

# TOWN OF CHARLOTTE

## SPEAR STREET CULVERT REPLACEMENT

### PROJECT SUMMARY October 8, 2024

#### Scope of Work

The project generally includes the Installation of twin 10-foot diameter culverts with cast-in-place concrete headwalls and wingwalls, debris deflector, road reconstruction and all associated work as outlined in the bid plans.

#### Special Conditions/Instructions for Contractors

This list represents a quick summary of some of the issues and expectations associated with this project.

1. **Existing Conditions** – The site represents the post-flood conditions from the July 9/10 storm event. The pre-existing single barrel 10-foot diameter metal plate sits out in the field on the abutting downstream property. The culvert failure has left a 68-foot wide opening between the remaining roadway surface. Much of the flood debris deposited on the abutting downstream property has been gathered and stored in one stockpile off of the southeast quadrant of the original culvert location.
2. **Culvert Materials**- The Culvert materials for the project have been pre-purchased by the Town and are stored on site.
3. **Tax Exempt Status** – All materials purchased for the Town of Charlotte as part of this project are tax exempt. The supporting information will be provided to the bidder awarded the project.
4. **Bid Schedule** – Bid are due at 5:30 PM on Tuesday, October 22, 2024. The Bid Proposal Page and the Unit Price schedule can be emailed to Nate Bareham, Town Administrator, at [townadmin@townofCharlotte.com](mailto:townadmin@townofCharlotte.com). Hard copies are to be mailed thereafter. The Town asks that the bidders reserve time on Wednesday, October 23, 2024 between 5:30 PM and 6:30 PM to answer any questions about the submitted information. This can be in-person or via Zoom.
5. **Pre-bid Conference** - A pre-bid conference will be held at the Charlotte Town Hall at Ferry Road in Charlotte, VT on Tuesday, October 15, 2024, at 9:00 AM. The pre-bid conference is not mandatory and prospective bidders are strongly encouraged to visit the site prior to bidding.
6. **Project Schedule** - The project schedule calls for project award approximately six (6) calendar days after the bid opening. Construction substantial completion is set for 159 days after award of the project. The goal is to complete as much

of the work prior to the April 6, 2025 Federal Highway funding completion date.

Work anticipated to be accelerated prior to the April 6, 2025 funding date includes:

- I. Soil surface preparation and dormant hydroseeding of the flood plain restoration areas.
- II. Restoration of the laydown area and dormant seeding of the prepared surface.
- III. In the first week of April, plant replacement Sumac Shrubs/Trees along the east embankment of Spear Street.

Work anticipated to be completed after April 6, 2025 includes:

- a. Final Paving and striping of the roadway
- b. Grow-in of the dormant seeded areas.

7. **Coordination with the Town of Charlotte and abutting Property Owners** -The project is primarily located within the existing 66-foot right-of-way. Portions of the project extend in beyond the right-of-way in both the upstream and downstream directions. The Charlotte Land Trust controls the development rights on both the downstream and downstream properties. There is a listing of specific requirements for work to be undertaken within the downstream Beldock property. This is outline don Sheet C2.4 All other requirements, not specifically listed, are embedded within the contract documents.
8. **Stream Diversion** - The Mud Hollow Brook will be required to be diverted to enable construction of the replacement culvert facility. The means and methods for completing this task is the responsibility of the Contractor. As part of the erosion prevention requirements for the project, the stream diversion is required to be able to pass the 2-year design storm event of 190 CFS without causing erosion of the stream channel. Two options are depicted in the project plan set simply to illustrate the extremes of the multiple options available. Those options that choose to create newly exposed earth are require to provide suitable protection to the soil from erosion. An example of this is shown in the full stream relocation in Option A.
9. **Project Questions** – All questions during the bid, bid review, award and Construction Phase shall be directed to the Engineer, David Marshall, P.E [dmarshall@cea-vt.com](mailto:dmarshall@cea-vt.com) (802) 864-2323 x310 who will address any questions regarding project during the bid phase and will act as the clearing house for all Addenda. contract executions, submittals, requisition review and change orders.
10. **Construction Laydown Area** – The Gregg and Elizabeth Beldock have offered a portion of their property located on the east side of Spear Street for use as a construction laydown area. The specific requirements for the use and reclamation of the area are identified on the Contract Plans.

END OF PROJECT SUMMARY

**ADVERTISEMENT FOR BIDS**  
**TOWN OF CHARLOTTE**  
**SPEAR STREET CULVERT REPLACEMENT**

**General Notice**

The Town of Charlotte (Owner) is requesting Bids for the construction of the following Project:

**SPEAR STREET CULVERT REPLACEMENT**

Bids for the construction of the Project will be received at the Town Administrator's Office directed to Nate Bareham by email at [townadmin@townofcharlottevt.com](mailto:townadmin@townofcharlottevt.com) until **Tuesday, October 22, 2024 at 5:30 PM** local time. At that time the Bids received will be publicly opened and read aloud. Four (4) paper copies of the bid shall be postmarked no later than the above bid date and mailed to PO Box 159, Charlotte, VT 05445, attention Nate Bareham, Town Administrator. Paper mailings should be clearly marked, "Spear Street Culvert Replacement".

The Project includes the following Work:

Installation of twin 10-foot diameter culverts with cast-in-place concrete headwalls and wingwalls, debris deflector, road reconstruction and all associated work as outlined in the bid plans.

**Obtaining the Bidding Documents**

Information and Bidding Documents for the Project can be found at the following designated website:

<http://www.vermontbusinessregistry.com/>

Bidding Documents may be downloaded from the designated website. Prospective Bidders are urged to register with the designated website as a plan holder, even if Bidding Documents are obtained from a plan room or source other than the designated website in either electronic or paper format. The designated website will be updated periodically with addenda, lists of registered plan holders, reports, and other information relevant to submitting a Bid for the Project. All official notifications, addenda, and other Bidding Documents will be offered only through the designated website. Neither Owner nor Engineer will be responsible for Bidding Documents, including addenda, if any, obtained from sources other than the designated website.

**Pre-bid Conference**

A pre-bid conference will be held at the Charlotte Town Hall at Ferry Road in Charlotte, VT on **Tuesday, October 15, 2024, at 9:00 AM**. The pre-bid conference is not mandatory and prospective bidders are strongly encouraged to visit the site prior to bidding.

**Instructions to Bidders.**

For all further requirements regarding bid submittal, qualifications, procedures, and contract information, and award details, refer to the Instructions to Bidders that are included in the Bidding Documents.

**This Advertisement is issued by:**

Owner: Town of Charlotte  
By: Nate Bareham  
Title: Town Administrator  
Date: **October 8, 2024**

# INSTRUCTIONS TO BIDDERS FOR CONSTRUCTION CONTRACT

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## **ARTICLE 1—QUALIFICATIONS OF BIDDERS**

- 1.01 Bidder is to submit the following information with its Bid to demonstrate Bidder’s qualifications to perform the Work:
- A. Written evidence establishing its qualifications such as previous experience, present commitments and ability to complete this project in a timely manner.
  - B. A written statement that Bidder is authorized to do business in the state of Vermont, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.
  - C. Bidder’s state or other contractor license number, if applicable.
  - D. Provide at least two references for projects of similar scale and scope. References shall include name, email, and phone number.
- 1.02 A Bidder’s failure to submit required qualification information may disqualify Bidder from receiving an award of the Contract.
- 1.03 No requirement in this Article to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder’s qualifications.

## **ARTICLE 2—INTERPRETATIONS AND ADDENDA**

- 2.01 Owner on its own initiative may issue Addenda to clarify, correct, supplement, or change the Bidding Documents.
- 2.02 Bidder shall submit all questions about the meaning or intent of the Bidding Documents to Engineer in writing by email to Dave Marshall, Principal Engineer at [dmarshall@cea-vt.com](mailto:dmarshall@cea-vt.com).
- 2.03 Interpretations or clarifications considered necessary by Owner in response to such questions will be issued by Addenda delivered to all registered plan holders. Questions received less than three (3) business days prior to the date for opening of Bids may not be answered.
- 2.04 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.

## **ARTICLE 3—BID SECURITY & BONDING**

- 3.01 Bid security is not required. Payment and Performance bonding is required.

## **ARTICLE 4—CONTRACT TIMES**

- 4.01 The number of days within which the Work is to be substantially completed will be 155 calendar days from the Notice to Proceed or as set forth in the Agreement between the Owner and the successful bidder. The Contractor is encouraged to complete the work during low-flow time. Contract completion shall be on or before April 6, 2025.
- 4.02 The Contractor shall recognize that work will also be simultaneously being undertaken on a slope failure repair just to the north of the project site. The Contractor shall account for this constraint in the preparation of the bid. Contractor shall work with the Owner to develop a detour plan prior to implementation.

## **ARTICLE 5—BASIS OF BID**

### **5.01** *Unit Price*

- A. Bidders must submit a Bid on a unit price basis for each item of Work listed in the unit price section of the Bid Form.
- B. The “Bid Price” (sometimes referred to as the extended price) for each unit price Bid item will be the product of the “Estimated Quantity”, which Owner or its representative has set forth in the Bid Form, for the item and the corresponding “Bid Unit Price” offered by the Bidder. The total of all unit price Bid items will be the sum of these “Bid Prices”; such total will be used by Owner for Bid comparison purposes.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

## **ARTICLE 6—EVALUATION OF BIDS AND AWARD OF CONTRACT**

- 6.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor Bid informalities not involving price, time, or changes in the Work.
- 6.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible.
- 6.03 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, whether in the Bid itself or in a separate communication to Owner or Engineer, then Owner will reject the Bid as nonresponsive.
- 6.04 If Owner awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.
- 6.05 The Town/Owner reserves the right to negotiate with the lowest responsible bidder, modifications to the presented contract form, prior to entering into a final contract with the successful bidder, based on the specific terms, provisions and requirements of the project and bid documents.
- 6.06 *Evaluation of Bids*
  - A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
  - B. For the determination of the apparent low Bidder when unit price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Bid for that item, together with any lump sum items.

- 6.07 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder.
- 6.08 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.
- 6.09 The Bidders shall reserve time between 5:30 PM and 6:30 PM on Wednesday October 23<sup>rd</sup>, 2024 to be available to answer any questions by the Owner.

#### **ARTICLE 7—CONTRACTS TO BE ASSIGNED**

- 7.01 The Contractor, prior to being awarded a contract, shall apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, 128 State Street Montpelier, VT 05633-1101, PH: 802-828-2363, Toll-free: 800-439-8683; Vermont Relay Service – 711; web site: <https://www.sec.state.vt.us/>. The contract will not be executed until the Consultant is registered with the Secretary of State's Office. The successful Contractor will be expected to execute sub-agreements for each sub-contractor named in the proposal upon award of this contract.
- 7.02 The Contractor's attention is directed to the VTrans' Disadvantaged Business Enterprise (DBE) Policy Requirements. These requirements outline the State's and the consultant's responsibility with regard to the utilization of DBEs for the work covered in the Bid Documents. It is expected that all contractors will make good faith efforts to solicit DBE sub-contractors.
- 7.03 David-Bacon Wage Rates will be required to be complied with for this project.
- 7.04 Prior to beginning any work, the Contractor will execute the project Contract, provide a W-9, evidence of Workers Compensation insurance and certificate of insurance in accordance with the attached contract requirement package.
- 7.05 If the award of the contract aggrieves any firms, they may appeal in writing to the Town of Charlotte Selectboard, P.O. Box 159, Charlotte, VT 05445. The appeal must be post-marked within seven (7) calendar days following the date of written notice to award the contract. Any decision of the Town Selectboard is final.
- 7.06 All bids upon submission become the property of Town. The cost of preparing and submitting the bid is the sole expense of the firm. The Town reserves the right to reject any and all bids received as outlined in Article 6 or to cancel this Request for Bids in part or in its entirety if it is in the best interests of the Town. This Request for Bids in no way obligates the Town to award a contract.

#### **ARTICLE 8—CONSTRUCTION OBSERVATION**

- 8.01 The Owner will engage an Engineer to provide observation services during the active construction period of the Contract. The Engineer will provide observation of the conduct of the construction and be able to state that the work is generally being performed in substantial accordance with the Contract Documents. The Engineer shall report to the Town and the Contractor work that is unsatisfactory, faulty, or defective or does not conform to the Contract Documents.
- 8.02 The Engineer shall not undertake any of the responsibilities of the Contractor, subcontractors or the Contractor's superintendent, or expedite the Work, and shall not advise on any issue relative to safety, OSHA regulations, or the means, methods or procedures of construction.

**BID PROPOSAL**  
**FOR**  
**SPEAR STREET CULVERT REPLACEMENT**

Due Date: October 22, 2024, 5:30 PM

Proposal from: \_\_\_\_\_  
hereinafter called "Bidder"

"a corporation" of the State of \_\_\_\_\_

"a partnership," registered in the State of \_\_\_\_\_  
(Check proper box)

To Town of Charlotte, Vermont:

Women and Gentlemen:

The Bidder, in compliance with the invitation for bids for the Spear Street Culvert Replacement Project, having examined the Plans and Specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials and supplies, and to construct the project in accordance with the Contract Documents, within the time set forth therein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this proposal is a part.

Bidder hereby agrees to commence work under this Contract on or before a date to be specified in written NOTICE TO PROCEED of the OWNER and to reach substantial completion of the project within 155 days of receipt of the Notice of Award (Estimated at April 6, 2025).

The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work.

The undersigned hereby acknowledges that he has read this proposal in its entirety and understands and agrees to all provisions contained herein.

Respectfully Submitted:

\_\_\_\_\_  
(Firm Name)

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



# UNIT PRICE SCHEDULE

October 3, 2024

## Town of Charlotte Spear Street Culvert Replacement

Bidder Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax \_\_\_\_\_

Contact Person: \_\_\_\_\_

E-mail: \_\_\_\_\_

### Base Bid (Items 1-19) - Per Plans and Project Manual

TOTAL AMOUNT IN FIGURES: \$ \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TOTAL AMOUNT IN WORDS

### UNIT PRICE SCHEDULE

The Owner requests that the Bidder fill in their estimated quantities for each item in addition to the unit price. Lump sum items are to be filled in for the Owner's use in comparing bids and confirming the understanding of the scope of work.

<u>Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Amount</u>
<b>General</b>					
1.	Mobilization & Demobilization	1	LS	_____	_____
2.	Performance & Payment Bonds	1	LS	_____	_____
<b>Site Preparation</b>					
3.	Temp Laydown Area Improv. & Restoration	1	LS	_____	_____
4.	Temporary Stream Diversion	1	LS	_____	_____
<b>Culvert Placement</b>					
5.	Culvert 12" Dense Graded Base	1	LS	_____	_____
6.	10' Sia. Culvert Placement	1	LS	_____	_____
7.	Concrete Headwalls and Wingwalls	1	LS	_____	_____

See Next Page

8.	Flowable Fill Placement	1	LS	_____	_____
9.	Remaining Culvert Fill	1	LS	_____	_____
10.	Culvert E-Stone Embedment Material	1	LS	_____	_____
11.	Stone Fill Placement	___	SF	_____	_____

**Road Reconstruction**

12.	Road Base/subbase	___	SY	_____	_____
13.	Bit. Conc. Pavement Placement	___	Tons	_____	_____
14.	Aggregate Shoulders	___	SY	_____	_____
15.	Guardrail Removal and Replacement	___	LF	_____	_____

**EPSC and Site Clean-up**

16.	EPSC Implementation	1	LS	_____	_____
17.	Flood Plain Restoration	1	LS	_____	_____

End of Bid Form

## MEASUREMENT AND PAYMENT

### PART 1 – GENERAL

#### 1.1 SUMMARY

- A. This Section specifies administrative and procedural requirements for the measurement and payment of Contract pay items.

#### 1.2 SUBMITTALS

- A. Provide the following submittals.
  - 1. Field notes of all measurements for payment purposes.

#### 1.3 SCHEDULING

- A. Notify Engineer as far in advance as possible of pay item measurements a minimum of three days prior to submission of the application for payment.
- B. Allow for and afford Engineer ample time, space, and equipment to observe and verify measurements.

#### 1.4 DESCRIPTION

- A. For unit price items, the Contractor shall be paid for the actual amount of work accepted and for the actual amount of materials in place during the period of construction. After the work is completed and before final payment is made, the Engineer shall make final measurements to determine the quantities of the various items of work accepted as the basis for final payment.
- B. For lump sum items, the Contractor shall be paid on the basis of actual work accepted until the work item is completed. Upon completion of the item, 100 percent of the lump sum price may be paid, subject to the terms of the General Conditions or Supplemental Conditions.
- C. All units of measurement shall be standard United States convention as applied to the specific items of work by tradition and as interpreted by the Engineer.

#### 1.5 MEASUREMENT REQUIREMENTS

- A. Where payments are to be made on a unit price or adjustment item unit price basis, notify Engineer so that they may observe existing conditions and the status of work-in-place and may witness measurements being made. Where Engineer has not witnessed required measurements and cannot verify or substantiate quantities, they may not recommend payment for same.

- B. Maintain complete and legible field notes for all measured items. Notes shall contain spaces for Contractor's and Engineer's signatures plus additional space for comments. An original and copy shall be made for all notes with the copy being submitted to Engineer. The Engineer's signature shall not be construed as an acceptance of the Work or the measurements made but shall mean the Engineer was present when the measurements were made.
- C. The Owner reserves the right to reject the Contractor's measurement of work-in-place and to have this Work measured by the Engineer or independent party acceptable to the Contractor at the Owner's expense.

## **1.6 LIMITS OF PAYMENT**

- A. Payments will be made for the quantities installed and accepted in accordance with the Contract. Upon completion of construction, if actual quantities are different than the quantities estimated in the Bid, the Contract unit prices will still prevail, except as follows. When alterations in the quantities of work not requiring Change Orders are ordered and performed, the Contractor shall accept payment in full at the Contract price for the actual quantities of work done. No allowance will be made for anticipated profits. Increased or decreased work involving Change Orders will be paid for as stipulated in such Change Orders.
- B. The Contractor shall accept as full payment for furnishing all materials, labor, tools, equipment, and incidentals necessary to complete the work and for performing all work; also for all loss or damage arising from the nature of the Work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the work. No extra payment shall be made to the Contractor for any delays caused by defective workmanship or rescheduling of work by others.

## **1.7 WORK ELIMINATED FROM CONTRACT**

- A. Should any work be deleted from the Contract a Change Order shall be issued.

## **1.8 PARTIAL PAYMENTS**

- A. Partial payments shall be made monthly as the work progresses. All partial invoices and payments shall be subject to correction in the final quantity invoice and payment. No monthly payment shall be required to be made when, in the judgment of the Engineer, the Work is not proceeding in accordance with the provisions of the Contract.
- B. No partial payment shall be made upon fuels, supplies, lumber, false work, or other materials, or on temporary structures of any kind which are not a permanent part of the Contract.

- C. Each subsequent Application for Payment shall include an affidavit of the Contractor stating that all previous progress payments received on account of the Work have been applied to discharge in full all of the Contractor's obligations reflected in prior Applications for Payment. The Owner shall have the right to deduct from the next progress payment an amount equal to payment for said material and/or equipment if reasonable and adequate proof is not submitted.

## **1.9 FINAL PAYMENT**

- A. The Contractor will prepare a final payment requisition for review by the Engineer for the work performed. Upon approval by the Engineer, the Owner will pay the entire sum found to be due less any retainage provided for in the Agreement and any previous payments.

## **1.11 PAYMENT FOR MATERIALS DELIVERED**

- A. Payment may be made for all or part of the value of materials stored on site. The application for payment shall be accompanied by a summary of materials stored on site that will establish the Owner's title to the materials and protect the Owner's interest therein, including insurance. The amount thus paid by the Owner shall reduce the estimated amounts due the Contractor as the material is incorporated into the Work. Materials stored on site, that have been paid for by the Owner, shall become the property of the Owner and, in the event of default on the part of the Contractor, the Owner may use these materials in the construction of the Work. The Contractor shall be responsible for any damage to, or loss of, any materials.

## **PART 2 – PRODUCTS**

### **2.1 GENERAL**

- A. Provide all labor, materials, facilities, measuring devices and all other equipment necessary to perform all measurements for payment purposes.

## **PART 3 – EXECUTION**

### **3.1 GENERAL**

- A. Perform all measuring required by this Section.
- B. No separate payments will be made for Work under this Contract except for the pay items stipulated in this Part 3. All costs in connection with the Work shall be included in one or more of the pay items as appropriate.
- C. The names of pay items in this Section, the Schedule of Values, or the Bid Form may be abbreviated or non-comprehensive and are for general identification purposes of the item only. The names shall not be construed to represent a complete description of all the Work

included under each pay item. Refer to the subsequent paragraphs of this Section for more complete descriptions of Work to be included under each Contract pay item.

### **3.2 LUMP SUM PRICE PAY ITEMS**

- A. Measurement - no measurements will be made.
- B. Payment shall be on a lump sum basis, based on the percentage of work completed and accepted by the Engineer for each lump sum pay item.

### **3.3 UNIT PRICE PAY ITEMS**

- A. Measurement and payment shall be made by the unit.

### **3.4 DESCRIPTION OF PAY ITEMS**

The following pay items describe the measurement of and payment for the work to be done under the items listed in the Bid.

#### **Item 1 – GENERAL CONDITIONS, MOBILIZATION, AND MISCELLANEOUS WORK**

- A. Measurement: Mobilization shall consist of preparatory work and operations including but not limited to, the following items:

1. Control of water including all temporary measures required to complete the work
2. Testing not paid for by the Owner
3. Equipment delivery
4. Sanitary facilities
5. Traffic control including traffic control plan, signage, maintenance of signage
6. Furnishing of insurance
7. Dust control
8. Removal and disposal of existing structures (unless otherwise provided for)
9. Removal and salvage of existing structures to the Owner's yard
10. Survey/layout
11. Clearing, grubbing, stripping
12. Clean-up
13. Construction signs/project signs
14. Steel and/or wood sheeting as required
15. Installation and removal of temporary facilities
16. Project record drawings
17. Submittals

- B. Payments:

1. Payment shall be made at the contract lump sum price, which price shall be full compensation for all costs incurred in furnishing labor, tools, materials and equipment and incidental work item costs for the preparatory work and operations described in the above measurement section for this item.

2. For the purpose of computing payments, the adjusted contract price shall include all contract unit price and lump sum items except the contract lump sum price for the item General Conditions, Mobilization, and Demobilization.
3. Payments shall be made as follows:
  - a. First payment of fifty percent (50%) of the contract lump sum price for Mobilization or 2.5 percent of the adjusted contract price, whichever is less, will be made not later than payment of the first application for payment following the completion of five percent (5%) of the total contract price.
  - b. Second payment of twenty five percent (25%) of the contract lump sum price for Mobilization or 1.2 percent of the adjusted contract price, whichever is less, will be made not later than payment of the first application for payment following the completion of fifty percent (50%) of the total contract price.
  - c. Upon substantial completion of all work on the project, payment of the remainder of the contract lump sum price for Mobilization will be paid.

#### Item No. 2 – PERFORMANCE & PAYMENT BONDS

##### **A. General Requirements:**

The Contractor shall furnish performance and payment bonds as required by the contract. These bonds must be executed by a surety company authorized to do business in the jurisdiction where the project is located and listed in the U.S. Department of the Treasury Circular 570.

The performance and payment bonds shall be in the amount of 100% of the original contract price. This bond ensures the completion of the project in accordance with the contract terms and conditions.

The bonds must be submitted to the Contracting Officer within the time specified in the contract, but no later than the commencement of work.

##### **B. Payments:**

1. Payment shall be made at the contract lump sum price, which price shall be full compensation for all costs incurred in furnishing and maintaining the bonds through the duration of the contract.
2. Payment of 100% of the lump sum bid price will be made with the first requisition.

#### Item No. 3 – TEMPORARY LAYDOWN AREA IMPROVEMENTS & RESTORATION

**A. Measurement –** Proportional to the percentage of work installed and accepted by the Engineer. Work shall include:

- any necessary improvements to the access road,
- preparation of a suitable temporary stable surface for parking and material storage,
- Removal and disposal off-site of the existing soil stockpile.

- Removal and disposal of the pre-existing metal culvert
- Removal of the temporary laydown improvements (including any modifications to the existing agricultural access)
- Adding topsoil where necessary to replace displaced topsoil or where necessary to mitigate compaction of the native soils.
- Seeding and mulching all of the disturbed areas with native seed mix.

**B. Payment** - Payment shall be made at the contract lump sum price, which price shall be full compensation for all costs incurred in furnishing labor, tools, materials and equipment and incidental work item costs for the preparatory work and operations described in the above

1. Payments shall be made as follows:

- a. First payment of fifty percent (50%) of the contract lump sum price for Mobilization or 1.0 percent of the adjusted contract price, whichever is less, will be made not later than payment of the first application for payment.
- b. Upon substantial completion of all work on the project, payment of the remainder of the contract lump sum price for Mobilization will be paid.

Item No. 4 – TEMPORARY STREAM DIVERSION

**A. Measurement:** Shall be proportional to the percentage of work installed and accepted by the Engineer. The Temporary Stream Diversion work shall consist of preparatory work and operations including but not limited to, the following items:

1. Excavation for the stream diversion
2. Installation, maintenance, and removal of a temporary stream diversion system to reroute stream flow around the construction site. This includes all necessary channels, pipes, pumps, flow barriers, and erosion and sediment control measures.
3. Placement of lining materials to protect against stream bed erosion
4. Removal of all components upon completion of the culvert installation
5. Additional structural backfill material a placement located outside of the current eroded limits of the site.
6. Additional road base/subbase required to mitigate supplemental excavation beyond the existing erosion/scour limits of the existing site conditions and contract limits shown on the plans.
7. Additional pavement and line striping required to mitigate supplemental excavation beyond the existing erosion/scour limits of the existing site conditions and contract limits shown on the plans.

**B. Payment** – Payment shall be made at the contract lump sum price, which price shall be full compensation for all costs incurred in furnishing labor, tools, materials and equipment and incidental work item costs for the preparatory work and operations described in the above



Item No. 5 – CLVERT 12” DENSE GRASHED BASE

- A.** Measurement: Shall be proportional to the percentage of work installed and accepted by the Engineer.
- B.** Payment – Payment shall be made at the contract lump sum price, which price shall be full compensation for all costs incurred in furnishing labor, tools, materials and equipment and incidental work item costs for the preparatory work and operations described in the above Payment includes VTrans Item 704.06A Dense graded crushed stone for subbase

Item No. 6 – 10’ DIA, CULVERT PLACEMENT

- A.** Measurement – Proportional to the percentage of work installed and accepted by the Engineer.
- B.** Payment - Payment for 10’ Dia. Culvert Placement shall be at the lump sum price as stated in the bid schedule. Payment shall be full compensation for furnishing and installing the twin 10’ Dia. Culvert 60 feet long, and all work incidental to the satisfactory completion of the item for which payment is not provided under other items.

Work inside the culvert will be paid for under a seprate pay item.

Item No. 7 – CONCRETE HEADWALLS AND WINGWALLS

- A.** Measurement – Proportional to the percentage of work installed and accepted by the Engineer.
- B.** Payment - Payment for Concrete Headwalls and Wingwalls shall be at the lump sum price as stated in the bid schedule. Payment shall be full compensation for furnishing and installing the reinforcing steel.

Payment will be full compensation for performing the work specified, including designing the mix, performance of trial pours, and satisfactory finishing and curing. Payment will also be full compensation for furnishing all forms, materials, including joint filler and bond breaker, labor, tools, admixtures, and equipment, including automatic temperature recording units, trial batches, and incidentals necessary to complete the work.

The cost of heating materials and protecting the concrete against cold weather, and any additional cost for cement, will not be paid for separately but will be considered incidental to the Contract unit prices for the applicable concrete pay items.

The cost of furnishing testing facilities and supplies at the batch plant and the setting of inserts, benchmarks, and bridge plaques furnished by the Agency will not be paid for separately but will be considered incidental to the Contract unit prices for the applicable concrete item.

Costs for all materials, labor, and incidentals for steel or other stay-in-place forms and form filling materials will not be paid for separately but will be considered incidental to the Contract unit prices for the applicable concrete item.

Item No. 8 – FLOWABLE FILL PLACEMENT

- A.** Measurement – Proportional to the percentage of work installed and accepted by the Engineer.
- B.** Payment - Payment for Flowable Fill Placement shall be at the lump sum price as stated in the bid schedule.

Payment will be full compensation for performing the work specified, including designing the mix, performance of trial pours, and satisfactory finishing and curing. Payment will also be full compensation for furnishing all forms, materials, including joint filler and bond breaker, labor, tools, admixtures, and equipment, including automatic temperature recording units, trial batches, and incidentals necessary to complete the work.

The cost of heating materials and protecting the concrete against cold weather, and any additional cost for cement, will not be paid for separately but will be considered incidental to the Contract unit prices for the applicable concrete pay items.

Item No. 9 – REMAINING CULVERT FILL

- A.** Measurement – Proportional to the percentage of work installed and accepted by the Engineer and shall include the construction and placement of the Remaining Culvert Fill (Project Site Earthwork Spec 2.07 Sand Borrow and Cushion, VTrans 703.03) to be placed above the Flowable Fill and Culvert up to the subgrade supporting the Base/Subbase materials of the roadway.
- B.** Payment - Payment shall be made at the contract lump sum price, which price shall be full compensation for all costs incurred in furnishing labor, tools, materials and equipment and incidental work item costs for the preparatory work and operations described in the above

Item No. 10 – CULVERT EMBEDMENT ENVIRONMENTAL STONE, TYPE I .

- A.** Measurement – Proportional to the percentage of work installed and accepted by the Engineer and shall include the construction and placement of the sills placed at the bottom of the pipe and placement of the Environmental Stone to the depths depicted in the plans.
- B.** Payment - Payment shall be made at the contract lump sum price, which price shall be full compensation for all costs incurred in furnishing labor, tools, materials and equipment and incidental work item costs for the preparatory work and operations described in the above

Item No. 11 – STONE FILL

- A.** Measurement – Compute square yardage of stone fill in place on the basis of in place installed area of material as specified below.
- B.** Payment - Payment shall be square yard of material placed. Payment includes VTrans Item 706.04 Stone Fill, Type I and Type II, geotextile fabric or underlying filter stone as noted on the plans, and all work incidental to the satisfactory completion of the item for which payment is not provided under other items.

Item No. 12 – ROAD BASE/SUBBASE

- A. Measurement – Compute square yardage of the combined road base/subbase on the basis of in place installed area of material as specified below.
- B. Payment - Payment shall be per square yard of material placed and compacted for both the base and subbase components of the road reconstruction. Payment includes VTrans Item 706.05A Crushed Gravel, Fine Graded, and 706.05B Crushed Gravel, Course Graded geotextile fabric as noted on the plans, and all work incidental to the satisfactory completion of the item for which payment is not provided under other items.

The payment limits will include the placement of base/subbase under the shoulder areas of the roadway.

Item No. 13 – BIT. CONC. PAVEMENT PLACEMENT

- A. Measurement –The quantity of Bituminous Concrete Pavement to be measured for payment will be the number of tons of mixture complete in-place in the accepted work as determined from the weigh tickets.
- B. Payment - The accepted quantity of Bituminous Concrete Pavement will be paid for at the Contract unit price per ton. Payment will be full compensation for furnishing, mixing, hauling, and placing the material specified, including hand placement when payment is not otherwise provided for in the Contract, and for furnishing all labor, tools, equipment, and incidentals necessary to complete the work.

The costs of milling, emulsified asphalt, cleaning existing paved surfaces, and filling joints, cracks, and holes will not be paid for directly, but will be considered incidental to Bituminous Concrete Pavement. The costs of furnishing testing facilities and supplies at the plant will be considered included in the Contract unit price of Bituminous Concrete Pavement. The costs of obtaining, furnishing, transporting, and providing the straightedges required by Subsection 406.09 will be paid for under the appropriate Section 631 pay item included in the Contract. When not specified as items in the Contract, the costs of sweeping and cleaning existing paved surfaces and tacking of utility structures, curbing, gutters, and other contact surfaces will not be paid for directly but will be incidental to the appropriate Bituminous Concrete Pavement pay item.

Item No. 14 – AGGREGATE SHOULDERS

- A. Measurement – Compute square yardage of aggregate shoulders in place on the basis of in place area of material as specified below.
- B. Payment - Payment shall be per square yard of material placed and compacted. Payment includes aggregate shoulders placed beyond the limits of the final pavement surface.as called for on the contract plans and all work incidental to the satisfactory completion of the item for which payment is not provided under other items.

Item No. 15 – GUARDRAILREMOVAL AND REPLACEMENT

- A.** Measurement – Actual length in feet of guardrail installed as specified. Measurement shall be made along the face of the rail.
- B.** Payment - Payment for this item shall be per linear feet as stated in the bid schedule. Work includes the removal and disposal of the existing guardrail and all labor, equipment and materials for the furnishing and installing guardrail as shown on the plans including end sections. Payment includes traffic control/flagging, and all work incidental to the satisfactory completion of the item for which payment is not provided under other items.

Item No. 16 – EROSION PREVENTION & SEDIMENT CONTROL

- A.** Measurement – Proportional to the percentage of work installed and accepted by the Engineer.
- B.** Payment - Payment for erosion control shall be at the lump sum price as stated in the bid schedule. Payment shall be full compensation for furnishing, installing, and maintaining all necessary erosion control measures (and removing such measures upon stabilization), and all work incidental to the satisfactory completion of the item for which payment is not provided under other items.

Item No. 17 – FLOOD PLAIN RESTORATION

- A.** Measurement – Proportional to the percentage of work installed and accepted by the Engineer.

Work shall include:

- Micro removal of sediment associated with the culvert failure
  - Adding topsoil where necessary to replace displaced topsoil or where necessary to mitigate compaction of the native soils.
  - Seeding and mulching all of the disturbed areas with native seed mix.
- B.** Payment - Payment for Flood Plain Restoration shall be at the lump sum price as stated in the bid schedule. Payment shall be full compensation for all work incidental to the satisfactory completion of the item for which payment is not provided under other items.

**End of Section**

# CONTRACT FOR CONSTRUCTION OF A SMALL PROJECT

This Contract is by and between The Town of Charlotte, VT (Owner)  
and

TO BE DETERMINED (Contractor).

Owner and Contractor hereby agree as follows:

## ARTICLE 1 - THE WORK

### 1.01 Work

- A. Work includes all labor, materials, equipment, services, and documentation necessary to construct the Project defined herein. The Work may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
- B. The Contractor shall complete all Work as specified or indicated in the Contract Documents. The Project is generally described as follows:
  - 1. **Spear Street Culvert Replacement** which includes installation of twin 10-foot diameter culverts with cast-in-place concrete headwalls and wingwalls, debris deflector, road reconstruction and all associated work as outlined in the bid plans.
  - 2. The Site of the Work includes designated work areas described in greater detail in the Contract Documents but generally located **at 1067 Spear Street, 1600 feet north of the intersection with Carpenter Road, in the Town of Charlotte, VT.**

## ARTICLE 2 - CONTRACT DOCUMENTS

### 2.01 Intent of Contract Documents

- A. It is the intent of the Contract Documents to describe a functionally complete project. The Contract Documents do not indicate or describe all of the Work required to complete the Project. Additional details required for the correct installation of selected products are to be provided by the Contractor and coordinated with the Owner and Engineer. This Contract supersedes prior negotiations, representations, and agreements, whether written or oral. The Contract Documents are complementary; what is required by one part of the Contract Documents is as binding as if required by other parts of the Contract Documents.
- B. During the performance of the Work and until final payment, Contractor and Owner shall submit all matters in question concerning the requirements of the Contract Documents, or relating to the acceptability of the Work under the Contract Documents to the Engineer. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- C. Engineer will render a written clarification, interpretation, or decision on the issue submitted, or initiate a modification to the Contract Documents.

- D. Contractor, and its subcontractors and suppliers, shall not have or acquire any title to or ownership rights to any of the Drawings, Specifications, or other documents (including copies or electronic media editions) prepared by Engineer or its consultants.

## 2.02 Contract Documents Defined

- A. The Contract Documents consist of the following documents:
  - 1. This Contract.
  - 2. Performance bond.
  - 3. Payment bond.
  - 4. Specifications listed in the Table of Contents.
  - 5. Drawings as listed on the Drawing Sheet Index.
  - 6. Addenda.
  - 7. Exhibits to this Contract (enumerated as follows):
    - a. **Attachment A – Contract Plans by Civil Engineering Associates, Inc.**
    - b. **Attachment B – Bid Form**
    - c. **Attachment C - Measurement and Payment**
  - 8. The following which may be delivered or issued on or after the Effective Date of the Contract:
    - a. Work Change Directives (EJCDC C-940).
    - b. Change Orders (EJCDC C-941).
    - c. Field Orders.

## ARTICLE 3 - ENGINEER

### 3.01 Engineer

- A. The Engineer for this Project is **Civil Engineering Associates, Inc.**

## ARTICLE 4 - CONTRACT TIMES

### 4.01 Contract Times

- A. The Work will be substantially completed on or before **April 6, 2025**, and completed and ready for final payment on or before **May 6, 2025**.
- ~~B. The Work will be substantially completed within **[Number of Days]** days after the Effective Date of the Contract and completed and ready for final payment within **[Number of Days]** days after the Effective Date of the Contract.~~

### 4.02 Liquidated Damages - Deleted

### 4.03 Delays in Contractor's Progress

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to

an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor or their subcontractors or suppliers.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times.
- D. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor or Contractor's subcontractors or suppliers.

#### 4.04 Progress Schedules

- A. Contractor shall develop a progress schedule and submit to the Engineer for review and comment before starting Work on the Site. The Contractor shall modify the schedule in accordance with the comments provided by the Engineer.
- B. The Contractor shall update and submit the progress schedule to the Engineer each month. The Owner may withhold payment if the Contractor fails to submit the schedule.

### ARTICLE 5 - CONTRACT PRICE

#### 5.01 Payment

- ~~A. Owner shall pay Contractor in accordance with the Contract Documents, the lump sum amount of \$[Contract Price] for all Work.~~
- B. Owner shall pay Contractor in accordance with the Contract Documents at the following unit prices for each unit of Work completed: **Refer to the bid form and measurement and payment attached as Attachment B and C.**

Payment will be made in an amount equal to the total of all extended prices for actual Work completed. The extended price is determined by multiplying the unit price times the actual quantity of that Work item completed. Actual quantities installed will be determined by the Engineer.

ARTICLE 6 - BONDS AND INSURANCE

6.01 Bonds

A. Before starting Work, Contractor shall furnish a performance bond and a payment bond from surety companies that are duly licensed or authorized to issue bonds in the required amounts in the jurisdiction in which the Project is located. Each bond shall be in an amount equal to the Contract Price, as security for the faithful performance and payment of all of Contractor’s obligations under the Contract. These bonds shall remain in effect until the completion of ~~the correction period specified in Paragraph 7.12 but, in any case, not less than one year after~~ the date when final payment becomes due.

6.02 Insurance

A. Before starting Work, Contractor shall furnish evidence of insurance from companies that are duly licensed or authorized in the jurisdiction in which the Project is located with a minimum AM Best rating of A-VII or better. Contractor shall provide insurance in accordance with the following:

1. Contractor shall provide coverage for not less than the following amounts, or greater where required by Laws and Regulations:

a. Workers’ Compensation:

State:	<u>Statutory</u>
Employer’s Liability:	
Bodily Injury, each Accident	\$ <u>100,000</u>
Bodily Injury By Disease, each Employee	\$ <u>100,000</u>
Bodily Injury/Disease Aggregate	\$ <u>500,000</u>

b. Commercial General Liability:

General Aggregate	\$ <u>5,000,000</u>
Products – Completed Operations Aggregate	\$ <u>1,000,000</u>
Personal and Advertising Injury	\$ <u>1,000,000</u>
Each Occurrence (Bodily Injury and Property Damage)	\$ <u>1,000,000</u>

c. Automobile Liability herein:

Bodily Injury:	
Each Person	\$ <u>1,000,000</u>
Each Accident	\$ <u>1,000,000</u>
Property Damage:	
Each Accident	\$ <u>1,000,000</u> -
Combined Single Limit of:	\$ <u>1,000,000</u>



d. Excess or Umbrella Liability:		
Per Occurrence	\$ 5,000,000	-
General Aggregate	\$ 5,000,000	-
e. Contractor's Pollution Liability:		
Each Occurrence	\$ 2,000,000	-
General Aggregate	\$ 2,000,000	-

- B. All insurance policies required to be purchased and maintained will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the insured and additional insured.
- C. Automobile liability insurance provided by Contractor shall provide coverage against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- D. Contractor's commercial general liability policy shall be written on a 1996 or later ISO commercial general liability occurrence form and include the following coverages and endorsements:
1. Products and completed operations coverage maintained for three years after final payment;
  2. Blanket contractual liability coverage to the extent permitted by law;
  3. Broad form property damage coverage; and
  4. Severability of interest; underground, explosion, and collapse coverage; personal injury coverage.
- E. The Contractor's commercial general liability and automobile liability, umbrella or excess, and pollution liability policies shall include and list Owner and Engineer and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each as additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis.
1. Additional insured endorsements will include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
  2. Contractor shall provide ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent for design professional additional insureds.
- F. Umbrella or excess liability insurance shall be written over the underlying employer's liability, commercial general liability, and automobile liability insurance. Subject to industry-standard exclusions, the coverage afforded shall be procured on a "follow the form" basis as to each

of the underlying policies. Contractor may demonstrate to Owner that Contractor has met the combined limits of insurance (underlying policy plus applicable umbrella) specified for employer's liability, commercial general liability, and automobile liability through the primary policies alone, or through combinations of the primary insurance policies and an umbrella or excess liability policy.

- G. The Contractor shall provide property insurance covering physical loss or damage during construction to structures, materials, fixtures, and equipment, including those materials, fixtures, or equipment in storage or transit.
- H. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 15.

#### *ARTICLE 7 - CONTRACTOR'S RESPONSIBILITIES*

##### 7.01 Supervision and Superintendence

- A. Contractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, safety, and procedures of construction.
- B. Contractor shall assign a competent resident superintendent who is to be present at all times during the execution of the Work. This resident superintendent shall not be replaced without written notice to and approval by the Owner and Engineer except under extraordinary circumstances.
- C. Contractor shall at all times maintain good discipline and order at the Site.
- D. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday.

##### 7.02 Other Work at the Site

- A. In addition to and apart from the Work of the Contractor, other work may occur at or adjacent to the Site. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.

##### 7.03 Services, Materials, and Equipment

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be new, of good quality and shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable supplier, except as otherwise may be provided in the Contract Documents.

- 7.04 Subcontractors and Suppliers
- A. Contractor may retain subcontractors and suppliers for the performance of parts of the Work. Such subcontractors and suppliers must be acceptable to Owner.
- 7.05 Quality Management
- A. Contractor is fully responsible for the managing quality to ensure Work is completed in accordance with the Contract Documents.
- 7.06 Licenses, Fees and Permits
- A. Contractor shall pay all license fees and royalties and assume all costs incident to performing the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others.
- B. Contractor shall obtain and pay for all construction permits and licenses unless otherwise provided in the Contract Documents.
- 7.07 Laws and Regulations; Taxes
- A. Contractor shall give all notices required by and shall comply with all local, state, and federal Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages if Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations.
- C. This project is a Vermont Tax Exempt Project. Otherwise the Contractor shall pay all applicable sales, consumer, use, and other similar taxes Contractor is required to pay in accordance with Laws and Regulations.
- 7.08 Record Documents
- A. Contractor shall maintain one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved shop drawings in a safe place at the Site. Contractor shall annotate them to show changes made during construction. Contractor shall deliver these record documents to Engineer prior to final payment for the Work.
- 7.09 Safety and Protection
- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work.
- B. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
1. All persons on the Site or who may be affected by the Work;
  2. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  3. Other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and underground

facilities not designated for removal, relocation, or replacement in the course of construction.

- C. All damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Contractor, or anyone for whose acts the Contractor may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Contract Documents or to the acts or omissions of Owner or Engineer and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor).
- D. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.
- E. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor shall act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

#### 7.10 Shop Drawings, Samples, and Other Submittals

- A. Contractor shall review and coordinate the shop drawing and samples with the requirements of the Work and the Contract Documents and shall verify all related field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information.
- B. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
- C. With each submittal, Contractor shall give Engineer specific written notice, in a communication separate from the submittal, of any variations that the shop drawing or sample may have from the requirements of the Contract Documents.
- D. Engineer will provide timely review of shop drawings and samples.
- E. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs.
- F. Engineer's review and approval of a separate item does not indicate approval of the assembly in which the item functions.
- G. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of shop drawings and submit, as required, new samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
- H. Shop drawings are not Contract Documents.

#### 7.11 Warranties and Guarantees

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members,

partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.

#### 7.12 Correction Period

- A. If within one year after the date of substantial completion, any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly and without cost to Owner, correct such defective Work.

#### 7.13 Indemnification

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts they may be liable.

### *ARTICLE 8 - OWNER'S RESPONSIBILITIES*

#### 8.01 Owner's Responsibilities

- A. Except as otherwise provided in the Contract Documents, Owner shall issue all communications to Contractor through Engineer.
- B. Owner shall make payments to Contractor as provided in this Contract.
- C. Owner shall provide Site and easements required to construct the Project.
- D. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, unless stated elsewhere in the Contract Documents, Owner shall have sole authority and responsibility for such coordination.
- E. The Owner shall be responsible for performing inspections and tests required by applicable codes.
- F. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- G. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- H. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

## ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

### 9.01 Engineer's Status

- A. Engineer will be Owner's representative during construction. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in this Contract.
- B. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any subcontractor, any supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- C. Engineer will make visits to the Site at intervals appropriate to the various stages of construction. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work.
- D. Engineer has the authority to reject Work if Contractor fails to perform Work in accordance with the Contract Documents.
- E. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work.
- F. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

## ARTICLE 10 - CHANGES IN THE WORK

### 10.01 Authority to Change the Work

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work.

### 10.02 Change Orders

- A. Owner and Contractor shall execute appropriate Change Orders covering:
  - 1. Changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
  - 2. Changes in the Work which are: (a) ordered by Owner or (b) agreed to by the parties or (c) resulting from the Engineer's decision, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
  - 3. Changes in the Contract Price or Contract Times or other changes which embody the substance of any final binding results under Article 12.

- B. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

#### *ARTICLE 11 - DIFFERING SUBSURFACE OR PHYSICAL CONDITIONS*

##### 11.01 Differing Conditions Process

- A. If Contractor believes that any subsurface or physical condition including but not limited to utilities or other underground facilities that are uncovered or revealed at the Site either differs materially from that shown or indicated in the Contract Documents or is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract Documents then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.
- B. After receipt of written notice, Engineer will promptly:
  - 1. Review the subsurface or physical condition in question;
  - 2. Determine necessity for Owner obtaining additional exploration or tests with respect to the condition;
  - 3. Determine whether the condition falls within the differing site condition as stated herein;
  - 4. Obtain any pertinent cost or schedule information from Contractor;
  - 5. Prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and
  - 6. Advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

#### *ARTICLE 12 - CLAIMS AND DISPUTE RESOLUTION*

##### 12.01 Claims Process

- A. The party submitting a claim shall deliver it directly to the other party to the Contract and the Engineer promptly (but in no event later than 10 days) after the start of the event giving rise thereto.

- B. The party receiving a claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the claim through the exchange of information and direct negotiations. All actions taken on a claim shall be stated in writing and submitted to the other party.
- C. If efforts to resolve a claim are not successful, the party receiving the claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the claim within 45 days, the claim is deemed denied.
- D. If the dispute is not resolved to the satisfaction of the parties, Owner or Contractor shall give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction unless the Owner and Contractor both agree to an alternative dispute resolution process.

*ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION OF DEFECTIVE WORK*

13.01 Tests and Inspections

- A. Owner and Engineer will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access.
- B. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- C. If any Work that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense.

13.02 Defective Work

- A. Contractor shall ensure that the Work is not defective.
- B. Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. The Contractor shall promptly correct all such defective Work.
- E. When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. If the Work is defective or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.
- G. If the defective work is not corrected in a timely manner, the Owner may complete the corrective Work and shall deduct the cost of such work from subsequent payments to the Contractor.



## ARTICLE 14 - PAYMENTS TO CONTRACTOR

### 14.01 Progress Payments

- A. The Contractor shall prepare a schedule of values that will serve as the basis for progress payments. The schedule of values will be in a form of application for payment acceptable to Engineer. The unit price breakdown submitted with the bid will be used for unit price work. Break lump sum items into units that will allow for measurement of Work in progress.

### 14.02 Applications for Payments:

- A. Contractor shall submit an application for payment in a form acceptable to the Engineer, no more frequently than monthly, to Engineer. Applications for payment will be prepared and signed by Contractor. Contractor shall provide supporting documentation required by the Contract Documents. Payment will be paid for Work completed as of the date of the application for payment.
- B. Beginning with the second application for payment, each application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior applications for payment.

### 14.03 Retainage

- A. The Owner shall retain 10% of each progress payment for the first 50% of the Contract value and will hold this value until the Work is substantially complete.

### 14.04 Review of Applications

- A. Within 10 days after receipt of each application for payment, the Engineer will either indicate in writing a recommendation for payment and present the application for payment to Owner or return the application for payment to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. The Contractor will make the necessary corrections and resubmit the application for payment.
- B. Engineer will recommend reductions in payment (set-offs) which, in the opinion of the Engineer, are necessary to protect Owner from loss because the Work is defective and requires correction or replacement.
- C. The Owner is entitled to impose set-offs against payment based on any claims that have been made against Owner on account of Contractor's conduct in the performance of the Work, incurred costs, losses, or damages on account of Contractor's conduct in the performance of the Work, or liquidated damages that have accrued as a result of Contractor's failure to complete the Work.

### 14.05 Contractor's Warranty of Title

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

### 14.06 Substantial Completion

- A. The Contractor shall notify Owner and Engineer in writing that the Work is substantially complete and request the Engineer issue a certificate of substantial completion when

Contractor considers the Work ready for its intended use. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.

- B. Engineer will make an inspection of the Work with the Owner and Contractor to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor and Owner in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete or upon resolution of all reasons for non-issuance of a certificate identified in 14.06.B, Engineer will deliver to Owner a certificate of substantial completion which shall fix the date of substantial completion and include a punch list of items to be completed or corrected before final payment.

#### 14.07 Final Inspection

- A. Upon written notice from Contractor that the entire Work is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

#### 14.08 Final Payment

- A. Contractor may make application for final payment after Contractor has satisfactorily completed all Work defined in the Contract, including providing all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents and other documents.
- B. The final application for payment shall be accompanied (except as previously delivered) by:
  - 1. All documentation called for in the Contract Documents;
  - 2. Consent of the surety to final payment;
  - 3. Satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any liens or other title defects, or will so pass upon final payment;
  - 4. A list of all disputes that Contractor believes are unsettled; and
  - 5. Complete and legally effective releases or waivers (satisfactory to Owner) of all lien rights arising out of the Work, and of liens filed in connection with the Work.
- C. The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

#### 14.09 Waiver of Claims

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted.

## ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

### 15.01 Owner May Suspend Work

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 60 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension.

### 15.02 Owner May Terminate for Cause

- A. Contractor's failure to perform the Work in accordance with the Contract Documents or other failure to comply with a material term of the Contract Documents will constitute a default by Contractor and justify termination for cause.
- B. If Contractor defaults in its obligations, then after giving Contractor and any surety ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
  - 1. Declare Contractor to be in default, and give Contractor and any surety notice that the Contract is terminated; and
  - 2. Enforce the rights available to Owner under any applicable performance bond.
- C. Owner may not proceed with termination of the Contract under Paragraph 15.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- D. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- E. In the case of a termination for cause, if the cost to complete the Work, including related claims, costs, losses, and damages, exceeds the unpaid contract balance, Contractor shall pay the difference to Owner.

### 15.03 Owner May Terminate for Convenience

- A. Upon seven days written notice to Contractor, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for, without duplication of any items:
  - 1. Completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
  - 2. Expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
  - 3. Other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.

- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

#### 15.04 Contractor May Stop Work or Terminate

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner, and provided Owner does not remedy such suspension or failure within that time, either stop the Work until payment is received, or terminate the Contract and recover payment from the Owner.

### ARTICLE 16 - CONTRACTOR'S REPRESENTATIONS

#### 16.01 Contractor Representations

- A. Contractor makes the following representations when entering into this Contract:
  - 1. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
  - 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  - 3. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
  - 4. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on:
    - a. The cost, progress, and performance of the Work;
    - b. The means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and
    - c. Contractor's safety precautions and programs.
  - 5. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
  - 6. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
  - 7. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
  - 8. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

9. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that, without exception, all prices in the Contract are premised upon performing and furnishing the Work required by the Contract Documents.

#### ARTICLE 17 - MISCELLANEOUS

##### 17.01 Cumulative Remedies

- A. The duties and obligations imposed by this Contract and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

##### 17.02 Limitation of Damages

- A. Neither Owner, Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

##### 17.03 No Waiver

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

##### 17.04 Survival of Obligations

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

##### 17.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract.

##### 17.06 Controlling Law

- A. This Contract is to be governed by the law of the State of Vermont.

IN WITNESS WHEREOF, Owner and Contractor have signed this Contract.

This Contract will be effective on \_\_\_\_\_(which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

Town of Charlotte

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Seletboard Chair

Title: \_\_\_\_\_

*(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)*

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Address for giving notices:

Address for giving notices:

Town of Charlotte, PO Box 159, Charlotte, VT 05445

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

License No.: \_\_\_\_\_

(where applicable)

*(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Contract.*