BURLINGTON
PARKS
RECREATION
WATERFRONT

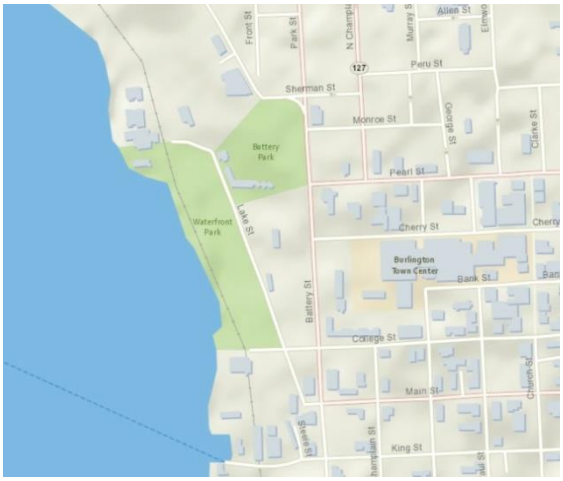
REQUEST FOR PROPOSALS (RFP)

Date: **February 5, 2015**
To: **Open Invitation for Design/Build Services**
From: **Burlington Parks, Recreation & Waterfront**
Re: **Professional Design/Build Services for Waterfront Park Improvements**

I. GENERAL INFORMATION

Waterfront Park, 2-4 College St., Burlington, VT 05401
Burlington Parks, Recreation & Waterfront is seeking proposals from qualified design/build contractors to execute the design and construction of critical improvements in Waterfront Park. Questions concerning this RFP must be made via email per the schedule outlined below. Responses to all submitted questions will be posted at: http://www.burlingtonvt.gov/RFP.

Issue date:	Thursday, February 5, 2015
Site visit:	Thursday February 12, 2015 from 9:30-10:30 AM (Site visit attendance is not mandatory but highly encouraged; bidders must confirm their attendance: jadamskollitz@burlingtonvt.gov)
Questions due:	Monday, February 16, 2015 by 4:00 PM
Proposals due:	Monday, February 23, 2015 by 4:00 PM
Inquiries/submissions to:	**Jon Adams-Kollitz, Parks Project Coordinator** Burlington Parks, Recreation & Waterfront jadamskollitz@burlingtonvt.gov (802) 540-0363



Waterfront Park Locator Map

Waterfront Park Boardwalk – Detail

II. PROJECT DESCRIPTION

This project was identified through the City's Public Investment Action Plan (PIAP) public process and is one of five projects advancing within the City's Waterfront Tax Increment Financing (TIF) district. In 2014, the PIAP project slate was approved by the Mayor, City Council and voters.

This project seeks to implement long-overdue upgrades at Waterfront Park through the renovation of specific, existing project components. For years, the site has been functioning as the city's premier event grounds with an under-supported infrastructure that limits the on-site growth potential. The proposed improvements will enhance the day-to-day functionality, event experience, aesthetics, and improve neighborhood quality of life. These necessary improvements will complement and support the site's current use as an active park and event site. Waterfront Park is comprised of two sections, the Great Lawn to the south and the Event Grounds to the north. This scope impacts both sections of the park.

Other work has recently been completed within Waterfront Park, including the rehabilitation of the Burlington Bike Path. The majority of this work was executed last fall including: the rehabilitation of the path through the Great Lawn, the removal of the diagonal portion of the bike path that formerly bisected the Event Grounds, the establishment of a new Bike Path alignment along the western edge of the Event Grounds, the introduction of a drivable grass maintenance road parallel to the new path alignment, and the replacement of portions of the concrete pedestrian walkway. Construction on the Bike Path will resume this spring. While the majority of upcoming path construction will take place outside of Waterfront Park, aspects such as painting, seeding and punch list items are planned for the park in spring 2015.

It is also anticipated that the replacement of the Waterfront Park boardwalk, a separate project scope, will be underway simultaneously to the scope outlined in this RFP.

III. SCOPE OF WORK

Please carefully read the following information that details the City's expectations in relation to the project scope of work. The selected contractor will provide the City with professional services to realize the successful implementation of all aspects of this scope. The contractor will be responsible for coordinating work with all sub-contractors. The list and order of activities outlined below may be amended and finalized with the contractor. The scope of work includes, but is not limited to, the following elements:

Upgrades to Electrical Capacity
Includes both improvements and expansion to existing electrical systems that support small and large-scale events in Waterfront Park:

- Organize, redistribute and upgrade power access to key areas
- Reduce the need for supporting generators
- Refresh existing electrical panels improving aesthetics and appearance (this could include enclosing, painting, reorganizing, or replacing existing panels/structures)

Lighting Efficiency
Includes both improvements and upgrades to existing lighting system:

- Perform a lumen study: evaluate the current lighting configuration and throw, provide recommendations for replacement fixture layout, confirm whether lights will remain in current locations or if slight adjustments are necessary
- Assess existing electrical wiring that supports lighting, upgrade if necessary to support improved functionality, ensure outlets on posts can perform independently of lights
- Remove and dispose of existing lighting fixtures
- Replace existing light fixtures with the new Parks lighting standard (Dark Sky & Act 250 compliant – already identified)
- Remove existing concrete bases and replace with new per requirements and recommendation for Parks standard fixture

Potable Water Access
Improve and expand potable water access:

- Relocate existing drinking on south end of Event Grounds
- Provide potable water access points throughout the park

Irrigation

- Expand existing irrigation system to include coverage to newly constructed maintenance road area (drivable grass)
- Incorporate upgrades to existing system as needed to maximize overall irrigation coverage

Event Configuration
Improve event infrastructure:

- While every event is different, provide a general infrastructure that will better support tenting concentrated around the perimeter of event grounds

Stormwater/Vegetation
Improve stormwater management & landscape aesthetics:

- Incorporate vegetation improvements to support the "Green Machine" (Burlington's waterfront stormwater infrastructure)
- Improve aesthetics and sight lines
- Work with the City Arborist to identify and coordinate specific vegetation improvements
- Work with the City Stormwater Manager to identify and coordinate specific stormwater improvements

Permitting

- The City has secured the Act 250 permit amendment needed for this scope
- The City has nearly secured the Zoning Permit; will require support from Contractor in develop of lumen study to satisfy lighting condition
- Contractor to verify and secure all aspects of other necessary permits including obtaining, ordering inspection, and closing out related City of Burlington permits (Building, Trades, etc.).

Deliverables

- Appropriate permits
- Construction documents
- As-built drawings of completed project (including any changes made during construction)

IV. RFP SUBMITTAL

Reponses to this RFP must be not more than 24 pages in length (12 double-sided or 24 single-sided pages) and include the following:

1) Qualifications Detail consisting of:
    a) Cover letter including statement of understanding & approach to this project;
    b) Attachment A (provided in this RFP): Signed by a representative of lead contractor attesting that all terms, conditions and procedures outlined in this RFP are understood and have been followed;
    c) Proposed Project Team Members: A description of the team composition, areas of expertise, and role of each sub-contractor on the team. Clearly indicate the applicant's designated project manager as well as sub-contractors who will be assigned to the work and their respective expertise in such work;
    d) Specific Project Experience: Descriptions detailing completed, similar or relevant project experience that the applicant has executed. Links to similar or relevant projects are encouraged;
    e) List of References: Provide a minimum of three client references with which the applicant has provided similar design/build services within the last five years. Include the name and telephone number of the contact person and a description of the role and services provided to that contact.

2) Technical Proposal consisting of:
    a) A description of the approach to be taken toward completion of the project, an explanation of any variances to the proposed scope of work as outlines in the RFP, and any insights into the project gained as a result of developing the proposal;
    b) A scope of work that includes steps to be taken, including any products or deliverables;
    c) A summary of estimated labor hours by task that clearly identifies the project team members and the number of hours performed by each sub-contractor by task;
    d) A proposed scheduled that indicates project milestones and overall time for completion;
    e) Any other information deemed necessary to address the requests of this RFP.

3) Cost Proposal consisting of:
    a) A composite schedule by task of direct labor hours;
    b) An itemized schedule of all expenses, including both labor and direct expenses. If the use of sub-consultants is proposed, a separate schedule of hours and expenses must be provided for each sub-consultant)
    c) A maximum budget amount of $425,000 inclusive of all fees and expenses.

Responses to this RFP must be received per the schedule outlined on Page 1 to be considered. Proposals must be submitted in both digital (PDF) and printed formats. Provide three printed copies of the proposal in addition to the digital file, which may be emailed or submitted on a CD. Applicants will receive a confirmation email once their proposal is received. Please ensure that the document is easily printable in an 8.5x11 format.

Additional requirements are as follows:

- Applicants are solely responsible for ensuring that proposals arrive on time.
- Each applicant MUST provide their submittal electronically as a PDF.
- Faxed proposals WILL NOT be accepted.
- Late replies WILL NOT be considered.

Proposals and questions should be submitted to Jon Adams-Kollitz, Parks Project Coordinator, Burlington Parks, Recreation & Waterfront at jadamskollitz@burlingtonvt.gov.

Proposals may be mailed or delivered to:

Jon Adams-Kollitz, Parks Project Coordinator
Burlington Parks, Waterfront & Recreation
645 Pine Street, Suite B
Burlington, Vermont 05401

V. EVALUATION CRITERIA & SELECTION PROCESS

In compliance with the City of Burlington's Procurement Policy, BPRW will evaluate all complete proposals from qualified Contractors on the following criteria. Consultants will be scored up to a maximum of 100 points based on the following:

1. **Experience & Qualifications** relevant to key personnel and/or sub-contractors (15 pts)
2. **Project Understanding & Knowledge of Area** depth or relevant technical experience (15 pts)
3. **Ability to Meet Schedule** required to complete the plan and deliverables (15 pts)
4. **Ability to Meet Budget/Value** as related to proposed and additional costs (15 pts)
5. **Depth of Skills** related to technical aspects of project (10 pts)
6. **Demonstration of Innovative Approaches** particular to technical solutions (10 pts)
7. **Level of Experience** with municipalities of similar size, structure and complexity (10 pts)
8. **Quality, Clarity & Completeness of Submittal Package** (10 pts)

VI. ANTICIPATED PROJECT SCHEDULE

The City requires that all related work, inclusive of design and construction, be completed by **May 15, 2015**. The City anticipates that the selected Contractor will be awarded the project in February of 2015. The City reserves the right to amend all dates. While this timeline may be subject to change, all participating parties will be notified.

- Week of Feb 23 Contractor selection and contract award

- Week of Mar 2 Project kick-off
- March Design development (order light fixtures and other items with lead times)
- April Mobilize construction as weather permits
- May Construction
- May 15, 2015 Project Completion

VII. ADDITIONAL INFORMATION

In 2013, the City had as-built drawings produced depicting the electrical conditions in Waterfront Park. These drawings, conceptual site plans, specifications for the Parks standard light fixture, and other reference documents may be found at this Dropbox link:
https://www.dropbox.com/sh/bdednnh8qpyac3d/AABtfGZkYEjHcetd2D_g-EOja?dl=0

VIII. TERMS & CONDITIONS

Communications
It is important that all respondents are given clear and consistent information. Therefore, all respondents are required to submit any questions related to this project or RFP process via email. Responses to all submitted questions will be posted on the Parks & Recreation website at: http://www.burlingtonvt.gov/RFP. Questions concerning this RFP must be received via email per the schedule outlined on page 1. Inquiries received after this date will not be considered or answered.

Respondents should not communicate with any City department or employee during the submission process except as described above. In addition, no communications should be initiated by a respondent to any City Official or persons involved in evaluating or considering the statement of qualifications. Communication with any parties for any purpose other than those expressly described herein may cause an individual firm, or team to be disqualified from participating.

Other terms
Costs for preparing proposals in response to this request are solely the responsibility of the respondent. The City of Burlington reserves the right to accept or reject any or all proposals, with or without cause, and to waive immaterial defects and minor irregularities in responses. All decisions related to this solicitation by the City will be final.

The City reserves the right to request clarification of information submitted and to request additional information of one or more respondents. All materials submitted in response to this RFP will become the property of the City upon delivery. This solicitation in no way obligates the City of Burlington to award a contract.

It will be necessary for responding parties to comply fully with the terms and conditions outlined in this document if they are to be considered. A letter attesting that the respondent has read, understands, and followed all procedures is a part of this RFP must be included as part of the final submittal (Attachment A).

The Consultant, as well as any sub-consultants and/or subcontractors, shall comply with all applicable Federal, State and local laws, including but not limited to the City of Burlington Livable Wage Ordinance.

Each party will be required to sign and notarize the Livable Wage Compliance Certification. See attached Livable Wage Poster for fiscal year 2015 (Attachment B).

The Consultant shall comply with the City's Standard Contract Provisions (Attachment C).

Equal Opportunity: the selection of consultant shall be made without regard to race, color, sex, age, religion, national origin, or political affiliation. The City of Burlington is an Equal Opportunity Employer and encourages proposals from qualified minority and woman-owned businesses.

ATTACHMENT A

Understanding of RFP Procedure, Terms and Conditions

This page to be returned with qualifications submission

I acknowledge that I have read and understand all procedures and requirements of the above reference RFP and have complied fully with the general terms and conditions outlined in the RFP.

Contractor/Team: _____

Representative's Printed Name: _____

Representative's Signature: _____

Date: _____

ATTACHMENT B

FY 2015 Livable Wage Poster

Livable Wage Ordinance

****EFFECTIVE JULY 1, 2014****

Are You Receiving A Livable Wage?

The Burlington Livable Wage Ordinance requires that if you are working on a specific City of Burlington service contract or subcontract above a certain amount your employer must pay you at least $13.94 an hour **with health insurance**.

$13.94

If you are working on a specific City of Burlington service contract or subcontract above a certain amount your employer must pay you at least $15.83 an hour **without health insurance.**

$15.83

What Are Your Rights Under the Livable Wage?

All employees who work directly on a City of Burlington service contract or a subcontract may be eligible. To find out if you are covered by the Livable Wage Ordinance you may call the Office of the Chief Administrative Officer at 802/865-7000.

Are You Eligible to Receive The Livable Wage?

Covered employees are required to be paid at least the above amounts. If you are covered and your employer reduces your pay, your employer shall be considered in violation. You are protected by law if you assert your rights under the Livable Wage Ordinance.

Why Report A Livable Wage Violation?

If your employer is required to be paying you the Livable Wage and is not, he or she may be required to pay you back wages and be subject to any other appropriate action as outlined in the Ordinance.

Employee Earned Income Tax Credit

Are you raising a family and making less than $30,000? If so, you could be eligible to receive the Earned Income Tax Credit (EITC.) You may even be eligible if your income is so low that you do not owe any taxes. The EITC can reduce your taxes or provide a cash refund. There is a federal and state EITC, so ask about both. To find out if you qualify and how to get this benefit speak to your employer's payroll clerk or call IRS at 1.800.TAX.1040.

To file a complaint Contact:
Office of the Chief Administrative Officer, 149 Church Street, Burlington, VT 05401
802-865-7019

Revised 5/14

ATTACHMENT C

Standard 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 will act in an independent capacity and not as officers or employees of the Municipality. The Consultant shall indemnify, defend and hold harmless the Municipality and its officers and employees from liability and any claims, suits, expenses, losses, judgments, and damages arising as a result of the Consultant's acts and/or omissions in the performance of this contract.

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 from an insurance company registered and licensed to do business in the State of Vermont and having an A.M. Best insurance rating of at least A-, financial size category VII or greater (www.ambest.com). 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 policies shall provide that insurance coverage cannot be canceled or revised without thirty (30) 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. Each policy (with the exception of workers compensation) shall name the CITY as an additional insured for the possible liabilities resulting from the Consultant's actions or omissions. It is agreed that the liability insurance furnished by the Consultant is primary and non-contributory for all the additional insured.

The Consultant is responsible to verify <u>and confirm in writing to the CITY</u> 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. Subconsultants and contractors must comply with the same insurance requirements as the Consultant.

(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	$2,000,000
3. Personal & Advertising Injury	$1,000,000
4. Each Occurrence	$1,000,000
5. Fire Damage (Any one fire)	$ 250,000
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 and ensure that all subcontractors and subconsultants carry the same workers' compensation insurance for all work performed by them under this contract. Minimum limits for Employer's Liability:

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

$2,000,000 - 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: 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, sub consultant, 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 commercial 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 for each occurrence.
UMBRELLA LIABILITY:

$1,000,000 Each Event Limit
$1,000,000 General Aggregate Limit

3. COMPLIANCE WITH LAWS

GENERAL COMPLIANCE WITH LAWS: The Consultant shall comply with all applicable Federal, State and local laws, including but not limited to the Burlington Livable Wage Ordinance.

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. ɜ 1857(h)), Section 508 of the Clean Air Act (33 U.S.C. ɜ 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. <u>The Agreement shall indicate any exception and identify to whom or to what Municipality it applies and dates of action.</u> 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 VSA, 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 maintain its registration with the Vermont Secretary of State's office as a corporation doing business in the State of Vermont at all times this contract is effective. 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 э 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. э 874, as supplemented by Department of Labor Regulations, 29 CFR э 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. ээ 276a to a-7, as supplemented by Department of Labor Regulations, 29 CFR э 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. ээ 327-330,as annexed by Department of Labor Regulations, 29 CFR э 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, DC 20001.

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/M5)
3.	Mass Density	Pounds/Cubic Foot to kilograms/cubic meter (kg/M;)
4.	Force	Pounds to newtons (N)
5.	Pressure	Pounds/Square Foot to Pascal (Pa = N/M5)
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 performed by the Consultant or changes in the scope of 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, by one or more of the following:

(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.