COVID-19 UPDATE: Due to the Covid-19/coronavirus pandemic, the meeting will be held at the Town of Essex Offices, 81 Main St., Essex Jct. This meeting will be held remotely. In-person attendance should be used as a last resort. The public is encouraged to join the meeting using the conference call in information. The meeting is to be live-streamed on Channel 17’s YouTube channel, as is always the case. Thank you for your patience and understanding.

- Join via conference call (audio only): (802) 377-3784 | Conference ID: 930 802 7#
- For the purpose of recording minutes, you will be asked to provide your first and last name.
- When listening to the meeting, please keep your phone on “mute” as to prevent interruptions during the meeting. For agenda items when it is appropriate for the public to speak, please unmute your phone and introduce yourself before requesting the floor from the Board President.

1. **CALL TO ORDER/PLEDGE OF ALLEGIANCE TO FLAG** [6:30 PM]
2. **STATEMENT ABOUT COVID-19 AND PUBLIC MEETINGS**
3. **AGENDA ADDITIONS/CHANGES**
4. **APPROVE AGENDA**
5. **PUBLIC TO BE HEARD**
   a. Comments from Public on Items Not on Agenda
6. **BUSINESS ITEMS**
   a. Appoint volunteers to Bike/Walk Advisory Committee
   b. Cancel Village Annual Meeting and schedule special meeting for April 2 to re-warn Village Annual Meeting for a new date
   c. Approve Engineering Services Contract Award for Densmore Drive culvert replacement
7. **CONSENT ITEMS**
   a. Approve banner application for Vermont Quilt Festival
   b. Approve authorization to apply for 2021 Class II Town Highway Paving Grant
   c. Approve minutes: February 15, 2020; March 10, 2020
   d. Check Warrant #17190—03/13/2020;
8. **READING FILE**
   a. Board Member Comments
   b. Memo from Tom Yandow re: Capital Projects for Village Buildings
   c. Upcoming meeting schedule
9. **EXECUTIVE SESSION**
   a. An executive session is not anticipated
10. **ADJOURN**

This agenda is available in alternative formats upon request. Meetings of the Trustees, like all programs and activities of the Village of Essex Junction, are accessible to people with disabilities. For information on accessibility or this agenda, call the Unified Manager’s office at 878-6951.

Certification: 03/20/2020
Date Posted
Initials
LIST OF AGENDA AMENDMENTS AND HANDOUTS
VILLAGE OF ESSEX JUNCTION TRUSTEES
REGULAR MEETING AGENDA
MARCH 24, 2020

ADDITIONAL HANDOUTS

6a. Hoyle Tanner Agreement Final version with attorney edits

6a. Hoyle Tanner Agreement red-lined edits from attorney
AGREEMENT FOR PROFESSIONAL SERVICES
Densmore Drive Culvert Replacement

This is an agreement between the Village of Essex Junction, a Vermont Municipal Corporation, having its principal place of business in Essex Junction, County of Chittenden, State of Vermont (Client) and Hoyle, Tanner & Associates, Inc., a New Hampshire Corporation, having its principal place of business located at 150 Dow St. Manchester, New Hampshire, 03101, (Consultant) (individually each a “Party” and collectively herein also referred to as the “Parties”) for professional services (Agreement) for the Client’s project which is generally described as the replacement of the failed culvert carrying Indian Brook under Densmore Drive (herein known as the Project).

The effective date of this Agreement shall be February 27, 2020. Client and Consultant further agree as follows:

Article 1: Scope of Services

Consultant shall provide the services set forth in Exhibit A.

Article 2: Client’s Responsibilities:

Client shall provide to Consultant all of Client’s criteria and information as to requirements for the Project including objectives, constraints, performance requirements, and budgetary limitations.

Client shall provide Consultant with all information available to Client pertinent to Consultant’s work under this Agreement. Client shall assist Consultant as necessary to obtain available pertinent information from Federal, State or local offices or from other engineers or others who have previously worked for Client on matters affecting this Project. Client shall also make available all information Client may have relative to concealed, subsurface, soil, and other conditions that are not apparent from visual, non-invasive, and non-destructive observations of the applicable site.

It may be necessary for Consultant’s personnel and/or subconsultants to enter areas of the Project property. Client shall arrange for and provide Consultant with access to such areas on a timely basis.

Client shall examine all documents prepared for the Project by Consultant; and at Client’s option, obtain advice from legal counsel, insurance counsel, and other appropriate advisors, and advise Consultant of any opinion or recommendations resulting from said advice.

Client shall give prompt notice to Consultant whenever Client becomes aware of anything that would have a significant effect on the scope or timing of Consultant’s services.

Client shall bear all costs related to compliance with this Article of this Agreement.

If Client engages a construction manager or any other professionals for the Project in addition to Consultant; Client must define the duties and responsibilities of each professional services provider.
During the construction of the project it is recommended Client or his/her designated representative, other than Consultant, attend the following meetings: Pre-construction bid meeting, bid opening, pre-construction conference, construction progress meetings, and Project completion meetings.

Client shall advise Consultant of any safety or security programs which may be applicable to Consultant during Project site visits.

Client shall make decisions and perform other Client responsibilities in a timely manner so as not to delay Consultant’s performance of services.

Client’s responsibilities may include those agreed upon and identified in Exhibit A.

**Article 3: Schedule**

Consultant is authorized to begin providing services on the effective date of the Agreement. Consultant shall perform services in conformance with the schedule guided by and subject at all times to sound judgment and practice in accordance with law and professional ethics.

If the schedule changes or orderly progress of services is impaired through no fault of Consultant; the schedule for services shall be adjusted and compensation may be adjusted by amendment to this Agreement.

Specific schedule requirements for providing services may be provided in Exhibit D.

Services will be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. Notwithstanding anything to the contrary contained herein, Consultant shall not be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control or without its negligence.

**Article 4: Compensation and Payment for Services**

Consultant shall charge for all services requested by Client and rendered by Consultant in connection with the Project in strict accordance with the conditions set forth in this Article of the Agreement and Exhibit C hereto.

The charges made by Consultant under this Article and the payment of said charges by Client shall constitute full compensation for all expenses incurred by Consultant in connection with the services rendered including F.I.C.A. taxes, Federal and State unemployment taxes, costs in connection with employees’ benefits, office expenses, supplies, and equipment, the general costs of doing business, and Consultant’s profit; and Subconsultants engaged by Consultant for the Project, if any.

Consultant’s compensation for services and the method of compensation shall be as described in Exhibit C.

Consultant shall prepare and submit monthly applications for payment for services completed under this Agreement.
Invoices shall be Consultant’s standard form or other form approved by Client.

Invoices are due within thirty (30) days of receipt by Client.

If payments are not made on time, Consultant may suspend services under this Agreement, after giving Client seven (7) days notice, until payment is received by Consultant. Client waives any and all claims against Consultant due to such suspension of services and agrees to appropriate adjustments to the Project schedule and Consultant’s schedule.

Client may withhold payment of a disputed invoice, however, Client must advise Consultant promptly of the reason for doing so and Client agrees to process and pay any portion of the invoice which is not in dispute. Client shall not withhold payments based on damages that Client has incurred or alleges that it has incurred unless Consultant has been adjudged liable for such damages and failed to compensate Client accordingly within 30 days of such determination.

**Article 5: Standard of Care**

The standard of care for all professional services performed or furnished by Consultant under this Agreement will be the skill and care used by members of Consultant’s profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant’s services.

**Article 6: Opinions of Cost**

When included in Consultant’s scope of services, opinions or estimates of probable construction costs are prepared on the basis of Consultant’s experience and qualifications and represent Consultant’s judgment as a professional generally familiar with the industry. However, since Consultant has no control over the cost of labor, materials, equipment or services furnished by others, or Contractor’s methods of determining prices, or over competitive bidding or market conditions, Consultant cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from Consultant’s opinions or estimates of probable construction cost.

**Article 7: Compliance with Laws and Regulations**

Consultant shall review codes, regulations, and laws applicable to Consultant’s services and shall exercise professional care to design in compliance with all applicable codes, regulations and laws in effect as of the effective date of this Agreement. Consultant cannot warrant that the applicable interpreting or enforcing authority will similarly interpret such requirements.

If such codes, regulations and laws change during the project and are imposed during the project by government authorities with jurisdiction over the project, such changes may require changes to the Consultant’s scope of services, schedule and compensation.
Article 8: Underground Facilities

The location of underground facilities may be required in order to perform subsurface explorations for the project and the location of underground facilities may be shown on the construction Contract drawings.

Unless otherwise provided, Client shall provide Consultant with the locations of underground facilities, structures and utilities. If the locations are not known, are inaccurate or cannot be confirmed, Client accepts and retains all risk of damages or losses resulting from the exploration work.

Consultant will take reasonable precautions to avoid damage to underground facilities and shall coordinate the locations of such facilities with known owners of the facilities.

The information shown on the construction Contract drawings with respect to underground facilities shall be based on information furnished by the facility owners to the Client and Consultant and Consultant shall not be responsible for the accuracy or completeness of such information.

If conditions or locations of underground facilities are found to be different during construction appropriate adjustments, if any, shall be made in accordance with the provisions of construction Contract.

Article 9: Construction Phase Services

If this Agreement provides for any construction phase services by Consultant, it is understood that the Contractor, not Consultant, is responsible for the construction of the project, and that Consultant is not responsible for the acts or omissions of any Contractor, Subcontractor or material supplier, unless otherwise agreed, for safety precautions, programs or enforcement, or for construction means, methods, techniques, sequences and procedures employed by the Contractor.

Consultant, including the resident project representative if provided, does not assume any responsibility for the Contractor’s failure to perform the construction in accordance with the Contract documents.

Site visits and observations by Consultant are intended to provide Client greater confidence that the completed work by the Contractor will conform to the Contract documents; and site visits are not detailed inspections and do not extend to every aspect of the Contractor’s work. Should Consultant provide construction monitoring as a separate contract or have such services become a part of this Contract, Consultant shall be responsible for monitoring such construction as reasonably necessary in order to ensure conformance with the Contract Documents and if detailed inspections are required, shall so advise the Client.

Article 10: Design without Construction Phase

Consultant and Client agree that if Consultant’s services do not include construction phase services, Client or Client’s designated agent shall be solely responsible for interpretation of the Contract documents and observing the work of the Contractor to discover, correct and mitigate errors, inconsistencies or omissions. If Client authorizes deviations from Consultant prepared documents, that are not due to
negligence, errors or omissions of the Consultant, Client shall not bring any claim against Consultant based on or arising from those deviations.

Article 11: Use of Documents and Ownership of Electronic Documents

All documents prepared or furnished by Consultant pursuant to this Agreement are instruments of Consultant’s professional service, and Consultant shall retain an ownership and property interest therein. Consultant grants Client a license to use instruments of Consultant’s professional service for the purpose of constructing, occupying and maintaining the Project. Reuse or modification of any such documents by Client, without Consultant’s written permission and professional involvement, shall be at Client’s sole risk.

Documents that may be relied upon by Client are limited to those that are signed or signed and sealed by Consultant, which may be in electronic or hardcopy format in conformance with professional engineering practice regulations in effect in project jurisdiction. Any conclusion or information obtained or derived from such other documents will be at the user’s sole risk.

When transferring documents in electronic media format, Consultant makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by Consultant at the beginning of this assignment.

Article 12: Insurance

Consultant procures and maintains insurance as set forth in Exhibit B. Consultant shall cause Client to be an additional insured on any applicable general liability insurance policy of the Consultant. Consultant shall provide Client reasonable notice of changes to any policy.

Client shall procure and maintain workers’ compensation insurance, employer’s liability insurance, general liability insurance, excess or umbrella liability and automobile liability insurance. Client shall cause Consultant and its subconsultants to be additional insureds on any general liability policies and as loss payees on any property insurance policies of Client applicable to the projects.

Client shall require Contractor to carry workers’ compensation, general liability, property damage, motor vehicle damage and injuries and other insurances to protect Client and Consultant and subconsultant; and Client shall require Contractor’s policies to cover Consultant and its subconsultants as additional insureds.

Client may request Consultant and/or subconsultants provide and maintain additional insurance coverage, at the expense of client.

Article 13: Suspension and Termination

Client may terminate this Agreement with seven days prior written notice to Consultant for convenience or cause. Consultant may terminate this Agreement for cause with seven days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or,
ultimately, termination, unless and until Consultant has been paid in full all amounts due for services, expenses and other related charges.

**Article 14: Indemnification and Limitation of Liability**

To the fullest extent permitted by law, Consultant shall indemnify Client, its officers, directors, partners, employees, and representatives, from and against losses, damages, and judgments arising from claims by third parties, including reasonable attorneys’ fees and expenses recoverable under applicable law, but only to the extent they are found to be caused by a negligent act, error, or omission of Consultant or Consultant’s officers, directors, members, partners, agents, employees, or subconsultants in the performance of services under this Agreement.

To the fullest extent permitted by law, Client shall indemnify Consultant, its officers, directors, partners, employees, and representatives, from and against losses, damages, and judgments arising from claims by third parties, including reasonable attorneys’ fees and expenses recoverable under applicable law, but only to the extent they are found to be caused by a negligent act, error, or omission of Client or Client’s officers, directors, members, partners, agents, employees, or subconsultants in the performance of services under this Agreement.

**Article 15: Dispute Resolution**

Client and Consultant agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement to mediation. The parties shall in good faith mutually agree upon a mediator by each submitting to the other the name of two potential mediators. If the parties, after a good faith attempt at selecting a mediator, are unable to agree to a mediator, then this provision shall become null and void.

**Article 16: Environmental Conditions**

It is acknowledged by both parties that Consultant’s scope of services does not include any services related to the presence at the site of asbestos, PCBs, petroleum, hazardous waste or radioactive materials. Client acknowledges that Consultant is performing professional services for Client and Consultant is not and shall not be required to become an “arranger,” “operator,” “generator” or “transporter” of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA). Further, Consultant has no responsibility for the handling, identification, remediation, or presence of any hazardous materials at the site.

**Article 17: Controlling Law**

This Agreement shall be governed by the laws of the State of Vermont, contrary to any choice of law provision. The parties agree that venue shall exclusively be in the Vermont Superior Court, Chittenden Civil Division.
Article 18: Successors and Assigns

Client and Consultant each binds itself, its partners, successors, executors, administrators and assigns, to the other party of the Agreement and to the partners, successors, executors, administrators and assigns, for such other party to all covenants of this Agreement.

Except as above, neither Client nor Consultant shall assign, sublet or transfer its interest in this Agreement without the written consent of the other party hereto.

Nothing in this paragraph shall prevent Consultant from employing such independent subconsultants as Consultant may deem appropriate to assist in the performance of the services of this Agreement.

Article 19: Severability

If any of the terms and conditions of this agreement are deemed unenforceable or invalid, in whole or in part, by judgment or order of a court, that shall not affect the remaining terms and conditions of the Agreement and they shall remain in full force and effect.

Article 20: Waiver of Provisions

Non-enforcement of any provision of this Agreement by Client or Consultant shall not constitute a waiver of that provision; and non-enforcement shall not prohibit subsequent enforcement of the provision or any other provision of the Agreement.
ACCEPTANCE

For Hoyle, Tanner & Associates, Inc.:

Jon A. Olin, Vice President
March 24, 2020

For [The Village of Essex Junction]

PLEASE PROCEED WITH THE PROJECT AS INDICATED.

(Name & Signature) (Date)

(Title)
EXHIBIT A
Scope of Services

Preliminary Design Phase

Consultant shall:

P-1. Perform a site visit to observe existing conditions and obtain data (field measurements, photography, etc.) for the purpose of preparing contract plans. Layout proposed boring locations and mark surrounding area for Dig-Safe.


P-3. Identify and provide location on contract plans of utility conflicts and coordinate with impacted utilities. Coordinate with private utility companies to identify potential buried lines (e.g. gas, telecom).

P-4. Participate in up to 4 project meetings: 1 Project Kickoff Meeting with DPW staff, 2 DPW design progress meetings, and 1 project abutter meeting.

P-5. Prepare Preliminary Plans and Estimate of Probable Construction Costs and submit to Client and FEMA Project Supervisor for review and comment. Specific Design Engineering Services for this project include:
   i. Layout design of proposed culvert and wingwalls
   ii. Hydraulic analysis the culvert crossing with and without the upstream and downstream structures incorporated into the model to evaluate the existing and proposed structures waterway openings to provide a minimum of 1’ of freeboard at a 25-year flood event and accommodate the 100-year flood event.
   iii. Precast concrete structural design
   iv. Roadway geometry design

P-6. Conduct Pre-Application coordination with Permitting Agencies (ANR Stream Alterations, DEC Wetlands, State Historic Preservation Officer, US Army Corp of Engineers). Prepare and submit draft Permits:
   i. VT ANR Stream Alteration Permit
   ii. Army Corp of Engineers General Permit – Category 1 Self Verification form
   iii. VT DEC Wetlands Individual Permit (if required)

P-7. Provide overall project management including scheduling and client coordination. Prepare a Project Specific Quality Assurance Plan (PSQAP) for the project in accordance with Hoyle, Tanner’s Quality Control Plan (QCP). Monitor the PSQAP for the project in accordance with Hoyle, Tanner’s (QCP) through completion.

Final Design Phase

Consultant shall:

F-1. Prepare an easement plan with draft Temporary and Permanent Easement deeds and submit to
Client.

F-2. Incorporate field survey and update hydraulic modeling.

F-3. Address preliminary plan comments received from VTrans, Town, and Permitting Review. Prepare Final Plans, Specifications and an Estimate of Probable Construction Costs and submit to the Client and FEMA Project Supervisor for review and comment. Review to include Client’s legal counsel, comments will be incorporated into Contract Documents for bidding (see F-4 below).

F-4. Incorporate review comments from Client and FEMA Project Supervisor. Prepare Contract Documents (plans and specifications) for bidding purposes sufficiently in advance to allow Client’s legal counsel to review and edit as necessary.

F-5. Provide overall project management including scheduling, client coordination. Complete the PSQAP for the project in accordance with Hoyle, Tanner’s Quality Control Plan (QCP).

Bid Phase

Consultant shall:

B-1. Prepare and provide Client with an “Advertisement for Bids” and assist Client with advertising the project for construction.

B-2. Attend and conduct a pre-bid meeting at Client offices.

B-3. Issue addenda (if necessary) to interpret or clarify bidding documents.


B-6. Prepare Notice of Award for Client signature and issuance to the Contractor.

Proposal for Construction Phase Services to be Prepared after Preliminary Design Phase services are completed, if requested.

Assumptions

Consultant assumes:

- Hoyle, Tanner will arrange for a soil boring firm to take the necessary borings at the site. We intend to use Mike’s Boring and Coring from Barre, VT for these services. The cost for these services is included in our fees indicated in Exhibit C. The estimate for soil borings is based on 2 soil borings and 2 probes at the 4 corners of the proposed culvert location. With the Road closure, flagging will not be required. It may be necessary to get Village DPW staff assistance in moving the barriers for drilling operations.
• Hoyle, Tanner will arrange for a survey firm to perform a topographic survey. We intend to use Vermont Survey & Engineering (VSE) of Waterbury, VT for these services. The cost for these services is included in our fees indicated in Exhibit C.

• Hoyle, Tanner will arrange for an environmental services firm to perform a wetland delineation and invasive species review within the project survey limits at the culvert replacement location. We intend to use Northwoods Ecological Consulting for these services. The cost for these services is included in our fees indicated in Exhibit C.

• Hoyle, Tanner will arrange for a historic and archeological services firm to perform a Phase IA Archeological Resources Assessment (ARA) within the project survey limits at the culvert replacement location. We intend to use Hartgen Archeological Associates for these services. The cost for these services is included in our fees indicated in Exhibit C.

• It is assumed that USACE and VT ANR/DEC will have minor comments on the permit applications and plan sets and that they will apply expedited permit review process treating this as an emergency response project, and a total of 4 hours have been included to address their comments.

• Site meetings with Utility Owners are not expected to be required.

• Applications fees are not included as part of Hoyle, Tanner services. The Client shall be responsible for respective permit application fees.

• Based on available on-line sources, it is assumed that surveys for state and federal-listed plants, animals or fish species will not be required for this project. Should such surveys be required, a contract amendment will be proposed.

• A horizontal and vertical alignment will be created to match the existing conditions of the roadway for construction layout purposes. Project limits are anticipated to extend approximately 150' south and 150' north of the crossing for a total project length of 300'.

• Based on preliminary reports we anticipate the structure span length to be between 18' and 20'. Replacement structure types to be assessed in the preliminary design phase are assumed to be limited to:
  - Precast Buried Concrete Rigid Frame
  - Precast Concrete Box
  - Cast-in-Place Concrete alternatives due to the accelerated schedule of project and bidding season.

• A hydraulic analysis will be completed utilizing SRH 2D SMS software in accordance with the 2015 VTrans Hydraulics Manual. Hydrology (design flows) will be based on the preliminary hydrology findings (USGS StreamStats). The extent of the boundary area for the hydraulics model will include the downstream bridge and upstream culvert crossing structure to effectively model the stream influencers at this crossing. In order to advance preliminary design, the modeling will utilize available LiDAR information during the preliminary design and merge in topographic survey for the Final Design when it becomes available.
- Roadway drainage shall consist mostly of sheet flow, mimicking existing conditions. Upon evaluation of roadside barrier and roadway geometry, additional drainage structures and pipe may be proposed to relieve potential ponding water.

- Traffic Control Plan and Detour design will not be necessary for this project as it is currently in-place for the closed section of roadway.

- Based on coordination with the Client, there is no buried sewer within the project limits.

- The contract plans will consist of approximately 20 sheets and will include the following:
  - Title Sheet
  - Project Notes (1 of 2)
  - Project Notes (2 of 2) & Summary of Quantities*
  - Easement Plan
  - Roadway Typical Sections and Details
  - Boring Location Plan
  - Boring Logs
  - Roadway Plan & Profile
  - General Plan and Elevation
  - Site Plan
  - Water Diversion / Wetland Impact Plan
  - Culvert Layout Plan
  - Precast Concrete Rigid Frame or Box Culvert Details (3 Sheets)
  - Guardrail and Bridge Rail Layout Plan
  - Roadway Cross Sections (3 Sheets)
  - Temporary Waterline Replacement Details

Plans marked with an asterisk (*) will be included in the final submission and are not required for Preliminary Plans.

- Construction phase services, such as shop drawing review and periodic site observations or resident engineering services, are not included in this Proposal. We intend to submit a Proposal for these services after the preliminary design phase services are completed, if requested.

- Temporary and Permanent ROW easements will be required to construct the roadway/culvert for this project. Hoyle, Tanner will provide Client with an easement plan and draft easement deed language acceptable in form and content to the Client. Hoyle, Tanner will not be responsible for procuring right-of-way or easements.

- Bidding Requirements, Contract Documents and Technical Specifications developed for the project will be based upon Hoyle, Tanner’s standard which is based upon the EJCDC 2013 model documents acceptable in form and content to the Client.

- Should new or revised environmental permitting requirements be enacted subsequent to the execution of this Agreement, the fee may be renegotiated.

- As this is considered a standard DPW maintenance/replacement project, we have assumed there will not be any Public Meetings/Presentations as part of the base scope. A separate phase for a
public meeting has been provided for consideration and will only be included at the client’s request.

(Bid Phase Assumptions)

- The cost of up to 2 sets of Contract Documents and an electronic version of the Contract Documents for distribution to the Client and construction reporting agencies is included in this proposal as indicated herein.

- The proposal assumes a maximum of 2 minor addendums will be issued.

- Contract Documents will consist of a bound book entitled “Bidding Requirements Contract Documents and Technical Specifications” and half-size (11” x 17”) paper plans.

Separately Phased Scope
This scope has been proposed as separately phase for as needed/requested scope to be determined and for potentially non-FEMA reimbursable services. They are described as follows and each will have a separate cost-tracking phase set up our accounting system:

Waterline Replacement:
W-1. Meet with Town Representatives during vac excavation operations for location and visual identification of the town-owned waterline (including pipe size, material, depth and orientation).

W-2. Preliminary design of the section of waterline replacement within the horizontal construction limits of the project and the associated valves required to maintain service during construction.

W-3. Response to comments and final waterline design plans and specifications.

Assumptions:
- Without record drawings large assumptions have been made for effort needed for this work. Hoyle, Tanner will work diligently to stay within the fee estimate provided an update the Town prior to out of scope work not defined here-in.
- Design includes the installation of up to 3 valves for disconnection and replacement of the section of Village-Owned Asbestos-Cement (AC) Waterline within the project construction limits (approximate length 80’ of pipe replacement). DPW will provide available pipe information including size (6” diameter assumed), depth, and approximate location.
- DPW Staff shall field mark and coordinate with digsafe for their work. Hoyle, Tanner will assist with marking on a pdf map (proposed boring locations map) where the locations of test pits are to be located (2-4 assumed – depending on depth found adjacent to stream it may be beneficial to locate the pipe elevation further away from the crossing). This can be coordinated with the digsafe for soil borings if the Town prefers, but the pipe must be located prior to the soil boring operations.
- Village will provide town-standard pipe replacement and connection details. Per kickoff meeting – anticipated 8” Ductile Iron pipe.
- Soil Borings are anticipated to be completed in late-March, early-April 2020.
- It is assumed that design and calculations will not be required for the sizing of pipe or thrust restraints. The project is to be completed with reference to standard village and CWD details for this work.
• Village will provide town-standard specifications for the work. Hoyle, Tanner to review. It is assumed that these specifications will be similar in nature to our CSI-based specifications.

• Bid Item and Estimate will be developed as lump sum for the full work (outside of the limits of the culvert replacement project) associated with 2 items: Installation of valves and restraints, and Replacement of AC Waterline.

• Contract Documents and bidding will occur under the same contract as culvert replacement work with items tracked separately for culvert replacement.

**Upstream Culvert Replacement Study:**

H-1. Perform Hydraulic Analysis specific to the upstream culverts identified by the Village (upper Densmore Drive and Brickyard Road). Size proposed replacement structure (verify if consistent with downstream proposed culvert) and develop a cost estimate to replace.

H-2. Prepare a brief report summarizing hydraulics findings, existing condition assessments and approximate lifespan remaining, and cost estimates to replace. Meet with Village DPW staff to review draft report.


H-4. Assist Village with assessing flood impacts from modeling and evaluation of HMGP Grant potential. Identify other potential State and Federal Grants

**Assumptions:**

• Hydraulic analysis will be completed with available LiDAR data. No topographic survey will be provided at these locations. This analysis should be considered preliminary, with final analysis completed with topographic survey merged into the model (to be completed in a future design phase).

• Hydraulic modeling will consider the effects of all existing structures and their potential flooding, as well as the individual structure sizes required to pass design flow (assuming all upstream structures are sized accordingly).

• Scope does not include grant preparation or full HMGP Benefit Cost Analysis (BCA). It is a cursory review of the hydraulic results with a summary of recommendations.

• 2 paper copies of the Final Reports are included. PDF copies will be provided for the Draft Review.

**Public Outreach Meeting:**

M-1. Prepare Material for a Public Presentation (Powerpoint – Project Description)

M-2. Participate in Public Meeting

**Assumptions:**

• This meeting has been separated out into a separate phase for tracking. At the time of the contract the Village was unsure if it will be required.

• Printed material will not be necessary for the meeting. It is assumed that presentation material will be summarized in Powerpoint format.

• It is assumed that the Village will document meeting minutes and public comments, and provide to Hoyle, Tanner for project records.
Consultant has the following Insurance coverages:

a. **Workers’ Compensation and Employers’ Liability**
   - Each Accident: $1,000,000
   - Disease-Each Employee: $1,000,000
   - Disease-Policy Limit: $1,000,000

b. **General Liability**
   - Each Occurrence: $1,000,000
   - General Aggregate: $2,000,000
   - Products-Comp/Op Agg: $2,000,000
   - Personal & Adv Injury: $1,000,000
   - Med Exp (any one person): $10,000

c. **Umbrella**
   - Each Occurrence: $10,000,000
   - Aggregate: $10,000,000

d. **Business Auto**
   - Combined Single Limit: $1,000,000
     - Per Accident

   **(Hired and Non-Owned)**


e. **Professional Liability**
   - Per claim: $5,000,000
   - Annual Aggregate: $5,000,000
EXHIBIT C
Compensation for Services

Client shall pay Consultant for services set forth in Exhibit A and in accordance with the provisions of Article 4 of this Agreement as follows:

Standard Hourly Rates Method of Payment

<table>
<thead>
<tr>
<th>Phase</th>
<th>Description</th>
<th>Estimated Amount</th>
</tr>
</thead>
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<td>Design Phase</td>
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<td></td>
</tr>
<tr>
<td>• Preliminary Design</td>
<td>$ 76,416</td>
<td>Estimated Amount</td>
</tr>
<tr>
<td>• Final Design</td>
<td>$ 17,674</td>
<td>Estimated Amount</td>
</tr>
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<td>Total Design Phase</td>
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<tr>
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Total Compensation $ 136,342 Estimated Amount

The estimated amounts shall equal the cumulative hours charged by each class of Consultant’s personnel time applicable standard hourly rates for each category. The estimated amounts include reimbursable expenses such as transportation, postage, telephone, fax, printing and equipment rental; and include charges of subconsultants engaged by Consultant.

The Consultant may modify the amounts to be expended by the Client for each individual phase described above only after approval by the Client.

Consultant shall bill Client based on hours charged at standard billing rates plus reimbursable expenses incurred plus subconsultant expenses for the billing period. During the term of this Agreement, direct salaries may be adjusted as part of Hoyle, Tanner’s companywide revisions due to increases in cost of living as well as merit and shall not be limited to employees assigned to provide services under this Agreement.
### BILLING RATE ESTIMATE

**CLIENT:** Village of Essex Junction  
**PROJECT:** Densmore Drive Culvert Replacement  
**PROJECT #:** TBD  
**DATE:** 3/9/2020  
**Calc By:** Olin  
**Check By:**

**Densmore Drive Culvert Replacement**

### MANHOURS BY BILLING RATE CLASSIFICATION ($/Hour)

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**REIMBURSABLE EXPENSES:**
- Travel - Mileage, ETC: $97
- Postage & Communication: $30
- Printing: $92
- Lodging and Meals: $0
- Testing Equipment Rental: $0
- Other: $0

**SUBTOTAL:** $219
- Subconsultants:
  - Hartgen Archeological: $3,000 (includes admin. Fee of 5%)
  - VSE Survey: $6,000
  - Northwoods Environmental: $1,500
  - Mike's Boring & Coring: $5,000
- Other: $0

**SUBTOTAL BILLING RATE COSTS, SUBCONSULTANTS:** $99,543

**REIMBURSABLE EXPENSES:**
- Travel - Mileage, ETC: $97
- Postage & Communication: $30
- Printing: $92
- Lodging and Meals: $0
- Testing Equipment Rental: $0
- Other: $0

**REIMBURSABLE EXPENSES:**
- TRAVEL- MILEAGE, ETC: $97
- POSTAGE & COMMUNICATION: $30
- PRINTING: $92
- LODGING AND MEALS: $0
- TESTING EQUIPMENT RENTAL: $0
- OTHER: $0

**SUBTOTAL:** $219
- Subconsultants:
  - Hartgen Archeological: $3,000 (includes admin. Fee of 5%)
  - VSE Survey: $6,000
  - Northwoods Environmental: $1,500
  - Mike's Boring & Coring: $5,000
- Other: $0

**SUBTOTAL:** $15,500
- Subconsultants:
  - Hartgen Archeological: $3,000 (includes admin. Fee of 5%)
  - VSE Survey: $6,000
  - Northwoods Environmental: $1,500
  - Mike's Boring & Coring: $5,000
- Other: $0

**REIMBURSABLE EXPENSES:**
- TRAVEL- MILEAGE, ETC: $97
- POSTAGE & COMMUNICATION: $30
- PRINTING: $92
- LODGING AND MEALS: $0
- TESTING EQUIPMENT RENTAL: $0
- OTHER: $0

**SUBTOTAL:** $219

**TOTAL:** $99,762

---

Hoyle, Tanner & Associates, Inc. 125 College St Burlington, VT 05401

Revised: 12/15
## BILLING RATE ESTIMATE

**CLIENT:** Village of Essex Junction  
**PROJECT:** Densmore Drive Culvert Replacement  
**PROJECT #:** TBD  
**DATE:** 3/4/2020  
**Calc By:** Olin  
**Check By:**

### Densmore Drive Culvert Replacement

#### MANHOURS BY BILLING RATE CLASSIFICATION ($/Hour)

<table>
<thead>
<tr>
<th>TASK DESCRIPTIONS</th>
<th>SENIOR ENGINEER II</th>
<th>ENGINEER II</th>
<th>ENGINEER I</th>
<th>SENIOR ENGINEER III</th>
<th>ENVIRONMENTAL COORDINATOR III</th>
<th>CADD TECHNICIAN III</th>
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### REIMBURSABLE EXPENSES:

- **TRAVEL- MILEAGE, ETC.** $20  
- **POSTAGE & COMMUNICATION** $0  
- **PRINTING** $0  
- **LODGING AND MEALS** $0  
- **TESTING EQUIPMENT RENTAL** $0  
- **Other** $0  

**SUBTOTAL:** $20

**SUBCONSULTANTS:**

- Hartgen Archeological $0  
- VSE Survey $0  
- Northwoods Environmental $0  
- Mike's Boring & Coring $0  

**SUBTOTAL BILLING RATE COSTS, SUBCONSULTANTS:** $19,116

**REIMBURSABLE EXPENSES:**

- **includes admin. Fee of** 5% $0

**TOTAL:** $19,136

---

**Hoyle, Tanner & Associates, Inc.**  
125 College St  Burlington, VT 05401  
Revised 12/15
### BILLING RATE ESTIMATE

**CLIENT:** Village of Essex Junction  
**PROJECT:** Densmore Drive Culvert Replacement  
**PROJECT #:** TBD  
**DATE:** 3/4/2020  
**Calc. By:** Olin  
**Check By:**

#### TASK DESCRIPTIONS

<table>
<thead>
<tr>
<th>TASK DESCRIPTIONS</th>
<th>SENIOR PROJECT MANAGER</th>
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**TOTAL MANHOURS:** 2 28 62 28 0 0 0 0 0 0 0 118  
**TOTAL BILLING RATE COSTS:** $14,144.00

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### REIMBURSABLE EXPENSES:

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### SUBCONSULTANTS:

- **Hartgen Archeological**  
- **VSE Survey**  
- **Northwoods Environmental**  
- **Mike's Boring & Coring**

**SUBTOTAL BILLING RATE COSTS, SUBCONSULTANTS:** $14,144

---

### REIMBURSABLE EXPENSES:

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<th>EXPENSES</th>
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**TOTAL:** $14,224

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**Hoyle, Tanner & Associates, Inc.**  
125 College St Burlington, VT 05401

**Revised 12/15**
### BILLING RATE ESTIMATE

**CLIENT:** Village of Essex Junction  
**PROJECT:** Densmore Drive Culvert Replacement  
**PROJECT #:** TBD  
**DATE:** 3/4/2020

**Calc. By:** Olin  
**Check By:**

---

### Densmore Drive Culvert Replacement

#### MANHOURS BY BILLING RATE CLASSIFICATION ($/Hour)

<table>
<thead>
<tr>
<th>TASK DESCRIPTIONS</th>
<th>SENIOR PROJECT MANAGER</th>
<th>PROJECT MANAGER II</th>
<th>ENGINEER II</th>
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**TOTAL BILLING RATE COSTS:** $3,200

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<td>Mike's Boring &amp; Coring</td>
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</table>

**TOTAL:** $3,220

---

**Hoyle, Tanner & Associates, Inc.**  
125 College St Burlington, VT 05401  
Revised 12/19
EXHIBIT D
Schedule

Consultant shall perform the services indicated in Exhibit A in conformance with the following:

Design Phase Services

- Preliminary Design Submission
  P-1 through P-7  June 5, 2020  *
- Final Design Submission
  F-1 through F-5  July 31, 2020  **

Bid Advertisement  August 5, 2020

* From the date of Acceptance (see Page 7 of the Agreement)

** Assumes Expedited Permit Review
AGREEMENT FOR PROFESSIONAL SERVICES  
Densmore Drive Culvert Replacement

This is an agreement between the Village of Essex Junction, a Vermont Municipal Corporation, having its principal place of business in Essex Junction, County of Chittenden, State of Vermont (Client) and Hoyle, Tanner & Associates, Inc., a New Hampshire Corporation, having its principal place of business located at 150 Dow St. Manchester, New Hampshire, 03101, (Consultant) (individually each a “Party” and collectively herein also referred to as the “Parties”) for professional services (Agreement) for the Client’s project which is generally described as the replacement of the failed culvert carrying Indian Brook under Densmore Drive (herein known as the Project). The Consultant’s services under this agreement are generally described as follows: design, permitting, Right-of-Way (ROW) coordination, and bid phase engineering services for the culvert replacement in accordance with the FEMA Public Assistance (PA) program.

The effective date of this Agreement shall be the date of the last signature of the Parties hereto, February 27, 2020. Client and Consultant further agree as follows:

Article 1: Scope of Services

Consultant shall provide the services set forth in Exhibit A.

Article 2: Client’s Responsibilities:

Client shall provide to Consultant all of Client’s criteria and information as to requirements for the Project including objectives, constraints, performance requirements, and budgetary limitations.

Client shall provide Consultant with all information available to Client pertinent to Consultants work under this Agreement. Client shall assist Consultant as necessary to obtain available pertinent information from Federal, State or local offices or from other engineers or others who have previously worked for Client on matters affecting this Project. Client shall also make available all information. Client may have relative to concealed, subsurface, soil, and other conditions that are not apparent from visual, non-invasive, and non-destructive observations of the applicable site.

It may be necessary for Consultant’s personnel and/or subconsultants to enter areas of the Project property. Client shall arrange for and provide Consultant with access to such areas on a timely basis.

Client shall examine all documents prepared for the Project by Consultant; and at Client’s option, obtain advice from legal counsel, insurance counsel, and other appropriate advisors, and advise Consultant of any opinion or recommendations resulting from said advice.

Client shall give prompt notice to Consultant whenever Client becomes aware of anything that would have a significant effect on the scope or timing of Consultant’s services.

Client shall bear all costs related to compliance with this Article of this Agreement.
If Client engages a construction manager or any other professionals for the Project in addition to Consultant; Client must define the duties and responsibilities of each professional services provider.

During the construction of the project it is recommended Client or his/her designated representative, other than Consultant, attend the following meetings: Pre-construction bid meeting, bid opening, pre-construction conference, construction progress meetings, and Project completion meetings.

Client shall advise Consultant of any safety or security programs which may be applicable to Consultant during Project site visits.

Client shall make decisions and perform other Client responsibilities in a timely manner so as not to delay Consultant’s performance of services.

Client’s responsibilities may include those agreed upon and identified in Exhibit A.

**Article 3: Schedule**

Consultant is authorized to begin providing services on the effective date of the Agreement. Consultant shall perform services in conformance with the schedule guided by and subject at all times to sound judgment and practice in accordance with law and professional ethics.

If the schedule changes or orderly progress of services is impaired through no fault of Consultant; the schedule for services shall be adjusted and compensation may be adjusted by amendment to this Agreement.

Specific schedule requirements for providing services may be provided in Exhibit D.

Services will be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. Notwithstanding anything to the contrary contained herein, Consultant shall not be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control or without its negligence.

**Article 4: Compensation and Payment for Services**

Consultant shall charge for all services requested by Client and rendered by Consultant in connection with the Project in strict accordance with the conditions set forth in this Article of the Agreement and Exhibit C hereto.

The charges made by Consultant under this Article and the payment of said charges by Client shall constitute full compensation for all expenses incurred by Consultant in connection with the services rendered including F.I.C.A. taxes, Federal and State unemployment taxes, costs in connection with employees’ benefits, office expenses, supplies, and equipment, the general costs of doing business, and Consultant’s profit; and Subconsultants engaged by Consultant for the Project, if any.

Consultant’s compensation for services and the method of compensation shall be as described in Exhibit C.
Consultant shall prepare and submit monthly applications for payment for services completed under this Agreement.

Invoices shall be Consultant’s standard form or other form approved by Client.

Invoices are due within thirty (30) days of receipt by Client.

If payments are not made on time, Consultant may suspend services under this Agreement, after giving Client seven (7) days notice, until payment is received by Consultant. Client waives any and all claims against Consultant due to such suspension of services and agrees to appropriate adjustments to the Project schedule and Consultant’s schedule.

Client may withhold payment of a disputed invoice, however, Client must advise Consultant promptly of the reason for doing so and Client agrees to process and pay any portion of the invoice which is not in dispute. Client shall not withhold payments based on damages that Client has incurred or alleges that it has incurred unless Consultant has been adjudged liable for such damages and failed to compensate Client accordingly within 30 days of such determination.

**Article 5: Standard of Care**

The standard of care for all professional services performed or furnished by Consultant under this Agreement will be the skill and care used by members of Consultant’s profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant’s services.

**Article 6: Opinions of Cost**

When included in Consultant’s scope of services, opinions or estimates of probable construction costs are prepared on the basis of Consultant’s experience and qualifications and represent Consultant’s judgment as a professional generally familiar with the industry. However, since Consultant has no control over the cost of labor, materials, equipment or services furnished by others, or Contractor’s methods of determining prices, or over competitive bidding or market conditions, Consultant cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from Consultant’s opinions or estimates of probable construction cost.

**Article 7: Compliance with Laws and Regulations**

Consultant shall review codes, regulations, and laws applicable to Consultant’s services and shall exercise professional care to design in compliance with all applicable codes, regulations and laws in effect as of the effective date of this Agreement. Consultant cannot warrant that the applicable interpreting or enforcing authority will similarly interpret such requirements.
If such codes, regulations and laws change during the project and are imposed during the project by
government authorities with jurisdiction over the project, such changes may require changes to the
Consultant’s scope of services, schedule and compensation.

**Article 8: Underground Facilities**

The location of underground facilities may be required in order to perform subsurface explorations for
the project and the location of underground facilities may be shown on the construction Contract
drawings.

Unless otherwise provided, Client shall provide Consultant with the locations of underground facilities,
stuctures and utilities. If the locations are not known, are inaccurate or cannot be confirmed, Client
accepts and retains all risk of damages or losses resulting from the exploration work.

Consultant will take reasonable precautions to avoid damage to underground facilities and shall
coordinate the locations of such facilities with known owners of the facilities.

The information shown on the construction Contract drawings with respect to underground facilities shall
be based on information furnished by the facility owners to the Client and Consultant and Consultant shall
not be responsible for the accuracy or completeness of such information.

If conditions or locations of underground facilities are found to be different during construction
appropriate adjustments, if any, shall be made in accordance with the provisions of construction Contract.

**Article 9: Construction Phase Services**

If this Agreement provides for any construction phase services by Consultant, it is understood that the
Contractor, not Consultant, is responsible for the construction of the project, and that Consultant is not
responsible for the acts or omissions of any Contractor, Subcontractor or material supplier, unless
otherwise agreed, for safety precautions, programs or enforcement; or for construction means,
methods, techniques, sequences and procedures employed by the Contractor.

Consultant, including the resident project representative if provided, does not assume any responsi
bility for the Contractor’s failure to perform the construction in accordance with the Contract documents.

Site visits and observations by Consultant are intended to provide Client greater confidence that the
completed work by the Contractor will conform to the Contract documents; and site visits are not detailed
inspections and do not extend to every aspect of the Contractor’s work. Should Consultant provide
construction monitoring as a separate contract or have such services become a part of this Contract,
Consultant shall be responsible for monitoring such construction as reasonably necessary in order to
ensure conformance with the Contract Documents and if detailed inspections are required, shall so advise
the Client.

**Article 10: Design without Construction Phase**
Consultant and Client agree that if Consultant’s services do not include construction phase services, Client or Client’s designated agent shall be solely responsible for interpretation of the Contract documents and observing the work of the Contractor to discover, correct and mitigate errors, inconsistencies or omissions. And if Client authorizes deviations from Consultant prepared documents, that are not due to negligence, errors or omissions of the Consultant, or if conditions are discovered that are not accounted for in the documents prepared by Consultant, Client shall not bring any claim against Consultant based on or arising from those deviations and shall indemnify and hold Consultant, its agents and employees harmless from and against claims, losses, damages and expenses, including but not limited to defense costs and time of Consultant, to the extent such claims, loss, damage or expenses arise out of or results in whole or in part from such deviations, regardless of whether or not such claims, loss damage or expense is caused in part by a party indemnified under this provision.

Article 11: Use of Documents and Ownership of Electronic Documents

All documents prepared or furnished by Consultant pursuant to this Agreement are instruments of Consultant’s professional service, and Consultant shall retain an ownership and property interest therein. Consultant grants Client a license to use instruments of Consultant’s professional service for the purpose of constructing, occupying and maintaining the Project. Reuse or modification of any such documents by Client, without Consultant’s written permission and professional involvement, shall be at Client’s sole risk, and Client agrees to indemnify and hold Consultant harmless from all claims, damages and expenses, including attorneys’ fees, arising out of such reuse by Client or by others acting through Client.

Documents that may be relied upon by Client are limited to those that are signed or signed and sealed by Consultant, which may be in electronic or hardcopy format in conformance with professional engineering practice regulations in effect in project jurisdiction. Any conclusion or information obtained or derived from such other documents will be at the user’s sole risk.

When transferring documents in electronic media format, Consultant makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by Consultant at the beginning of this assignment.

Article 12: Insurance

Consultant procures and maintains insurance as set forth in Exhibit B. Consultant shall cause Client to be an additional insured on any applicable general liability insurance policy of the Consultant. Consultant shall provide Client reasonable notice of changes to any policy.

Client shall procure and maintain workers’ compensation insurance, employer’s liability insurance, general liability insurance, excess or umbrella liability and automobile liability insurance. Client shall cause Consultant and its subconsultants to be additional insureds on any general liability policies and as loss payees on any property insurance policies of Client applicable to the projects.

Client shall require Contractor to carry workers’ compensation, general liability, property damage, motor vehicle damage and injuries and other insurances to protect Client and Consultant and subconsultant; and Client shall require Contractor’s policies to cover Consultant and its subconsultants as additional insureds.
Client may request Consultant and/or subconsultants provide and maintain additional insurance coverage, at the expense of client.

Article 13: Suspension and Termination

Client may terminate this Agreement with seven days prior written notice to Consultant for convenience or cause. Consultant may terminate this Agreement for cause with seven days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until Consultant has been paid in full all amounts due for services, expenses and other related charges.

Article 14: Indemnification and Limitation of Liability

To the fullest extent permitted by law, Consultant shall indemnify Client, its officers, directors, partners, employees, and representatives, from and against losses, damages, and judgments arising from claims by third parties, including reasonable attorneys’ fees and expenses recoverable under applicable law, but only to the extent they are found to be caused by a negligent act, error, or omission of Consultant or Consultant’s officers, directors, members, partners, agents, employees, or subconsultants in the performance of services under this Agreement.

To the fullest extent permitted by law, Client shall indemnify Consultant, its officers, directors, partners, employees, and representatives, from and against losses, damages, and judgments arising from claims by third parties, including reasonable attorneys’ fees and expenses recoverable under applicable law, but only to the extent they are found to be caused by a negligent act, error, or omission of Client or Client’s officers, directors, members, partners, agents, employees, or subconsultants in the performance of services under this Agreement.

Article 15: Dispute Resolution

Client and Consultant agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this agreement. The parties shall in good faith mutually agree upon a mediator by each submitting to the other the name of two potential mediators. If the parties, after a good faith attempt at selecting a mediator, are unable to agree to a mediator, then this provision shall become null and void.

Article 16: Environmental Conditions

It is acknowledged by both parties that Consultant’s scope of services does not include any services related to the presence at the site of asbestos, PCBs, petroleum, hazardous waste or radioactive materials. Client acknowledges that Consultant is performing professional services for Client and Consultant is not and shall not be required to become an “arranger,” “operator,” “generator” or “transporter” of hazardous
substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA). Further, Consultant has no responsibility for the handling, identification, remediation, or presence of any hazardous materials at the site.

**Article 17: Controlling Law**

This Agreement shall be governed by the laws of the principal place of business of Consultant, the State of New Hampshire, State of Vermont, contrary to any choice of law provision. The parties agree that venue shall exclusively be in the Vermont Superior Court, Chittenden Civil Division.

**Article 18: Successors and Assigns**

Client and Consultant each binds itself, its partners, successors, executors, administrators and assigns, to the other party of the Agreement and to the partners, successors, executors, administrators and assigns, for such other party to all covenants of this Agreement.

Except as above, neither Client nor Consultant shall assign, sublet or transfer its interest in this Agreement without the written consent of the other party hereto.

Nothing in this paragraph shall prevent Consultant from employing such independent subconsultants as Consultant may deem appropriate to assist in the performance of the services of this Agreement.

**Article 19: Severability**

If any of the terms and conditions of this agreement are deemed unenforceable or invalid, in whole or in part, by judgment or order of a court, that shall not affect the remaining terms and conditions of the Agreement and they shall remain in full force and effect.

**Article 20: Waiver of Provisions**

Non-enforcement of any provision of this Agreement by Client or Consultant shall not constitute a waiver of that provision; and non-enforcement shall not prohibit subsequent enforcement of the provision or any other provision of the Agreement.
ACCEPTANCE

For Hoyle, Tanner & Associates, Inc.:

[Signature]
Jon A. Olin, Vice President

March 9, 2020
(Date)

For [The Village of Essex Junction]

PLEASE PROCEED WITH THE PROJECT AS INDICATED.

[Signature]
(Name & Signature)

(Date)

(Title)
EXHIBIT A
Scope of Services

Preliminary Design Phase

Consultant shall:

P-1. Perform a site visit to observe existing conditions and obtain data (field measurements, photography, etc.) for the purpose of preparing contract plans. Layout proposed boring locations and mark surrounding area for Dig-Safe.


P-3. Identify and provide location on contract plans of utility conflicts and coordinate with impacted utilities. Coordinate with private utility companies to identify potential buried lines (e.g. gas, telecom).

P-4. Participate in up to 4 project meetings: 1 Project Kickoff Meeting with DPW staff, 2 DPW design progress meetings, and 1 project abutter meeting.

P-5. Prepare Preliminary Plans and Estimate of Probable Construction Costs and submit to Client and FEMA Project Supervisor for review and comment. Specific Design Engineering Services for this project include:
   i. Layout design of proposed culvert and wingwalls
   ii. Hydraulic analysis the culvert crossing with and without the upstream and downstream structures incorporated into the model to evaluate the existing and proposed structures waterway openings to provide a minimum of 1’ of freeboard at a 25-year flood event and accommodate the 100-year flood event.
   iii. Precast concrete structural design
   iv. Roadway geometry design

P-6. Conduct Pre-Application coordination with Permitting Agencies (ANR Stream Alterations, DEC Wetlands, State Historic Preservation Officer, US Army Corp of Engineers). Prepare and submit draft Permits:
   i. VT ANR Stream Alteration Permit
   ii. Army Corp of Engineers General Permit – Category 1 Self Verification form
   iii. VT DEC Wetlands Individual Permit (if required)

P-7. Provide overall project management including scheduling and client coordination. Prepare a Project Specific Quality Assurance Plan (PSQAP) for the project in accordance with Hoyle, Tanner’s Quality Control Plan (QCP). Monitor the PSQAP for the project in accordance with Hoyle, Tanner’s (QCP) through completion.

Final Design Phase

Consultant shall:

F-1. Prepare an easement plan with draft Temporary and Permanent Easement deeds and submit to...
Client.

F-2. Incorporate field survey and update hydraulic modeling.

F-3. Address preliminary plan comments received from VTrans, Town, and Permitting Review. Prepare Final Plans, Specifications and an Estimate of Probable Construction Costs and submit to the Client and FEMA Project Supervisor for review and comment. Review to include Client’s legal counsel, comments will be incorporated into Contract Documents for bidding (see F-4 below).

F-4. Incorporate review comments from Client and FEMA Project Supervisor. Prepare Contract Documents (plans and specifications) for bidding purposes sufficiently in advance to allow Client’s legal counsel to review and edit as necessary.

F-5. Provide overall project management including scheduling, client coordination. Complete the PSQAP for the project in accordance with Hoyle, Tanner’s Quality Control Plan (QCP).

Bid Phase

Consultant shall:

B-1. Prepare and provide Client with an “Advertisement for Bids” and assist Client with advertising the project for construction.

B-2. Attend and conduct a pre-bid meeting at Client offices.

B-3. Issue addenda (if necessary) to interpret or clarify bidding documents.


B-6. Prepare Notice of Award for Client signature and issuance to the Contractor.

Proposal for Construction Phase Services to be Prepared after Preliminary Design Phase services are completed, if requested.

Assumptions

Consultant assumes:

- Hoyle, Tanner will arrange for a soil boring firm to take the necessary borings at the site. We intend to use Mike’s Boring and Coring from Barre, VT for these services. The cost for these services is included in our fees indicated in Exhibit C. The estimate for soil borings is based on 2 soil borings and 2 probes at the 4 corners of the proposed culvert location. With the Road closure, flagging will not be required. It may be necessary to get Village DPW staff assistance in moving the barriers for drilling operations.
• Hoyle, Tanner will arrange for a survey firm to perform a topographic survey. We intend to use Vermont Survey & Engineering (VSE) of Waterbury, VT for these services. The cost for these services is included in our fees indicated in Exhibit C.

• Hoyle, Tanner will arrange for an environmental services firm to perform a wetland delineation and invasive species review within the project survey limits at the culvert replacement location. We intend to use Northwoods Ecological Consulting for these services. The cost for these services is included in our fees indicated in Exhibit C.

• Hoyle, Tanner will arrange for a historic and archeological services firm to perform a Phase IA Archeological Resources Assessment (ARA) within the project survey limits at the culvert replacement location. We intend to use Hartgen Archeological Associates for these services. The cost for these services is included in our fees indicated in Exhibit C.

• It is assumed that USACE and VT ANR/DEC will have minor comments on the permit applications and plan sets and that they will apply expedited permit review process treating this as an emergency response project, and a total of 4 hours have been included to address their comments.

• Site meetings with Utility Owners are not expected to be required.

• Applications fees are not included as part of Hoyle, Tanner services. The Client shall be responsible for respective permit application fees.

• Based on available on-line sources, it is assumed that surveys for state and federal-listed plants, animals or fish species will not be required for this project. Should such surveys be required, a contract amendment will be proposed.

• A horizontal and vertical alignment will be created to match the existing conditions of the roadway for construction layout purposes. Project limits are anticipated to extend approximately 150’ south and 150’ north of the crossing for a total project length of 300’.

• Based on preliminary reports we anticipate the structure span length to be between 18’ and 20’. Replacement structure types to be assessed in the preliminary design phase are assumed to be limited to:
  - Precast Buried Concrete Rigid Frame
  - Precast Concrete Box
  - Cast-in-Place Concrete alternatives due to the accelerated schedule of project and bidding season.

• A hydraulic analysis will be completed utilizing SRH 2D SMS software in accordance with the 2015 VTrans Hydraulics Manual. Hydrology (design flows) will be based on the preliminary hydrology findings (USGS StreamStats). The extent of the boundary area for the hydraulics model will include the downstream bridge and upstream culvert crossing structure to effectively model the stream influencers at this crossing. In order to advance preliminary design, the modeling will utilize available LiDAR information during the preliminary design and merge in topographic survey for the Final Design when it becomes available.
• Roadway drainage shall consist mostly of sheet flow, mimicking existing conditions. Upon evaluation of roadside barrier and roadway geometry, additional drainage structures and pipe may be proposed to relieve potential ponding water.

• Traffic Control Plan and Detour design will not be necessary for this project as it is currently in-place for the closed section of roadway.

• Based on coordination with the Client, there is no buried sewer within the project limits.

• The contract plans will consist of approximately 20 sheets and will include the following:
  
  o Title Sheet
  o Project Notes (1 of 2)
  o Project Notes (2 of 2) & Summary of Quantities*
  o Easement Plan
  o Roadway Typical Sections and Details
  o Boring Location Plan
  o Boring Logs
  o Roadway Plan & Profile
  o General Plan and Elevation
  o Site Plan
  o Water Diversion / Wetland Impact Plan
  o Culvert Layout Plan
  o Precast Concrete Rigid Frame or Box Culvert Details (3 Sheets)
  o Guardrail and Bridge Rail Layout Plan
  o Roadway Cross Sections (3 Sheets)
  o Temporary Waterline Replacement Details

Plans marked with an asterisk (*) will be included in the final submission and are not required for Preliminary Plans.

• Construction phase services, such as shop drawing review and periodic site observations or resident engineering services, are not included in this Proposal. We intend to submit a Proposal for these services after the preliminary design phase services are completed, if requested.

• Temporary and Permanent ROW easements will be required to construct the roadway/culvert for this project. Hoyle, Tanner will provide Client with an easement plan and draft easement deed language acceptable in form and content to the Client. Hoyle, Tanner will not be responsible for procuring right-of-way or easements.

• Bidding Requirements, Contract Documents and Technical Specifications developed for the project will be based upon Hoyle, Tanner’s standard which is based upon the EJCDC 2013 model documents acceptable in form and content to the Client.

• Should new or revised environmental permitting requirements be enacted subsequent to the execution of this Agreement, the fee may be renegotiated.

• As this is considered a standard DPW maintenance/replacement project, we have assumed there will not be any Public Meetings/Presentations as part of the base scope. A separate phase for a
public meeting has been provided for consideration and will only be included at the client’s request.

(Bid Phase Assumptions)

- The cost of up to 2 sets of Contract Documents and an electronic version of the Contract Documents for distribution to the Client and construction reporting agencies is included in this proposal as indicated herein.
- The proposal assumes a maximum of 2 minor addendums will be issued.
- Contract Documents will consist of a bound book entitled “Bidding Requirements Contract Documents and Technical Specifications” and half-size (11” x 17”) paper plans.

Separately Phased Scope
This scope has been proposed as separately phase for as needed/requested scope to be determined and for potentially non-FEMA reimbursable services. They are described as follows and each will have a separate cost-tracking phase set up our accounting system:

Waterline Replacement:
W-1. Meet with Town Representatives during vac excavation operations for location and visual identification of the town-owned waterline (including pipe size, material, depth and orientation).

W-2. Preliminary design of the section of waterline replacement within the horizontal construction limits of the project and the associated valves required to maintain service during construction.

W-3. Response to comments and final waterline design plans and specifications.

Assumptions:
- Without record drawings large assumptions have been made for effort needed for this work. Hoyle, Tanner will work diligently to stay within the fee estimate provided an update the Town prior to out of scope work not defined here-in.
- Design includes the installation of up to 3 valves for disconnection and replacement of the section of Village-Owned Asbestos-Cement (AC) Waterline within the project construction limits (approximate length 80’ of pipe replacement). DPW will provide available pipe information including size (6” diameter assumed), depth, and approximate location.
- DPW Staff shall field mark and coordinate with digsafe for their work. Hoyle, Tanner will assist with marking on a pdf map (proposed boring locations map) where the locations of test pits are to be located (2-4 assumed – depending on depth found adjacent to stream it may be beneficial to locate the pipe elevation further away from the crossing). This can be coordinated with the digsafe for soil borings if the Town prefers, but the pipe must be located prior to the soil boring operations.
- Village will provide town-standard pipe replacement and connection details. Per kickoff meeting – anticipated 8” Ductile Iron pipe.
- Soil Borings are anticipated to be completed in late-March, early-April 2020.
- It is assumed that design and calculations will not be required for the sizing of pipe or thrust restraints. The project is to be completed with reference to standard village and CWD details for this work.
• Village will provide town-standard specifications for the work. Hoyle, Tanner to review. It is assumed that these specifications will be similar in nature to our CSI-based specifications.
• Bid Item and Estimate will be developed as lump sum for the full work (outside of the limits of the culvert replacement project) associated with 2 items: Installation of valves and restraints, and Replacement of AC Waterline.
• Contract Documents and bidding will occur under the same contract as culvert replacement work with items tracked separately for culvert replacement.

**Upstream Culvert Replacement Study:**

H-1. Perform Hydraulic Analysis specific to the upstream culverts identified by the Village (upper Densmore Drive and Brickyard Road). Size proposed replacement structure (verify if consistent with downstream proposed culvert) and develop a cost estimate to replace.

H-2. Prepare a brief report summarizing hydraulics findings, existing condition assessments and approximate lifespan remaining, and cost estimates to replace. Meet with Village DPW staff to review draft report.


H-4. Assist Village with assessing flood impacts from modeling and evaluation of HMGP Grant potential. Identify other potential State and Federal Grants

Assumptions:
• hydraulic analysis will be completed with available LiDAR data. No topographic survey will be provided at these locations. This analysis should be considered preliminary, with final analysis completed with topographic survey merged into the model (to be completed in a future design phase).
• Hydraulic modeling will consider the effects of all existing structures and their potential flooding, as well as the individual structure sizes required to pass design flow (assuming all upstream structures are sized accordingly)
• Scope does not include grant preparation or full HMGP Benefit Cost Analysis (BCA). It is a cursory review of the hydraulic results with a summary of recommendations.
• 2 paper copies of the Final Reports are included. PDF copies will be provided for the Draft Review.

**Public Outreach Meeting:**

M-1. Prepare Material for a Public Presentation (Powerpoint – Project Description)

M-2. Participate in Public Meeting

Assumptions:
• This meeting has been separated out into a separate phase for tracking. At the time of the contract the Village was unsure if it will be required.
• Printed material will not be necessary for the meeting. It is assumed that presentation material will be summarized in Powerpoint format.
• It is assumed that the Village will document meeting minutes and public comments, and provide to Hoyle, Tanner for project records.
Exhibit B
INSURANCE

Consultant has the following Insurance coverages:

a. Workers’ Compensation and Employers’ Liability
   - Each Accident: $1,000,000
   - Disease-Each Employee: $1,000,000
   - Disease-Policy Limit: $1,000,000

b. General Liability
   - Commercial Package
     - Each Occurrence: $1,000,000
     - General Aggregate: $2,000,000
     - Products-Comp/Op Agg: $2,000,000
     - Personal & Adv Injury: $1,000,000
     - Med Exp (any one person): $10,000

c. Umbrella
   - Each Occurrence: $10,000,000
   - Aggregate: $10,000,000

d. Business Auto
   - (Hired and Non-Owned)
     - Combined Single Limit: $1,000,000
     - Per Accident: $1,000,000

e. Professional Liability
   - Per claim: $5,000,000
   - Annual Aggregate: $5,000,000
EXHIBIT C
Compensation for Services

Client shall pay Consultant for services set forth in Exhibit A and in accordance with the provisions of Article 4 of this Agreement as follows:

**Standard Hourly Rates Method of Payment**

<table>
<thead>
<tr>
<th>Phase</th>
<th>Design Phase</th>
<th>Bidding Phase</th>
<th>Additional Phase – Waterline</th>
<th>Additional Phase – Upstream Culverts</th>
<th>Additional Phase – Public Meeting</th>
<th>Total Compensation</th>
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</thead>
<tbody>
<tr>
<td>Preliminary Design</td>
<td>$ 76,416</td>
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<tr>
<td>Final Design</td>
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<tr>
<td>Total Design Phase</td>
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<tr>
<td>Bidding Phase</td>
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<tr>
<td>Additional Phase – Waterline</td>
<td>$ 19,136</td>
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<tr>
<td>Additional Phase – Upstream Culverts</td>
<td>$ 14,224</td>
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<td>Additional Phase – Public Meeting</td>
<td>$ 3,220</td>
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<td><strong>Total Compensation</strong></td>
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</tbody>
</table>

The estimated amounts shall equal the cumulative hours charged by each class of Consultant’s personnel time applicable standard hourly rates for each category. The estimated amounts include reimbursable expenses such as transportation, postage, telephone, fax, printing and equipment rental; and include charges of subconsultants engaged by Consultant.

The Consultant may modify the amounts to be expended by the Client for each individual phase described above only after approval by the Client to reflect services actually provided by phase; however, Consultant shall not exceed the total Compensation without the approval of Client.

Consultant shall bill Client based on hours charged at standard billing rates plus reimbursable expenses incurred plus subconsultant expenses for the billing period. During the term of this Agreement, direct salaries may be adjusted as part of Hoyle, Tanner’s companywide revisions due to increases in cost of living as well as merit and shall not be limited to employees assigned to provide services under this Agreement.
EXHIBIT D
Schedule

Consultant shall perform the services indicated in Exhibit A in conformance with the following:

Design Phase Services

- Preliminary Design Submission
  P-1 through P-7
  June 5, 2020  *
- Final Design Submission
  F-1 through F-5
  July 31, 2020  **

Bid Advertisement
  August 5, 2020

* From the date of Acceptance (see Page 7 of the Agreement)

** Assumes Expedited Permit Review
TRUSTEES PRESENT: Andrew Brown, President; George Tyler; Raj Chawla; Amber Thibeault; Dan Kerin.

ADMINISTRATION and STAFF: Evan Teich, Unified Manager; Greg Duggan, Deputy Manager; Sarah Macy, Finance Director/ Assistant Manager; Jim Jutras, Water Quality Superintendent; Rick Jones, Public Works Superintendent

OTHERS PRESENT: Elaine Haney.

1. CALL TO ORDER and PLEDGE OF ALLEGIANCE
   Mr. Brown called the meeting to order at 6:30 p.m.

2. STATEMENT ABOUT COVID-19 AND PUBLIC MEETINGS
   Mr. Brown made a statement explaining how the meeting would proceed, with changes instituted to adhere to COVID-19/ coronavirus social distancing restrictions. He said that even though the public meeting location was in the Town of Essex Offices at 81 Main St., Essex Jct., board members would participate remotely via Microsoft Teams. He invited the public to participate remotely by conference call.

3. AGENDA ADDITIONS/ CHANGES
   Mr. Duggan added two documents to item 6c: a final contract for Hoyle Tanner and Associates, and a red-lined version of the contract.

4. APPROVE AGENDA
   DAN KERIN made a motion, and GEORGE TYLER seconded, that the Trustees approve the agenda as amended. VOTING: 5-0; motion carried.

5. PUBLIC TO BE HEARD
   a. Comments from public on items not on the agenda.
      There were no comments from the public at this time.

6. BUSINESS ITEMS
   a. Appoint volunteers to Bike/Walk Advisory Committee
      Mr. Chawla said the appointment of volunteers to the Bike/Walk Advisory Committee will fill a vacant seat left from the recent resignation of Katelyn Hayes and another seat from an existing vacancy. The board of Trustees had interviewed the candidates, Mr. LaClair and Mr. Cronin, during their previous two meetings.
      RAJ CHAWLA made a motion, and GEORGE TYLER seconded, that the Trustees appoint Seth Cronin to the term ending June 2022 and Patrick LaClair to the term ending 2021 on the Bike/Walk Advisory Committee. VOTING: 5-0; motion carried.
   b. Cancel Village Annual Meeting and schedule special meeting for April 2 to re-warn Village Annual Meeting for a new date
      Mr. Teich provided an update of efforts conducted to clarify how to proceed with the Village Annual Meeting, in accordance to the Village Charter, while adhering to COVID-19 restrictions in Vermont.
He talked about legal parameters around timelines preventing the school and municipal meetings from happening at the same time. Mr. Teich explained the timeline for warning the meeting on April 2 would result in the Annual Village meeting taking place on May 11, with ballot voting on May 19. He said if the COVID-19 restrictions continue, the new meeting dates may also need to be postponed.

Ms. Haney said the Senate Government Operations Committee is discussing whether the rules for voice votes should go to Australian Ballot, if needed during this time. Mr. Tyler pointed out the importance of effective outreach regarding the date change.

RAJ CHAWLA made a motion, and GEORGE TYLER seconded, that the Trustees authorize staff to issue public notices that the Annual Village Meeting will not be held on April 1st and April 14th, but the Trustees will schedule a special meeting on April 2 for the purpose of adopting a new warning for an annual meeting date, expected to be May 11th and May 19th. VOTING: 5-0; motion carried.

c. Approve Engineering Services Contract Award for Densmore Drive culvert replacement
   Mr. Teich recapped the Halloween flood damage to Densmore Drive and the municipality’s FEMA application for funds to address this. FEMA approves only certain contractors for projects such as this and, through the bidding process, Village staff determined the engineering contract should go to Hoyle Tanner and Associates. Mr. Jutras described this engineer firm’s track record in neighboring communities with similar projects. Ms. Macy said she will get an answer to how the $35,000 for this project may impact other capital projects.

DAN KERIN made a motion, and RAJ CHAWLA seconded, that the Trustees award the Engineering Services Contract for the Densmore Drive culvert replacement to Hoyle Tanner and Associates. VOTING: 5-0; motion carried.

7. CONSENT ITEMS

AMBER THIBEAULT made a motion, and RAJ CHAWLA seconded, that the Trustees approve the Consent agenda:

a. Approve banner application for Vermont Quilt Festival
   • Approval of Vermont Quilt Festival Banner(s)/ event flags, to be hung from 6/12/20-6/28/20.

b. Approve authorization to apply for 2021 Class II Town Highway Paving Grant
   • Approve authorization to apply for a VTRANS 2021 Class II Town Highway Paving Grant to offset construction costs associated with repair and overlay of a section of West Street.

c. Approve minutes: February 15, 2020; March 10, 2020

d. Check Warrant #17190- 3/13/2020

VOTING: 5-0; motion carried.

READING FILE

a. Board Member Comments
   • Mr. Teich said the Governor provided a new executive decision earlier in the evening that all employees except for essential work force should stay home. He assured the Trustees that staff already have been assigned and organized so this can take place effectively.

b. Memo from Tom Yandow re: Capital Projects for Village Buildings

c. Upcoming meeting schedule

8. EXECUTIVE SESSION

a. An executive is not anticipated
   An executive session did not take place.
ADJOURN

Mr. Brown called a recess of the Essex Village Board of Trustees at 7:04 PM, to enter the Joint meeting of the Trustees and the Essex Selectboard.

Respectfully Submitted,
Cathy Ainsworth