

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**

REQUEST FOR QUALIFICATIONS

**ENGINEERING AND SURVEY SERVICES FOR SNOWMOBILE BRIDGE
ABUTMENT and APPROACH DESIGNS**

White Mountain National Forest

**DATE: February 2022
Project #: RFQ TB-2201**

Section 1 – Overview and Schedule

A. Invitation to Submit a Statement of Qualifications

Engineering firms are invited to submit a Statement of Qualifications to design and develop site-specific, engineered plans to replace abutments on two existing snowmobile bridges on the snowmobile trail known as “Corridor 19” (on McDonough Brook Rd/Country Rd.) also known as Nation Forest Service Road 244 in Chatham NH within the White Mountain National Forest (WMNF) (See APPENDIX A: photos and maps for each bridge location).

The project will involve a hydrology & hydraulics study, existing conditions site survey, geotechnical analysis, wetlands delineation, 100-year flood plan determination and engineered plans for replacement of abutments and upgrading approaches to match new abutments. It will also include coordination with bridge fabricator, regulatory review, acquiring necessary permits, cost estimating, production of drawings and specifications for use in competitive bidding the project and construction administration during the construction project.

The new bridge abutment designs will support two modular bridges purchased under separate agreement that meet HL93 loading and must follow U.S. Department of Agriculture’s Forest Service design requirements.

All designs must bear the seal and signature of the responsible professional engineer, licensed in the State of New Hampshire. A qualified Bridge Design Engineer must review and approve all designs (see Part C and APPENDIX B: Trail Bridge Design Requirements & Certification application).

B. Schedule

The following table provides a Schedule of Events for this RFQ through contract finalization and approval. The Agency reserves the right to amend this Schedule at its sole discretion and at any time through a published Addendum.

EVENT	DATE	LOCAL TIME
RFQ Released to Proposers (Advertisement)	2/9/2022	
Qualifications Statement due date	3/2/2022	2:00 PM
Interviews of short listed candidates	3/16/2022	TBD
Contract award	4/13/2022	
Governor and Executive Council meeting for approval	6/29/2022	TBD
Anticipated project start date	7/1/2022	
Project design completion date	12/30/2022	
Construction commence	5/5/2023	
Construction Complete	12/30/2023	

C. Description of Agency/Program Issuing the Request for Qualifications

The NH Department of Natural and Cultural Resources, through its Division of Parks and Recreation, Bureau of Trails has partnered with the USDA Forest Service, White Mountain National Forest (WMNF) through a Challenge Cost Share Agreement to address the backlog of deferred maintenance to snowmobile bridges within the White Mountain National Forest.

The Bureau of Trails is soliciting for qualifications from engineering firms for survey and engineering services for site specific engineered plans. The Bureau of Trails shall purchase two modular/prefabricated bridges to be installed in accordance with the site specific engineered plans produced as part of the scope of work from this RFQ process. Bridges shall be purchased as a separate agreement.

The WMNF shall review all submissions and submit all site-specific engineered plans to the USDA Forest Service Regional Office for final approval. This takes approximately 6 weeks. All plans must follow the U.S. Forest Service trail and trail bridge construction standards and guidelines. The selected engineering firm will need to submit their qualifications to the WMNF through the Bureau of Trails to receive the Bridge Design Engineer Certification administered by the USDA Forest Service Regional Office. (See APPENDIX B: Trail Bridge Design Requirements and Certification Application). Firms may choose to apply for this certification ahead of the submission of the RFQ. Applications can be emailed in PDF format to the RFQ contact, which will be forwarded to USDA Forest Service for approval.

The selected engineering firm shall be responsible for all state and federal regulatory review associated with the site specific engineered plans.

All site designs, surveys, engineered plans, reports or any other documents generated by the selected engineering firm for the purpose of this project shall be owned by the Department of Natural and Cultural Resources and shared with the WMNF.

The WMNF will own the two bridges that will be purchased as a separate agreement.

Section 2 – Proposed Scope of Work

Candidate firms will submit a statement of qualifications in support of completing a project that would address the following scope of work:

- Analyze the two existing bridge locations and provide at both locations:
 - Hydrology & Hydraulics Study
 - Existing conditions site survey
 - Geotechnical Analysis
 - Wetlands delineation
 - Determination of 100 year flood plain
 - Site design and permitting for a New Hampshire Department of Environmental Services compliant stream crossing
 - Engineering of new abutments and approaches to accommodate two new modular/prefabricated bridges. Abutments must meet HL93 loading criteria and include a guardrail design that meets AASHTO Roadside Design Guide manual.
- Regulatory review including any and all permitting necessary
- Designs must bear the seal and signature of the responsible professional engineer, licensed in the State of New Hampshire
 - All designs must be submitted by a USFS-certified Bridge Design Engineer or they can be reviewed by a licensed Civil or Structural Engineer who has at least 36 months of engineering experience under the supervision of a USFS-certified bridge design engineer.
- Preparation of construction documents, specifications, and a cost estimate broken down as a list of items for use in competitive bidding of the work.
- Construction administrative services.

Section 3 – Process for Submitting a Statement of Qualifications

A. Submission, Deadline, and Location Instructions

Statements of Qualifications submitted in response to this RFQ must be received by the NH Division of Parks and Recreation, Bureau of Trails, no later than the time and date specified in the Schedule section, herein. Statement of Qualifications may be submitted by U.S. Mail, In Person or Electronically, and must be addressed to:

**State of New Hampshire, DNCR
Division of Parks and Recreation
172 Pembroke Rd, Concord, NH 03301
c/o
Alexis Rudko, Bureau of Trails**

All Statement of Qualifications must be clearly marked as follows:

Qualifications Statement for Engineering & Survey services for Snowmobile Bridge Abutment and Approach Designs

All Statements of Qualifications submitted in response to this RFQ must consist of at least:

1. One (1) original and three (3) clearly identified copies of the Statement of Qualifications, including all required attachments;
2. One (1) clearly identified electronic copy of the Statement of Qualifications, including all required attachments contained on digital media such as PDF.

B. Inquiries

All inquiries concerning this RFQ, including but not limited to, requests for clarifications, questions, and any changes to the RFQ, shall be submitted via email to the following RFQ designated Point of Contact:

TO: Alexis Rudko, Bureau of Trails

Tel: 603-271-3594

E-mail: alexis.m.rudko@dnr.nh.gov

SECTION 4 – Content and Requirements for a Statement of Qualifications

Statements of Qualification shall follow the below format and provide the required information set forth below:

1. Company profile and background: Provide an overview of the company including:
 - a. Number of years in business
 - b. Number of employees
 - c. Location of business office or shop
 - d. Types of expertise relevant to this project
 - e. Any involvement in the White Mountain National Forest relevant to this project
2. Description of services to be provided: Include a formal letter describing:
 - a. How the firm would carry out and manage the project
 - b. The anticipated project timeline
 - c. The invoicing system and payment schedule you would propose to cover your fee.
Do not make a fee proposal in your Statement of Qualifications. The letter should provide a written commitment to participate in the project as described in your letter if selected. The letter must be signed by the firm principal who will manage the project.
3. Experience: Describe the expertise and qualifications of the project manager and other key personnel.
 - a. Indicate if your key personnel are a licensed Civil or Structural Engineer with 36 months of engineering experience under the supervision of a qualified bridge design engineer.
 - b. Provide resumes of the firm members who would work on this project.

4. References: Provide three references with contact information for whom you have completed projects of similar type and scale as this project.
5. List of projects: Provide a list of similar or relevant projects your company has completed in the last five years. Please note any projects relevant to trail bridge abutment designs for federal property you have been involved in.

SECTION 5 – Evaluation of Submissions

A. Criteria for Evaluation and Scoring

The Agency will establish an evaluation team to score the Statements of Qualifications. This evaluation team will review the Statements of Qualifications and give a score based on the following evaluation criteria.

EVALUATION CRITERIA	POINTS
<u>Project Engineers Experience</u>	<u>Maximum 60 Points</u>
• Performing hydrology and hydraulics studies	10 Points
• Performing existing conditions site survey	10 Points
• Performing geotechnical analysis	10 Points
• Performing wetlands delineation	10 Points
• Performing abutment design	10 Points
• Expertise working with federal regulations for trail bridges	10 points
<u>Firms Project Completion Background</u>	<u>Maximum 20 Points</u>
• Completion of 5 previous, similar type projects within proposed time frame & budget	20 Points
• Completion of 3-4 projects	10 Points
• Completion of 1-2 projects	5 Points
• No projects were completed	0 Points
<u>References from Similar Projects</u>	<u>Maximum 20 Points</u>
MAXIMUM TOTAL POINTS	100 POINTS

B. Planned Evaluations

The Agency plans to use the following process:

- Statements of Qualification will be scored based upon the criteria and standards contained in this RFQ and from applying the weighting in this section;
- Per RSA 21-I:22, the Agency will establish a short list of not less than three (3) firms for further evaluation;
- Oral interviews and reference checks, to the extent they are utilized by the Agency, will be used to refine and finalize scores;
- Final evaluation and scoring, if required;
- Selection of the highest scoring candidate and begin contract negotiations.

C. Rights of the Agency in Accepting and Evaluating Statement of Qualifications

The Agency reserves the right to:

- Make independent investigations in evaluating Statements of Qualifications;
- Request additional information to clarify elements of a Statement of Qualifications;
- Waive minor or immaterial deviations from the RFQ requirements, if determined to be in the best interest of the State;
- Omit any planned evaluation step if, in the Agency's view, the step is not needed;
- At its sole discretion, reject any and all submissions at any time; and
- Open contract discussions with the second highest scoring candidate and so on, if the Agency is unable to reach an agreement on Contract terms with the higher scoring Proposer(s).

Section 6 – Contract Terms and Award

A. Award

This is a qualifications-based consultant selection process, candidates will be ranked in order of preference without consideration of the consultants fee requirements. After candidates have been ranked, fee negotiations will be opened with the top ranked candidate. If agreement on the fee amount can be reached, a contract will be issued for signatures and forwarded to the Commissioner of the Department of Natural and Cultural Resources for approval. If no agreement is reached, negotiations with that candidate will be terminated and negotiations will be opened with the next highest ranked candidate. This process will continue until an agreement is reached or the Director of the Division of Parks and Recreation exercises their right to reject any and all submissions.

If the State decides to award a contract as a result of this RFQ process, any award is contingent upon approval of the Contract by Governor and Executive Council of the State of New Hampshire and upon continued appropriation of funding for the contract.

B. Standard Contract Terms

The successful candidate(s) will be expected to enter into a contract with the State of New Hampshire. The terms and conditions set forth in Form P-37 General Provisions are mandatory and will apply to any contract awarded to the candidate. In addition, engagement specific terms and conditions will be negotiated with the candidate and included in the final contract. For the convenience of the candidates, and reference only, Form P-37 has been included in Appendix C. Candidates shall not be required to fill in the P-37 Form until after final selection and contract negotiations are complete.

C. Special Terms To Be Included In A Contract Resulting From this RFQ

The following Terms and Conditions shall be included as Exhibit A – Special Provisions of Form P-37:

Consultant's Responsibilities

- A. The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by professionals in the same discipline practicing in the same or similar locality under the same or similar circumstances. The Consultant shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.
- B. The Consultant shall be responsible for the technical accuracy of its services and documents resulting therefrom, and the Department shall not be responsible for discovering deficiencies therein. The Consultant shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in Department-furnished information.
- C. The Consultant shall identify a representative who is authorized to act on behalf of the Consultant with respect to the Project.
- D. The Consultant shall be licensed in the State of New Hampshire to perform the services described in this Agreement, or shall cause such services to be performed by appropriately licensed professionals.
- E. The Consultant shall coordinate its services with those services provided by the Department or the Departments other Consultants. The Consultant shall be entitled to rely on the accuracy and completeness of services and information provided by the Department and the Departments other consultants.

Department's Responsibilities

- A. The Department shall provide information in a timely manner regarding requirements for and limitations on the Project.
- B. The Department shall identify a representative who is authorized to act on behalf of the Department with respect to the Project.
- C. The Department will review project documents for consistency with Project requirements, and that requirements are met, there are no negative impacts to the Departments operations, and that the design is in the State's best interest.
- D. The Department will administer all details in connection with obtaining bids, awarding and preparing contracts, and other contract administrative work required for the Project.

Insurance

- A. In addition to the Insurance provisions indicated in Articles 14 and 15 of the Agreement, the Consultant shall maintain the following insurance for the duration of the Agreement.

- a. Automobile Liability covering vehicles owned and non-owned used by the Consultant with policy limits of not less than \$500,000 Combined Single Limit for bodily injury and property damage.
 - b. Professional Liability covering the negligent acts, errors and omissions in the performance of professional services with policy limits not less than \$2,000,000 aggregate.
- B. The Department shall be an additional insured on the Consultant's primary and excess insurance policies for Commercial General Liability and Automobile Liability.

Miscellaneous Provisions

- A. Hazardous Materials:
 - a. The Consultant shall have no responsibility for the discovery, presence, handling, removal, or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.
 - b. In the event the Consultant or any other party encounters Hazardous Materials at the project site, the Consultant may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until the Department retains appropriate specialist contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Materials, and warrants that the site is in full compliance with applicable Laws and Regulations.
- B. Ownership of Documents: All data, plans, drawings, tracings, estimates, specifications, proposals, sketches, diagrams, calculations, reports or other documents collected, prepared or undertaken either manually or electronically by Consultant under this Agreement, immediately become the property of the Department and, when completed, shall bear the Consultants endorsement. The Consultant shall surrender to the Department, upon demand at any time, or submit to its inspection any such document. The Consultant shall have the right, with the written approval of the Department, to use any of the data prepared by it and hitherto delivered to the Department at any later stage of the Project contemplated by this Agreement. Reuse of any of these documents by the State, without written permission of the Consultant, shall be at the State's risk.
- C. Opinions of Probable Construction Cost: Consultants opinions of probable construction cost provided for herein are to be made on the basis of the Consultant's experience and qualifications and represents the Consultants best judgement as an experienced and qualified professional generally familiar with the industry. However, since the Consultant has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, the Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from opinions of probable construction cost prepared by the Consultant.

List of Appendices:

APPENDIX A: Current site photos and map of two bridges.

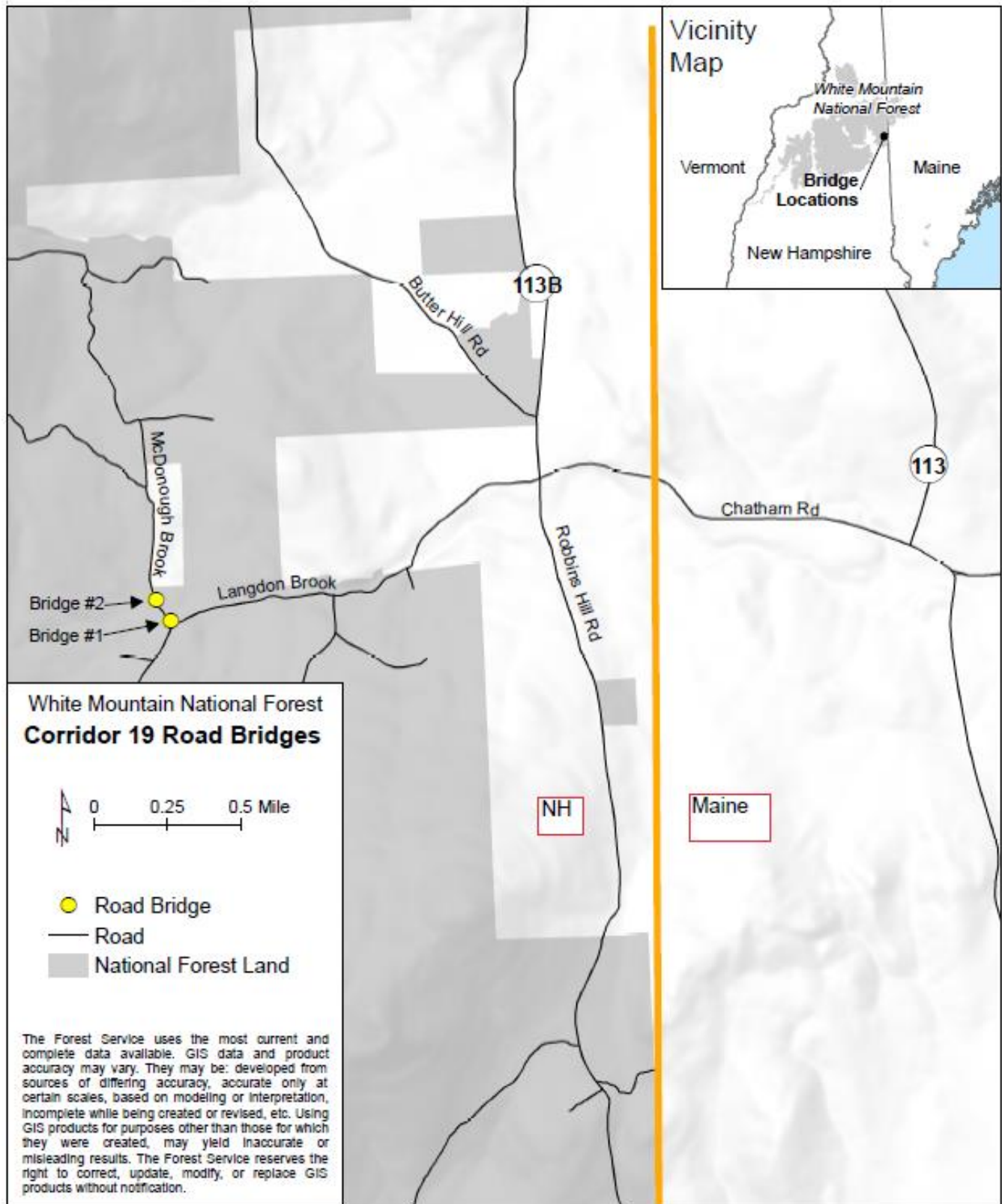
APPENDIX B: Trail Bridge Design Requirements & Certification application.

APPENDIX C: Form P-37

APPENDIX A: Current site photos and map of two bridges.

APPENDIX A: Current site photos and map of two bridges.

Map of Bridge locations in Chatham, NH.



Photos taken on September 29, 2021. Additional photos available upon request.

Bridge 1: Currently 26'4" x 12'1". GPS: 44.157144⁰N, 71.035938⁰W.

Photo 1: facing north looking at bridge 1. Bridge 2 is in distance up road/trail.



Photo 2: Bridge 1's north abutment.



Photo 3: Bridge 1's south abutment.



Bridge 2: Currently 28'7" x 12'3". GPS: 44.157201⁰N, 71.036310⁰W.

Photo 4: Bridge 2 facing north.



Photo 5: Bridge 2 from downstream facing west.



Photo 6: Bridge 2 south abutment



Photo 7: Bridge 2 north abutment



APPENDIX B: Trail Bridge Design Requirements & Certification application.

USDA FOREST SERVICE

TRAIL BRIDGE DESIGN OUTLINE

Revised: December 28, 2021

The intent of this document is to be a guide to help understand the process and requirements for the design of trail bridges. This document is not all inclusive as each trail bridge will have its own site-specific conditions and requirements.

Designer Requirements:

The United States Department of Agriculture (USDA) USDA Forest Service requires all design engineers to be a certified. To meet this Forest Service requirement engineers must submit the Bridge Design Engineer Certification/ Recertification form attached to this document. Forest Service personal will review engineers' qualifications and issue certifications to those who are qualified. There may be Engineers who are working under the direct supervision of a Certified Bridge Design Engineer on the design team (FSM 7723.04b and 7723.2). Trail bridge designs shall be signed and sealed by a professional engineer licensed in the State in which the bridge is to be built.

A series of nationally approved superstructure standard plans, substructure design aids, and standard construction specifications have been prepared. These plans, aids, and specifications are revised when necessary.

As appropriate, use National and Regional standard designs and plans for trail bridges and other engineered trail structures.

Preliminary engineering analysis (FSH 7709.56b, ch. 10 & ch. 60) and site-specific engineering design are still required when standard designs and plans are used. Site-specific engineering designs should be prepared by or under the direct supervision of a Certified Bridge Design Engineer.

Design Requirements:

Trail bridge design reference materials are Forest Service Manual 7720 and 7730. Also, Forest Service Handbook 7709.56b and AASHTO LRFD Guide Specification for the Design of Pedestrian Bridge and Guide Specification for Design of Fiber Reinforced Polymer, (FRP) Pedestrian Bridges.

Submission shall include structural and foundation design and prepare construction plans for each trail bridge and other engineered trail structure in accordance with FSM 7723.03.

Loading Requirements:

- Load combinations per AASHTO and Forest Service Manual and Handbooks.
- Deflection for pedestrian is $L/360$.
- Minimum freeboard shall be for passage of woody debris and ice passage in a 100 YR flood.

Substructure Requirements:

- Site specific in accordance with AASHTO.
- Forest Service has guidance plans.
- Substructures must meet AASHTO requirements for loading and extend below frost depth.

Superstructure Requirements:

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TRAIL BRIDGE DESIGN OUTLINE

Revised: December 28, 2021

- For loading of pedestrian trail bridges use 90 PSF. For remote trail bridges loading can be reduced to 65 PSF with approval from Forest Service Regional Director of Engineering.
- For trail bridge less than 7 feet wide restricted to no vehicle traffic use pedestrian loading. If the bridge will also service ATV's or snowmobiles.
- For trail bridges 7 to 10 feet wide design to AASHTO H5 truck and groomer.
- For trail bridges greater than 10 feet wide design to AASHTO H10 truck and groomer.
- For trail bridges used for equestrian, loading shall be based on 4 x 4 SQ IN patch load 1000 LBS and standard pedestrian loading.

Deck Requirements:

- Use specific in accordance with AASHTO.
- User barriers in accordance with FSH 7709.56b 82.4.

Signage Requirements:

- All trail bridges over seven feet wide are required to be load posted and have object markers installed in accordance with the Sign and Poster Guidelines for the Forest Service.

Guardrail Requirements (If bridges is on a Forest Service road):

- Guardrail in accordance with applicable Forest Service requirements.
- For test level see the following table:

Maintenance Level (ML)	Minimum Required Test Level (TL)
MLs 1 and 2	TL 1
ML 3 with a design speed \leq 30 miles per hour	TL 1
ML 3 with a design speed $>$ 30 miles per hour	TL 2
MLs 4 and 5	TL 3

Submission Requirements:

Type, Size, and Location (TSL) Submission:

- This submission can be done by Forest Service or partner.
- For new trail bridge there shall be TSL cost alternatives for all feasible structure types. As appropriate a square foot cost to include timber structure, steel structure, and concrete structure. Cost alternatives need to be discussed during initial concept stage as to acceptable considerations for use.
- For trail bridge rehabilitation cost to repair the existing structure

30% Submission:

- Cost estimate if government funded.
- Existing and proposed site conditions.
- Soil borings or assumed bearing capacity.
- Hydrologic and Hydraulic (H&H) for Aquatic Organism Passage (AOP) and freeboard requirements.
- Profile through approaches and structure.
- Substructure 50% design.

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TRAIL BRIDGE DESIGN OUTLINE

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- Superstructure 30% design.
- Decking and wearing surface selected and sized.
- Railing 50% design.
- Site 30% design.
- General notes 75%.
- Latitude longitude and structure number shown on cover sheet.

70% Submission (Optional):

- Existing and proposed site conditions.
- Soil boring or assumed bearing capacity.
- H&H for AOP and freeboard requirements.
- Profile through approaches and structure.
- Substructure 95% design.
- Superstructure 75% design.
- Decking and wearing surface 70% design.
- Railing 70% design.
- Site 70% design.
- General notes 100%.

95% Submission:

- Existing and proposed site conditions.
- Profile through approaches and structure.
- Substructure 100% design.
- Superstructure 95% design.
- Decking and wearing surface 95% design.
- Railing 100% design.
- Site 100% design.
- General notes 100%.
- Signage.

Final Submission:

- Plans and documents ready for Forest Service signatures and bidding.

Approval Requirements:

- Minor non-vehicle trail bridges are recommended by the Forest Engineer and approved by the Forest Supervisor.
- Minor trail bridges with vehicles submissions are recommended by Regional Bridge Program Manager, Forest Engineer and District Ranger and are approved by Regional Engineer and Forest Supervisor.
- Major and Complex trail bridge submissions are recommended by Regional Bridge Program Manager, Forest Engineer and District Ranger and are approved by Regional Engineer and Forest Supervisor.

Forest Service Design Requirements:

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TRAIL BRIDGE DESIGN OUTLINE

Revised: December 28, 2021

Permanent structures to be designed for a life span of 50 years. Design short-term structures for a lifespan appropriate for their intended use and in conformance with the Trail Management Objectives (TMOs).

All structures at a minimum shall be designed to withstand a 100-year flood and shall provide for additional vertical clearance for the passage of woody debris and ice as necessary. The amount of additional vertical clearance should be based on applicable Regional guidance, channel configuration at the bridge site, and the requirements in FSH 7709.56b 62.2 (Q100 + 3'). Consider designing critical or high-value trail bridges with 1 foot more vertical clearance than required for a road bridge due to a trail bridge's higher susceptibility to impact damage from debris. See AASHTO's LRFD Guide Specifications for the Design of Pedestrian Bridges for additional guidance on vertical clearance.

The Regional Director of Engineering must approve the use of any previously used materials. **Railroad cars are not allowed to be used for a trail bridge.**

For substructure the use of gabion baskets and helical piers are acceptable.

For sawn lumber all members shall be coast region Douglas-Fir or Southern Pine or approved species meeting capacity loadings. Inland Douglas-Fir lumber shall not be used. Running planks may be ungraded and untreated.

Deck for a groomer trail bridge consider using 4 x 12 SQ IN or 4 x 6 SQ IN timbers treated to UC4B specifications.

Jurisdiction Requirements:

Forest owns all bridges on Forest Service lands.
Easements.

Commissioning Requirements:

The following is the responsibility of the Forest Service.
Final Inspection of construction.
Initial bridge inspection.

Commissioning to be negotiated between the Forest Service and partner as to who is responsible for the following:

Load Rating.
Load posting.

Bridge Design Engineer Certification/ Recertification Document

FSM 7722.2 Bridge Design Engineer (BDE)

A registered professional engineer who is responsible for the preparation or the oversight of the preparation of design calculations for road bridges and culverts reported as bridges.

Bridge Design Engineers must be:

- a registered Professional Engineer
- and meet the requirements of a Bridge Design Engineer listed in FSM 7722.2;
- and must meet qualifications of Bridge Inspection Team Leader (See BIG, App A);
- and must be certified by the Forest Service Regional Director of Engineering

Name:

Forest/Position:

Professional Engineer: No / Yes

Bridge Inspection Team Leader: No / Yes

Training: (List Training classes, i.e., 130101 Introduction to Safety Inspection of In-Service Bridges, Timber Bridge Load Rating, 13055 Safety Inspection of In-Service Bridges, 130081C LRFD Design of Common Bridge Elements, Decks and Bearings, 130081P General Superstructure Design Considerations, etc.)

Experience: (List Experience, minimum 3 years, i.e., Bridge Inspections, load ratings, design and drawing reviews since 2017. Structural engineer since 1995, etc.)

Other Comments

Reviewed and Recommended By: (RBIPM)
Comments:

Date:

Certified By: (Regional Director of Engineering)

Date:

Certification Expiration: (4 years from date of certification)

APPENDIX C: Form P-37

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS**1. IDENTIFICATION.**

1.1 State Agency Name		1.2 State Agency Address	
1.3 Contractor Name		1.4 Contractor Address	
1.5 Contractor Phone Number	1.6 Account Number	1.7 Completion Date	1.8 Price Limitation
1.9 Contracting Officer for State Agency		1.10 State Agency Telephone Number	
1.11 Contractor Signature <div style="text-align: right;">Date:</div>		1.12 Name and Title of Contractor Signatory	
1.13 State Agency Signature <div style="text-align: right;">Date:</div>		1.14 Name and Title of State Agency Signatory	
1.15 Approval by the N.H. Department of Administration, Division of Personnel <i>(if applicable)</i> By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) <i>(if applicable)</i> By: _____ On: _____			
1.17 Approval by the Governor and Executive Council <i>(if applicable)</i> G&C Item number: _____ G&C Meeting Date: _____			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 (“State”), engages contractor identified in block 1.3 (“Contractor”) to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference (“Services”).

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 (“Effective Date”).

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete

compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3. The Contractor agrees to permit the State or United States access to any of the Contractor’s books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State’s representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer’s decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and

submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

17. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.