PROJECT PARTNERSHIP AGREEMENT BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE STATE OF VERMONT
FOR AQUATIC PLANT CONTROL IN
VERMONT

THIS AGREEMENT is entered into this 24th day of Sep. 2018, by and between the DEPARTMENT OF THE ARMY, acting by and through the U.S. ARMY CORPS OF ENGINEERS, NEW YORK DISTRICT (hereinafter the "Government"), and the STATE OF VERMONT, represented by the Commissioner, Agency of Natural Resources, Department of Environmental Conservation (hereinafter the "State")

WITNESSETH, THAT:

WHEREAS, a comprehensive program to provide for control and progressive eradication of obnoxious plant growths from the navigable waters, tributary streams, connecting channels and other allied waters of the United States was authorized by Section 104 of the Rivers and Harbors Act of 1958, codified as amended at 33 U.S.C. 610;

WHEREAS, studies conducted by the Government under this authority have led to the development of a program for the control of Eurasian watermilfoil, water chestnut and other undesirable aquatic plants in the State of Vermont;

WHEREAS, the Government and the State desire to enter into a Project Partnership Agreement for operation of the Program (hereinafter the "Program" as defined in Article I.A. of this Agreement);

WHEREAS, Section 103 (c) (6) of the Water Resources Development Act of 1986, Public Law 99-662, as amended, specifies the cost-sharing requirements applicable to the Program;

WHEREAS, Section 221 of the Flood Control Act of 1970, Public Law 91-611, as amended, and Section 103 of the Water Resources Development Act of 1986, Public Law 99-662, as amended, provide that the Secretary of the Army shall not commence construction of any water resources protect, or separable element thereof, until each non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project or separable element;

WHEREAS, the State does not qualify for a reduction of the maximum non-Federal cost-share pursuant to the guidelines that implement Section 103 (m) of the Water Resources Development Act of 1986, Public Law 99-662, as amended;

WHEREAS, Section 902 of Public Law 99-662 establishes the maximum amount of costs for the Aquatic Plant Control in Vermont Program, if any, and sets forth procedures for adjusting any such maximum amount; and

WHEREAS, the Government and the State have the full authority and capability to perform as hereinafter set forth, and intend to cooperate in cost- sharing and financing of the Program in accordance with the terms of this Agreement;

NOW, THEREFORE, the Government and the State agree as follows:

ARTICLE I - DEFINITIONS & GENERAL PROVISIONS

For purposes of this Agreement:

A. The terms "annual operational program" and "program" shall mean all planning, engineering, design and actual harvesting related to implementation of the control plan as described in the Annual Work Plan for fiscal year 2018 (Appendix A).

B. The terms "total annual operational program costs" and "total program costs" shall mean all costs incurred by the State and the Government directly related to the total operational program, as further described in the Annual Work Plan for fiscal year 2018. Such costs shall include, but not necessarily be limited to, actual harvesting costs; costs of applicable engineering and design; supervision and administration costs; costs associated with the provision of appropriate transfer sites for the harvested materials and disposal at suitable landfills; costs associated with inspection of Program activities by either the Government or the State; costs of investigations to identify the existence and extent of hazardous substances in accordance with Article XIV.A of this Agreement; the costs of historic preservation activities in accordance with Article XVII.A of this agreement; costs of participation in the Project Coordination Team in accordance with Article V of-this Agreement; costs of contract disputes settlements or awards; costs of audit in accordance with Article IX of this Agreement; the value of lands, easements, rights-of-way, relocations, and suitable transfer sites or material disposal areas for which the Government affords credit in accordance with Article IV of the Agreement; and all costs for preparing the Annual Works Plan for fiscal year 2018, This term does not include any costs of dispute resolution under Article VII of this Agreement.

C. The term "District Engineer" shall mean the Commander of the U.S. Army Engineer District, New York, or his designee.

D. The term "fiscal year" shall mean one fiscal year of the Government. The Government fiscal year begins on October 1 and ends on September 30.

E. The term "highway" shall mean any public highway, roadway, street, or way, including any bridge hereof.

F. The term "relocation" shall mean providing a functionally equivalent facility to the owner of an existing utility, cemetery, highway or other public facility, or railroad (excluding existing railroad bridges and approaches thereto) when such action is authorized in accordance with applicable legal principles of just compensation or as otherwise provided in the authorizing legislation for the Program or any report referenced therein. Providing a functionally equivalent facility may take the form of alteration, lowering, rising, or replacement and attendant removal of the affected facility or port thereof.

ARTICLE II - OBLIGATIONS OF THE PARTIES

A. The State shall accomplish all activities for the operation of the Program in accordance with the Annual 'Work Plan developed by the parties for fiscal year 2018.

B. In accordance with Article III of this Agreement and the Annual Work Plan, the State shall provide all lands, easements, rights-of-way, including suitable transfer sites and material disposal areas, and shall perform or ensure performance of all relocations in accordance with the Annual Work Plan for fiscal year 2018.

C. As further specified in Article VI, the Government and the State shall each provide 50 percent of the total annual operational program costs incurred under the Aquatic Plant Control Program by the Government and the State in performing the approved efforts identified, assigned and undertaken pursuant to this Agreement as described in the Annual Work Plan.

D. Prior to issuing invitations for bids the State shall submit to the District Engineer for approval the detailed plans, specifications, data for analysis of design, and a general program outlining the order, rate of prosecution and method (contract or hired labor) for accomplishing the major items of work and setting forth the estimated cost thereof. In the event that the State prosecutes herein by contract, all bids received and the proposed provisions of any contract shall be subject to review by the Government prior to award. Any such contract shall contain all applicable provisions required by Federal law and regulations, including, but not necessarily limited to, applicable labor and equal opportunity provisions.

E. The State shall secure competitive bids, by advertising for all work to be performed by contract, or, with the approval of the District Engineer, perform the Program work with its own forces.

F. The State shall submit to the District Engineer a detailed estimate of cost, a tabulation of all bids received, and a request for approval of award of a contract to the lowest qualified bidder and furnish such copies of the contract as may be required and

submit to the District Engineer, for approval, any amendments or modifications thereof.

G. The State shall provide adequate continuous engineering inspection and submit an end-of-season progress report showing the work done throughout the current year's Program.

H. The State shall provide necessary facilities and access for inspection of the Program by the District Engineer.

I. The State shall keep accurate and adequate cost accounts and records, open at all times for inspection and audit by the District Engineer.

J. The State shall not use Federal Funds to meet the State's share of total program costs under this Agreement unless the federal granting agency verifies in writing that the expenditure of such funds is expressly authorized by statute.

K. The State agrees to participate in and comply with applicable Federal floodplain management and flood insurance programs.

ARTICLE III- LANDS, RELOCATIONS, DISPOSAL AREAS, AND PUBLIC LAW 91 - 646 COMPLIANCE

A. The State agrees to provide all lands easements and rights-of-way, including those required for relocations, appropriate transfer sites and material disposal for the harvested materials, which are determined by the Government, after consultation with the State, to be necessary for the work covered by the Annual Work Plan for fiscal year 2018.

B. The State in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the value of any contribution provided pursuant to paragraphs A. of this Article. Upon receipt of such documents the Government, in accordance with Article IV of this Agreement and in a timely manner, shall determine the value of such contribution, include such value in total program costs, and afford credit for such value toward the State's share of total program costs.

C. The State shall comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public law 91-646, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17), and the Uniform Regulations contained in 49 CFR Part 24, in acquiring lands, easements and rights-of-way required for the program, and shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

ARTICLE IV - CREDIT FOR VALUE OF LANDS, RIGHTS OF WAY, AND DISPOSAL AREAS

A. The State shall receive credit toward its share of total program costs for the value of the lands, easements and rights-of-way, including suitable transfer sites and material disposal areas, that the State must provide pursuant to Article III of this Agreement, and for the value of the relocations that the State must perform or for which it must ensure performance pursuant to Article III of this Agreement. However, the State shall not receive credit for the value of any lands, easements, rights-of-way, transfer sites or material disposal areas that have been provided previously as an item of cooperation for another Federal project. The State also shall not receive credit for the value of lands, easements, rights-of-way, transfer sites or material disposal areas to the extent that such items are provided using Federal funds unless the Federal granting agency verifies in writing that such credit is expressly authorized by statute.

B. For the sole purpose of affording credit in accordance with this Agreement, the value of lands, easements, and rights – of– way, including those necessary for relocations, transfer sites and material disposal, shall be the fair market value of the real property interests, plus certain incidental costs of acquiring those interests, as determined-in accordance with the provisions of this paragraph.

1. Date of Valuation. The fair market value of lands, easements, or rights-of-way owned by the State on the effective date of this Agreement shall be the fair market value of such real property interests as of the date of this Agreement. The fair market value of lands, easements, or rights—of—way acquired by the State after the effective date of this Agreement shall be the fair market value of such real property interests at the time the interests are acquired.

2. General Valuation Procedure. Except as provided in paragraph B. 3 of this Article, the fair market value of lands, easements, or rights-of-way shall be determined in accordance with paragraph B.2.a. of this Article, unless thereafter a different amount is determined to represent a fair market value in accordance with paragraph B.2.b. of this Article.

a. The State shall obtain, for each real property interest, an appraisal that is prepared by a qualified appraiser who is acceptable to the State and the Government. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. The fair market value shall be the amount set forth in the State's appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the State's appraisal, the State may obtain a second appraisal, and the fair market value shall be the amount set forth in the States second appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the State's second appraisal, or the State chooses not to obtain a second appraisal, the Government shall obtain an appraisal, and the fair market value shall be the amount set forth in the Government's appraisal, if such appraisal is approved by the

State. In the event the State does not approve the Government's appraisal, the Government, after consultation with the State, shall consider the Government's and the State's appraisals and determine an amount based thereon, which shall be deemed to be the fair market value.

b. Where the amount paid or proposed to be paid by the State for the real property interest exceeds the amount determined pursuant to paragraph B.2.a. of this Article, the Government, at the request of the State, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the State, may approve in writing an amount greater than the amount determined pursuant to paragraph B.2.a. of this Article, but not to exceed the amount actually paid or proposed to be paid. If the Government approves such an amount, the fair market value shall be the lesser of the approved amount or the amount paid by the State, but no less than the amount determined pursuant to paragraph B.2.a. of this Article.

3. Eminent Domain Valuation Procedure. For lands, easements, or rights-of -way acquired by eminent domain proceedings instituted after the effective date of this Agreement, the State shall, prior to instituting such proceedings, submit to the Government notification in writing of its intent to institute such proceedings and an appraisal of the specific real property interests to be acquired in such proceedings. The Government shall have 60 days after receipt of such a notice and appraisal within which to review the appraisal, if not previously approved by the Government in writing.

a. If the Government previously has approved the appraisal in writing, or if the Government provides written approval of, or takes no action on, the appraisal within such 60-day period, the State shall use the amount set forth in such appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

b. If the Government provides written disapproval of the appraisal, including the reasons for disapproval, within such 60-day period, the Government and the State shall consult in good faith to promptly resolve the issues or areas of disagreement that are identified in the Government's written disapproval. If, after such good faith consultation, the Government and the State agree as to an appropriate amount, then the State shall use that amount as the estimate of just compensation for the purpose of instituting the eminent domain proceeding. If, after such good faith consultation, the Government and the State cannot agree as to an appropriate amount, then the State may use the amount set forth in its appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

c. For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted in accordance, with sub-paragraph B.3. of this Article, fair market value shall be either the amount of the court award for the real property interests taken, to the extent the Government determined such interests are required for the Program, or the amount of any stipulated settlement or portion thereof that the Government approves in

writing.

4. Incidental Costs. For lands, easements, or rights-of-way acquired by the State within a five—year period preceding the effective date of this Agreement, or at any time after the effective date of this Agreement, the value of the interest shall include the documented incidental costs of acquiring the interest, as determined by the Government, subject to an audit in accordance with Article IX.C. of this Agreement to determine reasonableness, allocability, and allowability of costs. Such incidental costs shall include, but not necessarily be limited to, closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, and mapping costs, as well as the actual amounts expended for payment of any Public Law 91-646 relocation assistance benefits provided in accordance with Article III.C of this Agreement.

C. After consultation with the State, the Government shall determine the value of relocations in accordance with the provisions of this paragraph.

1. For a relocation other than a highway, the value shall be only that portion of relocation costs that the Government determines is necessary to provide a functionally equivalent facility, reduced by depreciation, as applicable and by the salvage value of any removed items.

2. For a relocation of a highway, the value shall be only that portion of relocation costs that would be necessary to accomplish the relocation in accordance with the design standard that the State of Vermont would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

3. Relocation costs shall include, but not necessarily he limited to, actual costs of performing the relocation; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with performance of the relocation, but shall not include any additional cost of using new material when suitable used material is available. Relocation costs shall be subject to an audit in accordance with Article IX. C. of this Agreement to determine reasonableness, allocability, and allowability of costs.

ARTICLE V - PROJECT COORDINATION TEAM

A. To provide for consistent and effective communication, the State and the Government, not later than 30 days after the effective date of this Agreement, shall appoint named representatives to a Project Coordination Team. Thereafter the Project Coordination Team shall meet as necessary until the end of the annual operational program. The Government's Project Manager and a counterpart named by the State shall co-chair the Project Coordination Team.

B. The Government's Project Manager and the State's counterpart shall keep the Project Coordination Team informed to the progress of the program and of significant pending issues and actions, and shall seek the view of the Project Coordination Team on matters that the Project Coordination Team generally oversees.

C. Until the end to the period of the Program, the Project Coordination Team shall generally oversee the Program, including issues related to design, plans and specifications; scheduling; real property and relocation requirements; real property acquisition; contract awards and modifications; contract costs; the State's cost projections; final inspection of the entire Program; and other related matters. This oversight shall be consistent with the Annual Work Plan.

D. The Project Coordination Team may make recommendations that it deems warranted to the District Engineer on matters that the Project Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. The Government in good faith shall consider the recommendations of the Project Coordination Team. The Government, having the legal authority and responsibility for the Program, has the discretion to accept, reject, or modify the Project Coordination Team's recommendations.

E. The costs of participation in the Project Coordination Team shall be included in total program costs and cost-shared in accordance with the provisions of this Agreement.

ARTICLE VI - METHOD OF PAYMENT

A. The State shall implement the Program in accordance with the Annual Work Plan for fiscal year 2018 and after conclusion of control activities for the year, the Government shall pay to the State an amount necessary to ensure the Government's share equals 50 percent of the total program cost, subject to the availability of appropriations. Total costs for the fiscal year 2018 program are presently estimated to be $1,000,000.

B. The Government shall pay its share of total Program costs in proportion to the rate of expenditures by the State in accordance with the following provisions:

1- After initiation of the Program, the Government will, subject to subparagraph 2 below, make payments upon receipt from the State of properly executed and duly certified invoices covering services satisfactorily performed during the preceding months.

2 - All work for which payment is requested by the State must be certified by the State to have been performed in accordance with this Agreement before the Government shall approve the request for payment. All payments to the State shall be subject to the availability of appropriations.

C. Upon completion of the Program and resolution of all relevant contract claims and appeals, the State shall compute the total Program costs and tender to the Government a final accounting of each share of Program costs. In the event the total payment by the Government to the State results in the State contributing less than its required share of total Program costs at the time of final accounting, the State shall within 91 calendar days after receipt of written notice, make a cash payment to the Government the amount required to meet its required share of total Program costs. In the event the State is determined at the final accounting to have provided more than 50 percent of total Program costs, the Government shall within 91 calendar days of the final accounting, subject to the availability of appropriations, make a cash payment to the State in the amount required to meet its share of total Program costs.

D. The cost allocations and dollar amounts set out in this Article are based upon the best estimates of the State and the Government, and are subject to adjustments based on the costs actually incurred. Such estimates do not necessarily reflect the total financial responsibilities of the State and the Government.

ARTICLE VII - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. The parties shall each pay 50 percent of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VIII - INDEMNIFICATION

The State shall hold and save the Government free from all damages that may occur from the operation of the Program, except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE IX - MAINTENANCE OF RECORDS AND AUDIT

A. Not later than 60 calendar days after the effective date of this Agreement, the Government and the State shall develop procedures for keeping books, records, documents, and other evidence pertaining to costs and expenses incurred pursuant to this Agreement. These procedures shall incorporate, and apply as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements

for Grants and Cooperative Agreements to State and Local Governments at 32 C.F.R. Section 33.20. The Government and the State shall maintain such books, records, documents, and other evidence in accordance with these procedures and for a minimum of three years after the annual operational program and resolution of all relevant claims arising therefrom. To the extent permitted under applicable Federal laws and regulations, the Government and the State shall each allow the other to inspect books, documents, records, and other evidence.

B. Pursuant to 32 C.F.R. Section 33.26, the State is responsible for complying with the Single Audit Act of 1984, 31 U.S.C. Sections 7301-7507, as implemented by Office of Management and Budget (OMB) Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of the State and to the extent permitted under applicable Federal laws and regulations, the Government shall provide to the State and independent auditors any information necessary to enable an audit of the State's activities under this Agreement. The costs of any State audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133, and such costs as are allocated to the Program shall be included in total Program costs and cost-shared with the provisions of this Agreement.

C. In accordance with 31 U.S.C. Section 7503, the Government may conduct audits in addition to any audit that the State is required to conduct under the Single Audit Act. Any such Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular No. A-87 and other applicable cost principles and regulations. The costs of Government audits performed in accordance with this paragraph shall be included in total program costs and cost-shared in accordance with the provisions of the Act.

ARTICLE X - FEDERAL AND STATE LAWS

In the exercise of their respective rights and obligations under this Agreement, the State and the Government agree to comply with all applicable Federal and State laws and regulations, including section 631 of Title VI of the Civil Rights Act of 1964 (Public Law 88-352) and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army."

ARTICLE XI - RELATIONSHIP OF PARTIES

A. In the exercise of their respective rights and obligations under this Agreement, the Government and the State each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

B. In the exercise of its rights and obligations under this Agreement, neither party shall provide, without the consent of the other party, any contractor with a release that waives of purports to waive any rights such other party may have to seek relief or redress against such contractor either pursuant to any cause of action that such other party may

have or for violation of any law.

ARTICLE XII - OFFICIALS NOT TO BENEFIT

No member of, or delegate to the Congress, or resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom.

ARTICLE XIII - TERMINATION OR SUSPENSION

A. This agreement will continue in full force and effect for the duration of the FY 2018 Aquatic Plant Control Program, unless terminated earlier by either party hereto, upon providing 90 days written advance notice to the other party.

B. If either party fails to receive annual appropriations in amounts sufficient to meet expenditures for the Program, it shall notify the other party. After ninety (90) days either party may elect without penalty to terminate the Agreement or to delay future performance hereunder; however, deferral of future performance under this agreement shall not affect existing obligations or relieve the parties of liability for any obligations previously incurred. In the event that either party elects to terminate this agreement, the parties shall conclude their activities relating to the Program and proceed to a final accounting in accordance with Article VI.

C. It is understood and agreed that termination of this Agreement shall not end the obligation of the State to hold and save the Government free from claims arising under the Program as provided in Article VIII.

ARTICLE XIV- HAZARDOUS SUBSTANCES

A. After execution of this Agreement and upon direction by the District Engineer, the State shall perform or cause to be performed, any investigations for hazardous substances that the Government or the State determines to be necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA"), 42 USC 9601- 9675, that may exist in, on, or under lands, easements, and rights-of-way that, pursuant to Article III and in accordance with the Annual Work Plan, the Government determines to be required for the Program. However, for lands that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations unless the District Engineer provides the State with prior specific written direction, in which case the State shall perform such investigations in accordance with such written direction. All actual costs incurred by the State for such investigations for hazardous substances shall be included in total program costs and cost-shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article IX.C. of this Agreement to determine reasonableness, allocability, and allowability of costs.

B. In the event it is discovered through any investigation for hazardous substances or other means that hazardous substances regulated under CERCLA exist in, on, or under any lands, easements, or rights-of-way that the Government determines, pursuant to Article III of this Agreement, to be required for the Program, the State and the Government shall provide prompt written notice to each other, and the State shall not proceed with the acquisition of the real property interests until both parties agree that the State should proceed.

C. The Government and the State shall determine whether to initiate the program, or, if already in progress, whether to continue with execution of the Program, suspend future performance under this Agreement, or terminate this Agreement for the convenience of the Government, in any case where hazardous substances regulated under CERCLA are found to exist in, on, or under any lands easements, or rights-of-way that the Government determines, pursuant to Article III of this Agreement, to be required for the Program. Should the Government and the State determine to initiate or continue with the program after considering any liability that may arise under CERCLA, as between the Government and the State, the State shall be responsible for the costs of clean-up and response, to include the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of the total Program costs. In the event the State fails to provide any funds necessary to pay for cleanup and response costs or to otherwise discharge the State's responsibilities under this paragraph upon direction by the Government, the Government may, in its sole discretion, either terminate this Agreement for the convenience of the Government, suspend future performance under this Agreement or continue work on the Program.

D. The State and the Government shall I consult with each other in accordance with Article V of this Agreement in an effort to ensure that responsible parties bear any necessary clean up and response costs as defined in CERCLA. Any decision made pursuant to paragraph C. of this Article shall not relieve any third party from any liability that may arise under CERCLA.

E. As between the Government and the State, the State shall be considered the operator of the Program for purposes of CERCLA liability. To the maximum extent practicable, the State shall execute the Program in a manner that will not cause liability to arise under CERCLA.

ARTICLE XV - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and either delivered personally, or by telegram, or mailed by first-class, registered, or certified mail, as follows:

1. If to the Government:

Joseph Seebode, P. E.
Chief, Programs & Project Management Division
Room 2119
U.S. Army Engineer District, New York
26 Federal Plaza
New York, New York 10278-0090

2. If to the State:

Commissioner
State of Vermont
Agency of Natural Resources
Department of Environmental Conservation
1 National Life Drive, Main 2
Montpelier, Vermont 05620-0501

B. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

ARTICLE XVI - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XVII - HISTORIC PRESERVATION

A. The costs of identification, survey and evaluation of historic properties shall be included in total program costs and cost-shared in accordance with the provisions of the Agreement

B. As specified in Section 7(a) of Public Law 93-291 (16 U. S.C. Section 469c(a)), the costs of mitigation and data recovery activities associated with historic preservation shall be borne entirely by the Government and shall not be included in total program costs, up to the statutory limit of one percent of the total amount authorized to be appropriated for the Program.

C. The Government shall not incur costs for mitigation and data recovery that exceed that statutory one percent limit specified in paragraph B. of this Article unless and until the Assistant Secretary of the Army (Civil Works) has waived that limit in accordance with Section 208(3) of Public Law 96-515 (16 U.S.C. Section 469c-2(3)).

Any costs of mitigation and data recovery that exceed the one percent limit shall not be included in total program costs but shall be cost-shared between the State and the Government consistent with the minimum non-Federal cost-sharing requirements for the program as follows: 50 percent borne by the State, and 50 percent borne by the Government.

ARTICLE XVIII.- OBLIGATIONS OF FUTURE APPROPRIATIONS

Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by the legislature of the State of Vermont.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date signed by the New York District Engineer.

DEPARTMENT OF THE ARMY

BY: _____

THOMAS D. ASBERY
Colonel, U.S. Army
District Engineer

DATE: 20180924.

STATE OF VERMONT

BY: _____

EMILY BOEDECKER
Commissioner
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION

DATE: 9/14/18

CERTIFICATE OF AUTHORITY

I, Joshua Diamond, do hereby certify that I am the Deputy Attorney General of the State of Vermont, that the Vermont Department of Environmental Conservation is a legally constituted public body with full authority and capability to perform the terms of the Agreement between the United States of America and the State of Vermont in connection with the Aquatic Plant Control Program in Vermont and to pay damages, if necessary, in the event of the failure to perform in accordance with Section 221 of Public Law 91-611, and that the person who has executed the Agreement on behalf of the State of Vermont, Department of Environmental Conservation has acted within his statutory authority.

IN WITNESS WHEREOF, I have made and executed this Certificate this 5th day of 2018.

STATE OF VERMONT

Thomas J. Donovan Jr.
Attorney General

BY: _____
Joshua R. Diamond
Deputy Attorney General

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31. U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

EMILY BOEDECKER
Commissioner
Agency of Natural Resources
Vermont Department of
Environmental Conservation

DATE: 09/14/18

CERTIFICATE OF LEGAL REVIEW

The 2018 Project Partnership Agreement for Aquatic Plant Control in the State of Vermont has been fully reviewed by the Office of Chief Counsel, USACE-NAN, New York and is approved as legally sufficient.

Lorraine C. Lee
Lorraine C. Lee
District Counsel

9/24/18
Date