



New Hampshire Fish and Game Department

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Glenn Normandeau
Executive Director

March 31, 2017

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

Requested Action

Authorize the New Hampshire Fish and Game Department (NHFGD) to enter into a contract with Holden Engineering & Surveying Inc. (VC #155489) of Bedford, NH in the amount of \$12,870.00 to conduct boundary surveys and documentation, for Hubbard Farms (Walpole) and Powwow Pond (Kingston) Wildlife Management Areas, effective upon Governor and Council approval through June 30, 2017. Funding is 25% Other (Wildlife Habitat Funds) and 75% Federal Funds.

03 75 75 751520-2155 Wildlife Program-Wildlife Habitat Conservation

	<u>FY 2017</u>
20-07500-21550000-305-500845 Habitat Acquisition & Management	\$12,870.00

Explanation

The New Hampshire Fish & Game Department is owner of lands throughout the state referred to as Wildlife Management Areas (WMA). It is NHFGD's obligation to delineate and maintain in good order the boundaries of these public properties for the benefit of the public and abutting landowners. Management of WMA boundaries is contracted to qualified licensed surveyors and engineers. This contract will update department records and secure proper delineation in the field Hubbard Farms (31 acres) and Powwow Pond (4+ acres) Wildlife Management Areas for the benefit of the sportsman, outdoor recreation enthusiasts and general public access.

The Fish and Game Department requested sealed bids from three known vendors. Those being: CLD Consulting Engineers, Inc.; Holden Engineering & Surveying, Inc.; and Ames Associates. Holden Engineering & Surveying, Inc. submitted the lowest qualified bid.

Respectfully submitted,

Glenn Normandeau
Executive Director

Kathy Ann LaBonte
Chief, Business Division

Hubbard Farms and Powwow Pond RFB - bid opening 3/16/2017 @ 8:55a
 Director's conference Room

Vendor	Bid \$	Comments
<p>CLD Consulting Engineers, Inc. Brian A. Vincent, P.E., <i>Regional Office Manager</i> 28 Gates Street – Suite 100, White River Junction, VT 05001 Brianv@cldengineers.com Office: 802-698-0370 x 214 3 Alpine Court – Suite 2, Sunapee, NH 03782, Office: 603-873-4039 Ray Critch, office manager (rayc@cldengineers.com)</p>	<p>\$34,200.00</p>	
<p>Holden Engineering & Surveying Inc. PO Box 480, Concord, NH 03302 Donna Holden (dholden@holdenengineering.com) (603) 225-6449 (p), (603) 225-8450 (f)</p>	<p><u>\$12,870.00</u></p>	<p>Successful bid</p>
<p>Ames Associates 164 NH Route 25 Meredith, NH 03253 (603) 279-5705 Phone, (603) 279-7878 Fax t.sweeney@amesassociates.com</p>	<p>\$17,985.00</p>	

Present at bid opening – Denyce Gagne, Ellen Macneil, Brian Lemire

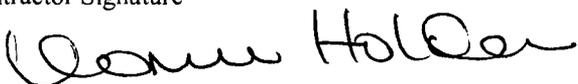
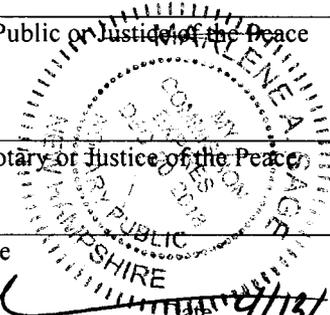
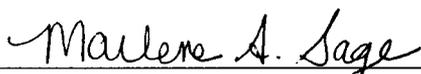
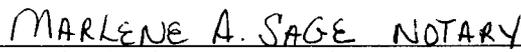
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name New Hampshire Fish and Game Department		1.2 State Agency Address 11 Hazen Drive, Concord, NH 03301	
1.3 Contractor Name Holden Engineering and Surveying, Inc.		1.4 Contractor Address 9 Constitution Drive, Bedford, NH 03110	
1.5 Contractor Phone Number 603-472-2078	1.6 Account Number 21550000-305-500845	1.7 Completion Date June 30, 2017	1.8 Price Limitation \$12,870.00
1.9 Contracting Officer for State Agency Glenn Normandeau, Executive Director		1.10 State Agency Telephone Number 603-271-2461	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Donna Holden, President	
1.13 Acknowledgement: State of NEW HAMPSHIRE , County of HILLSBOROUGH On <u>April 11, 2017</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 <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;"> [Seal]  </div> <div style="text-align: center;">  </div> </div>			
1.13.2 Name and Title of Notary or Justice of the Peace <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;">  </div> <div style="text-align: center;"> EXPIRES DEC 20, 2018 MARLENE A. SAGE NOTARY </div> </div>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Glenn Normandeau, Executive Director	
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) (if applicable) By:  On: <u>4/10/17</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

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

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

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

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

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no

such approval is required under the circumstances pursuant to State law, rule or policy.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

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

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

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

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

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

Exhibit A
Scope of Service

1. Work under this contract must conform to the New Hampshire Code of Administrative Rules – Board of Licensure for Land Surveyors @ <http://www.nh.gov/jtboard/lrule.htm>.
2. Work under this contract will provide Fish & Game with a complete boundary/perimeter survey of 1:10,000 closure accuracy. Including reestablishment/setting of missing boundary corner monuments, boundary line delineation via “brushed out” line, blazed, painted and witnessed with Department issue boundary signage.
- 3 **Documentation:** will include stamped boundary plan for F&G with written deed description to include to legal ROW description for the property, mylar plan suitable for filing with county registry. Also, digital drawing files (including coordinate point’s files) of the same in NH State Plane coordinates system in Auto-cad/Carlson version compatible format with Fish & Game software. Three (3) stamped hard copy property plans.

The New Hampshire Fish and Game Department has provided the existing deeds, and property plans to assist contractor with information available from the Fish & Games files. The intent is to aid the contractor in their effort to properly identify and document the nature of this State resource. Along with reporting of existing conditions, possible encroachments, anomalies, or conditions not consistent with the legal description of the properties metes and bounds.

4. **Brushing, Blazing, Painting & Signage:**

a) All necessary materials, i.e. paint, brushes, nails, signs, boundary corner monuments, will be supplied by the New Hampshire Fish and Game Department. Upon completion of the project, unused materials are returned to New Hampshire Fish & Game Department.

b) The property line shall be brushed out approximately five feet (5') horizontally, two and one half (2 ½') feet each side of the line and six feet (6') vertically removing brush, limbs, saplings, etc. so that the line is clearly visible.

c) Blazing of boundary lines are to follow as straight a line as possible. Blazes are cut into the sapwood removing the bark. Blazes shall be generally rectangular in shape, and a minimum of 2” wide x 4” long. **Blaze protocol:** Fore and aft, blazes of on-line trees, trees standing within two feet (1') to the left or right of the line will be marked with ¾ blazes which are two blazes side by side facing the line. Side blazes shall be used on trees between two feet (2') and four feet (4') from the line and is a single blaze facing the line. **Old existing blazes found outside the allowable four feet (4') limit of a side blaze should not be re-blazed.** Blazed and painted trees should not be further than thirty feet (30') to forty feet (40') apart.

d) Upon completion of brushing out and blazing of boundary lines, **tree blazes will be permitted to dry a minimum of three weeks prior to painting blazes on boundary line.**

Orange paint will be used to paint blazes and shall be applied by brush or paint roller. The paint will be applied in a thick consistency (not washy) completely covering the blaze.

e) Witness of **Boundary corners**: three separate witness trees will establish each corner. Each tree will have three blazes vertically aligned facing the corner. Boundary lines and corners must be clearly visible, at each corner intersecting boundary lines "heading to" and "leaving from" each corner monument. At approximately (10') ten feet either side of boundary intersection/property corner signs are installed facing abutting property and perpendicular of the boundary line direction.

f) State **boundary signs** (3" x 9") will be installed approximately 200' apart along all boundary lines. Nails used to post signs on live tress shall be driven 2/3^d the length of the nail shaft, leaving 1/3^d shaft and nail head proud of the face of the tree. This allows space for the sign to move as the tree continues to grow and retain the boundary signage.

g) **Caution** must be exercised when witnessing boundary lines that cross hiking/snow mobile trails at the property line. At these intersections, blazing/paint will be absent a minimum of fifty feet (50') from the trail intersection so users do not confuse the boundary line blazes for a trail witness. Property signs will be hung at trail intersections facing the abutting property to the WMA property, signs will be fixed every 25' for a total distance of 100' left and 100' right of the intersection along the boundary where blazes and paint are omitted.

Exhibit B **Payment terms**

Payment:

Initial payment of one half (fifty percent) will be made during the contract period at the completion of the initial field survey and review of draft boundary plan.

Final payment, second half (fifty percent) will be made upon at the completion of the field work as detailed in Scope of Work description and receipt of all documentation detailed in the same.

Payment may be delayed in the event that upon review of completed work it is determined said work is not consistent with the Scope of Work. Payment to be made only when all contract work is completed in accordance with the guidelines set forth, as specified in the Scope of Work with approval of the project administrator.

Project administrator (Brian Lemire) will be responsible for review and acceptance/rejection of work deemed completed as defined in Scope of Work. In case of disagreement relative to the project work under the terms of this contract and agreement, the decision of the **Executive Director of Fish & Game** shall be final.

Contract will be in force upon **Governor and Council approval through June 30 , 2017.**

Contract not to exceed - \$12,870.00

Project administrator (Brian Lemire) will be responsible for review and acceptance or rejection of work deemed completed as defined in Scope of Services. In case of disagreement relative to the project work under the terms of this contract and agreement, the decision of the **Executive Director of Fish & Game** shall be final.

Contract will be in force upon **Governor and Council approval through June 30, 2017. Work must begin and continue on a regular basis no later than six months after the day of approval by Governor and Council.**

Exhibit C
Special Provisions

None.

Hubbard Farms WMA



Powwow Pond WMA



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 HOLDEN ENGINEERING & SURVEYING, INC. is a New Hampshire Profit Corporation registered to transact business in New Hampshire on July 20, 1981. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 35633



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 23rd day of March A.D. 2017.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

HOLDEN

ENGINEERING & SURVEYING, INC.

P.O. Box 480 / Concord, NH 03302-0249 / 603-225-6449
9 Constitution Drive / Bedford, NH 03110 / 603-472-2078
FAX 603-225-8450 / hes@holdenengineering.com

CERTIFICATE OF VOTE

I, Donna Holden, Secretary of Holden Engineering and Surveying, Inc. "Holden" do

Hereby certify that:

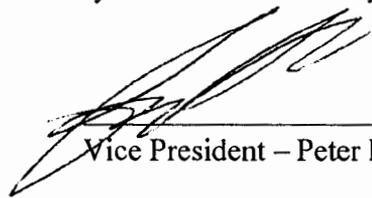
1. I am duly elected Secretary of "Holden".
2. The following are true copies of two resolutions duly adopted at a meeting of the Board of Directors of "Holden" duly held March 27, 2017.

RESOLVED that this organization enters into a contract with the State of New Hampshire, acting through its Fish and Game Department

RESOLVED that the President and Vice President are hereby authorized On behalf of this organization to enter into a contract with the State and to Execute any and all documents, agreements and other instruments, and any Amendments, revisions or modifications thereto as he/she may deem Necessary or desirable to effect the purpose of these resolutions.

3. The foregoing resolution have not been amended or revoked and remain in full force and effect as of March 27, 2017.
4. Donna Holden is the duly authorized President and Peter Holden is the duly Appointed Vice President of the Organization.

IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of "Holden" this 27th day of March 2017.



Vice President – Peter Holden

State of NEW HAMPSHIRE County of HILLSBOROUGH

On this 27 day of MARCH, 2017, before me MARLENE A. SAGE
The undersigned officer, personally appeared PETER HOLDEN, known to
Me to be the person whose name is subscribed to the within instrument and
Acknowledged that he/she executed the same for the purposes therein contained.
In witness whereof, I hereunto set my hand and official seal.



Marlene A. Sage

