New Hampshire DOT
Department of Transportation

**THE STATE OF NEW HAMPSHIRE**
**DEPARTMENT OF TRANSPORTATION**

*VICTORIA F. SHEEHAN*
*COMMISSIONER*

*WILLIAM CASS, P.E.*
*ASSISTANT COMMISSIONER*

March 31, 2016

RE: RFB TPK 2016-04: Septic and Floor Drain Line Services

Dear Sir or Madam,

The State of New Hampshire, Department of Transportation, Bureau of Turnpikes is soliciting price proposals for providing services for jetting, routing and cleaning of clogged septic and floor drainage lines as well as pumping and disposing of septic tank contents to seventeen (17) maintenance, welcome center and toll facilities during the period May 1, 2016 through June 30, 2018, effective upon Governor and Council approval.

Enclosed is a proposal form, which outlines the Scope of Services required, and solicits your price proposal. Please contact Margaret Blacker (603-485-3806) with any questions about the scope of work.

Please note that the Department of Transportation requires the following documentation (subject to change) for Governor and Council approval of its contracts.

- Certificate of Authorization from the Secretary of State office, dated after April 1, 2016.
- Certificate of Insurance naming the State of New Hampshire, Department of Transportation, as additional insured under the contractual provision on the general liability policy (Section 14.1.1 of the attached P-37, Exhibit D)
- Corporate Certificate of Vote, signed and sealed.

**These documents are only required from the bidder who is awarded the contract.**

Should you be interested in bidding to provide these services, please complete the enclosed proposal form. Proposals shall be placed in two envelopes, with the inner and outer envelopes sealed and plainly marked "Bid for Septic Services, NHDOT Bureau of Turnpikes" and hand-delivered to Bureau of Turnpikes, Turnpikes Administration Building, 36 Hackett Hill Road, Hooksett, NH 03106 (physical address only, mail delivered to Post Office Box below).

Sealed proposals shall be received and deposited in the bid box at the location specified above prior to 2:00 o'clock p.m., prevailing time on Thursday, April 28, 2016, at which time they will be opened and read aloud. It shall be the bidder's responsibility to ensure the proposal is deposited as specified. Proposals delivered to the bureau or district by alternative means to hand-delivery are submitted at the sole risk of the bidder. The Department will not

accept responsibility for any reason if the proposal is not deposited in the bid box by the specified time and date. Proposals received after the time for opening bids will be returned to the bidder unopened.

Sincerely,

Margaret S. Blacker
Business Administrator

Enclosures

cc: David Smith
John Corcoran

NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION

BUREAU OF TURNPIKES

PROPOSAL BID FOR SEPTIC AND FLOOR DRAIN LINE SERVICES AT THE BUREAU OF TURNPIKES MAINTENANCE AND TOLL FACILITIES
RFB TPK 2016-04

_____
(Company Name)

(Hereinafter referred to as the CONTRACTOR) submits the bid in a sealed envelope marked "**Bid for** Septic and Floor Drain Line Services, NHDOT Bureau of Turnpikes" as spelled out in Section E: COMPENSATION PROPOSAL below to the State of New Hampshire, Department of Transportation, Bureau of Turnpikes (hereinafter referred to as the DEPARTMENT) to furnish services under the Terms of Agreement spelled out below for jetting, routing and cleaning of clogged septic lines and floor drain lines as well as pumping and disposing of septic tank contents.

A. INTRODUCTION: The DEPARTMENT seeks to engage a contractor for the purpose of providing jetting, routing and cleaning of clogged septic and floor drainage lines as well as pumping and disposing of septic tank contents at each of the seventeen (17) maintenance, welcome center, and toll facilities. See the attached location list (Exhibit A). Contractors may visit the locations before submitting bids by calling the Turnpikes office at 485-3806.

B. TERMS OF AGREEMENT: The CONTRACTOR agrees to the following:

1. Provide all labor, materials and equipment to jet, mechanically router and clean any septic, sewer, or floor drainage line and pump and dispose of septic tank contents at each of the seventeen (17) maintenance, welcome center, and toll facilities during normal business hours. Should specific methods for cleaning specific drain pipes fall outside of the contractor's expertise, subcontractors may be used with a pass through labor cost and standard percentage mark-up on materials as specified in the compensation section as stated below. See the attached location list (Exhibit A).

2. Perform emergency repairs to the septic, sewer, or floor drainage line at each of the seventeen (17) maintenance, welcome center, and toll facilities, as directed by the DEPARTMENT. Upon notification of a deficiency, the CONTRACTOR will respond to the affected site within twenty-four (24) hours and complete the repairs within forty-eight (48) hours of notification.

3. The CONTRACTOR shall meet with the Bureau of Turnpikes Maintenance Mechanic Foreman for jetting, mechanically routering and cleaning any septic, sewer, or floor drainage line as well as pumping and disposing of septic tank contents at each of the seventeen (17) maintenance, welcome center, and toll facilities during normal business hours, 8:00 am to 4:00 pm, Monday thru Friday, unless otherwise directed by the DEPARTMENT.

4. The CONTRACTOR shall make recommendations pertaining to the septic, sewer, or floor drainage line design that affects the ability of the building to meet the stated goals and objectives of all governing codes and standards and the authority having jurisdiction.
5. The CONTRACTOR shall make service available twenty-four (24) hours per day seven (7) days per week, including holidays. Normal system maintenance shall occur on Monday through Friday between 7:00 AM and 4:00 PM.

6. The CONTRACTOR shall, in performing the maintenance services as described herein, utilize technicians skilled in the service of the described systems. The CONTRACTOR shall have a sufficient number of trained technicians so that all service calls are answered promptly. The CONTRACTOR shall physically respond to the site within twenty-four (24) hours after report of occurrence, and shall complete the work within forty-eight (48) hours of notification.

7. All work specified in Nos. 1 through 4 shall be invoiced at a fixed hourly rate (portal to portal), regardless of time of day or holiday period. The fixed rate shall be inclusive of labor, overhead, and travel costs. Parts shall be invoiced at a fixed percentage of the published manufacturer's price list. The CONTRACTOR will invoice the DEPARTMENT following the completion and acceptance of each job. The invoice must include the following:

    a. Date work was done.
    b. Brief description of work done.
    c. Hourly rate charged and materials.
    d. Location of work.

8. Itemized invoices shall be submitted in triplicate form after the delivery of job/services. The DEPARTMENT will make payment through the normal State of NH payment process, which is up to thirty (30) days following an approved invoice.

9. Invoices shall be sent to:

State of New Hampshire
Department of Transportation
Bureau of Turnpikes
P.O. Box 2950
Concord, N.H. 03302-2950

10. Should the CONTRACTOR be unable to complete the repair within the 48 hour time period, the CONTRACTOR must request an extension of time, in writing, to Bureau of Turnpikes' Building and Maintenance Engineer. Examples of valid reasons are:

    a. Part unavailable with explanation why.
    b. Repair is ongoing and requires additional time to complete.

    Written notification must include all pertinent information regarding the delayed repair which includes:

    c. Specified time period until repair can be completed.
    d. Devices affected and how it affects system.
    e. Reasons for delay of repair.
    f. And any other information to justify the request for non-compliance of the 48-hour provision.

11. The CONTRACTOR shall maintain or have readily available spare parts and properly trained personnel to support the equipment at the CONTRACTOR's cost throughout the duration of the

contract. The CONTRACTOR shall provide only replacement parts that are new and have the same quality and brand name that is being replaced. Substitutions will be permitted only with prior authorization of the Bureau of Turnpikes.

12. Service shall encompass all facilities and equipment necessary to implement the desired operations. The CONTRACTOR shall be required to coordinate all activities with prior contractors as needed in order to maintain a smooth transition of service.

13. All work must be performed in such a manner as not to inconvenience building occupants. The CONTRACTOR shall determine the DEPARTMENT's normal working conditions and activities in progress and shall conduct the work in the least disruptive manner.

14. The CONTRACTOR shall present after each scheduled or emergency call and before leaving the job site, a written summary of the work performed and obtain the DEPARTMENT's supervising employee signature thereon.

15. The DEPARTMENT shall be responsible to provide reasonable means of access to all equipment covered by this agreement and promptly notify the CONTRACTOR of any malfunction in the system(s), which comes to the DEPARTMENT's attention.

## C. SAFETY and ENVIRONMENTAL ISSUES and COMPLIANCE REQUIREMENTS

1. The safety and environmental protection of DEPARTMENT personnel and property shall be of the utmost concern. All work shall be conducted so as to interfere as little as possible with DEPARTMENT business. The CONTRACTOR shall at its own expense, wherever necessary or required, furnish safety/environmental devices and take such other precautions as may be necessary to protect life and property.

2. All work shall be performed in a manner compliant with all existing state and federal safety laws, rules, regulations and standards including but not limited to NHDES, OSHA, EPA, NFPA and the U.S. Department of Labor to ensure the safety and environment of the workers as well as NH DEPARTMENT staff, general public, and property.

3. The DEPARTMENT operates under an Environmental Management System (EMS). Our Environmental Policy 501.01 (Exhibit B) states our commitment to the prevention of pollution. We strive to manage our activities, and the implementation of programs that will where possible, reduce or eliminate the negative impacts of those activities upon the environment. After contract approval, the Bureau's Safety and Environmental Coordinator or other representative will meet with the CONTRACTOR one time at the beginning of the contract to review the Department's Contractor Safety & Environmental Checklist (Exhibit C) and provide additional information about the facilities' needs. It is the CONTRACTOR's responsibility to fill out the checklist.

## D. WARRANTEES

1. The Contractor shall guarantee the quality of his workmanship and that of his employees in accordance with manufacturer specifications and acceptability to DEPARTMENT for a period of one (1) year.

2. The DEPARTMENT retains the right to require the CONTRACTOR to counsel or reassign any employee whose actions or appearance are not consistent with the standards of the NH DEPARTMENT and in the best interest of those utilizing the service. DEPARTMENT may, at any

time, restrict a CONTRACTOR's employee from servicing DEPARTMENT. Such employees shall be replaced with a different qualified CONTRACTOR's employee meeting the agency's acceptance.

3. The CONTRACTOR agrees to provide priority response for septic, sewer, or floor drainage line service inclusive of labor, overhead and travel costs at a fixed hourly rate (portal to portal) regardless of time of day or holiday period (words and numerals) of: _____per hour ($_____per hour).

4. The CONTRACTOR agrees to supply repair parts at a fixed percentage of the published manufacturer's price list. Fixed Percentage: _____Percent (_____%).

5. The CONTRACTOR agrees to provide priority response for pumping and disposing of septic tank contents, inclusive of labor, overhead and travel costs at a fixed rate per gallon regardless of time of day or holiday period (words and numerals) of: _____per gallon ($_____per gallon) for tanks less than 1,500 gallons of capacity.

6. The CONTRACTOR agrees to provide priority response for pumping and disposing of septic tank contents, inclusive of labor, overhead and travel costs at a fixed rate per gallon regardless of time of day or holiday period (words and numerals) of: _____per gallon ($_____per gallon) for tanks from 1,500 gallons to 3,000 gallons of capacity.

7. The CONTRACTOR agrees to provide priority response for pumping and disposing of septic tank contents, inclusive of labor, overhead and travel costs at a fixed rate per gallon regardless of time of day or holiday period (words and numerals) of: _____per gallon ($_____per gallon) for tanks over 3,000 gallons of capacity.

8. Payments shall be made at the completion of the work and after the CONTRACTOR'S submission of invoices, in triplicate, to the DEPARTMENT, indicating the work has been completed.

F: OTHER

1. The CONTRACTOR agrees to all the requirements of the P-37 contract (Exhibit D). The P-37 is the official contract used by the DEPARTMENT.

2. It is understood that the DEPARTMENT reserves the right to terminate this agreement at any time and for any reason, upon thirty (30) days written notice to the CONTRACTOR, at the address above.

3. The CONTRACTOR shall not assign, subcontract or otherwise transfer any duty, obligation, or written performance required by this agreement without prior consent of the DEPARTMENT.

4. Any Sub-Contractors hourly rates will be billed to the DEPARTMENT as pass through labor costs, with copies of the sub-contractor's invoices submitted to support the Contractor's request for payment. If the Sub-Contractor refuses to perform, the contractor may substitute another Sub-Contractor with approval from the DEPARTMENT. The DEPARTMENT has the right to request another sub-contractor be used if the rates are excessively high.

5. This service agreement is subject to Governor and Council approval. Services shall not begin until the agreement is approved by Governor and Council, but no earlier than May 1, 2016 and shall end on June 30, 2018.

G. CERTIFICATION AND SIGNATURE:

In accordance with the advertisement of the DEPARTMENT'S inviting proposals for the project herein before named, and in conformity with the specifications on file in the offices of the DEPARTMENT. I/We hereby certify that I Am / We Are the only person or persons, interested in this proposal as principals; that it is made without collusion with any person, firm, or corporation; that an examination has been made of the specifications and of the site of the work (if desired); and propose to furnish all necessary machinery, equipment, tools, and labor; and to furnish all materials specified in the manner and at the time prescribed at the prices proposed in Section E.:

_____
Signature

_____
Printed Name of Signer

_____
Title

_____
Company Name

_____
Address

_____
City, State, Zip Code

_____
Phone Number/Email Address

_____
Date

# EXHIBIT A – RFB TPK 2016-04
# JETTING, ROUTING AND CLEANING OF
# SEWER, SEPTIC AND FLOOR DRAIN CONTRACT
# BUREAU OF TURNPIKES
# SEVENTEEN (17) FACILITIES

LOCATION # 1
Rochester Toll Plaza
Spaulding Turnpike
Rochester, NH

LOCATION # 2
Dover Maintenance Facility
Exit 9 – Spaulding Turnpike
Dover, NH

LOCATION # 3
Dover Toll Plaza
Spaulding Turnpike
Dover, NH

LOCATION # 4
Hampton Side Toll
I-95 Exit 2
Hampton, NH

LOCATION # 5
Hampton Toll Plaza
I-95
Hampton, NH

LOCATION # 6
Hampton Maint. Facility
I-95
Hampton, NH

LOCATION # 7
Seabrook Welcome Center
I-95
Hampton, NH

LOCATION # 8
FEE Exit 11 Ramp Toll Plaza
Central Turnpike
Merrimack, NH

LOCATION #9
Hooksett Toll Main
I-93
Hooksett, NH

LOCATION #10
Hooksett Ramp Toll
I-93 Exit 11
Hooksett, NH

LOCATION # 11
Hooksett Maintenance
and Administration Bldgs.
Including EZPass Trailer
I-93 Exit 11
Hackett Hill Rd
Hooksett, NH

LOCATION # 12
Merrimack Maintenance Bldg.
Route 3
Central Turnpike, N.B.
Merrimack, NH

LOCATION # 13
Bedford Toll Plaza
F.E. Everett (FEE) Turnpike
Bedford, NH

LOCATION #14
Rochester Maintenance
Facility
Route 16 Connector Road
Rochester, NH

LOCATION # 15
FEE Exit 10, Merrimack
Industrial Toll Plaza
Central Turnpike

LOCATION # 16
Nashua Maintenance Bldg.
Rte 111-A, Exit 5
Nashua, NH

LOCATION # 17
Nashua EZ-Pass DMV Center
FEE Exit 6
Nashua, NH

**EXHIBIT B**

Adopted: September 21, 2001
Revised: November 17, 2009

**NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION**
**POLICY 501.01**

## Title: Environmental Policy

**Statement:**
The New Hampshire Department of Transportation is the State's largest public works agency. Our activities affect the environment through land use, natural resource consumption, and transportation corridor redevelopment and maintenance activities. The Department will seek to minimize environmental impacts whenever practicable when planning, constructing, and maintaining the state's transportation infrastructure, and when providing for public safety and the economic strength of the state. We will do this by operating in compliance with all applicable laws and regulations, by utilizing best management practices in all of our activities in an effort to prevent pollution, and by promoting environmental stewardship in our programs. We are committed to continuously improving our environmental performance through regular activity reviews, and by bringing forward improvements that merit implementation for reducing or eliminating negative environmental impacts.

**Comments :** To support the performance of our undertakings in an environmentally responsible manner, the Department will:

- Develop, implement and maintain an Environmental Management System (EMS) that encompasses Department program functions and complies with the requirements of the International Standard Organization's ISO 14001: 2004 standard for environmental management systems;
- Utilize the EMS, with support and guidance from the Office of Stewardship & Compliance, to set objectives and targets for process improvements that can be measured and regularly monitored, and contribute to pollution prevention and protection of the state's natural resources;
- Minimize Department-generated waste by reducing, reusing, or recycling materials, and using environmentally friendly materials and products whenever practicable;
- Communicate our commitment to this policy to our employees, consultants, contractors, and other interested parties;
- Provide employees with training appropriate to their functions concerning the Department's environmental responsibilities, through the new-employee orientation process and periodic refresher training;
- Utilize an appropriate proactive public stakeholder involvement process to address environmental concerns and facilitate problem solving in a collaborative manner; and
- Make this environmental policy available to the public and all interested parties.

George N. Campbell, Jr.
Commissioner

New Hampshire DOT
Department of Transportation

**New Hampshire Department of Transportation**
**BUREAU OF TURNPIKES**
**EXHIBIT C**

# Contractor Safety & Environmental Checklist
# EIP-6- Form 6c

Contractor Company Name: _____

Date Reviewed: _____

Project Description: _____

Contractor Name: _____

**Please complete the following Contractor Safety & Environmental Checklist:**

| Reviewed | Not Applicable | Topic: | Contractors Requirements: |
|---|---|---|---|
| ❑ Yes | ❑ N/A | Sign In | All contractors must sign in and out at the main office. |
| ❑ Yes | ❑ N/A | Communication | Contractors must meet with Building Maintenance or other designee to discuss project and checklist. |
| ❑ Yes | ❑ N/A | Smoking | Smoking is not permitted behind fence or < 50 ft from Main Building. |
| ❑ Yes | ❑ N/A | Emergency Plans | Evacuate when building alarms sounds or alarm lights activate. Meet at meeting point. |
| ❑ Yes | ❑ N/A | Personal Protective Equipment | Appropriate personal protective equipment must be used when contractors are working. |
| ❑ Yes | ❑ N/A | Contractor Equipment | All equipment on site must be maintained in a safe operating condition. Only competent and certified workers may operate tools and equip. |
| ❑ Yes | ❑ N/A | Safety Regulations | Comply will all applicable federal, state, and municipal safety regulations. |
| ❑ Yes | ❑ N/A | Environmental Regulations | Comply will all applicable federal, state, and municipal environmental regulations. |
| ❑ Yes | ❑ N/A | Housekeeping | Maintain acceptable housekeeping and material organization around work site. |
| ❑ Yes | ❑ N/A | Chemicals | Copies of MSDS must be available on site. |
| ❑ Yes | ❑ N/A | Ladders | May only be used for ascent or descent or light work where the worker can maintain a three point stance |
| ❑ Yes | ❑ N/A | Scaffolds | Erected in accordance with legislated requirements |
| ❑ Yes | ❑ N/A | Fall Protection | Required when a worker is working at a elevated height of 4 or more feet. |
| ❑ Yes | ❑ N/A | Disposal | Solid waste can be disposed of in our receptacles. All hazardous waste and chemicals must depart with contractor. |
| ❑ Yes | ❑ N/A | EMS | The Bureau operates under Environmental Policy 501.01. |
| ❑ Yes | ❑ N/A | EMS Projects | Reduce energy use, reduce paper usage, and working with contractors. |

Initials: _____

Date: _____

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 | | 1.12 Name and Title of Contractor Signatory | |

1.13 Acknowledgement: State of , County of

On , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.

1.13.1 Signature of Notary Public or Justice of the Peace

[Seal]

1.13.2 Name and Title of Notary or Justice of the Peace

| | |
|---|---|
| 1.14 State Agency Signature<br>Date: | 1.15 Name and Title of State Agency Signatory |

1.16 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)*

By: Director, On:

1.17 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)*

By: On:

1.18 Approval by the Governor and Executive Council *(if applicable)*

By: On:

**2. EMPLOYMENT OF CONTRACTOR/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 A 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 1.18, 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 1.14 ("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, and 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 terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account 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 B 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 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 opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright 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 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further 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



Contractor Initials _____
Date_____

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 remedied, 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 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 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

**9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.**
9.1 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.
9.2 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.
9.3 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.

**10. TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall 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 A.

**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.**
The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

**13. INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. 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 maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:
14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than $1,000,000per occurrence and $2,000,000 aggregate ; and
14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 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.



Contractor Initials _____
Date_____

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 thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

**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. 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. WAIVER OF BREACH.** 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.

**17. 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.

**18. 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.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be 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.

**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 provisions set forth in the attached EXHIBIT C 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 relating hereto.



Contractor Initials _____
Date_____