



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner



April 18, 2013

Her Excellency, Governor Margaret Wood Hassan
and The Honorable Council
State House
Concord, NH 03301

Sole Source

REQUESTED ACTION

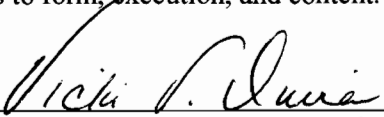
Authorize the Department of Environmental Services to amend a **sole source** agreement (PO # 7000591) with Lakes Region Planning Commission (VC# 154653), to complete the *Suncook River Fluvial Erosion Hazard Community Assistance* project by (a) extending the completion date to June 30, 2014 from June 30, 2013, (b) changing the Scope of Services to reflect revisions to Tasks, and (c) decreasing the contract award amount by \$1,338 from \$5,755 to \$4,407, effective upon Governor and Council approval through June 30, 2014. The original agreement was approved by Governor and Council on November 9, 2011, Item #84. 100% Capital (General) Funds.

EXPLANATION

In this agreement, the Lakes Region Planning Commission (LRPC) provides support to communities in the Suncook River corridor in coordination of meetings for officials and the public for the fluvial erosion hazard (FEH) assessment being conducted on the Suncook River under a separate contract. Additionally, LRPC is tasked with supporting emergency management and town officials by providing maps of the completed FEH zones to communities, and in working with each town to identify how the information collected can be integrated into the hazard mitigation efforts. The reason for this **sole source** contract amendment is that LRPC already has relationships with its constituent communities in the provision of technical assistance relative to hazards identification and mitigation. Prior to the approval of the original contract, LRPC was part of a team that brought to fruition many projects to benefit the citizens of Suncook River communities, and keenly understands the issues in this watershed. Regional planning commissions, including LRPC, provide a similar role in all FEH assessment projects in New Hampshire as commissions best understand the needs of each community and have the greatest effectiveness in supporting towns in hazard mitigation planning.

LRPC has not been able to execute its contract in time for completion by the original contract end date. Completion of these tasks is dependent upon data collection, which will occur during the summer 2013 field season, and was delayed as additional work was needed with the towns and landowners in enabling access to the river for assessment. Of the two communities within the Suncook River corridor within LRPC's region, one has requested that the assessment not be conducted within their town. As a result, this contract is being amended to extend the completion date by one year so that LRPC may fulfill its assistance responsibilities to the town in which the assessment is being conducted; so that the Scopes of Services may be revised to reflect the changes in the towns included; and so that the contract amount may be adjusted downward accordingly.

The agreement has been approved by the Office of the Attorney General as to form, execution, and content. We respectfully request your approval.



Thomas S. Burack, Commissioner

**Agreement for Services with Lakes Region Planning Commission
Amendment No. 1**

This Agreement (hereinafter called the "Amendment") dated this 13th day of March, 2013, is by and between the State of New Hampshire, acting by and through its Department of Environmental Services (hereinafter referred to as the "State") and Lakes Region Planning Commission, acting by and through its Executive Director, Kimon Koulet (hereinafter referred to as the "Grantee").

WHEREAS, pursuant to an Agreement (hereinafter called the "Agreement") approved by the Governor and Council on November 9, 2011, the Grantee agreed to perform certain services upon the terms and conditions specified in the Agreement and in consideration of payment by the State of certain sums as specified therein; and

WHEREAS, The Grantee and the State have agreed to amend the Agreement in certain respects;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. Amendment and Modification of Agreement: The Agreement is hereby amended as follows:
 - (A) The Completion Date as set forth in sub-paragraph 1.7 of the agreement shall be changed from June 30, 2013 to June 30, 2014.
 - (B) The Price Limitation as set forth in sub-paragraph 1.8 of the agreement shall be changed from \$5,755 to \$4,407.
 - (C) The Scope of Services as set forth in Exhibit A shall be amended as follows:

Objective 2 – By June 30, 2013, hold two meetings (one with community officials and one with residents) from Barnstead for the purpose of describing the FEH study. Measurement of success: One meeting with community officials and one meeting with residents regarding the Suncook River FEH study.

Task 3 – Invite the community officials previously identified on the list generated in Task 2 to the community officials meeting.

Task 4 – Have a representative of LRPC attend the meeting with community officials and the meeting with citizens.

Objective 3 – By June 30, 2013, send a letter to property owners abutting the Suncook River in the community of Barnstead.

Contractor Initials KK
Date 4/5/13

Objective 4 – By March 31, 2014, hold a meeting with community officials from Barnstead for the purpose of presenting the results of the FEH study to stakeholders and citizens. Measurement of success: A meeting for stakeholders and citizens that presents the results of the Suncook River fluvial erosion hazard study.

Task 9 – Identify a host meeting location, time and date within Barnstead. Work with the community to secure the appropriate meeting space.

Task 10 – Invite the community officials previously identified on the list generated in Task 2 to this meeting, and invite, through appropriate public advertisement media, the public at large to the scheduled public meeting.

All existing wording inclusive within Objective 5, Objective 6 and Objective 7 shall be replaced with the following:

Objective 5 – By June 30, 2014, work with community officials in Barnstead to determine how fluvial erosion hazard information can most effectively be used in community hazard mitigation plans. Measurement of success: The conductance of a meeting with town officials to discuss fluvial erosion hazards and hazard mitigation plans.

Task 12 – Prepare presentation and meeting content, and obtain approval from DES. The content of this presentation must include information on how communities can utilize the FEH zones and associated fluvial geomorphology data for the Suncook River in the development and revision of hazard mitigation plans, floodplain management and as a public safety protection tool.

Task 13 – Meet with community officials in Barnstead.

Task 14 – During each meeting with town officials, inquire as to the map format by which the community would like to have a mapped record of all collected fluvial geomorphology data, including FEH zones.

Task 15 – Map the data for the community based upon the map format agreed to in discussions with town officials.

Objective 6 – Prepare and submit financial invoices and reporting documents to DES.

Task 16 – Submit financial invoices and financial reporting documents to DES upon completion of each contract objective.

Contractor Initials RLC
Date 4/5/13

(D) The Contract Price and Method of payment as set forth in Exhibit B shall be amended to indicate that the contract price is limited to \$4,407.00.

(E) The Contract Price and Method of payment as set forth in Exhibit B shall be amended as follows to reflect the revision of the Scope of Services, as set forth in Exhibit A:

Original Task #	Revised Task #	Original Amount	Adjusted Amount	Revised Amount
1 – 2	1 – 2	\$205	\$0	\$205
3 – 4	3 – 4	\$315	\$412	\$717
5 – 8	5 – 8	\$1,480	(\$380)	\$1,100
9 – 11	9 – 11	\$535	\$57	\$592
12 – 13	-	\$370	(\$370)	\$0
14 – 17	12 – 15	\$2,060	(\$767)	\$1,293
18	16	\$790	(\$290)	\$500
Totals:		\$5,755	(\$1,338)	\$4,407

2. **Effective Date of Amendment:** This Amendment shall take effect upon the date of approval of this Amendment by the Governor and Executive Council of the State of New Hampshire.
3. **Continuance of Agreement:** Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.

Contractor Initials *KCR*
Date 4/5/13

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

Lakes Region Planning Commission
By [Signature]
Kimon Koulet, Executive Director

STATE OF NEW HAMPSHIRE
COUNTY OF BELLEVILLE

On this the 5 day of April, 2013, before the undersigned officer, personally appeared Kimon Koulet, Executive Director who acknowledged himself to be the person who executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



[Signature]

My Commission Expires:

THE STATE OF NEW HAMPSHIRE
Department of Environmental Services

By [Signature]
for Thomas S. Burack, Commissioner

Approved by Attorney General this 11 day of April, 2013

OFFICE OF ATTORNEY GENERAL

By [Signature]

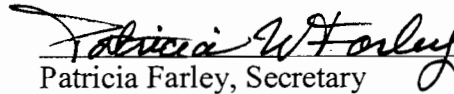
Contractor Initials mic
Date 4/5/13

Certificate of Authority

I, Patricia Farley, do hereby certify that 1) I am the duly elected Secretary of Lakes Region Planning Commission, a regional planning agency established pursuant to the laws of the State of New Hampshire (RSA 36:45-53); 2) I sign and maintain or cause to be maintained and am familiar with the minutes of the commission; 3) I am duly authorized to issue certificates with respect to the contents of such minutes; 4) at the regular board meeting held on March 13, 2013 the commission voted to allow Kimon Koulet, Executive Director, to accept monies and execute any documents which may be necessary to effectuate contracts; 5) this authorization remains in full force and effect until revoked, and 6) the following person has been appointed to and now occupies the office indicated in (4) above:

Kimon Koulet, Executive Director

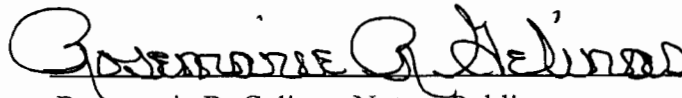
IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of the Lakes Region Planning Commission, this 1 day of April, 2013.


Patricia Farley, Secretary

State of New Hampshire
County of Belknap

On this the 1 day of April, 2013, before me Rosemarie R. Gelinas the undersigned officer, personally appeared Patricia Farley who acknowledged him/herself to be the Secretary of the Lakes Region Planning Commission being authorized so to do, executed the foregoing instrument for the purpose therein contained.

In witness whereof, I have set my hand and official seal.


Rosemarie R. Gelinas, Notary Public

Commission Expiration Date:





LAKES23

OP ID: BH

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

01/07/13

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Melcher & Prescott-Meredith PO Box 724 Meredith, NH 03253 Ted Fodero	603-279-4591	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS:	FAX (A/C, No):																				
	603-279-8144	<table border="1"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A :</td> <td>Peerless Insurance Company</td> <td>24198</td> </tr> <tr> <td>INSURER B :</td> <td>Hanover Insurance Company</td> <td>22292</td> </tr> <tr> <td>INSURER C :</td> <td></td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A :	Peerless Insurance Company	24198	INSURER B :	Hanover Insurance Company	22292	INSURER C :			INSURER D :			INSURER E :			INSURER F :	
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INSURED Lakes Region Planning Commission 103 Main Street-Humiston Bldg Meredith, NH 03253																							

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**


THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Business Owners GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X		BOP9015038	07/14/12	07/14/13	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			BA9357071	07/14/12	07/14/13	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10000			CU9502441	07/14/12	07/14/13	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC9010671	07/14/12	07/14/13	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
B	Crime			BDV1888932	11/27/11	11/27/14	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

States Covered: NH Officers/Members Excluded: None
 NH Dept of Environmental Services is considered, on the General Liability policy, an additional insured per written contract via form 44-148 06/04
 Commercial Protector Liability Extension Endorsement.

CERTIFICATE HOLDER**CANCELLATION**

NHDES-1 New Hampshire Dept. of Environmental Services 29 Hazen Drive PO Box 95 Concord, NH 03302	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Attachment A: Copy of original approved agreement



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

October 21, 2011

His Excellency, Governor John H. Lynch
 and the Honorable Council
 State House
 Concord, New Hampshire 03301

APPROVED G & C

DATE 11/9/11
 ITEM # 84

REQUESTED ACTION

Authorize the Department of Environmental Services to enter into **sole source** agreements with the two entities identified below, in the amount of \$15,343.55 to engage in outreach activities to communities in support of the Suncook River fluvial erosion hazard program, effective upon Governor and Council approval through June 30, 2013. 100% Capital (General) funds.

Vendor	Location	Vendor #	Amount
Central New Hampshire Planning Commission	Concord, NH	154613	\$9,588.55
Lakes Region Planning Commission	Meredith, NH	154653	\$5,755.00

Funding is available in account as follows:

	<u>FY 2012</u>
03-44-44-440030-0960-034-500162	\$15,343.55

Dept Environmental Services, 11-253:1:VI-F Suncook River Project, Capital Project

EXPLANATION

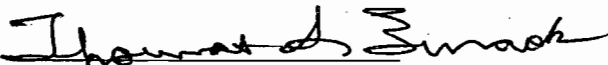
The purpose of this **sole source** request is to provide funding to the regional planning commissions listed above, which support Suncook River communities, to provide assistance in fulfilling two goals: (1) providing support to the communities in outreach and in the coordination of meetings for officials and the public regarding the geomorphic assessments; and (2) supporting emergency management and town officials by providing maps of the completed fluvial erosion hazards (FEH) zones to communities, and in working with each town to identify how the information collected can be integrated into the hazard mitigation efforts. These two regional planning commissions are well adapted to fulfill this role. During the past year, staff from these two commissions have been integral in the team approach that has brought to fruition many projects to benefit the citizens of Suncook River communities, and keenly understand the issues, including that of the natural processes operating on the river. Their role will continue to build on the strong partnerships that have been established among state and local officials, the regional planning commissions and citizens. Regional planning commissions provide a similar role in all FEH projects undertaken in New Hampshire as the commissions best understand the needs of each community and have the greatest effectiveness in supporting towns in hazard mitigation planning. Thus, the commissions' role as part of the FEH project is consistent with FEH projects conducted elsewhere in New Hampshire.

One of the components of the successful implementation of fluvial erosion hazards (FEH) information for protection of public safety in New Hampshire is strong outreach and support to members of the communities and public officials within those towns where river geomorphic assessments are being conducted for the purpose of identifying FEH zones. Within the capital budget for the Suncook River Infrastructure Protection Project, funds have been included to conduct a river geomorphic assessment for the delineation of FEH zones for the Suncook River. This project was actively sought by emergency management and public officials in the communities within which the Suncook River flows, given the highly dynamic nature of the river that has resulted from the Suncook River avulsion. The river geomorphic condition assessment will be conducted during 2012 on the 36 mile length of this river. The resulting maps of FEH zones are intended for use by these communities as a hazard mitigation tool to achieve reductions in the future costs to life, property, and infrastructure from continued flood and erosion damage.

DES sent a list of tasks to each of the two commissions. Proposed rates have been submitted, and DES has worked with the commissions to develop fair and reasonable rates and terms for each contract. The number of river miles, the number of communities in which assessments will be conducted, and the level of support needed for each community is different for the two commissions. Consequently, each agreement has an associated cost value commensurate with the requirements of a particular commission to fulfill the tasks associated with this program.

The grant agreements have been approved by the Office of the Attorney General as to form, execution, and content.

We respectfully request your approval.



Thomas S. Burack, Commissioner
Department of Environmental Services

Subject: Suncook River Fluvial Erosion Hazard Community Assistance FORM NUMBER P-37 (version 1/09)

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

GENERAL PROVISIONS

1. IDENTIFICATION.

Form with fields for State Agency Name, Contractor Name, Account Number, Completion Date, Price Limitation, Signatures, and Approvals.

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, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("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. 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.

Contractor Initials KAC
Date 9/28/11

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 consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written 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 \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance 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 fifteen (15) 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 endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) 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.

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.

EXHIBIT A SCOPE OF SERVICES

The Lakes Region Planning Commission (LRPC) shall perform the following tasks in support of the Suncook River Fluvial Erosion Hazard Assessment, as described and provided in a cost proposal provided to DES on September 27, 2011:

Objective 1: By December 23, 2011, for the communities of Barnstead and Gilmanton, identify the board members and community officials (stakeholders) who should, based upon the experience of the Lakes Region Planning Commission (LRPC), be invited to attend an outreach meeting, to be held in collaboration with the Central New Hampshire Planning Commission (CNHPC) and the Department of Environmental Services (DES), specific to the Suncook River Fluvial Erosion Hazards (FEH) study.

Measurement of success: A list of invitees to a meeting of community officials in the Suncook River corridor.

Task 1: Provide the names of recommended invitees for each of the communities listed above to DES.

Task 2: Upon submittal of the list of recommended invitees for each community, work with DES to refine the initial list to a final version.

Objective 2: By March 30, 2012, in collaboration with CNHPC, hold a joint meeting with community officials from all communities in the Suncook River corridor (Allenstown, Barnstead, Chichester, Epsom, Gilmanton, Pembroke and Pittsfield) for the purpose of describing the purpose of the FEH study.

Measurement of success: A meeting with community officials in the Suncook River corridor regarding the Suncook River FEH study.

Task 3: Invite, through media deemed appropriate for each community, the community officials previously identified on the list generated in Task 2 to this stakeholders meeting.

Task 4: Have one representative of LRPC attend this meeting.

Objective 3: By May 25, 2012, send a letter to property owners abutting the Suncook River in the communities of Barnstead and Gilmanton.

Measurement of success: Letters sent to each property owner abutting the Suncook River.

Task 5: Coordinate the wording of the information letter with DES.

Task 6: Obtain parcel riverfront landowner name and address information manually from current tax assessor records on file in the aforementioned communities, and input this to a database for the creation of mailing labels, if such information is not already available.

Task 7: Collate mailing and send the information letter to landowners.

Task 8: Provide a list of addresses to which the letter has been mailed to DES.

Objective 4: By March 29, 2013, in collaboration with CNHPC, hold a joint meeting with community officials from all communities in the Suncook River corridor (Allenstown, Barnstead, Chichester, Epsom, Gilmanton, Pembroke and Pittsfield) for the purpose of presenting the results of the FEH study to stakeholders.

Measurement of success: A meeting to stakeholders that presents the results of the Suncook River fluvial erosion hazard study.

Task 9: Identify a host meeting location, time and date within either Barnstead or Gilmanton. Work with the host community to secure the appropriate meeting space.

Task 10: Invite, through media deemed appropriate for each community, the community officials previously identified on the list generated in Task 2 to this stakeholders meeting.

Task 11: One representative from LRPC shall attend this meeting.

Objective 5: By April 27, 2013, in collaboration with CNHPC, hold a public meeting for all Suncook River communities in the corridor for the purpose of presenting the results of the FEH study to citizens.

Measurement of success: The scheduling of and attendance at a public meeting to present the results of the Suncook River fluvial erosion hazard study.

Task 12: Invite, through appropriate public advertisement media, the public at large to the scheduled public meeting.

Task 13: One representative from LRPC shall attend the meeting.

Objective 6: By June 30, 2013, work with community officials in Barnstead and Gilmanton to determine how fluvial erosion hazard information can most effectively be used in community hazard mitigation plans.

Measurement of success: The conductance of a meeting with town officials in each community to discuss fluvial erosion hazards and hazard mitigation plans.

Task 14: Prepare presentation and meeting content, and obtain approval from DES. The content of this presentation must include information on how communities can utilize the FEH zones delineated for the Suncook River in the development and revision of hazard mitigation plans, floodplain management and as a public safety protection tool.

Task 15: Meet with community officials in Barnstead and Gilmanton.

Task 16: During each meeting with town officials, inquire as to the map format by which each community would like to have a mapped record of the FEH zone data.

Task 17: Map the data for each community based upon the map format agreed to in discussions with town officials.

Objective 7: Prepare and submit financial invoices and reporting documents to DES.

Task 18: Submit financial invoices and financial reporting documents to DES upon completion of each contract objective.

**EXHIBIT B
CONTRACT PRICE AND METHOD OF PAYMENT**

All services shall be performed to the satisfaction of DES before payment is made. All payments shall be made upon receipt and approval of stated tasks and upon receipt of associated invoice. Documentation shall be provided with each payment request. The contract price is limited to \$5,755.00. Payment shall be made in accordance with the following schedule based upon completion of specific tasks described in Exhibit A:

Upon submittal and DES approval of Tasks 1 – 2	\$205.00
Upon submittal and DES approval of Tasks 3 – 4	\$315.00
Upon submittal and DES approval of Tasks 5 – 8	\$1,480.00
Upon submittal and DES approval of Tasks 9 – 11	\$535.00
Upon submittal and DES approval of Tasks 12 – 13	\$370.00
Upon submittal and DES approval of Tasks 14 – 17	\$2,060.00
Upon submittal and DES approval of Task 18	\$790.00

**EXHIBIT C
SPECIAL PROVISIONS**

Paragraph 14.1 of the General Provisions is amended as follows:

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 or death, in amounts of not less than \$1,000,000 per occurrence; and

14.1.2 automobile liability insurance against all claims in amounts of not less than \$1,000,000 per occurrence.

Certificate of Authority

I, Patricia Farley, do hereby certify that 1) I am the duly selected Secretary of Lakes Region Planning Commission, a regional planning agency established pursuant to the laws of the State of New Hampshire (RSA 36:45-53); 2) I sign and maintain or cause to be maintained and am familiar with the minutes of the commission; 3) I am duly authorized to issue certificates with respect to the contents of such minutes; 4) at the regular board meeting held on September 14, 2011, the commission voted to allow Kimon Koulet, Executive Director, to accept monies and execute any documents which may be necessary to effectuate contracts; 5) this authorization remains in full force and effect until revoked, and 6) the following person has been appointed to and now occupies the office indicated in (4) above:

Kimon Koulet, Executive Director

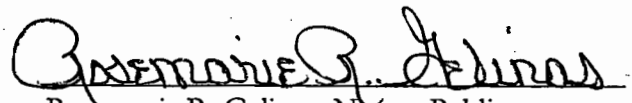
IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of the Lakes Region Planning Commission, this 28 day of September, 2011.


Patricia Farley, Secretary

State of New Hampshire
County of Belknap

On this the 28 day of September, 2011, before me Rosemarie R. Gelinis the undersigned officer, personally appeared Patricia Farley who acknowledged him/herself to be the Secretary of the Lakes Region Planning Commission being authorized so to do, executed the foregoing instrument for the purpose therein contained.

In witness whereof, I have set my hand and official seal.


Rosemarie R. Gelinis, Notary Public

Commission Expiration Date:



