

May 27, 2016

Re: Four (4) Anaerobic Digester Exterior Covers Painting Request for Quotations (RFQ)

Gentlemen:

The New Hampshire Department of Environmental Services (NHDES) operates a regional wastewater treatment facility located at 528 River Street, Franklin, NH under its Winnepesaukee River Basin Program (WRBP). The Department is soliciting quotations for re-coating the exterior of two primary anaerobic digester floating covers, their associated Pearth Gas Mixing houses, center gas collection domes, ladders and six inch gas piping as well as two secondary anaerobic digester floating covers and side skirting, center gas collection dome, ladder and six inch gas piping. The RFQ also includes coating the vent piping, waste gas piping and waste gas torches. The bidding process will result in a service contract with the State of New Hampshire which must receive approval of the Governor and Executive Council. Any company doing business with the State of New Hampshire must be registered and in good standing with the NH Secretary of State's Office.

All price quotations must be received by the Department of Environmental Services, Franklin Wastewater Treatment Plant, P.O. Box 68, 528 River Street, Franklin NH 03235 no later than 2:00 P.M. on June 16, 2016 at which time bids will be opened. Exhibits A, B, and C shall be completed and returned as the bid response. All mailed or hand delivered bids must be enclosed in sealed envelopes that are clearly marked "Recoating of Digester Covers and Metalwork". Faxed or emailed bids shall clearly be titled "Recoating of Digester Covers and Metalwork. Fax quotes to 603-934-4831 or e-mailed to kenneth.noyes@des.nh.gov.

The contractor will be solely responsible for errors or omissions; therefore, it is strongly suggested each bidder arrange a visit prior to finalizing their quotation. This will provide contractors an opportunity to evaluate access to the work site and to evaluate the level of effort needed to complete the work.

The anaerobic digester covers will be available for painting, provided plant process and weather conditions are favorable, after July 1, 2016. The anaerobic sludge in the digesters will not be emptied for the recoating of the digester covers.

The re-coating of the metalwork on the four digester covers must be completed by July 1, 2017. No painting will be allowed from October 1, 2016 to May 1, 2017, unless WRBP staff determines the weather allows for the painting to continue.

The RFQ may be downloaded from this website:

<http://admin.state.nh.us/purchasing/vendorresources.asp>. It is the responsibility of the bidder to check for addenda.

THE PROPOSED CONTRACT

The chosen contractor will be under contract to the NHDES. We include herein a blank copy of a standard state service contract (P-37 form), as well as Exhibits A, B and C for the Agreement. Exhibit A "The Services" will be the Scope of Work which describes the services. Exhibit B "Costs and Terms of Payment," is the bid form with your quote for the work. Exhibit C "Special Conditions" provides a form confirming that the firm has a confined space policy which complies with state and federal regulations. It is strongly suggested that you review the general conditions shown on the contract form (P-37) including the insurance requirements contained in **Item No. 14**. Exhibits A, B, and C shall be completed and returned as the bid response.

Should your firm be selected for the work, the WRBP will send you a "Notice of Intent to Award" along with a P-37 contract for execution. In addition to this form, the contract documents included: A "Corporate Resolution" for the work; an insurance certificate meeting the requirements shown in the P-3; and a "Certificate of Good Standing" from the NH Secretary of State's office. **Be aware that any corporation, individual (sole proprietorship) or partnership doing business with the State must be registered and in good standing with the New Hampshire Secretary of State's Office in order to process a contract.** The contractor will be responsible for providing the WRBP with a current, original (with a gold seal) certificate issued by the NH Secretary of State dated after April 1, 2016.

Because it is necessary for the selected contractor to be registered and in good standing with the Secretary of State's office, if at the time the contractor receives the "Notice of Intent to Award" the contractor is not registered, the contractor will be allowed fourteen (14) days to complete this task. If at the end of the fourteen (14) days the contractor is not registered, it will be the Department's option to disregard the contractor's quotation.

When the required documents are returned to us, a contract will be processed through the NHDES and the NH Governor and Executive Council, a process that usually requires eight (8) to twelve (12) weeks to complete.

SAFETY

The WRBP operates an active safety program, with a safety committee and designated Safety and Health Coordinator. The selected contractor shall comply with all WRBP safety rules, in addition to all applicable state and federal worker safety laws and regulations, including those dealing with confined spaces.

The plant's digester covers are checklist required confined space as per the WRBP confined space classification of such spaces. Attached is Figure 7.1 taken from the WRBP's confined space policy which shows expected hazards and required precautions for these confined spaces. Prior to

beginning work, the contractor must provide WRBP a copy of the confined space program that the contractor intends to follow or provide details of the contractor's confined space program. Exhibit C of the contract shall contain a Certification Statement from the contractor stating compliance with OSHA confined space regulations. The contractor is responsible for all the safety equipment required in Figure 7.1 and their confined space program.

CONTACT PERSONS

All inquiries regarding this request for quotations should be directed to Ken Noyes or Art O'Connell at the treatment plant at (603) 934-4032.

Sincerely,



Kenneth Noyes

Chief Operator

EXHIBIT "A"
THE SERVICES

REQUEST FOR QUOTATION
FOUR ANEROBIC DIGESTER COVERS RECOATING (EXTERIOR)

Scope of Work

The metal exterior of four anaerobic digester covers, the side skirting on the two secondary digesters, gas collection domes, two Pearth gas mixing houses, six inch gas piping, ladders, waste gas piping, waste gas torches and vent piping shall be recoated. Each digester cover is 60 feet in diameter. The area of the metal side skirting on each secondary digester to be painted is approximately 1394 square feet each. There are several sampling access covers and manhole access covers on each floating cover as well as other small appurtenances which also require recoating. The cylindrical gas collection domes are 6.25 feet in diameter and 2 feet tall on the primary digester covers; and a diameter of 6.25 feet and 4 feet tall on the secondary digester covers. The covers will not be removed; they will be painted in place.

The gas piping is 6 inches in diameter and made of malleable cast iron pipe with flanged fittings and slip joints with approximately 46 linear feet per primary digester cover and approximately 55 linear feet on each secondary digester cover. Steel ladders on the four covers measure approximately 11 feet in height and 3.34 feet in width and have some supporting structure. The Pearth gas mixing houses on the primary digester covers measure approximately 6.67 feet long by 4.5 feet wide by 5.5 feet tall. The interior of three doors on both of the Pearth gas mixing houses are also to be painted, the measurements of the doors are 5 feet in width and 3 feet high, 2 feet in width and 3 feet high, and 3.25 feet in width and 1.5 feet high. There are nine vent pipes to be recoated; five of which are four inch piping approximately five feet tall. The remaining vent pipes are one inch piping and approximately five feet tall. There are two eight inch waste gas pipes rising thirteen feet above ground and each have a two foot torch which is to be recoated.

The walkways on the digester covers will need to be replaced after painting. These walkways are made by sprinkling black beauty on wet paint creating a slip free walkway. The two primary digesters' walkways will be painted from the ramp when it is at its lowest level on the cover to the center of the digester and then around the gas collection dome and the gas mixing house. The two secondary digester cover walkways will be painted from the ladder to center of the digester and around the gas collection dome. The width of the walkways will be 2 1/2 feet.

Surface Preparation Metal Components

The surface of all metal components to be recoated shall be prepared according to Steel Structures Painting Council method SP10 – Near White Metal Blast Cleaning for areas where

rust is visible or peeling. The remaining areas on top shall receive an abrasive brush blast simply to clean the surfaces and create a suitable profile for painting. The space between the digester covers and the cement walls shall be sealed so no blasting materials fall into the digester contents. The metal side skirting on both secondary digesters shall be prepared by water blasting. All materials used in the surface preparation of the components to be recoated, including but not limited to, solvents and blasting grit must be collected, removed and disposed of by the contractor in accordance with all applicable Federal, State and Local regulations governing such waste.

Primer Coating Metal Components

Primer coating shall be Sherwin Williams Macropoxy 646 fast cure epoxy; the color shall be safety red and shall be applied the same day as the surface is prepared. The primer coating shall be applied to a minimum of 5 mils dry film thickness in strict accordance with the manufacturer's instructions for a conventional spray paint application of the product.

Finish Coating Metal Components

Finish coating shall be Sherwin Williams Acrolon Ultra High Performance Polyurethane; the color shall be Safety Red (Part A B65R820) (Part B65V820) and the finish will be high gloss. The finish coating shall be applied in strict accordance with the manufacturer's instructions for a conventional spray paint application of its product. The finish coating shall be applied to a minimum of 6 mils dry film thickness. The 6 mils dry film thickness shall be achieved by applying two to three coats with a minimum of 2 to 3 mils dry film thickness on each coat.

Contractor Responsibilities

The successful bidder shall provide all labor, materials, services, tools, equipment, transportation and facilities to complete the Scope of Work. It shall be the sole responsibility of the contractor awarded the project to comply with all local, state and federal rules and regulations in the commission of the work requested by this specification. The contractor shall be responsible for the disposal of all waste products in accordance with all local, state and federal rules and regulations governing such materials. All work shall be performed in a neat and workmanlike manner in conformance with best modern trade practices by competent, experienced workers. All materials used shall be applied in strict accordance with the manufacturer's instructions. The contractor will be solely responsible for errors or omissions; therefore, it is recommended that each bidder inspect the area and have project-related questions answered prior to finalizing the quotation. Failure to do so will not relieve the contractor of his obligations under this contract. Work must be completed during normal treatment plant working hours which are Monday - Friday, 7:00 A.M. to 3:30 P.M.

TREATMENT PLANT CONTACTS

Inquiries regarding this request for quotations should be directed to Ken Noyes or Art O'Connell at the treatment plant at 603-934-4032 between the hours of 7:00 A.M. and 3:15 P.M.

INFORMATION FOR BIDDERS

All price quotations must be received by the Department of Environmental Services, Franklin Wastewater Treatment Plant, P.O. Box 68, 528 River Street, Franklin NH 03235 no later than 2:00 P.M. on June 16, 2016 at which time bids will be opened. Exhibits A, B, and C shall be completed and returned as the bid response. All mailed or hand delivered bids must be enclosed in sealed envelopes that are clearly marked "Recoating of Digester Cover Exteriors and Interior Concrete Walls". Faxed or emailed bids shall clearly be titled "Recoating of Digester Cover Exteriors and Interior Concrete Walls". Fax quotes to 603-934-4831 or e-mailed to kenneth.noyes@des.nh.gov.

Information contained in the State's Request for Quotations dated May 27, 2016 is hereby included in Exhibit A by reference.

The WRBP reserves the right to determine what constitutes a conforming quotation; to determine if a firm or individual is qualified; to waive irregularities that it considers not material to the quotation; and award the contract solely as it deems to be in the best interest of the State. Basis of award is the lowest total price submitted from a qualified firm as is in the best interest of the WRBP.

EXHIBIT B

COST PROPOSAL AND TERMS OF PAYMENT

DESCRIPTION

Recoating exterior of four anaerobic digester covers, piping as described in Exhibit "A"

\$ _____
Amount in Figures

Amount in Words

Contractor to be paid within thirty (30) days of submission of invoice at satisfactory completion of work. Approval of this work does not authorize any expenditure over the price limitation.

Remit Bill To:
NHDES-Water Division
Attn: Traci Knieriemen
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095

I (We) agree to furnish the services specified in Exhibit A at the cost shown above.

Company Name

Initials _____
Date _____

EXHIBIT "C"

Item 1

Waste disposal by Contractor shall be in accordance with all applicable federal, state and local regulations governing such waste.

Item 2

CONFINED SPACE CERTIFICATION

I, _____, of
(Name)

(Company Name)

hereby certify that the confined space policy of

(Company Name)

complies in all aspects with the Federal Occupational Safety and Health Standards (OSHA), 29 CFR Part 1910 and that

(Company Name)

Possesses all equipment required for compliance with all provisions of the rules

Initials _____
Date _____

Figure 7.1

FRANKLIN COMPOUND

Potentially Hazardous Places Including CONFINED SPACES AS PER 29 CFR 1910.146(b) and LAB 1402.02

	POTENTIAL HAZARDS										PRECAUTIONS								
	Permit Required	Checklist Required	Low Oxygen See Note (3)	Fire / Explosion	Toxic Gases See Note (3)	Falls	Live Wires	Moving Machinery	Engulfment & Drowning	Falling Objects	Gas Meter	Harness & Tripod/Davit Arm See note (4)	Harness & Lanyard	Lockout & Tagout	Blowers See note (3)	Hard Hat	Two Man Rule	Safety Attendant	Compliance w/Lab 1403.23
OPS Building & Tunnels																			
OB Drain Pit	✓		✓	✓	✓	✓				✓	✓		✓	✓	✓				
All drain sumps in tunnels	✓		✓	✓	✓	✓				✓	✓		✓	✓	✓				
Reaction tank	✓		✓	✓	✓	✓				✓	✓		✓	✓	✓				
Retention tank	✓		✓	✓	✓	✓				✓	✓		✓	✓	✓				
Headworks																			
Influent chamber before headworks	✓		✓	✓	✓	✓				✓	✓					✓			
Flow channels	✓		✓	✓	✓	✓				✓	✓		✓						
Aerated grit chambers empty See note (1)	✓		✓	✓	✓	✓				✓	✓		✓			✓	✓		
Grit chamber channels	✓		✓	✓	✓	✓				✓	✓		✓						
Primary Treatment																			
Primary Clarifier splitter box	✓		✓	✓	✓	✓				✓	✓					✓			
Primary Clarifier empty See note (1)	✓		✓	✓	✓	✓				✓	✓					✓	✓		
Clarifier scum wells	✓		✓	✓	✓	✓				✓	✓		✓	✓	✓				
Clarifier launders	✓		✓	✓	✓	✓				✓	✓		✓	✓	✓				
Aeration Tanks																			
Aeration tank splitter box	✓		✓	✓	✓	✓				✓	✓					✓			
Aeration tanks clean and empty See note (1)	✓		✓	✓	✓	✓				✓	✓					✓	✓		
Secondary Clarification																			
Secondary clarifier splitter box	✓		✓	✓	✓	✓				✓	✓					✓			
Secondary clarifier empty See Note (1)	✓		✓	✓	✓	✓				✓	✓					✓	✓		
Clarifier launders	✓		✓	✓	✓	✓				✓	✓		✓	✓	✓				
Clarifier scum wells	✓		✓	✓	✓	✓				✓	✓		✓	✓	✓				
Secondary station drain pit exterior	✓		✓	✓	✓	✓				✓	✓		✓	✓	✓				
Secondary flume chamber	✓		✓	✓	✓	✓				✓	✓		✓	✓	✓				
Disinfection Facilities																			
UV inlet chamber	✓		✓	✓	✓	✓				✓	✓					✓			
Old contact tank, empty	✓		✓	✓	✓	✓				✓	✓					✓			
UV flow channel, empty	✓		✓	✓	✓	✓				✓	✓					✓			
UV "bypass" channel	✓		✓	✓	✓	✓				✓	✓					✓			
Contact tank, empty See note (1)	✓		✓	✓	✓	✓				✓	✓					✓			
Plant Water well, empty	✓		✓	✓	✓	✓				✓	✓					✓			
UV Building Drain Pump	✓		✓	✓	✓	✓				✓	✓					✓			
Solids Handling Area																			
Septage tanks, empty	✓		✓	✓	✓	✓				✓	✓					✓			
Thickeners, inspections	✓		✓	✓	✓	✓				✓	✓					✓			
Thickeners	✓		✓	✓	✓	✓				✓	✓					✓			
Thickeners, empty	✓		✓	✓	✓	✓				✓	✓					✓			
Thickener valve pit	✓		✓	✓	✓	✓				✓	✓					✓			
Thickener scum wells	✓		✓	✓	✓	✓				✓	✓					✓			
Anaerobic digester covers Primary See note (5)	✓		✓	✓	✓	✓				✓	✓					✓			
Anaerobic digester covers Secondary	✓		✓	✓	✓	✓				✓	✓					✓			
Below Primary Digester (inside) See Note (2)	✓		✓	✓	✓	✓				✓	✓					✓			
Interior of Primary Digester covers	✓		✓	✓	✓	✓				✓	✓					✓			
Tunnel 4 drain pit	✓		✓	✓	✓	✓				✓	✓					✓			
Plant Grounds/Manual Road																			
Pressure reducing valve chamber	✓		✓	✓	✓	✓				✓	✓					✓			
Meter/backflow prevent or vault	✓		✓	✓	✓	✓				✓	✓					✓			
Flow channels	✓		✓	✓	✓	✓				✓	✓					✓			
Catch basin sumps, 4' deep or greater	✓		✓	✓	✓	✓				✓	✓					✓			
Sewer manholes/drain manholes	✓		✓	✓	✓	✓				✓	✓					✓			
Centrate tank	✓		✓	✓	✓	✓				✓	✓					✓			
Electrical vaults/wire pulls, 4' deep or greater	✓		✓	✓	✓	✓				✓	✓					✓			
Training center sewage pump vault	✓		✓	✓	✓	✓				✓	✓					✓			
UST's	✓		✓	✓	✓	✓				✓	✓					✓			
Trench/Excavations 4' deep or greater	✓		✓	✓	✓	✓				✓	✓					✓			
Oil Water Separator	✓		✓	✓	✓	✓				✓	✓					✓			

NOTES:

(1) Clarifiers, contact Tanks and aeration tanks being taken out of service (i.e., being cleaned) they shall be entered only with gas meters and attendants. After cleaning, these tanks do not have the potential to contain a hazardous atmosphere; therefore they are not confined spaces and they may be entered without atmospheric monitoring or attendant as long as 2 workers are present at all times.

(2) Digesters being entered after cleaning or painting have the potential for low oxygen, toxic fumes, etc. and shall be entered only with mechanical ventilation (i.e. blowers). Subsequent entry to these tanks may be made without mechanical ventilation, but continuous gas monitoring and an attendant are required. Once at the floor of the digester, an entrant may disconnect from the tripod cable.

(3) In addition to locations noted, blowers shall be employed in any location which, upon testing shows low oxygen, or hydrogen sulfide. BLOWERS MUST NEVER BE USED in a situation where LEL is reading at or greater than 100 percent, since adding air to such an atmosphere will increase the potential for explosion.

(4) When set up of tripod is not feasible, use of harness and lanyard may be substituted. Whenever lanyard and harness are used, 2 attendants must be present.

(5) On Primary Digesters with ramps. When making Operations inspections or performing minor adjustments requiring less than 15 minutes, no checklist is required. For Maintenance Inspections or other work expected to last longer than 15 minutes, a checklist is required. Using the ladder on Digesters requires a check list. (Confined Space)

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		1.15 Name and Title of State Agency Signatory	
Date:			
1.16 Approval by the N.H. Department of Administration, Division of Personnel <i>(if applicable)</i> By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) <i>(if applicable)</i> By: _____ On: _____			
1.18 Approval by the Governor and Executive Council <i>(if applicable)</i> 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

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 \$1,000,000 per 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.

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.