



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner



August 26, 2013

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

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to execute an amendment to the Agreement (PO# 7000994) with Pepperrell Cove Marine Services, Inc., Portsmouth, NH (Vendor Code #174036), by increasing the contract by \$1,850 to \$21,750 from \$19,900, for the underwater installation of concrete anchor bolts for a support bracket needed for a gate operator mechanism, effective upon Governor & Council approval through June 30, 2014. The original Agreement was approved by G&C on May 1, 2013 (Item #64). Funding is 100% Capital (General) Funds.

Funding is available in the account as follows:

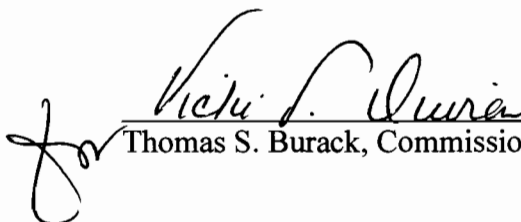
	<u>FY 2014</u>
03-44-44-442030-0957-034-500161	\$1,850
Dept of Environmental Services, 11,253:1-VI-C Dam Repairs and Reconstruction, Capital Projects	

EXPLANATION

DES originally established this agreement to provide underwater installation of a gate at the low-level outlet at the Deering Reservoir Dam. Upon further review of the project at a pre-construction meeting, it was determined that a support bracket needs to be attached to the concrete gate inlet structure to ensure the long term integrity of the stem assembly and connection to the gate. This requires underwater drilling to install stainless steel threaded rod anchor bolts so that a bracket can be attached while installing the stem assembly. This work is beyond the scope of the original Agreement, requiring DES to request this amendment to the Agreement. The cost of this amendment is less than 10% of the amount of the original Agreement and is consistent with the labor rates under the original Agreement, as well as the level of effort to complete the additional work required under the amendment.

The amendment has been approved by the Office of the Attorney General as to form, execution, and content.

We respectfully request your approval.



Thomas S. Burack, Commissioner

DES Web Site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095
Telephone: (603) 271-3503 Fax: (603) 271-2867 TDD Access: Relay NH 1-800-735-2964

**AMENDMENT #1
TO
AGREEMENT
BETWEEN THE NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
AND
PEPPERRELL COVE MARINE SERVICES, INC.**

DEERING RESERVOIR UNDERWATER GATE INSTALLATION

WHEREAS the State of New Hampshire Department of Environmental Services ("DES") has entered into an Agreement with Pepperrell Cove Marine Services, Inc. ("Contractor"), in the amount of \$19,900.00 for underwater marine construction services to install a gate on the low-level outlet at the Deering Reservoir Dam effective May 1, 2013 through June 30, 2014.

WHEREAS DES wishes to execute an Amendment 1 to the Agreement to provide an additional \$1,850.00 for underwater drilling and installation of four (4) stainless steel threaded rod anchors on the face of the inlet structure to allow for the installation of a protective bracket for the gate stem assembly. The stem assembly is to be installed by DES.

NOW THEREFORE, the original Agreement between DES and Pepperrell Cove Marine Services, Inc., as approved by Governor and Council on May 1, 2013, as Item #64, is hereby amended in the following manner:

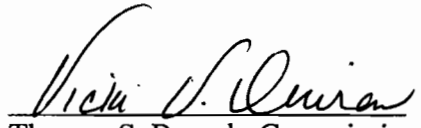
Change section 1.8 (Price Limitation) to read: \$21,750.00; and,

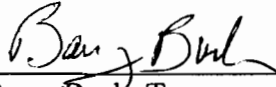
Add the following language to Exhibit A:

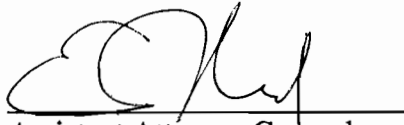
- Drill four holes into the concrete gate block face, using the template layout supplied by DES. The holes are to allow for future installation of stainless steel bolt anchors (by Contractor) to attach a gate shaft support frame (by DES). Holes are to be drilled to a diameter to allow for the installation, by the Contractor, of 3/8"-diameter Red Head Tru-bolt wedge anchors, per manufacturer's specifications. Holes shall be drilled a minimum depth of 3-1/4" inches, and are to be drilled and cleaned per manufacturer's recommendations. The provided drilling template is to be composed of plywood, lexan, or similar rigid material, and constructed to allow the Contractor to use the template as a guide under water.
- Install four 3/8"-diameter Stainless Steel "Trubolt" anchors. Anchors shall be Red Head WW-3850 Trubolt Type 304 Stainless Steel 3/8 X 5" anchors, installed per manufacturer's recommendations. Anchors shall be embedded a minimum of 3 inches into the concrete, and have approximately 2 inches of exposed thread remaining beyond the concrete after installation. Assure that the anchor is seated appropriately and able to develop resisting force, prior to demobilization, by pulling on the installed anchors by hand and assuring there is no movement observed.
- After installation, stainless steel nuts and washers, provided by DES, are to be loosely threaded on to the bolts so to protect the threads in the interim between bolt installation and gate shaft support frame installation.

Change last sentence of the first paragraph of Exhibit B to read: The total cost of the contract shall not exceed \$21,750.00.

All other conditions outlined in the contract shall remain in effect.


for Thomas S. Burack, Commissioner
Department of Environmental Services


Barry Bush, Treasurer
Pepperrell Cove Marine Services, Inc.


Assistant Attorney General
Department of Justice

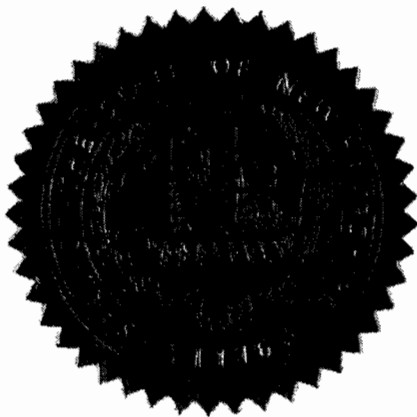
9-5-13

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 Pepperrell Cove Marine Services, Inc. a(n) Maine corporation, is authorized to transact business in New Hampshire and qualified on November 27, 2000. 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 5th day of April, A.D. 2013

A handwritten signature in cursive script, reading "William M. Gardner".

William M. Gardner
Secretary of State



Pepperrell Cove Marine

105 Bartlett St-Rear-Portsmouth, NH 03801

Ph: 603.373.6812 Fax: 603.373.6832

Info@pepcove.com

CERTIFICATE OF VOTE (Corporation with Seal)

I, Barry Bush, Treasurer of Pepperrell Cove Marine Services, Inc. do hereby certify that:

- (1) I am the duly elected and acting Treasurer of the Pepperrell Cove Marine Services, Inc., a Maine corporation (the "Corporation");
- (2) I maintain and have custody of and am familiar with the Seal and minute books of the Corporation;
- (3) I am duly authorized to issue certificates;
- (4) the following are true, accurate and complete copies of the resolutions adopted by the Board of Directors of the Corporation at a meeting of the said Board of Directors held on the 20th day of August, 2013, which meeting was duly held in accordance with Maine law and the by-laws of the Corporation:

RESOLVED: That this Corporation enter into a contract as amended with the State of New Hampshire, acting by and through the Department of Environmental Services, providing for the performance by the Corporation of certain marine construction services, and that the President (any Vice President) (and the Treasurer) (or any of them acting singly) be and hereby (is) (are) authorized and directed for and on behalf of this Corporation to enter into the said contract with the State and to take any and all such actions and to execute, seal, acknowledge and deliver for and on behalf of this Corporation any and all documents, agreements and other instruments (and any amendments, revisions or modifications thereto) as (she) (he) (any of them) may deem necessary, desirable or appropriate to accomplish the same;

RESOLVED: That the signature of any officer of this Corporation affixed to any instrument or document described in or contemplated by these resolutions shall be conclusive evidence of the authority of said officer to bind this Corporation thereby; The forgoing resolutions have not been revoked, annulled or amended in any manner whatsoever, and remain in full force and effect as of the date hereof; and the following person(s) (has) (have) been duly elected and now occupy the office(s) indicated below

Flora Bush President

Bryan Bush Vice President

Barry Bush Treasurer



Pepperrell Cove Marine

105 Bartlett St-Rear-Portsmouth, NH 03801

Ph: 603.373.6812 Fax: 603.373.6832

Info@pepcove.com

IN WITNESS WHEREOF, I have hereunto set my hand as the Treasurer (Title) of the Corporation and have affixed its corporate seal this 21 day of AUGUST, 2013.

Barry Bush
Treasurer

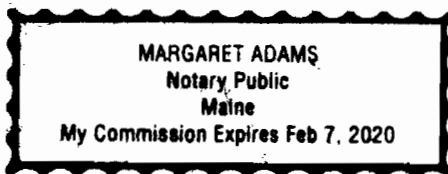
(Seal)

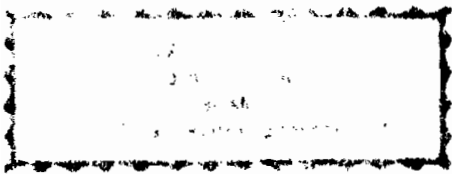
STATE OF Maine
COUNTY OF York

On this the 21 day of 8, 2013, before me, MARGARET ADAMS, the undersigned officer, personally appeared Barry Bush, who acknowledge her/himself to be the Treasurer, of Pepperrell Cove Marine Services Inc., a corporation, and that she/he, as such Treasurer being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by her/himself as Barry Bush Treasurer. IN WITNESS WHEREOF I hereunto set my hand and official seal.

Margaret Adams
Notary Public/Justice of the Peace

My Commission expires: 02/07/2020





Corporate Resolution of:

Pepperrell Cove Marine Services, Inc.

We, the undersigned, being all the directors of this corporation consent and agree that the following corporate resolution was made on February 26, 2013 date at 3:00 9.m. time at 105 Bartlett Street-Rear, Portsmouth, NH.

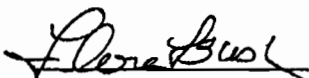
We do hereby consent to the adoption of the following as if it was adopted at a regularly called meeting of the board of directors of this corporation. In accordance with State law and the bylaws of this corporation, by unanimous consent, the board of directors decided that:

It would enter into a contract with The State of New Hampshire Department of Environmental Services for Marine Construction services.

Therefore, it is resolved, that the corporation shall:

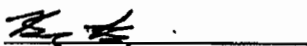
Enter into the afore mentioned contract.

The officers of this corporation are authorized to perform the acts to carry out this corporate resolution.


Director signature

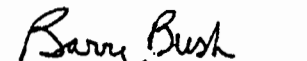
Flora Bush
Printed name

2/26/13
Date


Director signature

Bryan Bush
Printed name

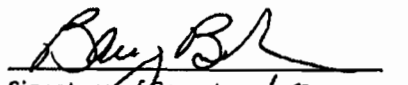
2/26/13
Date


Director signature

Barry Bush
Printed name

2/26/13
Date

The Secretary of the Corporation, certifies that the above is a true and correct copy of the resolution that was duly adopted at a meeting of the dated meeting of the board of directors.


Signature of Secretary/Treasurer

2/26/13
Date

Barry Bush
Printed name of Secretary/Treasurer



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/5/2013

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 International Special Risks, Inc. 50 Salem Street Building B, 3rd Floor Lynnfield MA 01940	CONTACT NAME: Jami Marad PHONE (A/C No. Ext.): (781) 295-0270 FAX (A/C No.): (781) 246-7830 E-MAIL ADDRESS: jmarad@isr-insurance.com
INSURED Pepperrell Cove Marine Services, Inc. 105 Bartlett Street - Rear Portsmouth NH 03801	INSURER(S) AFFORDING COVERAGE INSURER A: Great American Insurance Co. INSURER B: XL Specialty Insurance INSURER C: Commerce and Industry Insurance INSURER D: Lloyd's of London INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** Blanket 13-14 **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 INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ includes Protection & Indemnity GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC		OMH 891-56-81	4/2/2013	4/2/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 Protection & Indemnity Limit \$ 1,000,000	
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$	
	UMBRELLA LIAB ☒ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 25,000			UM00022994MA12A	4/2/2013	4/2/2014	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☒ Y N/A			WC 161-56-28 Includes USL&H	4/2/2013	4/2/2014	☒ WC STATUTORY LIMITS ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Maritime Employers Liability (Jones Act)		PG004890c	4/2/2013	4/2/2014	Any One Accident or Illness \$1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
30 day notice of cancellation except 10 days for non payment of premium.
<C: WC Officer Exclusion applies only to State Act coverage. Officers are included under USL&H.>

CERTIFICATE HOLDER Kent.Finemore@des.nh.gov NH Department of Environmental Services Attn: Kent Finemore P.O. Box 95 29 Hazen Drive Concord, NH 03302-0095	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 Steve Macquarrie/JAMI <i>Stephen Macquarrie</i>
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The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner



March 25, 2013

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

APPROVED G & C

DATE 5/1/13
 ITEM # 64

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to enter into an Agreement with Pepperrell Cove Marine Services, Inc., Portsmouth, NH (Vendor Code #174036), in the amount of \$19,900 to complete an underwater installation of a gate at the intake of the low level outlet at the Deering Reservoir Dam, effective upon Governor and Council approval through June 30, 2014. 100% Capital (General) Funds.

Funding is available in the account as follows:

FY 2013

03-44-44-442030-0957-034-500161 \$19,900
 Dept of Environmental Services, 11,253:1-VI-C Dam Repairs and Reconstruction, Capital Projects

EXPLANATION

DES is responsible for the maintenance, repair and reconstruction of all state owned dams per NH RSA 482:55-57. The Deering Reservoir Dam was originally built in 1940 by the New Hampshire Water Resources Board and has been owned by the State ever since. The primary purpose for the impoundment is recreation. DES has addressed several dam safety deficiencies at this dam, including repair of the concrete spillway and outlet structure, leveling of the earth embankment, and extension of the low level outlet pipe. The remaining deficiency is the replacement of the gate at the intake structure of the low level outlet. The existing gate, constructed of wood with steel bracketing, is located 13 feet under the water surface at full pond, is in poor condition, and is not operable. Replacement of the gate in the dry would require a significant drawdown of the Deering Reservoir. However, DES has deemed that alternative infeasible because of the negative impacts to recreation, fish, and wildlife. An Agreement with a qualified marine contractor is needed to conduct underwater installation of the replacement gate.

DES issued a Request For Proposals for this project on January 16, 2013, and received expressions of interest from several contractors. DES received proposals from three qualified marine contractors and rated them based on completeness of the scope of services proposed, total lump sum cost, project timeline, and the Contractor's qualifications and experience.

Marine Maintenance and Construction, Clayton NJ	\$24,475
Pepperrell Cove Marine Services, Inc., Portsmouth NH	\$19,900
BIDCO Marine Group, Inc., Buffalo NY	\$22,330

Her Excellency, Governor Margaret Wood Hassan
and The Honorable Council

Page 2 of 2

An internal committee selected the proposal from Pepperrell Cove Marine Services, Inc., based on the lowest total cost, reasonable timeline, and most complete scope of work of the proposals received. Attachment A provides further detail on the procurement process.

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


Thomas S. Burack, Commissioner

Subject:

Deering Reservoir Underwater Gate Installation

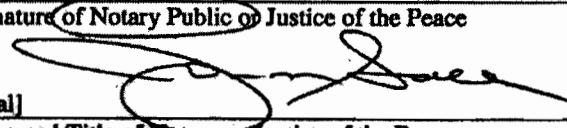
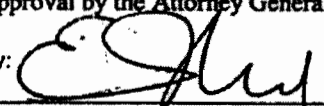
FORM NUMBER P-37 (version 1/09)

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address PO Box 95 - 29 Hazen Drive, Concord, NH 03302-0095	
1.3 Contractor Name Pepperrell Cove Marine Services, Inc.		1.4 Contractor Address 105 Bartlett Street Rear, Portsmouth, NH 03801	
1.5 Contractor Phone Number (603) 373-6812	1.6 Account Number 03-44-44-442030-0957-034	1.7 Completion Date June 30, 2014	1.8 Price Limitation \$19,900.00
1.9 Contracting Officer for State Agency Kent R. Finemore		1.10 State Agency Telephone Number (603) 271-0566	
1.11 Contractor Signature Barry Bush		1.12 Name and Title of Contractor Signatory Treasurer: Barry Bush	
1.13 Acknowledgement: State of <u>Maine</u> , County of <u>York</u> On <u>3-6-2013</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 [Seal]  JOANNE M. SMALL Notary Public, Maine My Commission Expires February 23, 2014			
1.13.2 Name and Title of Notary or Justice of the Peace 			
1.14 State Agency Signature Thomas S. Burack		1.15 Name and Title of State Agency Signatory Thomas S. Burack, Commissioner	
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: 4-15-13			
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 all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual

intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

Exhibit A

Scope of Services

Pepperrell Cove Marine Services, Inc., shall perform the following tasks based on their proposal submitted to DES on February 15, 2013 to replace the gate at the intake of the low-level pond drain at the Deering Reservoir Dam in Deering, NH:

- Conduct an underwater survey of the existing gate and document dimensions and condition of the intake structure. Conduct a leak test using a bio friendly dye and document leakage rate to establish a baseline for final leak testing for the new gate.
- Provide manning levels and equipment to comply with OSHA regulations for confined space entry in the outlet pipe.
- Insert and remotely inflate a plug in the outlet pipe approximately ten feet horizontally from the intake structure. Insert and inflate a backup plug just upstream from the manhole and secure manhole cover. Remotely monitor plug pressure from a safe location.
- Once leakage through the existing gate has equalized pressure in the outlet pipe, the existing gate shall be opened slowly. If the gate does not slide easily a small hole shall be drilled in the gate to verify pressure has been equalized.
- Remove existing gate, take measurements of the intake structure, and correct surface irregularities per new gate manufacturer's instructions. For fixed surface irregularities from 1/8" – 1/2" the product Splash Zone supplied by Fox shall be used. For fixed surface irregularities from 1/2" to 1" an underwater grout product known as Octocrete shall be used.
- Install concrete anchor bolts for new gate as provided by DES. Install and secure new frame and gate supplied by DES. Open and close the gate system by utilizing the stem assembly provided by DES to verify proper fit and slide operations.
- With gate in closed position and divers out of the water, remove inflatable plugs from the outlet pipe.
- Conduct leak test of new gate using bio friendly dye. If leakage rate exceeds 0.1 U.S. gallon per minute per foot of seating perimeter or is not approved by resident DES engineer, the plugs shall be reinstalled in the pond drain outlet pipe and adjustments made to the installation of the new gate. Conduct another leak test, repeat as necessary until leakage rate is approved by resident DES engineer.
- Submit a report to DES that documents the measurements for the intake structure, date and times of all work, summary of work done, video record of the existing and new gates. and descriptions for results of gate operation test, gate seal test, and visual leakage test.

Exhibit B

Contract Price and Method of Payment

All services shall be performed to the satisfaction of DES before payment is made. All payments shall be made upon receipt and approval of stated outputs and upon receipt of an associated invoice. The billing is to be lump sum at the completion of the project. The total cost of the contract shall not exceed \$19,900.

DES agrees to pay the invoices as submitted by the Contractor. Invoices are subject to the approval of the Contract Officer before payment is processed.

Exhibit C
Special Provisions

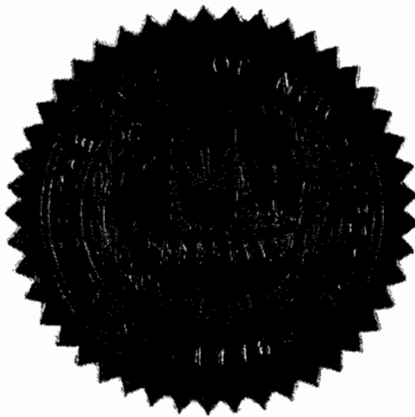
No special provisions.

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 Pepperrell Cove Marine Services, Inc. a(n) Maine corporation, is authorized to transact business in New Hampshire and qualified on November 27, 2000. 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 5th day of April, A.D. 2013

A handwritten signature in cursive script, reading "William M. Gardner".

William M. Gardner
Secretary of State

CERTIFICATE OF VOTE

(Corporation with Seal)

I, Barry Bush, Treasurer of the
(Corporation Representative Name) (Corporation Representative Title)

Pepperrell Cove Marine Services, Inc. do hereby certify that:
(Corporation Name)

(1) I am the duly elected and acting Treasurer of the
(Corporation Representative Title)

Pepperrell Cove Marine Services, Inc. a Maine corporation (the
"Corporation");
(Corporation Name) (State of Incorporation)

(2) I maintain and have custody of and am familiar with the Seal and minute books of the Corporation;

(3) I am duly authorized to issue certificates;

(4) the following are true, accurate and complete copies of the resolutions adopted by the Board of Directors of the Corporation at a meeting of the said Board of Directors held on the

26th day of February, 2013, which meeting was duly held in accordance with

Maine law and the by-laws of the Corporation:
(State of Incorporation)

RESOLVED: That this Corporation enter into a contract with the State of New Hampshire, acting by and through the Department of Health and Human Services, providing for the performance by the Corporation of certain Marine Construction services, and that the President (any Vice President) (and the Treasurer) (or any of them acting singly) be and hereby (is) (are) authorized and directed for and on behalf of this Corporation to enter into the said contract with the State and to take any and all such actions and to execute, seal, acknowledge and deliver for and on behalf of this Corporation any and all documents, agreements and other instruments (and any amendments, revisions or modifications thereto) as (she) (he) (any of them) may deem necessary, desirable or appropriate to accomplish the same;

RESOLVED: That the signature of any officer of this Corporation affixed to any instrument or document described in or contemplated by these resolutions shall be conclusive evidence of the authority of said officer to bind this Corporation thereby;

The forgoing resolutions have not been ~~revoked, annulled or amended~~ in any manner whatsoever, and remain in full force and effect as of the date hereof, and the following person(s) (has) (have) been duly elected and now occupy the office(s) indicated below

Flora Bush President Name

Bryan Bush Vice President Name

Barry Bush Treasurer Name

IN WITNESS WHEREOF, I have hereunto set my hand as the Treasurer
(Title)

of the Corporation and have affixed its corporate seal this 27th day of February, 2013.

Barry Bush
(Title)

(Seal)

STATE OF Maine

COUNTY OF York

On this the 27th day of Feb, 2013, before me, Jill A. Benoski, the undersigned officer,

personally appeared Barry Bush, who acknowledge her/himself to be the

Treasurer, of Pepperrell Cove Marine a corporation, and that
she/he, as (Title) (Name of Corporation)

such Treasurer being authorized to do so, executed the foregoing instrument for the
(Title)

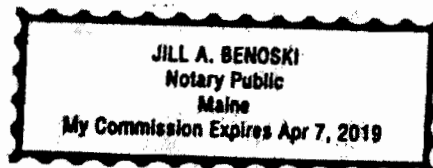
purposes therein contained, by signing the name of the corporation by her/himself as

Barry Bush

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

Jill A. Benoski
Notary Public/Justice of the Peace

My Commission expires: _____



Corporate Resolution of:

Pepperrell Cove Marine Services, Inc.

We, the undersigned, being all the directors of this corporation consent and agree that the following corporate resolution was made on February 26, 2013 date at 3:00 9.m. time at 105 Bartlett Street-Rear, Portsmouth, NH.

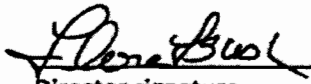
We do hereby consent to the adoption of the following as if it was adopted at a regularly called meeting of the board of directors of this corporation. In accordance with State law and the bylaws of this corporation, by unanimous consent, the board of directors decided that:

It would enter into a contract with The State of New Hampshire Department of Environmental Services for Marine Construction services.

Therefore, it is resolved, that the corporation shall:

Enter into the afore mentioned contract.

The officers of this corporation are authorized to perform the acts to carry out this corporate resolution.


Director signature

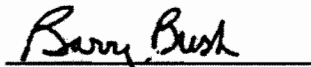
Flora Bush
Printed name

2/26/13
Date


Director signature

Bryan Bush
Printed name

2/26/13
Date


Director signature

Barry Bush
Printed name

2/26/13
Date

The Secretary of the Corporation, certifies that the above is a true and correct copy of the resolution that was duly adopted at a meeting of the dated meeting of the board of directors.


Signature of Secretary/Barry Bush

2/26/13
Date

Barry Bush
Printed name of Secretary/Barry Bush



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/8/2013

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 International Special Risks, Inc. 50 Salem Street Building B, 3rd Floor Lynnfield MA 01940	CONTACT NAME Jami Marad PHONE (781) 295-0270 FAX (781) 246-7930 EMAIL jmarad@isr-insurance.com
INSURED Pepparrell Cove Marine Services, Inc. 105 Bartlett Street - Rear Portsmouth NH 03801	INSURER(S) AFFORDING COVERAGE INSURER A: Great American Insurance Co. INSURER B: XL Specialty Insurance INSURER C: Commerce and Industry Insurance INSURER D: Lloyd's of London INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** Blanket 13-14 **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.

INS LTR	TYPE OF INSURANCE	ADDL. INSUR. (INSR / WVD)	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	POLICY EXP. (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY					EACH OCCURRENCE \$ 1,000,000
	☒ COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	☐ CLAIMS-MADE ☒ OCCUR	☒	ONE 891-56-81	4/2/2013	4/2/2014	MED EXP (Any one person) \$ 10,000
	☒ includes Protection & Indemnity					PERSONAL & ADV INJURY \$ 1,000,000
	GENL. AGGREGATE LIMIT APPLIES PER:					GENERAL AGGREGATE \$ 2,000,000
	☒ POLICY ☐ PRO-ECT ☐ LOC					PRODUCTS - COMPROP AGG \$ 1,000,000
	AUTOMOBILE LIABILITY					Protection & Indemnity Limit \$ 1,000,000
	☐ ANY AUTO					COMBINED SINGLE LIMIT (Ea accident) \$
	☐ ALL OWNED AUTOS	☐ SCHEDULED AUTOS				BODILY INJURY (Per person) \$
	☐ HIRED AUTOS	☐ NON-OWNED AUTOS				BODILY INJURY (Per accident) \$
						PROPERTY DAMAGE (Per accident) \$
						\$
B	UMBRELLA LIAB ☒ OCCUR					EACH OCCURRENCE \$ 4,000,000
	☒ EXCESS LIAB ☐ CLAIMS-MADE					AGGREGATE \$ 4,000,000
	☐ DED ☒ RETENTION \$ 25,000		CM000229900A12A	4/2/2013	4/2/2014	\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					☒ WC STATUTORY LIMITS ☐ OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? (Mandatory in NH)	☒ Y/N ☒ X	NC 161-56-28	4/2/2013	4/2/2014	E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below		Includes USL&H			E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
						E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Maritime Employers Liability (Jones Act)		PG004890c	4/2/2013	4/2/2014	Any One Accident or Illness \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 104, Additional Remarks Schedule, if more space is required)
30 day notice of cancellation except 10 days for non payment of premium.
Mooring Inspection Systems
Bumbershoot is Follow Form.

CERTIFICATE HOLDER

CANCELLATION

State of New Hampshire
Department of Environmental Services
P.O. Box 95
29 Hazen Drive
Concord, NH 03302-0095

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

Steve Macquarrie/JAMI

Attachment A

Procurement Process

The procurement process for this contract was conducted as follows:

A Request For Proposals (RFP) was advertised in the Union Leader from January 16-18, 2013 and on the DES website. DES received requests for additional information from the following interested parties:

Diving Services Inc., Warwick RI
Underwater Construction Corporation, Essex CT
Black Cat Divers, Portsmouth NH
Pepperrell Cove Marine Services, Inc., Portsmouth NH
Underwater Construction Corporation, Essex CT
Methuen Construction, Methuen MA
CPM Constructors, Freeport ME
Terracon, Manchester NH
BIDCO Marine Group, Inc., Buffalo NY
Marine Maintenance and Construction, Clayton NJ
Allen Marine Services, Hohl Industrial, Tonawanda NY
Kingsbury Companies, Waitsfield VT

The deadline for receipt of proposals was February 15, 2013. DES received proposals and lump sum project costs from the following interested parties:

Marine Maintenance and Construction, Clayton NJ	(\$24,475)
Pepperrell Cove Marine Services, Inc., Portsmouth NH	(\$19,900)
BIDCO Marine Group, Inc., Buffalo NY	(\$22,330)

An internal DES selection committee reviewed and ranked the responses to the RFP. Per the RFP, proposals were evaluated by an internal DES committee with respect to completeness of the scope of services proposed, total lump sum cost, project timeline, and the Contractor's qualifications and experience. The committee consisted of James W. Gallagher, Jr., P.E., the Chief Engineer for the Dam Bureau with more than 38 years of experience with dam design, contracting, construction and safety; Daniel Mattaini, P.E., who has over 25 years of experience as an engineer for hydrologic and dam related projects and has served as a lead design engineer for the Dam Bureau; and Kent R. Finemore, P.E., Assistant Chief Engineer of the Dam Bureau, who has over 25 years of experience as an engineer for civil design and construction.

The committee deemed all three contractors to be qualified and experienced to conduct underwater marine construction, and that timelines were reasonable and acceptable. Pepperrell Cove Marine Services, Inc., of Portsmouth, NH was selected based on the most complete scope of work and lowest lump sum cost.

