

State of New Hampshire

DEPARTMENT OF SAFETY
 OFFICE OF THE COMMISSIONER
 33 HAZEN DR. CONCORD, NH 03305
 603/271-2791

JOHN J. BARTHELMES
 COMMISSIONER

May 23, 2013

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

Requested Action

1. Authorize the Department of Safety, Division of State Police, to amend an existing contract with New Hampshire Motor Transport Association (NHMTA) Services, Inc., P. O. Box 3898, 19 Henniker Street, Concord, NH 03302 (VC#216194-B001) in an amount not to exceed \$4,832.25, increasing the total amount of the contract from \$35,910.00 to \$40,742.25, for the provision of pre-employment physical exams and drug screens of law enforcement personnel (original contract approved by Governor and Council on September 9, 2009, Item #112A, and renewed by Governor and Council on March 16, 2011, Item #120, copy attached). This agreement will become effective upon Governor and Council approval through June 30, 2013. Funding source: 100% Highway.

2. Authorize the Department of Safety, Division of State Police, to exercise the option to extend an existing contract for a two-year period with New Hampshire Motor Transport Association (NHMTA) Services, Inc., P. O. Box 3898, 19 Henniker Street, Concord, NH 03302 (VC#216194-B001) in an amount not to exceed \$16,583.50, increasing the total contract amount from \$40,742.25 to \$57,325.75, for the provision of pre-employment physical exams and drug screens of law enforcement personnel (original contract approved by Governor and Council on September 9, 2009, #112A, and renewed by Governor and Council on March 16, 2011, #120, copies attached). The extension will be upon Governor and Council approval for the period July 1, 2013, through June 30, 2015. Funding source: 38% Turnpike, 9% Highway, 6% Transfer from Other Agencies, 47% Navigational Safety.

Funds are available in SFY 2013 operating budget and anticipated to be available in SFY 2014 and SFY 2015 operating budget contingent upon continued appropriation, with authority to adjust encumbrances in each of the state fiscal years through the Budget Office if needed and justified:

Dept of Safety – Division of State Police

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
02-23-23-234015-40030000 – Traffic Bureau			
020-500271- Current Expenses – Other Medical Services	\$4,832.25	\$3,902.00	\$3,902.00
02-23-23-234010-42150000 – NHH Security			
020-500271 - Current Expenses – Other Medical Services	\$ 0.00	\$ 487.75	\$ 487.75
02-23-23-234010-50010000 – Watercraft Safety			
020-500271 - Current Expenses – Other Medical Services	\$ 0.00	\$3,902.00	\$3,902.00
TOTAL	\$4,832.25	\$8,291.75	\$8,291.75

Explanation

This amendment is necessary for two reasons. First, the Division of State Police has experienced a substantial increase in quality candidates applying for trooper positions. Second, the Department of Safety Toxicology Lab discontinued the drug testing portion of the physical exam. NHMTA subcontracts the drug exam portion of the contract to Fleetscreen L.P. This contract provides for pre-employment physical exams and drug screens for Marine Patrol Officer Trainee, State Police

Her Excellency, Governor Margaret Wood Hassan
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May 23, 2013
Page 2 of 2

Probationary Trooper and New Hampshire Hospital Campus Security Officer candidates, as required for all applicants by *New Hampshire Police Standards and Training Council's Recommended Guidelines for Recruit Academy Medical Examinations (Pol301.04)*. These services concern the pre-employment prescribed health, medical and physical examinations for personnel who may become employees of the Department of Safety, Division of State Police.

This contract is the second of two (2) , two (2) year extensions approved in the original contract to cap potential price increases with no more than a three (3) percent increase each term in an effort to save money. NHMTA Services, Inc. was the only vendor who responded to a request for proposal and submitted the only qualifying bid for the original contract.

Respectfully submitted,


John J. Barthelmes
Commissioner of Safety

Contract Amendment

Increase to Contract Amount

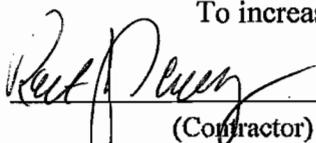
(Purpose for Contract Amendment)

NHMTA Services, Inc.

(Contractor)

It is hereby agreed that the current contract, approved March 16, 2011, Item #120, between NHMTA Services, Inc., as "Contractor" and the New Hampshire Department of Safety, Division of State Police as "State," for the provision of pre-employment physicals and drug testing for the State Recruitment & Training Unit, is amended as follows:

To increase the contract by \$4,832.25.



(Contractor)

By: Robert J. Sculley

Title: President

Company: New Hampshire Motor
Transport Association

State of: New Hampshire

County of: Merrimack

On the 19th day of April, 2013 there appeared before me in the state and county foresaid, a person who satisfactorily identified himself as Robert J. Sculley and acknowledged that he executed this document.

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



Notary Public/~~Justice~~ of the Peace

My Commission Expires: September 19, 2017

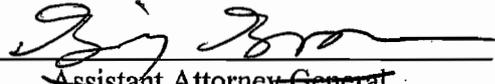
(Affix Seal)

STATE OF NEW HAMPSHIRE

By:  Title: Director of Administration ⁵⁻¹⁹⁻¹³

The foregoing contract, having been reviewed by this office, is approved as to form, substance and execution

OFFICE OF THE ATTORNEY GENERAL

By:  On: June 4, 2013
~~Assistant Attorney General~~

Governor and Council of New Hampshire

On: _____

Signed: _____ Title: _____



NEW HAMPSHIRE MOTOR TRANSPORT ASSOCIATION

April 19, 2013

State of New Hampshire
Department of Safety
James Hayes Building
33 Hazen Drive
Concord NH 03305

Re: RFP SP 2010-12 Pre-employment physical examinations and drug screening.

Resolved that Robert J. Sculley of New Hampshire Motor Transport Association is authorized to sign a contract with the State of New Hampshire, Department of Safety; For the provision of pre-employment physical examinations and drug screenings for Department of Safety – Division of State Police and Division of Safety Services as provided in and required by New Hampshire Police Standards and Training Council's Recommended Guidelines for Recruit Academy Medical Examinations (Pol301.04).

A handwritten signature in black ink, appearing to read "Brian Lewis", with a long, sweeping horizontal stroke extending to the right.

Brian Lewis, Chairman
Board of Directors

vct

Subject: Pre-employment physicals - law enforcement 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, Completion Date, Price Limitation, Signatures, and Acknowledgements. Includes handwritten entries like 'Dept of Safety, Division of State Police', 'NHMTA Services, Inc.', 'June 30, 2015', and signatures of Robert J. Sculley and Vera C. Tucker.

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

Date

MP
5/14/13

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

Date

MP
9/16/13

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.

Contractor Initials

Date

MP
5/16/13

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAFETY
DIVISION OF STATE POLICE**

EXHIBIT A

The New Hampshire Department of Safety, Divisions of State Police and Safety Services are contracting NHMTA Services, Inc., P. O. Box 3898, 19 Henniker St., Concord, NH 03302-3898, to perform physical exams and/or drug screens as outlined in the *New Hampshire Police Standards and Training Council's Recommended Guidelines for Recruit Academy Medical Examinations (Pol301.04)*. These services concern the pre-employment prescribed health, medical and physical examinations for personnel who may become employees of the Department of Safety, Divisions of State Police or Safety Services.

The contract renewal will become upon Governor and Council approval July 1, 2013 through June 30, 2015.

EXHIBIT B

The Contractor agrees to invoice the Department of Safety separately for examinations performed for the Division of State Police for each individual whose exam has been processed completely (\$52.50 per physical exam; \$45.05 per drug exam for a total of \$97.55 per complete exam). The contractor further agrees not to exceed the contract total of \$16,583.50 through the contract end date of June 30, 2015. The State of New Hampshire agrees to make payment within 30 days of receipt of such invoices.

The appropriate account numbers for the P-37 form, section 1.6 are listed below:

		<u>FY 2014</u>	<u>FY 2015</u>
02-23-23-234015-4003	Dept of Safety – Division of State Police – Traffic Bureau		
020-500271		\$3,902.00	\$3,902.00
Current Expenses – Other Medical Services			
02-23-23-234010-4215	Dept. of Safety - Division of State Police - NHH Security		
020-500271		\$ 487.75	\$ 487.75
Current Expenses – Other Medical Services			
02-23-23-234010-5001	Dept. of Safety – Division of State Police - Watercraft Safety		
020-500271		<u>\$3,902.00</u>	<u>\$3,902.00</u>
Current Expenses – Other Medical Services			
TOTAL		\$8,291.75	\$8,291.75

EXHIBIT C

Both parties agree to amending section 14.1.1 of the P-37 amount of insurance to agree with the vendor's coverage currently in force of comprehensive general liability in the amount of \$1,000,000.00 each occurrence and excess/umbrella liability of \$1,000,000.00 each occurrence. This is deemed to be sufficient given the nature of the contract.

Contractor's initials LD
Date 5/16/13



NEW HAMPSHIRE MOTOR TRANSPORT ASSOCIATION

May 22, 2013

State of New Hampshire
Department of Safety
James Hayes Building
33 Hazen Drive
Concord NH 03305

Re: RFP SP 2010-12 Pre-employment physical examinations and drug screening.

Resolved that on May 16, 2013, Robert J. Sculley of New Hampshire Motor Transport Association was authorized to sign a contract with the State of New Hampshire, Department of Safety; For the provision of pre-employment physical examinations and drug screenings for Department of Safety – Division of State Police and Division of Safety Services as provided in and required by New Hampshire Police Standards and Training Council's Recommended Guidelines for Recruit Academy Medical Examinations (Pol301.04).

A handwritten signature in black ink, appearing to read "Brian Lewis", is written over a horizontal line.

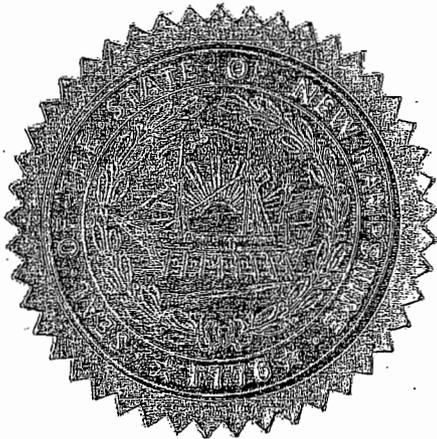
Brian Lewis, Chairman
Board of Directors

vct

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 NHMTA SERVICES, INC. is a New Hampshire corporation duly incorporated under the laws of the State of New Hampshire on December 8, 1995. I further certify that all fees and annual reports required by the Secretary of State's office have been received and that articles of dissolution have not been filed.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 22nd day of April, A.D. 2013

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

William M. Gardner
Secretary of State



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/22/2013

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 Wieczorek Insurance 166 Concord St. Manchester NH 03104	CONTACT NAME: Cheryl Lapointe
	PHONE (A/C No. Ext): (603) 668-3311 FAX (A/C No.): (603) 668-2011 E-MAIL ADDRESS: cheryl@wizinsurance.com
INSURED New Hampshire Motor Transport Assoc/NHMTA PO Box #3898 Concord NH 03302-3898	INSURER(S) AFFORDING COVERAGE
	INSURER A: Westchester Fire Insurance Co NAIC # SWETT
	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:

COVERAGES CERTIFICATE NUMBER: CL1342204300 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	N	N	G24183075002	1/1/2013	1/1/2014	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ N/A
	<input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						MED EXP (Any one person) \$ N/A
	<input checked="" type="checkbox"/> PROFESSIONAL LIABILITY						PERSONAL & ADV INJURY \$ N/A
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 1,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$ N/A
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> OCCUR					AGGREGATE \$
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	<input type="checkbox"/> CLAIMS-MADE					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)		N/A				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Certificate of Insurance is subject to policy terms, conditions and limitations.

CERTIFICATE HOLDER NH Department of Safety Hazen Drive Concord, NH 03305	CANCELLATION 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 R Wieczorek/KATHY



NH MOTOR TRANSPORT ASSOCIATION SELF-INSURANCE GROUP TRUST
CERTIFICATE OF INSURANCE

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.

This is to certify that: NHMTA Services, Inc.
 19 Henniker Street PO Box 3898
 Concord NH 03302

Is, at the issue date of this certificate, insured by the Company, under the policy(ies) listed below. The insurance afforded by the listed policy(ies) is subject to all thier terms, exclusions and conditions and is not altered by any requirement, term or condition or other document with respect to which this certificate may be issued.

TYPE OF POLICY	EXP DATE	POLICY NUMBER	LIMIT OF LIABILITY
	Continuous*		
	Extended		
	Policy Term		
WORKERS COMPENSATION	01/01/2013-01/01/2014	WC 000650	COVERAGE AFFORDED UNDER WC LAW OF THE FOLLOWING STATES: NH
			EMPLOYERS LIABILITY:
			Bodily Injury By Accident:
			500,000 Each Accident
			Bodily Injury by Disease:
			500,000 Policy Limit
			Bodily Injury by Disease:
			500,000 Each Person
OTHER			

ADDITIONAL COMMENTS:

*If the certificate expiration date is continuous or extended term, you will be notified if coverage is terminated or reduced before the certificate expiration date.

NOTICE OF CANCELLATION: (Not applicable unless a number of days is entered below.) Before the stated expiration date, the company will not cancel or reduce the insurance afforded under the above policies until at least 30 days. Notice of such cancellation has been mailed to:

NH Department of Safety
 Hazen Drive
 Concord NH 03305

NH MOTOR TRANSPORT ASSOCIATION SELF-INSURANCE GROUP TRUST

Authorized Representative

Concord, NH
 Office

603-224-7337
 Phone Number

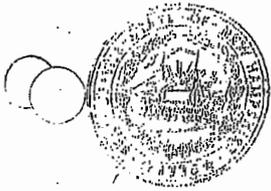
April 12, 2013
 Date Issued

HIC to Dott 2/25/10

G & C 03-16-11
#120

see Exhibit C
page 6 of 6

COPY



State of New Hampshire

DEPARTMENT OF SAFETY
OFFICE OF THE COMMISSIONER

33 HAZEN DR. CONCORD, NH 03305
603/271-2791

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

February 1, 2011

Requested Action

Authorize the Department of Safety, Division of Safety Services and the Division of State Police to exercise a one-year renewal option to contract with NHMTA Services, Inc. (VC#216194) in an amount not to exceed \$18,220.00, resulting in the total contract increase from \$17,690.00 to \$35,910.00, for the provision of pre-employment physical exams and/or drug screens of law enforcement personnel not to exceed beyond June 30, 2015 (original contract approved by G&C September 9, 2009, Item #112A). Funding source: 11.8% Highway, 2.8% Turnpike, 2.2% Transfers from Other Agencies and 83.2% Navigational Safety. This agreement will be effective July 1, 2011 upon Governor and Council approval through June 30, 2013.

Funds are anticipated to be available in the SFY 2012 and SFY 2013 upon the availability and continued appropriation of funds in the future operating budgets as follows with authority to adjust encumbrances in each of the State Fiscal years through the Budget Office if needed and justified.

51.00 ad Physical
43.75/ea 4005

		<u>FY 2012</u>	<u>FY 2013</u>
02-23-23-234010-4003	Dept of Safety - Division of State Police - Traffic Bureau		
020-500271		\$1,326.00	\$1,326.00
Current Expenses - Other Medical Services			
02-23-23-234010-4215	Dept. of Safety - Division of State Police - NHH Security		
020-500271		\$ 204.00	\$ 204.00
Current Expenses - Other Medical Services			
02-23-23-235010-5001	Dept. of Safety - Division of Safety Services - Watercraft Safety		
020-500271		\$7,580.00	\$7,580.00
Current Expenses - Other Medical Services			
TOTAL		\$9,110.00	\$9,110.00

Explanation

This contract will provide for pre-employment physical exams and/or drug screens for Marine Patrol Officer Trainee, State Police Probationary Trooper and New Hampshire Hospital Campus Security Officer candidates, as required for all applicants by *New Hampshire Police Standards and Training Council's Recommended Guidelines for Recruit Academy Medical Examinations (Pol. 301.04)*. These services concern the pre-employment prescribed health, medical, and physical examinations for personnel who may become employees of the Department of Safety, Divisions of State Police, or Safety Services.

Respectfully submitted,

John J. Barthelmes
Commissioner of Safety

Subject:

Pre-employment physicals - law enforcement

FORM NUMBER P-37 (version 1/09)

RECEIVED

2011 JAN 5 PM 2:24
NH STATE POLICE

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Dept of Safety, Division of State Police		1.2 State Agency Address 33 Hazen Drive, Concord, NH 03305	
1.3 Contractor Name NHMTA Services, Inc.		1.4 Contractor Address P. O. Box 3898, 19 Henniker St., Concord, NH 03302-3898	
1.5 Contractor Phone Number (603) 224-7337	1.6 Account Number Pls see attached Exhibit B	1.7 Completion Date June 30, 2013	1.8 Price Limitation Not to exceed \$18,220.00
1.9 Contracting Officer for State Agency Colonel Robert L. Quinn		1.10 State Agency Telephone Number (603) 223-3863	
1.11 Contractor Signature <i>Ralf J. Cully</i>		1.12 Name and Title of Contractor Signatory Robert J. Saulley, President	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>Jan 6, 2011</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <i>Vera C. Tucker</i> [Seal]		Vera C. Tucker, Notary Public My Commission Expires September 19, 2012	
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature <i>Wesley J. Colby</i>		1.15 Name and Title of State Agency Signatory Wesley J. Colby Dir. of Adm.	
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: <i>John M. Mason</i> On: 2-17-11			
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 *AP*
Date *Jan 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/SUB CONTRACTS. 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

Date Jan 16, 11

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.

Contractor Initials

Date Jan 16, 11

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAFETY
DIVISION OF STATE POLICE**

EXHIBIT A

The New Hampshire Department of Safety, Divisions of State Police and Safety Services are contracting NHMTA Services, Inc., P. O. Box 3898, 19 Henniker St., Concord, NH 03302-3898, to perform physical exams and/or drug screens as outlined in the *New Hampshire Police Standards and Training Council's Recommended Guidelines for Recruit Academy Medical Examinations (Pol301.04)*. These services concern the pre-employment prescribed health, medical and physical examinations for personnel who may become employees of the Department of Safety, Divisions of State Police or Safety Services.

The contract will become effective upon Governor and Council approval through June 30, 2013. The contract may be extended for one (1) two (2) year term at the option of the State alone with no more than a three (3) percent increase per said term.

EXHIBIT B

The Contractor agrees to invoice the Department of Safety separately for examinations performed for the Division of Safety Services and the Division of State Polices for each individual whose exam has been processed completely. The contractor further agrees not to exceed the contract total of \$18,220.00 through the contract end date of June 30, 2013. The State of New Hampshire agrees to make payment within 30 days of receipt of such invoices.

The appropriate account numbers for the P-37 form, section 1.6 are listed below:

	<u>FY 2012</u>	<u>FY 2013</u>
02-23-23-234010-4003 020-500271 Dept of Safety – Division of State Police – Traffic Bureau – Current Expenses – Other Medical Services	\$1,326.00	\$1,326.00
02-23-23-234010-4215 020-500271 Dept. of Safety - Division of State Police - NHH Security Current Expenses – Other Medical Services	\$ 204.00	\$ 204.00
02-23-23-235010-5001 020-500271 Dept. of Safety – Division of Safety Services - Watercraft Safety Current Expenses – Other Medical Services	<u>\$7,580.00</u>	<u>\$7,580.00</u>
TOTAL	\$9,110.00	\$9,110.00

enough for 26 exams

Contractor's initials MP

Date 1/6/11

EXHIBIT C

Both parties agree to amending section 14.1.1 of the P-37 amount of insurance to agree with the vendor's coverage currently in force of comprehensive general liability in the amount of \$1,000,000.00 each occurrence and excess/umbrella liability of \$1,000,000.00 each occurrence. This is deemed to be sufficient given the nature of the contract.

Contractor's initials RPD
Date 1/6/11

Subject: Pre-employment, physicals - law enforcement 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.

1.1 State Agency Name <u>Dept of Safety, Div of State Police</u>		1.2 State Agency Address <u>33 Hazen Dr, Concord, NH 03305</u>	
1.3 Contractor Name <u>NHMTA Services, Inc.</u>		1.4 Contractor Address <u>P. O. Box 3898, 19 Henniker St., Concord, NH 03302-3898</u>	
1.5 Contractor Phone Number <u>(603) 224-7337</u>	1.6 Account Number <u>Pls see attached Exhibit C</u>	1.7 Completion Date <u>June 30, 2011</u>	1.8 Price Limitation <u>Not to exceed \$17,690.00</u>
1.9 Contracting Officer for State Agency <u>Colonel Frederick H. Booth</u>		1.10 State Agency Telephone Number <u>(603) 271-3296</u>	
1.11 Contractor Signature <u><i>Rula W. McLaughlin</i></u>		1.12 Name and Title of Contractor Signatory <u>Rula W. McLaughlin Cust. Serv. Manager</u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>7/13/09</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <u><i>Vera C. Tucker</i></u> [Seal] <u>Vera C. Tucker, Notary Public</u> My Commission Expires <u>September 19, 2012</u>			
1.13.2 Name and Title of Notary or Justice of the Peace <u>Vera C. Tucker, Notary Public</u>			
1.14 State Agency Signature		1.15 Name and Title of State Agency Signatory	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: _____ On: _____			
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.

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: the services performed; and the contract price earned, 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/SUB CONTRACTS.

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 renewals 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

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.

STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAFETY
DIVISION OF STATE POLICE

EXHIBIT A

The New Hampshire Department of Safety, Divisions of State Police and Safety Services are contracting NHMTA Services, Inc., P. O. Box 3898, 19 Henniker St., Concord, NH 03302-3898, to perform physical exams and/or drug screens as outlined in the *New Hampshire Police Standards and Training Council's Recommended Guidelines for Recruit Academy Medical Examinations (Pol301.04)*. These services concern the pre-employment prescribed health, medical and physical examinations for personnel who may become employees of the Department of Safety, Divisions of State Police or Safety Services.

The contract will become effective upon Governor and Council approval through June 30, 2011. The contract may be extended for two (2) two (2) year terms at the option of the State alone with no more than a three (3) percent increase per each term.

EXHIBIT B

The Contractor agrees to invoice the Department of Safety separately for examinations performed for the Division of Safety Services and the Division of State Polices for each individual whose exam has been processed completely. The contractor further agrees not to exceed the contract total of \$17,690.00 through the contract end date of June 30, 2011. The State of New Hampshire agrees to make payment within 45 days of receipt of such invoices.

EXHIBIT C

The appropriate account numbers for the P-37 form, section 1.6 are listed below:

		<u>FY 2010</u>	<u>FY 2011</u>
02-23-23-234010-4003 020-500271	Dept of Safety – Division of State Police – Traffic Bureau	\$1,287.00	\$1,287.00
Current Expenses – Other Medical Services			
02-23-23-234010-4215 020-500271	Dept. of Safety - Division of State Police - NHJ Security	\$ 198.00	\$ 198.00
Current Expenses – Other Medical Services			
02-23-23-235010-5001 020-500271	Dept. of Safety – Division of Safety Services - Watercraft Safety	<u>\$7,360.00</u>	<u>\$7,360.00</u>
Current Expenses – Other Medical Services			
TOTAL		\$8,845.00	\$8,845.00

Both parties agree to amending section 14 of the P-37 amount of insurance to agree with the vendor's coverage of comprehensive general liability of \$1,000,000.00 for each incident. The insurance coverage is adequate for the provision of pre-employment physical examinations and drug screens.

certified officer. The applicant's fingerprints shall be submitted to the division of state police for the purpose of determining the existence of any criminal history record. The hiring authority shall also check for the existence of a criminal history record and motor vehicle violation history record in New Hampshire and wherever the applicant has resided.

(b) No applicant who has been convicted of a felony under federal law, or the law of this or any other state, province, territory or country, unless he/she has been pardoned, shall be appointed as a full-time or part-time police, corrections or probation/parole officer.

(c) Pursuant to RSA 651:5, XI (b), the council shall consider the existence of an annulled criminal record in determining the fitness of an individual to serve as a law enforcement officer, in accordance with the criteria of Pol 301.05(g).

Pol 301.03 Citizenship. No person shall be appointed as a police officer unless he/she is a citizen of the United States.

 Pol 301.04 Physical Examination. Each applicant shall meet the following requirements relative to the applicant's physical examination:

(a) Each uncertified person employed as a police or corrections officer, after being issued a conditional offer of probationary employment by the hiring authority, shall undergo a physical examination by a New Hampshire licensed physician. For the purposes of this rule, "licensed physician" shall also include a licensed health care provider.

(b) The examination shall be conducted in order to provide all of the information specified on the council form "D".

(c) The licensed physician shall provide on council form "D" the following information:

- (1) Name, date of birth, height, weight, and general appearance of examinee;
- (2) Results of a visual acuity test on the examinee;
- (3) Lung breath sounds and rates;
- (4) Date of chest X-ray, if given;
- (5) Chest configuration, measurements and auxiliary nodes;
- (6) Blood pressure, pulse rate, and heart sounds and rhythm at rest, after moderate exercise and three minutes after exercise;
- (7) Condition of circulation to extremities and any abnormalities noted;
- (8) Results of nervous system tests including Romberg and knee-jerk tests;
- (9) Results of abdominal examination and any abnormalities noted;
- (10) Examination of the eyes, ears, nose, throat and teeth, and any abnormalities noted;
- (11) Mobility, symmetry and posture of the musculoskeletal system, including spine, upper and lower extremities, with notation of any limited function or missing parts;
- (12) Any physical, mental or emotional conditions which in the opinion of the physician suggest further examination;

(13) Results of an EKG test, if required by the agency, or otherwise indicated by abnormal heart sounds and rhythms, or if the applicant is more than 40 years of age;

(14) A certification that the examining physician has no reservations about the examinee's ability to participate without restrictions in a rigorous physical training program or perform the duties of a police or corrections officer, as appropriate;

(15) Name, address and signature of physician; and

(16) Date of examination.

(d) Council form "D" shall also contain a report of medical history section which shall be completed by the examinee.

(e) The medical history section of the Form "D" shall include information regarding:

(1) History of prior diseases;

(2) Hospitalizations;

(3) Medical treatment;

(4) Allergies;

(5) Medical disabilities;

(6) Illnesses or injuries; and

(7) Whether or not the examinee:

a. Has ever been discharged from the military service for medical reasons;

b. Received a disability pension or compensation;

c. Been denied insurance or refused employment for medical reasons; or

d. Has ever sought worker compensation benefits for an accident or illness.

(f) The form shall also contain a signed release by the examinee to allow doctors, hospitals or clinics involved in treatment of the examinee to release the examinee's medical transcript to the council. It shall also contain a section where the examining physician may enter any comments on the reported medical history, and the name, address and signature of the examining physician.

Pol 301.05 Background Investigation. The following shall apply to the background investigation required on the applicant by the agency:

(a) The hiring authority shall conduct, or cause to be conducted, a background investigation before appointing a person or investing with authority any person elected as a police, corrections or probation/parole officer, notwithstanding that the officer may already be employed by another hiring authority or is already a certified police, corrections or probation/parole officer.

(b) Prospective applicants shall complete a personal history for the hiring authority on a form supplied by the council, including the following information:

(1) Applicant identification information, including: