

THE STATE OF NEW HAMPSHIRE

39 YOR

CHAIRMAN  
Martin P. Honigberg

COMMISSIONERS  
Robert R. Scott  
Kathryn M. Bailey

EXECUTIVE DIRECTOR  
Debra A. Howland



**PUBLIC UTILITIES COMMISSION**

21 S. Fruit Street, Suite 10  
Concord, N.H. 03301-2429

TDD Access: Relay NH  
1-800-735-2964

Tel. (603) 271-2431

FAX (603) 271-3878

Website:  
www.puc.nh.gov

January 18, 2017

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, NH 03301

Your Excellency and Honorable Councilors:

**REQUESTED ACTION**

Pursuant to RSA 365:37, II and III, authorize the Public Utilities Commission to enter into a **SOLE SOURCE** contract amendment with Daymark Energy Advisors Inc., One Washington Mall, Boston, MA 02108, Vendor Code #162628, by increasing the amount by \$52,000 from \$225,000 to \$ 277,000 and extending the completion date to June 30, 2017, from the original contract end date of March 31, 2017 approved by Governor and Council on August 3, 2016, Item #42. Funding is 100% Utility Assessment.

Funds will be available, pursuant to RSA 365:37, II, in account 02-81-81-810010-52160000-046500464, General Consultants, for FY 2017.

<u>FY2017</u>	<u>Total</u>
\$277,000.00	\$277,000.00

**EXPLANATION**

The Public Utilities Commission (Commission) respectfully requests authority to enter into a **SOLE SOURCE** contract amendment with Daymark Energy Advisors Inc. (Daymark). The original contract was issued for Daymark to assist and advise Commission Staff in the review, analysis, and evaluation of new net metering tariffs or other alternative rate designs to be developed for renewable energy systems by March 2017 as required under House Bill 1116 amending RSA 362-A:9. In December 2016, the Commission issued Order No. 25,972 approving an extension of the procedural schedule to facilitate the completion of discovery, submission of detailed rebuttal testimony, evaluation of potential settlement options, and preparation for hearings on the merits.

The Commission's requested amendment of time and funding is needed for Daymark to continue to assist Commission Staff in developing a more extensive and detailed record upon which the Commission may base its final decision in the net metering proceeding. In addition, it will allow

Daymark to provide expert testimony and presents the Commission Staff's position during the increased number of scheduled technical sessions, settlement conferences, and merits hearing dates. Specifically, the number of scheduled days devoted to technical sessions and settlement conferences has doubled from three to six and the number of hearing days has tripled from three to nine.

This amendment is **SOLE SOURCE** because the time required to issue a new Request for Proposal and award a separate contract would not allow the Commission Staff to meet the March hearing dates and June target deadline included in the extended procedural schedule for the proceeding.

The increased contract amount will not affect the General Fund. Funds will be assessed pursuant to RSA 365:37, II, which permits the Commission to obtain experts and assess the costs to the regulated electric utilities who are mandatory parties to the proceeding.

Your consideration of our request is appreciated.

Respectfully submitted,



Martin P. Honigberg  
Chairman

Attachments:  
Agreement with Exhibits

**AMENDMENT No. 1  
PROFESSIONAL SERVICES CONTRACT**

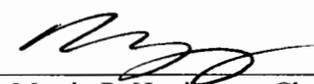
Now comes the New Hampshire Public Utilities Commission (Commission) and Daymark Energy Advisors Inc. (Contractor) and, pursuant to an agreement for professional consulting services between the Commission and the Contractor which was approved by the Governor and Council on August 3, 2016, Item #42, hereby agree to amend and modify said agreement as follows:

1. Item 1.7 of the agreement is hereby amended such that the completion date is changed from March 31, 2017 to June 30, 2017.
2. Item 1.8 of the agreement is hereby amended such that the price limitation is changed from \$225,000 to \$277,000.00.
3. Exhibit B of the agreement is hereby amended to change all relevant references therein from \$225,000 to \$277,000.00.
4. This amendment shall take effect upon approval by the Governor and Council.
5. All other provisions of the agreement remain in full force and effect according to their terms.

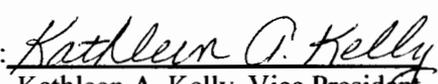
This amendment and modification of an existing agreement is hereby incorporated by reference to the existing agreement by the parties and shall be attached to said agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands on this 17<sup>th</sup> day of January, 2017.

THE STATE OF NEW HAMPSHIRE  
Public Utilities Commission

By:   
Martin P. Honigberg, Chairman

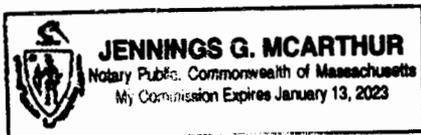
DAYMARK ENERGY ADVISORS INC.

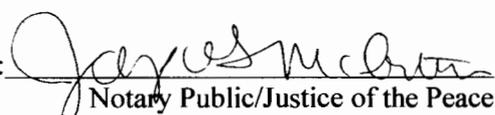
By:   
Kathleen A. Kelly, Vice President

COMMONWEALTH OF MASSACHUSETTS  
COUNTY OF ~~SUFFOLK~~, ss. ESSEX

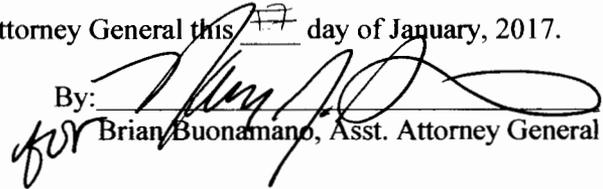
On this the 17 day of January, 2017, before me personally appeared Kathleen A. Kelly, who acknowledged herself to be the individual who executed the forgoing instrument for the purposes therein contained.

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



By:   
Notary Public/Justice of the Peace

Approved as to form, substance, and execution by the Attorney General this 17 day of January, 2017.

By:   
for Brian Buonamano, Asst. Attorney General

CERTIFICATE OF AUTHORITY NOTE  
(Corporation with Notary Seal)

I, Bonnie McDonald, do hereby certify that:  
(Name of Clerk of the Corporation, cannot be the one who signed the contract)

1. I am a duly elected Clerk of Daymark Energy Advisors, Inc.  
(The Corporation)
  
2. The following are true copies of two resolutions duly adopted at a meeting of the Board of Directors of the Corporation duly held on April 1, 2016.  
(Date given authority)

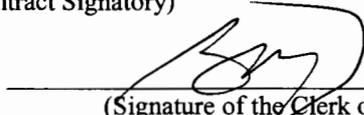
RESOLVED: That this Corporation enter into a contract with the State of New Hampshire, acting through its Public Utilities Commission for the provision of Consulting services (re: review, analysis, and evaluation of new net metering tariffs or other alternative rate designs to be developed for renewable energy systems on-site and/or distributed generation up to one megawatt (MW) in generating capacity).

RESOLVED: That the Kathleen A. Kelly  
(Title of one who signed the contract)

is hereby authorized on behalf of this Corporation to enter into the said contract with the State and to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, as he/she may deem necessary, desirable or appropriate.

3. The forgoing resolutions have not been amended or revoked, and remain in full force and effect as of January 17, 2017.  
(Date Contract Signed)
  
4. Kathleen A. Kelly is the duly elected Vice President  
(Name of Contact Signatory) (Title of Contract Signatory)

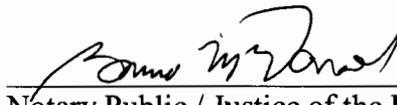
of the Corporation.

  
(Signature of the Clerk of the Corporation)

COMMONWEALTH OF Massachusetts  
County of Suffolk

The foregoing instrument was acknowledged before me this 17th day of January 17, 2017 by  
Bonnie McDonald  
(Name of person signing above, Clerk of the Corporation)

(NOTARY SEAL)

  
Notary Public / Justice of the Peace

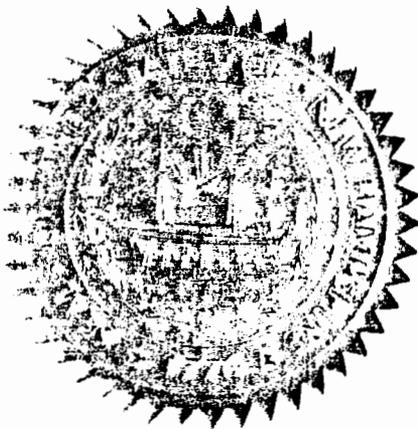
Commission Expires: 1-14-2022



# State of New Hampshire Department of State

## CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that DAYMARK ENERGY ADVISORS INC. a(n) Massachusetts corporation, is authorized to transact business in New Hampshire and qualified on May 2, 2002. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 7<sup>th</sup> day of July, A.D. 2016

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State



DAYMENE-01

PTOME

**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

7/7/2016

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).

<b>PRODUCER</b> <b>Rogers &amp; Gray Insurance Agency, Inc.</b> 434 Rte 134 South Dennis, MA 02660	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): E-MAIL ADDRESS: <b>mail@rogersgray.com</b>		FAX (A/C, No): <b>(877) 816-2156</b>
	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURED</b>  <b>Daymark Energy Advisors Inc.</b> One Washington Mall, 9th Floor Boston, MA 02108	<b>INSURER A : American Casualty Company of Reading, Pennsylvania</b>		<b>20427</b>
	<b>INSURER B : CNA/Continental Casualty</b>		
	<b>INSURER C : National Fire Insurance Company of Hartford</b>		<b>20478</b>
	<b>INSURER D : National Union Fire Ins. Co. of Pittsburgh PA</b>		<b>19445</b>
	<b>INSURER E :</b>		
<b>INSURER F :</b>			

**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 SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<b>A</b>	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		<b>B2090840622</b>	<b>09/19/2015</b>	<b>09/19/2016</b>	EACH OCCURRENCE \$ <b>2,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>300,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>2,000,000</b> GENERAL AGGREGATE \$ <b>4,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>4,000,000</b> \$
<b>A</b>	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS		<b>B2090840622</b>	<b>09/19/2015</b>	<b>09/19/2016</b>	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
<b>B</b>	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ <b>10,000</b>		<b>B 6020515358</b>	<b>09/19/2015</b>	<b>09/19/2016</b>	EACH OCCURRENCE \$ <b>5,000,000</b> AGGREGATE \$ <b>5,000,000</b> \$
<b>C</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> A	<b>WC414366701</b>	<b>12/15/2015</b>	<b>12/15/2016</b>	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>
<b>D</b>	<b>Med Professional Lia</b>		<b>015841882</b>	<b>09/19/2015</b>	<b>09/19/2016</b>	<b>Per Claim &amp; Aggregate 2,000,000</b>

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

**CERTIFICATE HOLDER****CANCELLATION**

**New Hampshire Public Utilities Commission**  
 21 South Fruit Street, Suite 10  
 Concord, NH 03301

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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THE STATE OF NEW HAMPSHIRE

CHAIRMAN  
Martin P. Hohnjoerg

COMMISSIONERS  
Robert R. Scott  
Cathryn M. Bailey

EXECUTIVE DIRECTOR  
Debra A. Howland



100 Access: Relay NH  
1-800-735-2964

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www.puc.nh.gov

PUBLIC UTILITIES COMMISSION

21 S. Fruit Street, Suite 10  
Concord, N.H. 03301-2429

G & C Date 8/3/16  
Item Number 42  
Approved \_\_\_\_\_

July 20, 2016

LR# 170204  
WU# 10115348  
P.# 105193P

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

Your Excellency and Honorable Councilors:

**REQUESTED ACTION**

Pursuant to RSA 365:37, II and III, authorize the Public Utilities Commission to enter into a contract with Daymark Energy Advisors Inc., One Washington Mall, Boston, MA 02108, Vendor Code #162628 to assist and advise Public Utilities Commission Staff in the review, analysis, and evaluation of new net metering tariffs or other alternative rate designs to be developed for renewable energy systems on-site and/or distributed generation up to one megawatt in generating capacity, as required under House Bill 1116 amending RSA 362-A:9, the contract to be effective upon the date of Governor and Council approval through March 31, 2017, in an amount not to exceed \$225,000.00. Funding is 100% Utility Assessment.

Funds will be available, pursuant to RSA 365:37, II, in account 02-81-81-810010-52160000-046-500464.  
General Consultants, for FY 2017.

<u>FY2017</u>	<u>Total</u>
\$225,000.00	\$225,000.00

**EXPLANATION**

The Public Utilities Commission (Commission) respectfully requests authority to enter into a contract in an amount not to exceed \$225,000.00 with Daymark Energy Advisors Inc. (Daymark), a consulting firm specializing in the regulated utilities industry, to assist and advise Commission Staff in the review, analysis, and evaluation of new net metering tariffs or other alternative rate designs to be developed for renewable energy systems on-site and/or distributed generation up to one megawatt in generating capacity, as required under House Bill 1116 amending RSA 362-A:9, which became effective on May 2, 2016. Pursuant to RSA 365:37, III (effective June 5, 2012), the Commission shall seek approval of governor and council for contracts with experts greater than \$100,000 for investigations or proceedings

that do not involve the acquisition, merger, transfer, sale, or lease of the works or system of a public utility.

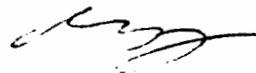
The Commission issued a Request for Proposals (RFP) on May 17, 2016. The notice of the RFP was published in the Union Leader for three days and was posted on the Commission's website. The Commission received six (6) responses to its RFP. An evaluation team comprised of the Director of the Commission's Sustainable Energy Division, the Director of the Commission's Electric Division, an attorney from the Commission's Legal Division, and a utility analyst with the Commission's Sustainable Energy Division, reviewed the six RFP responses. The bid responses were reviewed and scored using the selection criteria identified in the RFP, weighted as follows: 30% qualifications, technical and practical experience; 25% price; 25% experience and qualifications in similar engagements; 10% availability and accessibility; and 10% overall responsiveness and presentation quality.

After the bids were scored and ranked, three respondents were eliminated from consideration as their bid responses did not demonstrate sufficient relevant experience and Daymark was identified as the top ranked bidder. The evaluation team then interviewed Daymark representatives regarding Daymark's proposal. Daymark's bid price was the lowest of the top three respondents, based on a comparison of hourly rates and staff assigned to the engagement, and taking into account what the evaluation team determined was a reasonable estimate of hours required to complete the scope of work. Further, the evaluation team concluded that the quality of Daymark's work plan and the related experience of its proposed project team make it best suited to assist and advise Commission Staff in this legislatively-mandated rate design proceeding. Based upon the above, the Commission selected Daymark to perform the contracted for work.

The contract amount will not affect the General Fund. Funds will be assessed pursuant to RSA 365:37, II, which permits the Commission to obtain experts and assess the costs to the regulated electric utilities who are mandatory parties to the proceeding.

Your consideration of our request is appreciated.

Respectfully submitted,



Martin P. Honigberg  
Chairman

Attachments:  
Agreement with Exhibits

Subject: Daymark Energy Advisors Inc. Consulting Services New Net Metering Tariffs **FORM NUMBER P-37 ( version 1/09)**

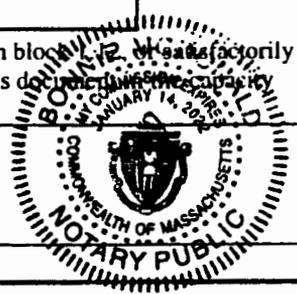
**AGREEMENT**

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

**GENERAL PROVISIONS**

**I. IDENTIFICATION.**

1.1 State Agency Name <u>Public Utilities Commission</u>		1.2 State Agency Address <u>21 South Fruit Street, Suite 10, Concord, NH 03301</u>	
1.3 Contractor Name <u>Daymark Energy Advisors Inc.</u>		1.4 Contractor Address <u>One Washington Mall, 9th Floor, Boston, MA 02108</u>	
1.5 Contractor Phone Number <u>617-778-5515</u>	1.6 Account Number <u>5216000/500464</u>	1.7 Completion Date <u>March 31, 2017</u>	1.8 Price Limitation <u>\$225,000.00</u>
1.9 Contracting Officer for State Agency <u>Karen P. Cramton, Director of Sustainable Energy Division</u>		1.10 State Agency Telephone Number <u>603-271-2431</u>	
1.11 Contractor Signature <u>Kathleen A. Kelly</u>		1.12 Name and Title of Contractor Signatory <u>Kathleen A Kelly, Vice President</u>	
1.13 Acknowledgement: State of <u>Mass.</u> , County of <u>Suffolk</u> On <u>7/8/2016</u> , before the undersigned officer, personally appeared the person identified 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 <u>Bonnie McDonald</u> [Seal]		1.13.2 Name and Title of Notary or Justice of the Peace <u>Bonnie McDonald, Client Relationship Manager - Corp. Secretary</u>	
1.14 State Agency Signature <u>[Signature]</u>		1.15 Name and Title of State Agency Signatory <u>Martin P. Honigberg, Chairman</u>	
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) By: _____ On: <u>7/18/16</u>			
1.18 Approval by the Governor and Executive Council 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, 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 KAK  
Date 7/18/12

**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

Contractor Initials KAK  
Date 7/5/16

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

Contractor shall assist and advise Commission Staff in the review, analysis, and evaluation of new net metering tariffs or other alternative rate designs to be developed for renewable energy systems on-site and/or distributed generation up to one megawatt in generating capacity, as required under House Bill 1116 amending RSA 362-A:9, effective as of May 2, 2016, in connection with Docket DE 16-576 and potentially other dockets.

In particular, Contractor shall assist and advise Commission Staff as directed by Staff in connection with one or more of the following areas:

1. Cost-of-service analysis and marginal cost-based rate design;
2. Analysis, evaluation, and development of net metering tariffs, which may include other regulatory mechanisms and tariffs for customer-generators;
3. Analysis and evaluation regarding whether and to what extent such tariffs should be limited in their availability within each electric distribution utilities' service territory or customer class or by technology;
4. Review, analysis, and evaluation of utility marginal cost of service studies; and
5. Development of alternative rate designs with consideration given to:
  - a. the costs and benefits of customer-generator facilities;
  - b. the avoidance of unjust and unreasonable cost-shifting;
  - c. the rate impacts on all customers;
  - d. alternative rate structures, including time-based tariffs;
  - e. whether there should be a limitation on the amount of generating capacity eligible for such tariffs;
  - f. the size of facilities eligible to receive alternative net metering tariffs;
  - g. timely recovery of lost revenue by the utility using an automatic rate adjustment mechanism; and
  - h. electric distribution utilities' administrative processes required to implement such tariffs and related regulatory mechanisms.

In addition to providing analysis, advice, and recommendations regarding the above issues, Contractor shall perform the following services and provide the following deliverables, in each case as and when directed by Commission Staff:

1. Attendance at and analytical support provided in technical sessions, settlement conferences, and negotiations;
2. Assistance to Staff in the preparation, review, and analysis of discovery requests and responses with respect to cost of service studies, initial and supplemental tariff filings and potential alternatives, and other submissions and testimony filed by parties and commenters in the proceeding;
3. Preparation and delivery of reports and testimony prior to and during the litigated phases of the proceeding; and
4. Attendance at and participation in Commission hearings during the litigated phases of the proceeding, including as witnesses, advisors, and interrogators.

This exhibit is intended as a summary of Contractor's Proposal to Provide Consulting Services Relative to New Net Metering Tariffs dated June 3, 2016 submitted in response to Commission RFP #2016-005 (Proposal), and is not intended to limit the scope of services as set forth in RFP #2016-005 and the Proposal.

Contractor Initials KAK  
Date 7/8/16  
G&C Date 08/03/2016  
Page 1 of 2

## 1. Project Schedule

Contractor shall commence work immediately following approval of this Agreement by the Governor and Executive Council. Contractor shall schedule an initial project scoping meeting with Commission Staff to occur within three (3) business days following approval of this Agreement by the Governor and Executive Council. The purpose of the meeting shall be to review and refine the scope, task, and project approach requirements; to establish a project plan and schedule with key milestones and deliverables, as applicable; and to establish project management and communications protocols to ensure that the information requirements of both Staff and Contractor are satisfied.

## 2. Project Management

Status calls or meetings shall be conducted by Contractor's project manager with Commission Staff at least weekly to discuss docket status and progress, action items, and budget status.

Contractor shall provide an updated written budget and project status report following the end of each calendar month during the contract term.

For any activities not addressed in the project schedule section above or requiring modification as the work progresses, Contractor shall work with Commission Staff to set a mutually agreeable schedule and related budget.

## 3. Additional Requirements

Contractor shall maintain confidential all non-public information to which it has access until such time as it is instructed otherwise by Commission Staff. In the process of preparing any and all deliverables, Contractor shall work closely with Staff in order to facilitate effective knowledge transfer on each issue. At the conclusion of performance of services hereunder, Contractor shall make available to the Commission summaries of significant work papers and source documents as requested.

**EXHIBIT B**

**BUDGET, PRICE LIMITATION, AND PAYMENT**

1. **Estimated Budget and Contractor Charges.** Contractor shall charge for professional services rendered and reasonable out-of-pocket expenses incurred up to a not-to-exceed price of \$225,000.00. Any and all such professional services shall be provided and invoiced at the hourly rates presented in Section 6 of Contractor's Proposal to Provide Consulting Services Relative to New Net Metering Tariffs dated June 3, 2016 submitted in response to Commission RFP #2016-005 (Proposal).
2. **Not-to-Exceed Price Limitation.** There shall be a not-to-exceed contract price of \$225,000.00 for successful completion of all work provided for under RFP #2016-005 and the Proposal, as further described in Exhibit A.
3. **Method of Payment.** Payment shall be made on completion of work on the basis of monthly invoices issued by Contractor, which shall be supported by a summary of activities that have taken place in accordance with the terms of this Agreement, together with a detailed listing of reasonable out-of-pocket expenses incurred. Invoices shall provide adequate back-up, including the dates and hours worked per individual during the month and the services provided during those hours. All invoices shall be submitted to the following address:

Business Office, New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, New Hampshire 03301-2429

Payments hereunder shall be contingent upon the availability of funds assessed pursuant to RSA 365:37, II. The Commission will assess the costs of this Agreement to the appropriate parties and, upon payment of the assessment, will process payment to the Contractor. General Funds will not be requested to support this contract.

Contractor Initials KOK  
Date 7/8/16  
G&C Date 08/03/2016  
Page 1 of 1

**EXHIBIT C**

**SPECIAL PROVISIONS**

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CERTIFICATE OF AUTHORITY/VOTE  
(Corporation with Notary Seal)

I, Bonnie McDonald, do hereby certify that:  
(Name of Clerk of the Corporation, cannot be the one who signed the contract)

1. I am a duly elected Clerk of Daymark Energy Advisors, Inc.  
(The Corporation)
2. The following are true copies of two resolutions duly adopted at a meeting of the Board of Directors of the Corporation duly held on April 1, 2016.  
(Date given authority)

RESOLVED: That this Corporation enter into a contract with the State of New Hampshire, acting through its Public Utilities Commission for the provision of Consulting services (re: review, analysis, and evaluation of new net metering tariffs or other alternative rate designs to be developed for renewable energy systems on-site and/or distributed generation up to one megawatt (MW) in generating capacity).

RESOLVED: That the Kathleen A. Kelly  
(Title of one who signed the contract)

is hereby authorized on behalf of this Corporation to enter into the said contract with the State and to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, as he/she may deem necessary, desirable or appropriate.

3. The forgoing resolutions have not been amended or revoked, and remain in full force and effect as of July 8, 2016.  
(Date Contract Signed)

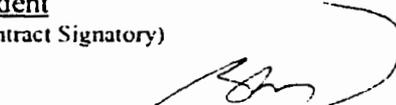
4. Kathleen A. Kelly is the duly elected Vice President  
(Name of Contact Signatory) (Title of Contract Signatory)

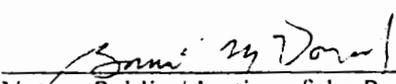
of the Corporation.

COMMONWEALTH OF Massachusetts  
County of Suffolk

The foregoing instrument was acknowledged before me this 8th day of July 2016 by  
Bonnie McDonald  
(Name of person signing above, Clerk of the Corporation)

(NOTARY SEAL)

  
(Signature of the Clerk of the Corporation)

  
Notary Public / Justice of the Peace

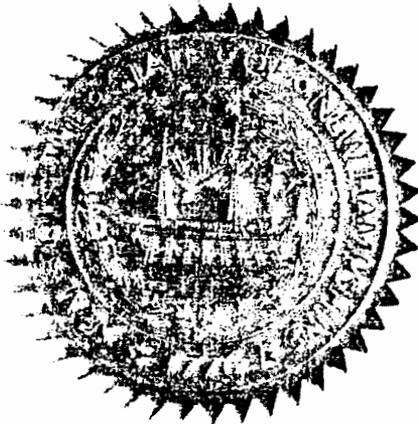


Commission Expires: 1-14-2022

State of New Hampshire  
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that DAYMARK ENERGY ADVISORS INC. a(n) Massachusetts corporation, is authorized to transact business in New Hampshire and qualified on May 2, 2002. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 7<sup>th</sup> day of July, A.D. 2016

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

