a table of contents and each page shall be numbered successively. Draft reports shall be identified as such.

6. PROJECT DEVELOPMENT AND STANDARDS

PLANS RECORDS AND AVAILABLE DATA: The Municipality agrees to make available, at no charge, for the Consultant's use all available data related to the Agreement including any preliminary plans, maps, drawings, photographs, reports, traffic data, calculations, EDM, valuable papers, topographic survey, utility location plats, or any other pertinent public records.

DESIGN STANDARDS: Unless otherwise specifically provided for in the Agreement, or directed in writing, Consultant services, studies or designs, that include or make reference to plans, specifications, special provisions, computations, estimates, or other data necessary for construction of a designed facility, shall be in conformance with applicable portions of the following specifications, manuals, codes or regulations, including supplements to or revisions thereof, adopted and in effect prior to award of the Agreement:

- (a) VAOT=S latest edition of the Standard Specifications for Construction.
- (b) VAOT=S Bridge Design Manual.
- (c) All applicable AASHTO roadway, traffic, bridge, bicycle and pedestrian policies, guides and manuals.
- (d) VAOT=S Manual on Survey.
- (e) VAOT=S Right-of-Way Manual.
- (f) The Highway Capacity Manual - Special Report 209.
- (g) The ANSI/AASHTO/AWS D-1.5, Bridge Welding code.
- (h) The MUTCD and Vermont Supplement requirements.
- (i) The Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals
- (j) Other Municipality directives and guidelines current at the time of the Agreement and as may be issued by the Municipality during the progress of the design.

In case of any conflict with the guidelines referenced, the Consultant is responsible to identify and follow any course of direction provided by the Municipality.

DEVELOPMENT OF PLANS: Unless otherwise indicated in an Agreement, the provisions of these specifications shall apply to any contract requiring preliminary engineering services in connection with highway, bridge, bicycle and pedestrian survey and design. The Consultant is responsible for the development of any and all work outlined in an Agreement.

The Municipality shall establish the termini of the project and may substantiate other conditions relative to locations established in the Agreement. When required under the Agreement, the Consultant will produce an acceptable survey and/or set of plans between such termini and follow any established provisions.

Endorsement of a recommended alignment made, by the Municipality, does not relieve the Consultant of the responsibility for making changes occasioned as a result of an alignment not conforming to standards or good engineering practices when the design is advanced. Nor is the Consultant relieved of changes developed by normal refinements.

Changes in work or Supplemental Agreements, requested or required of the Consultant by the

Municipality, involving extra work or additional services must be properly documented and approved prior to initiating action of any work.

METRICATION: All work performed under a Contract shall be designed to comply with metrication units if specified in the Request for Proposals or the Scope of Work. Guide requirements for metric conversion shall follow criteria outlined in an AASHTO publication "Guide To Metric Conversion", copyright 1993. Copies of the Guide Requirements are available from AASHTO, 444 North Capitol St., N.W., Suite 225, Washington, DC20001.

Unless otherwise required for special cases, the Consultant shall use the following conversions for metric units:

- (a) Lengths. For lengths less than 1 kilometer use meters. For lengths less than 1 meter use millimeters. For lengths less than 1 millimeter use micrometers.

- (b) Mass. For a mass less than 1 metric ton use kilograms. For a mass less than 1 kilogram use grams. For a mass less than 1 gram use milligrams.
- (c) Liquid Volume. For liquid volumes less than 1 cubic meter use liters. For liquid volumes less than 1 liter use milliliters. A liter is one thousandth of a cubic meter or 1000 cubic centimeters.
- (d) Solid Volume. For a solid volume less than 1 cubic meter use cubic millimeters.
- (e) Area. For an area less than 1 hectare use square meters. For an area less than 1 square meter use square millimeters.
- (f) Basic Engineering Conversion Factors.

| | |
|---------------------|---|
| 1. Mass/Unit Length | Pounds/Linear Foot to kilograms/meter (kg/m) |
| 2. Mass/Unit Area | Pounds/Square Foot to kilograms/square meter (kg/M ²) |
| 3. Mass Density | Pounds/Cubic Foot to kilograms/cubic meter (kg/M ³) |
| 4. Force | Pounds to newtons (N) |
| 5. Pressure | Pounds/Square Foot to Pascal (Pa = N/M ²) |
| 6. Bending Moment | Newton - meter (N*m) |

ELECTRONIC DATA MEDIA: Consultant, subconsultants, or any representatives performing work related to the Agreement, are responsible to insure that all data and information created or stored on EDM is secure and can be duplicated if the EDM mechanism is subjected to power outage or damage.

REVIEWS AND ACCEPTANCES: All preliminary and detailed designs, plans, specifications, estimates or other documents prepared by the Consultant, shall be subject to review and endorsement by the Municipality.

Approval for any inspections or sequences of progress of work shall be documented by letters, memoranda or other appropriate written means.

A frequency for formal reviews shall be set forth in the Agreement. Informal reviews, conducted by the Municipality will be performed as deemed necessary. The Consultants shall respond to all official comments regardless of their source. The Consultant shall supply the Municipality with written copies of all correspondence relating to formal and informal reviews.

No acceptance shall relieve a Consultant of their professional obligation to correct any defects or errors in their work at their own expense.

7. PAYMENT FOR SERVICES RENDERED

PAYMENT PROCEDURES: The Municipality shall pay, or cause to be paid to the Consultant or the Consultant's legal representative, progress payments, that may be monthly or as otherwise accepted by the Municipality, as determined by the percentage of work completed, as documented by a progress report of such work duly attested, for each phase of the required services covered by the Agreement. When

applicable, for the type of payment specified in the Agreement, the progress report shall summarize actual costs and any earned portion of fixed fee.

All invoices and correspondence shall indicate the applicable project name, project number and the Agreement number. When relevant, the invoice shall further be broken down in detail between projects.

When applicable, for the type of payment specified in the Agreement, expenses for meals and travel shall be limited to the current approved in-state rates, as determined by the State of Vermont=s labor contract, and need not be receipted. All other expenses are subject to approval by the Municipality and must be accompanied with documentation to substantiate their charges.

Invoices shall be submitted to the Municipality; one original and three (3) copies are required.

No approval given or payment made under an Agreement, shall be conclusive evidence of the performance of said Agreement, either wholly or in part thereof, and no payment shall be construed to be acceptance of defective work or improper materials.

The Municipality agrees to pay the Consultant and the Consultant agrees to accept, as full compensation, for performance of all services rendered and expenses encompassed in conformance therewith, the type of fee specified in the Contract.

- (a) Indirect Cost Rates. For actual cost contracts, the Consultant is responsible for furnishing the Municipality with independently-prepared, properly supported, Indirect Cost Rates, in accordance with 48 CFR 52.216-7, for all time periods covered under the Agreement. These rates must be developed in accordance with the cost principles in 48 CFR Part 31. A Consultants overhead rate shall be based upon an actual audited overhead rate, unless otherwise specified in the Agreement.

- (b) Contract Types. Contracts shall conform with 48 CFR Part 16 - TYPES OF CONTRACTS.

PAYMENT FOR ADDITIONS OR DELETIONS: The Municipality may, upon written notice, and without invalidating the Agreement, require any changes to, additions to, or deletions from, the originally contemplated extent of the work, prior to completion of the Agreement by means of an amendment to the original contract. Any adjustments of this nature shall be executed under the appropriate fee established in the Agreement, based on the adjusted quantity of work, except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such addition or deletion.

PAYMENT FOR EXTRA WORK, ADDITIONAL SERVICES OR CHANGES: The Municipality may, upon written notice, and without invalidating the Agreement, require changes resulting from revision or abandonment of work already satisfactorily performed by the Consultant or changes in the scope of the work.

The value of such changes, to the extent not reflected in other payments to the Consultant, shall be incorporated in an amendment and be determined by mutual agreement, in one or more of the following ways:

- (a) Fixed Price. By a price that is not subject to any adjustment on the basis of the Contractor's expenses experienced in performing the work. The Contractor is fully responsible for all costs and resulting profit or loss.
- (b) Rate Schedule. By unit prices designated in the Agreement, or by unit prices covered under any subsequent Agreements.
- (c) Actual Cost. By amounts determined on the basis of actual costs incurred, as distinguished from forecasted expenditures.

No changes, for which additional fee payment is claimed, shall be made unless pursuant to a written order from the Municipality, and no claim shall be valid unless so ordered.

The Consultant agrees to maintain complete and accurate records, in a form satisfactory to the Municipality for all time devoted directly to same by Consultant employees. The Municipality reserves the right to audit the records of the Consultant related to any extra work or additional services. Any such services rendered shall be subject, in all other respects, to the terms of the Agreement. When changes are so ordered, no additional work shall be performed by the Consultant until an Agreement amendment has been fully executed, unless written notice to proceed is issued by the Municipality. Any claim for extension of time, that may be necessitated as a result of extra work or additional services and changes, shall be given consideration and evaluated insofar as it directly relates to the change.

