**REQUEST FOR PROPOSAL**
**RFP NHES2016-07**
**LANDSCAPE AND MAINTENANCE SERVICES**

## PART I – OVERVIEW

### 1.01 INTRODUCTION

This RFP is issued by New Hampshire Employment Security (NHES), 45 South Fruit Street, Concord, NH 03301. NHES is accepting proposals for landscaping/maintenance services at two (2) NH Employment Security locations as follows:

1) **6 Townsend West, Nashua NH 03063**
2) **29 South Broadway, Salem NH 03079**

### 1.02 SUMMARY OF KEY DATES AND DEADLINES:

| | |
|---|---|
| **4-22-2016** | RFP Issue Date |
| **4-27-2016** | Deadline for Receipt of Written Questions and Requests to Amend or Clarify RFP Questions/Requests may be submitted by mail, fax or e-mail must be received by NHES by 3:00 p.m. on 4-27-2016. |
| **4-29-2016** | Posting of written responses to questions and any amendments or modifications to the RFP on Administrative Services Bidding Opportunities and NHES websites. |
| **5-4-2016** | **Deadline for Submission of Proposals to NHES. Proposals may be submitted by US Mail or Hand-Delivery only and must be received by 3:00 p.m. on 5-4-2016** at 45 South Fruit Street, Concord, NH 03301. |
| **5-4-2016** | Proposal opening at NHES, 45 South Fruit Street, Concord, NH 03301. |

### 1.03 AGENCY CONTACT

The agency point of contact regarding this RFP is Jill D. Revels, Business Administrator, 45 South Fruit Street, Concord, NH 03301, jill.d.revels@nhes.nh.gov, telephone number (603) 229-4449, Fax number (603) 229-4346.

### 1.04 TERM OF CONTRACT

Any contract or contracts resulting from the RFP will run for a term of three years, with up to two one-year extensions possible at the discretion of NHES.

### 1.05 SUBMITTING PROPOSALS FOR MORE THAN ONE LOCATION

Interested respondents may submit a proposal for one or both locations. The terms of the RFP, required contract and required Proposal Page for each location follow.

## PART II – GENERAL PROVISIONS

### 2.01 GENERAL

Vendors must propose services on items as specified in this Request for Proposal (RFP). Any request for a change must be in writing and clearly note: "Request for Variance Enclosed," must be separate from any sealed cost proposal, and must be received by NH Employment Security (NHES) by **4/27/2016.** All prospective vendors will be notified in writing if changes to bid specifications are made. Other than approved written changes to the specifications made by NHES, no other communications will be binding on the Department with respect to specifications for the work.

### 2.02 PROPOSALS

Proposals must be received by Business Administrator Jill D. Revels, Fiscal Management Section, NH Employment Security, 45 South Fruit Street, Concord, NH, 03301, on or before the date and time specified as the proposal submission deadline. See Part 1.02 above. Proposed price terms must be entered on the attached Cost Proposal Page - **Attachment A** hereto. Please follow instructions in Part 2.03, Submittal. Cost proposals must be typed or clearly printed in ink.

### 2.03 SUBMITTAL

All cost proposals must be submitted in a sealed envelope clearly marked with the RFP Number – **RFP NHES2016-07**. Proposals not so marked may be disallowed. NHES reserves the right to obtain clarification or additional information as needed to properly evaluate a proposal.

### 2.04 AWARD

- Award will be made to the responsible proposer(s) meeting specifications at the lowest cost to NHES unless otherwise noted in the RFP. Contract award is subject to favorable reference checks. NH Employment Security reserves the right to reject any or all proposals, or any part thereof.

- Discounts will not be considered in making awards, but may be offered on invoices for earlier payment and will be applicable on date of acceptance by NHES.

- No contract will be binding upon NH Employment Security unless and until approved by the Commissioner or Deputy Commissioner and then approved by NH Governor and Council.

- All prices submitted will be held open for ninety (90) days after proposal opening.

- The number of individuals and companies submitting proposals will be made available after the opening of proposals. Proposals must be submitted by mail or hand-delivery only.

### 2.05 CONTRACT EXECUTION REQUIREMENTS

The successful Vendor(s) will provide NH Employment Security with:

1. If applicable, a current State of New Hampshire Certificate of Good Standing from the NH Secretary of State's Office. There is a five dollar ($5) fee if applied for by mail, or a thirty ($30) fee if applied for in person. (Applies to corporations and LLCs).

2. A letter stating that whoever is signing the contract with NHES has authority to do so, and will be bound by terms of contract. If the Vendor is a Corporation, a "Certificate of Vote" from the Board of Directors will be necessary to show that the signing party has authority to do so.

3. The Contractor must furnish a Certificate of Insurance as evidence of Comprehensive General Liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than $1,000,000 per claim and $2,000,000 per occurrence. NHES must be named as an additional insured in connection with such coverage. Contractor must also provide proof of workers' compensation and employer's liability insurance coverage for all of Contractor's employees who will be engaged in performance of the contract.

At the time of contract execution, NHES reserves the right to incorporate standard contract provisions into any contract negotiated as a result of any proposal submitted in response to this RFP, including, without limitation, all provisions of the standard State Contract Form P-37, attached hereto as **Attachment B**.

## PART III – REQUIREMENTS

### 3.01 SCOPE

This section identifies specific services, products, materials, labor, tools, equipment and/or transportation necessary to provide all phases of landscaping/maintenance required at NH Employment Security facilities as listed: **6 Townsend West, Nashua, NH** and **29 South Broadway, Salem, NH**.

### 3.02 DESCRIPTION OF WORK BY LOCATION

In all locations, Contractor will provide landscaping services, including all phases of tree, shrub and lawn care to include weekly mowing, edging, weeding around bushes and other plantings, and raking grass.

- Lawn care will include lawn mowing of all grassed areas at least once a week, trim edging, weeding around bushes, walkways and other plantings. Lawn will be kept free of leaves, clippings and other debris. Raked material will be disposed of properly. No grass clippings, trimmings and debris will be swept, raked or dumped into storm drains or dumpster.

- In addition to normal landscaping duties, **Nashua** landscaper will ensure that the cofferdam spillway and retention ponds are cut back and free of debris.

- **FERTILIZING**: Contractor will fertilize lawn, all shrubs and plantings with a four-step plan, to include labor and materials, for spring, summer and fall.

  **Step One:** Apply in May; contractor will apply a combination of slow release lawn food with trace elements and pre-emergent crabgrass preventer. This should provide a minimum of eight (8) weeks of control. DO NOT seed for at least eight (8) weeks after this application.

  **Step Two:** Apply late May through early June; contractor will apply a lawn fertilizer and product to prevent weeds from growing.

  **Step Three:** Apply mid-August, contractor will apply lawn food that provides nutrients for six (6) to eight (8) weeks.

**Step Four:** Apply late September through October, contractor will apply winterizer.

Contractor will apply lime to lawn in spring and fall, as soil conditions require.

PLANTING: Plantings to replace shrubs, trees, and flowers will be completed as requested. NH Employment Security will be billed Contractor's cost for plantings. Cost of replacement or additional repairs will be invoiced in the month work was done. Estimates for repair/replacement work will be approved by NHES prior to work being done.

Contractor will perform diagnostic services to grass areas, to soil around base of birches, firs, maples, young trees and shrubs, to determine fertilizing needs. Contractor will apply fertilizer as necessary based upon diagnostic services.

- Contractor will prune all shrubs to maintain size, shape, and structure annually.
- Contractor will refresh the stone each spring as necessary to clean-up beds around office.
- Contractor will perform lawn care, including watering, to prevent browning or burning of landscape.
- Contractor will bark mulch flower and shrub beds in springtime only.
- Contractor will refresh mulched areas to proper levels utilizing an ant and bug resistant mulch.
- Contractor will weed mulched, fenced, bank and stone bed areas.
- Contractor will clean up storm damage or any debris created by minor construction.
- Contractor will clean dead limbs and sprouting bushes from wooded areas, preventing wooded area from encroaching landscaped areas monthly or as needed.

## 3.03 SAFETY

Safety and protection of NH Employment Security personnel and property is of utmost concern. All work will be conducted to interfere as little as possible with NH Employment Security business. Contractor will, at its expense wherever necessary or required, furnish safety devices and take necessary precautions to protect life and property.

Work performed will be compliant with existing State and Federal safety regulations and standards including, but not limited to, OSHA and U.S. Department of Labor regulations, to ensure safety of the Contractor's workers, NH Employment Security staff and the general public.

## 3.04 MSDS SHEETS

Upon contract award, and prior to performance of any service, Contractor must provide copies of Material Safety Data Sheets for all chemicals/materials that will be used at NH Employment Security to NHES Project Manager, Jesse Propri, Jessi.B.Propri@nhes.nh.gov, (603) 228-4027. Jessi Propri will be the day to day point of contact for work performed under the contracts.

## 3.05 INVOICES

Contractor will invoice NH Employment Security in duplicate on a monthly basis. Invoice must include a **brief description of work done and location of work.** NHES will make payment through normal state payment process that is up to 30 days following receipt of approved invoice. **Invoices will be sent to:**

**Jill D. Revels, Business Administrator**
**Fiscal Management Section**
**45 South Fruit Street**
**Concord, NH 03301**

# PART IV – TERMS AND CONDITIONS

## 4.01 TERMS & EXTENSION

The agreement will begin upon Governor and Council approval and conclude three years from that date unless terminated sooner as provided for in applicable contract documents. This agreement may be extended for up to two (2) additional one-year (1) periods providing there are no changes in rates, terms or conditions and upon mutual agreement of the parties.

## 4.02 CONTRACT DOCUMENT

In addition to complying with the terms and conditions of this RFP, the successful proposer(s) will be required to enter into a contract substantially in the form set forth in **Attachment B**, P-37 Standard State Contract form, and must meet all contract execution requirements prior to submission of the contract to Governor and Executive Council for approval.

## 4.03 TERMINATION

If Contractor fails to perform services as required, this agreement may be terminated as provided in the P-37 contract form. Either party may terminate this agreement for convenience at any time prior to effective date of termination by giving thirty (30) days advance written notice of intent to terminate to the other party.

## 4.04 CONFIDENTIALITY, CRIMINAL RECORD & NH CERTIFICATE OF GOOD STANDING

Contractor and its employees working on NHES property will be required to sign and submit a **STATEMENT OF CONFIDENTIALITY OF RECORDS FORM** (DES 1726) and a **CRIMINAL RECORD AUTHORIZATION FORM** (Form No. DES 2135) prior to the start of any work. There is a fee for each background check required, which must be paid by the contractor.

## 4.05 DAMAGE

Contractor agrees that any damage to building(s), materials, equipment or other property during performance of its services will be repaired at its expense. Contractor agrees to return all buildings, materials, equipment or property affected by the contractor's work to their original condition or better. Contractor agrees to obtain approval of NH Employment Security representative assigned to project for any sub-contractor performing such repair work.

## 4.06 INSURANCE

Contractor will furnish a Certificate of Insurance as evidence of the existence of Comprehensive General Liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than $1,000,000 per claim and $2,000,000 per incident. Contractor agrees to maintain workers' compensation and employer's liability insurance for all Contractor employees engaged in the performance of the agreement and provided updated certificates for such coverage.

## 4.07 SUB-CONTRACTING

Contractor will not assign, subcontract or otherwise transfer any duty obligation, or written performance required by this agreement without the prior written consent of NH Employment Security. All subcontractors must be listed on the bid page of this document for pre-approval.

## 4.08 ACCEPTANCE OR REJECTION OF PROPOSALS BY NHES

NH Employment Security reserves the right to accept or reject any or all proposals submitted for consideration. All proposals will be kept sealed and safe until the date, time and place of public opening.

## 4.09 CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS PRIMARY COVERED TRANSACTIONS

Contractor certifies that the primary participant, and its principals, to the best of its knowledge and belief, are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or State agency. Contractor will inform NH Employment Security of any changes in the status regarding this statement.

## 4.10 DAVIS-BACON ACT

Davis-Bacon Act and Related Acts, apply to contractors and subcontractors performing on federally funded/assisted contracts in excess of $2,000 for construction, alteration, or repair (including painting and decorating) of public buildings or public works. Under these Acts, contractors and subcontractors must pay laborers and mechanics prevailing wages and fringe benefits for corresponding work on similar projects in the area as determined by the Department of Labor. When there is no Davis-Bacon assignation, applicable Wage Determination is realized by using the lowest skilled craft above laborer, excluding power equipment rate.

## 4.11 AMERICANS WITH DISABILITIES ACT

The undersigned agrees to comply with all Federal, State and Local ADA rules and regulations.

## 4.12 NON-DISCRIMINATION

In connection with the furnishing of services under any contract resulting from the RFP, contractor agrees to comply with all laws, regulations, and orders of federal, state, county or municipal authority which impose any obligations or duties upon the contractor, including but not limited to civil rights laws, non-discrimination laws and equal opportunity laws.

During the term of any contract resulting from the RFP, contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, age, sex, sexual

orientation, disability, national origin, marital status or veteran status, and will take appropriate steps to prevent such discrimination.

## 4.13 PAYMENT BOND/MILLER ACT

Contractors must agree to comply with Miller Act bond requirement and NHRS 447:16, if applicable. The amount of any payment bond will equal total amount payable by terms of the contract. A payment bond is required for contracts of $35,000 – $99,999 Dollars.

## ATTACHMENT A

## COST PROPOSAL PAGE - RFP NHES2016-07

**PLEASE RETURN THIS COMPLETED PAGE FOR EACH PROPOSED LOCATION**

Proposals will be accepted for a single location or multiple locations. **You must submit a separate completed copy of this cost proposal page in connection with each location for which you are submitting a proposal.**

The undersigned hereby proposes to provide landscaping and lawn maintenance services to New Hampshire Employment Security (NHES), and agrees to perform in accordance with the terms and specifications set forth in the RFP, for an itemized monthly amount based on a six-month work period per year beginning in May and terminating in October.

**LOCATION:** _____ Landscaping Services are provided May-October.

Total Cost for Landscaping Services 1st Year = $ _____ Annual cost will be distributed in installments over six (6) months

Total Cost for Landscaping Services 2nd Year = $ _____ Annual cost will be distributed in installments over six (6) months

Total Cost for Landscaping Services 3rd Year = $ _____ Annual cost will be distributed in installments over six (6) months

Respondent/Bidder Name (Company): _____

Signature of Company Representative: _____

Address: _____

E-mail Address: _____

Type/Print Name & Telephone #:

_____

NH Employer ID Number: _____ □ Corporation □ Partnership □ Individual

**REFERENCES: List Name, Email, Address, Telephone # of three (3) Customer/Client References:**

_____

_____

_____

**PROPOSED SUBCONTRACTORS:** Please give Name, Email, Address, Telephone # of potential sub-contractors and indicate whether all costs for subcontracted services are included in your proposal:

_____

_____

_____

## ATTACHMENT B

**P-37 Standard State Contract Form**

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_____