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STATE OF NEW HAMPSHIRE
THE ADJUTANT GENERAL'S DEPARTMENT

BUSINESS ADMINISTRATION
STATE MILITARY RESERVATION
4 PEMBROKE ROAD
CONCORD, NEW HAMPSHIRE 03301-5652

William N. Reddel, III, Major General
The Adjutant General

Carolyn J. Protzmann, Brigadier General
Deputy Adjutant General

Stephanic L. Milender
Administrator

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September 8, 2014

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

REQUESTED ACTION

The Adjutant General's Department respectfully requests approval to enter into an agreement with Northeast Archaeological Research Center, Inc. (#225111) of Farmington, Maine in the amount of \$7,751.96 for an annual review of the New Hampshire Army National Guard Integrated Cultural Resources Management Plan (ICRMP) and development of a draft Memorandum of Understanding. The contract period will be from the date of Governor and Council approval through March 31, 2015. **100% Federal Funds.**

02-12-12-120010-2262 Adjutant General – ARNG Environmental Resources

| | |
|---|--------------------------|
| Fiscal Year 2015 10-01200-22620000-102-500731 Contract for Program Services | \$7,751.96 |
| Total | <u>\$7,751.96</u> |

EXPLANATION

This proposed agreement is to support review of the New Hampshire Army National Guard ICRMP and develop a draft Memorandum of Understanding with the federally recognized Penobscott Nation and Aroostock Band of Micmacs. The New Hampshire Army National Guard ICRMP and its annual review are required by Army Regulation #200-1. This contract also supports compliance with National Historic Preservation Act of 1966, the Archaeological and Historic Preservation Act of 1974, the Advisory Council on Historic Preservation "Regulations for Protection of Historic Properties (36 CFR 800), the American Indian Religious Freedom Act, and The Native Graves Protection and Repatriation Act. These laws and regulations along with Department of Defense Instruction 4715.16 require consultation with Native American Tribes, in the development of our ICRMP and during annual reviews. This contract will also support development of Memorandum of Understanding regarding future consultation procedures.


September 8, 2014

The Department sent out twelve (12) Requests for Proposals for these services on August 8, 2014 and received four (4) proposals by August 22, 2014. The proposals were evaluated by three (3) members of the Environmental Staff of the Adjutant General's Department using the evaluation criteria described in the Request for Proposals. Northeast Archaeological Research Center, Inc. was determined to provide the Best Value based on the completeness of the proposal, qualifications of the company and lowest cost.

The federal funds to pay for this Agreement are provided to the Adjutant General's Department by the National Guard Bureau pursuant to a Federal-State Master Cooperative Agreement for the mutual support of the State of New Hampshire and the New Hampshire Army National Guard. The cost of this contract shall be reimbursed to the State by the Federal government at a rate of 100%. In the event that federal funds are not available, general funds will not be requested to support this program.

The Contract has been approved for form, substance and execution by the New Hampshire Department of Justice.

Respectfully Submitted,


William N. Reddel, III
Major General, NHNG
The Adjutant General

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Subject: Annual NHARNG ICRMP Review and development of Draft MOU



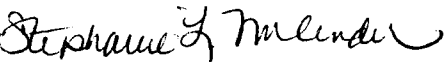
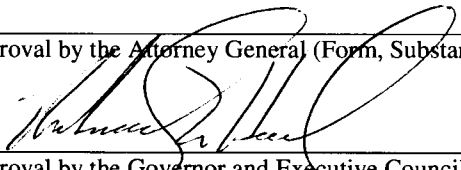
FORM NUMBER P-37 (version 1/09)

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

| | | | |
|--|---|---|------------------------------------|
| 1.1 State Agency Name Adjutant General's Department | | 1.2 State Agency Address 1 Minuteman Way, Concord, NH 03301-5607 | |
| 1.3 Contractor Name Northeast Archaeological Research Center Inc. | | 1.4 Contractor Address 382 Fairbanks Road, Farmington, Maine 04938 | |
| 1.5 Contractor Phone Number 207-860-4032 | 1.6 Account Number 10-01200-22620000-102 | 1.7 Completion Date March 31, 2015 | 1.8 Price Limitation \$7,751.96 |
| 1.9 Contracting Officer for State Agency Stephanie L. Milender, Administrator III | | 1.10 State Agency Telephone Number (603) 225-1361 | |
| 1.11 Contractor Signature  | | 1.12 Name and Title of Contractor Signatory Ellen R. Cowie, President | |
| 1.13 Acknowledgement: State of <u>Maine</u> , County of <u>Franklin</u> On <u>September 2, 2014</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} | | | |
| 1.13.2 Name and Title of Notary or Justice of the Peace <u>Stephanie L. Freeman</u> | | | |
| 1.14 State Agency Signature  | | 1.15 Name and Title of State Agency Signatory Stephanie L. Milender, Administrator III | |
| 1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____ | | | |
| 1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>9/12/14</u> | | | |
| 1.18 Approval by the Governor and Executive Council By: _____ On: _____ | | | |

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

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

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

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

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

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

Contractor Initials EMC
Date 9/2/14

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 EMC
Date 9/2/14

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
THE ADJUTANT GENERAL'S DEPARTMENT**

**EXHIBIT A, P-37 AGREEMENT
THE SERVICES**

SUBJECT: Annual Review of NH Army National Guard Integrated Cultural Resources Management Plan (ICRMP) and Development of draft Memorandum of Understanding

A. GENERAL

The Contractor will provide all equipment, labor and supplies necessary to provide coordination and deliverables for a Native American Consultation meeting at which an annual review of the New Hampshire Army National Guard (NHARNG) ICRMP will be conducted and to develop a Draft memorandum of Understanding (MOU) with two federally-recognized tribes, Penobscot Nation and the Aroostook Band of Micmacs, in support of the New Hampshire National Guard Cultural Resources program.

B. REQUIREMENTS

The NHARNG ICRMP is required by Section 6-4 of Army Regulation 200-1, for use as a planning tool to protect against encumbrances to mission by ensuring that NHARNG effectively manages cultural resources in compliance with Army requirements. Native American consultation ensures compliance with regulations and laws as required by the National Historic Preservation Act (NHPA) of 1966; the Archeological and Historical Preservation Act of 1974 (PL 93-291); the Advisory Council on Historic Preservation "Regulation for the Protection of Historic Properties" (36 CFR Part 800); The American Indian Religious Freedom Act (AIRFA), and Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001 et seq., and 43 CFR 10).

C. TASKS

The Contractor will complete the following tasks for the Annual Review of NH Army National Guard Integrated Cultural Resources Management Plan (ICRMP) and development of a Draft MOU with two Native American Tribes:

TASK 1: COORDINATE TRAVEL ARRANGEMENTS FOR 2 TRIBAL REPRESENTATIVES (THPOS)

The Contractor will fully coordinate arrangements and oversee expenses for travel (lodging, mileage, and per diem) for representatives of two (2) affiliated tribes, not to exceed 1 person per tribe (Tribal Historic Preservation Officer – (THPO)) to attend the Native American Consultation meeting, (not to exceed two days). A tentative Agenda is attached (**Appendix A**). The two THPOs represent the Penobscot Nation and the Aroostook Band of Micmacs. The Contractor will ensure that travel expenses (lodging,

mileage, and per diem) for the two THPOs are proposed and reimbursed in accordance with the per diem rates in effect at the time of travel as set forth in the Federal Travel Regulations (FTR) prescribed by the General Services Administration (GSA); and shall not exceed those rates. In order for the Contractor to receive payment for completion of this Task, the Contractor must provide documented financial accounting (as determined acceptable by the TAG POC) that sufficiently demonstrates proof that the two THPOs were provided reimbursement in compliance with the requirements set forth in this Task.

TASK 2: FACILITATE NATIVE AMERICAN CONSULTATION MEETING

The Contractor will provide a Facilitator who will be in attendance at the Native American Consultation meeting, which will also be attended by TAG representatives (including the NHARNG Cultural Resources Program Manager), NHARNG representatives, the NH Air Guard Environmental Program Manager, and the two THPOs. Representatives from the NH Division of Historical Resources (NH DHR) shall also be invited to participate. The Contractor will ensure that the Facilitator provides guidelines for conduct at the meeting, motivates group discussions, assists with building consensus, manages conflict, and maintains the consultation focus throughout the meeting. The tentative meeting agenda (**APPENDIX A**) is intended to be specific, but must remain flexible, addressing concerns as they arise, while keeping the overall flow and objectives clear. This agenda should be viewed as an overall plan for continuous exchange of information while moving toward the meeting goals. Information that is shared at the consultation meeting shall be treated by the Contractor as confidential. Openness and attentiveness are expected and appropriate and respectful behaviors during the meeting. No photographs may be taken during the meeting unless specific permission is granted by the THPO, the NHARNG and meeting participants. The consultation process is a way to open communication channels, and expressing an interest in tribal traditions can begin to break down any existing cultural barriers. Historical events are sometimes presented by a tribal representative during introductions or private conversations, and are relayed from the tribe's own perspective, often as a means of establishing trust. The factual basis of such statements made by tribal representatives during the meeting shall not be challenged by the Contractor.

TASK 3: PREPARE AND SUBMIT DRAFT AND FINAL MINUTES OF THE NATIVE AMERICAN CONSULTATION MEETING

The Contractor will provide preparation and submission of an overview of the Native American Consultation meeting, including transcribed minutes and a summary (abstract) of the transcription. The minutes must include any verbal or written comments and recommendations made regarding any Draft documents that were presented at the meeting.

The Contractor will deliver four (4) electronic copies (in MS Word, with Tables in MS Excel) on CD-ROM and four (4) hard copies of the Draft Minutes for review by all meeting participants. The Draft Minutes deliverable will be submitted to the TAG POC

within 7 business days following completion of the Native American Consultation meeting.

Within 30 days of receipt of the Draft Minutes deliverable, the TAG POC will submit written comments to the Contractor within the electronic copy (in MS Word, with Tables in MS Excel) of the Draft Minutes. Within 30 calendar days of receipt of the written comments, and prior to submitting the Final Minutes, the Contractor must provide a written explanation to the TAG POC if any discrepancies exist with the above-referenced comments. The TAG POC will review the written discrepancies and work to resolve them with the Contractor within 15 days of receipt.

The Contractor will deliver four (4) electronic copies (in MS Word, with Tables in MS Excel) on CD-ROM and four (4) hard copies of the Final Minutes. The Final Minutes deliverable will be submitted to the TAG POC within 10 business days following the resolution of any written discrepancies in the TAG comments provided on the Draft Minutes.

TASK 4: PREPARE AND SUBMIT A DRAFT MOU

The Contractor will prepare and submit a Draft Memorandum of Understanding (MOU) deliverable for each Tribe utilizing the attached template (**APPENDIX B**). The template may be expanded in length and content, as needed, based upon comments and recommendations expressed by the meeting participants. Sections marked “RESERVED” are included for that purpose. The draft MOU is intended to be a beneficial tool for streamlining and documenting consultation procedures between the NHARNG and the two tribes (the Penobscot Nation and the Aroostook Band of Micmacs). The primary focus of this MOU is on the roles and responsibilities of each party with the goal of developing and maintaining a partnership. The Contractor will ensure the template provided in **APPENDIX B** is completed during and after the completion of the Native American Consultation, and that it includes (at a minimum) all of the following components:

- a. **Title:** identifies the groups who are party to the MOU, and its purpose.
- b. **Whereas clauses:** These clauses provide the background information and explain why an MOU is necessary. They may include:
 1. A discussion of the role of NHARNG and the National Guard Bureau (NGB);
 2. A discussion of the participating Tribes, their history, and their cultural affiliations to New Hampshire;
 3. A discussion of the purpose and goals of the MOU;
 4. Identification of areas of cultural significance;
 5. A summary of the consultation procedures that occurred with the Tribes to develop the MOU.
- c. **Stipulations:** These are measures that the NHARNG and the two Tribes will implement to memorialize consultation procedures, and will include:
 1. List of types of projects, archaeological surveys, historic properties or other cultural resources that the Tribes have an interest in;
 2. Identification of geographical areas of interest;

3. NHARNG and tribal Point-of-Contact (POC) designations;
 4. Methods and frequencies of communication;
 5. Discussion of inadvertent discoveries protocols
- d. **Execution Clause:** states that the execution of the MOU fulfills the NHARNG's and the Tribe's responsibilities to maintain open channels of communication according to the stipulations referenced therein.
- e. **Signature Page:** The signatories to the MOU are typically as follows:
1. Chief, Army National Guard Environmental Programs Division (ARNG-ILE)
 2. TAG
 3. Tribal Leader
- f. **Appendices:**
1. The appendices will consist of any documentation directly related to the implementation of the MOU, and will be provided to the Contractor by the TAG POC:
 - a. Maps delineating geographical areas of interest to the Tribes. The maps provided by the TAG POC will include a north arrow, scale, legend, and date of creation; and
 - b. Any relevant standards and guidelines required in order to implement the MOU (e.g. NHARNG and tribal POC contact information (to be provided to the Contractor by the NHARNG)).

The Draft MOU deliverable will utilize the template provided in **APPENDIX B** and the Contractor will incorporate all above-referenced components (a. through f.), and all related comments and recommendations made by the Tribes during the 2 day consultation meeting. For this deliverable, the Contractor will submit one (1) original (of each of the two Draft MOUs – (one per Tribe)), four (4) electronic copies (in MS Word utilizing MS Excel for tables) on CD-ROM, and four (4) bound hard copies of each Draft MOU, to the TAG POC within 30 calendar days of the adjournment of the Native American Consultation meeting.

D. NH ADJUTANT GENERAL'S DEPARTMENT (TAG) POINT OF CONTACT

Point of Contact: Eileen F. Chabot, Cultural Resources Program Manager, TAG

Mailing Address:

NH Adjutant General's Department
 NGNH-FMO-ENV (ATTN: Eileen F. Chabot, MPH)
 1 Minuteman Way,
 Concord NH 03301-5607

Phone Number: (603) 225-1211

E-mail: eileen.f.chabot.nfg@mail.mil

E. PERIOD OF PERFORMANCE

The period of performance is from the date of the Notice to Proceed through **March 31, 2015**.

The TAG will provide an individual Notice to Proceed for the Annual NHARNG ICRMP Review and development of Draft MOU to be performed. The timetable for completing the work will be based on the timeframes specifically established and referenced in **Section C. TASKS, Exhibit A** of this Agreement.

F. ENVIRONMENTAL MANAGEMENT SYSTEM AWARENESS

The NHARNG has implemented an environmental Management System (eMS), in accordance with Executive Orders 13423 and 13514, to guide its operations in an environmentally sound manner. The eMS standard requires that Contractors be made aware of the fact that NHARNG has an eMS and information about the significant environmental aspects of our organization. The “Notice for Contractors and Contractor Employees” dated February 2014 (Version 7) in P-37 Agreement – Exhibit D is the tool the NHARNG and TAG are using to provide awareness of the NHARNG’s eMS.

APPENDIX A – TENTATIVE Meeting Agenda

Subject: Native American Consultation Meeting - Penobscot Indian Nation, Aroostook Band of Micmacs, New Hampshire National Guard and invited guests

Date & Time: TBD

Location: NHNG Joint Force Headquarters , 1 Minuteman Way, Concord, NH

DAY 1

0930 - 0950 – Welcome / Introductions

0950 - 1000 - Purpose of Native American Consultation meeting

1000 - 1045 – Interactive Discussion - NHNG- Penobscot Indian Nation & Aroostook Band of Micmacs Consultation Process

1045 - 1100 – BREAK

1100 – 1200 - Summary: NHNG’s Missions, Units and Activities and Archaeological Status of NHNG sites

1200 - 1300 - LUNCH

1300 - 1400 - Presentation, Review and Discussion of Preliminary Draft of NHARNG Integrated Cultural Resources Management Plan, 2014-2019 and potential framework for Memorandum of Understanding

1400 - 1500 – Interactive Discussion of Issues and Concerns - potential effects of proposed NHNG activities on properties of traditional, religious, or cultural significance to the Penobscot Indian Nation and the Aroostook Band of Micmacs.

1500 – 1600 – Walking Tour of NHNG Joint Force HQ, Concord & AASF

DAY 2

0900 – 1030 - Field Trip & Walking Tour – Pembroke Regional Training Institute (RTI) property, Pembroke, NH

1030 – 1130 – Field Trip to NH National Guard Training Site (NHNGTS) property, Center Strafford, NH

1130 – 1345 – Lunch & Tour of NHNGTS

1345 – 1420 – Field Trip to Pease Air National Guard Base (ANGB), Newington, NH

1420- 1520 – Tour of Pease ANGB

1520 – 1600 – Closing Thoughts – Interactive Discussion & Wrap-Up

DAY 3

0800 – Safe Trip – Departures for Maine

APPENDIX B – TEMPLATE for Draft Memorandum of Understanding (MOU)

**MEMORANDUM OF UNDERSTANDING
AMONG
THE NATIONAL GUARD BUREAU,
THE NEW HAMPSHIRE ARMY NATIONAL GUARD
AND
THE NAME OF TRIBE**

Whereas, the **National Guard Bureau (NGB)** has a federal mission operating in accordance with federal statutes and regulations, including but not limited to, the National Historic Preservation Act of 1966, as amended, Department of Defense Instruction 4710.02 – DoD Interactions with Federally-Recognized Tribes, and Executive Order 13175 – Consultation and Coordination with Indian Tribal Governments, and

Whereas, the **New Hampshire Army National Guard (NHARNG)** has a federal mission that includes federal military training and federally-funded activities on land it owns, leases, or controls within the state of New Hampshire (see **Attachment D** for a list of NHARNG Installations and Readiness Centers); and

Whereas, the **NGB, NHARNG** and the **Name of Tribe**, henceforth referred to as “the parties” herein intend to provide procedures for routine communications, protection of cultural resources information, meeting the tribal consultation requirements set forth above, and improvement of cultural resources stewardship; and

Whereas, NHARNG activities may have an adverse effect on historic properties included in or eligible for the National Register of Historic Places and that are of traditional religious and/or cultural importance to the **Name of Tribe**; and

Whereas, the **NHARNG** has consulted with the **Name of Tribe**, a federally-recognized tribe, on a Government-to-Government basis to develop this Memorandum of Understanding (MOU); and

Whereas, the parties to this MOU recognize that the **Name of Tribe** possesses the knowledge, experience and oral tradition to identify and evaluate historic properties of traditional religious and cultural importance; and

Whereas, through the use of this MOU, the parties intend to maintain a close relationship as partners and stewards of cultural resources; and

Whereas, no portion of this MOU should be interpreted to limit the rights, duties and responsibilities as may be implemented under state and federal statutes, regulations, policies, Executive memoranda or Executive orders and related documents;

Now Therefore, the **NGB, NHARNG** and the **Name of Tribe** agree that communication between the parties shall be as follows:

I. Routine Communications

- A. The **NHARNG** shall host a consultation meeting at least once every two (2) years, as funding will allow. This may be combined with, or substituted by, individual meetings with Tribes at their headquarters.
- B. The **NHARNG** shall visit Tribal officials at Tribal headquarters in _____. The **NHARNG** shall make biennial visits when in lieu of hosting a consultation meeting, or as is necessary for fulfilling the obligations of this MOU.
- C. The parties intend to consult as stewards of cultural resources. In the past, the parties have periodically scheduled face-to-face consultations. However, it may be necessary to address immediate issues when face-to-face consultation is not possible. **Section I, Parts D – H** defines the means of interim and routine communications for those periods in which face-to-face consultation is impractical.
- D. The parties agree that the preferred methods of communication are in **Attachment B**. In the event that these methods fail, the parties shall use the United States Postal Service (certified or U.S. mail).
- E. Without limiting the right to communicate after this period, the parties intend to reply within forty-five (45) days to any issue that is raised during routine communication. The **NHARNG** intends to proceed with the proposed action at the expiration of forty-five (45) days from the first routine communication if no objections or expressions of concern are received.
- F. The parties agree to maintain the confidentiality of information pertaining to historic properties of traditional religious and/or cultural importance.
- G. The **NGB**, **NHARNG** and the **Name of Tribe** shall designate a representative. Each party shall provide contact information in **Attachments A and B**. Contact information shall be maintained and updated as appropriate.
- H. RESERVED.

II. Development, Review, and Implementation of the Statewide NHARNG Integrated Cultural Resources Management Plan (ICRMP)

- A. The **NHARNG** shall provide for the **Name of Tribe**'s meaningful involvement in the development and implementation of the ICRMP. The **NHARNG** shall develop and implement strategies in consultation and collaboration with the Tribe, to avoid, minimize, or mitigate adverse effects to cultural resources as specified in the statewide ICRMP.
- B. The ICRMP is reviewed every year and revised every five (5) years, or as circumstances warrant (change in mission, real property ownership, etc). The **NHARNG** shall provide the **Name of Tribe** at least sixty (60) days to review and provide comments on five-year

revisions to the ICRMP and consult with the Tribe on how to address comments received. The NHARNG shall provide the Tribe with a copy of the final ICRMP or revision pages. In addition, the NHARNG will annually provide the Tribe with a list of proposed projects for the upcoming fiscal year. The final ICRMP and revisions shall be a component plan of the NHARNG's state installation Master Plan, and other plans where appropriate (e.g. master, training, and environmental plans).

III. Tribal Area for Consultation

The **Name of Tribe** wishes to be consulted in accordance with the map showing areas of concern delineated in **Attachment C**.

IV. RESERVED

V. Administrative

- A. Nothing in this MOU shall be interpreted to alter the requirements of federal or state laws, or their implementing regulations. In the event any portion of this MOU is deemed contradictory to law or regulation, only that contradictory portion becomes void. The sole contradictory issue does not violate the entire agreement. The parties should consult to resolve the contradictory issue with the intent to reform that portion to make it compliant with the applicable law or regulation, and the remaining portions of the MOU remain in full force and effect.
- B. Nothing in this MOU shall be construed as limiting or affecting the legal authority of either party, nor does it commit either party to exceed their available appropriations. Commitments made from this MOU are subject to the availability of funds. However, each party shall make a good faith effort to fund any action necessary for the implementation of this MOU.
- C. This MOU is executed on the last date shown below, and shall remain in effect until rescinded. The MOU may be revised by mutual agreement. Either party upon a ninety (90) day written notice can unilaterally terminate this MOU.

Now, Therefore, it is agreed upon that the **National Guard Bureau**, the **New Hampshire Army National Guard** and the **Name of Tribe** will cooperate to achieve the principles and purposes set forth in this MOU.

XXXXXX XX XXXXXX

Major General
The Adjutant General
NH Army National Guard

(Date)

XXXXXX XX XXXXXX

Principal Chief
Name of Tribe

(Date)

XXXXXX XX XXXXXX

Colonel, U.S. Army
Chief, Environmental Program Division
Army National Guard Directorate

(Date)

**STATE OF NEW HAMPSHIRE
THE ADJUTANT GENERAL'S DEPARTMENT
P37 AGREEMENT
EXHIBIT B - THE CONTRACT PRICE, METHOD OF PAYMENT AND TERMS OF
PAYMENT**

SUBJECT: Annual NHARNG ICRMP Review and development of Draft MOU

The Contract Price

The Adjutant General's Department will pay the Contractor a maximum total of \$7,751.96. This amount shall not be exceeded without issuance of an amendment to this agreement and approval by the Governor and Executive Council of the State of New Hampshire.

Method of Payment

Payment will be made within 30 days after receipt of a proper invoice. Payment shall be made by mailing a bank draft to the address specified in the General Provisions 1.4 of this agreement.

Invoices will be submitted by the Contractor to: The Adjutant General of New Hampshire, NGNH-FMO-ENV (ATTN: Eileen F. Chabot, MPH), 1 Minuteman Way, Concord, New Hampshire 03301-5607.

Terms of Payment

The Adjutant General's Department will pay the Contractor based upon approved project task completion including receipt of deliverables (as applicable) identified in Exhibit A "the Services" determined acceptable by the NH Adjutant General's Department Primary Contact, and the receipt of an accurate invoice. Invoiced prices shall be based on the Task prices specified in the itemized Contractor cost proposal.

**STATE OF NEW HAMPSHIRE
THE ADJUTANT GENERAL'S DEPARTMENT**

**P-37 AGREEMENT
EXHIBIT C - SPECIAL PROVISIONS**

SUBJECT: Annual NHARNG ICRMP Review and development of Draft MOU

The following special provisions modify, change, delete or add to the General Provisions of the agreement. Where any part of the General Provisions is modified or voided by these Special Provisions, the unaltered provisions for that part shall remain in effect.

1. This agreement is funded, wholly or in part, by monies of the Federal Government of the United States; therefore, all parts and provisions of this agreement that refer to contract which are funded in any part by the federal government are applicable to this agreement.

2. The term "Contracting Officer" as used in this agreement shall mean the State's Contracting Officer as is specified at item #1.9 of the General Provisions of this agreement or his authorized representative. No individual shall be an authorized representative of the Contracting Officer unless he or she is so appointed in writing by the Contracting Officer, in which case such written appointment shall be provided to the Contractor.

3. The Contractor shall be responsible to correct, at his own cost and expense, defective work, or damaged property when defects and damage are caused by the Contractor's employees, equipment or supplies. The Contracting Officer may withhold all, or part of, payments due to the Contractor until defective work or damaged property caused by the Contractor, his employees, equipment or materials, is placed in satisfactory condition

4. **General Provisions** are amended as follows:

a. **Provision 7. PERSONNEL sub-part 7.2:** Delete the period at the end of the provision, and add the following:

"or who is a National Guardsperson or who is a federal employee of the National Guard."

b. **Provision 9. DATA: ACCESS; CONFIDENTIALITY; PRESERVATION:** Add the following sub-part:

9.4 Between the Effective Date and three (3) years after the Completion Date, as often as the State or Federal Government shall demand, the Contractor shall make available for audit purposes, all records that pertain to this Agreement. Upon demand the contractor shall provide copies of such documents which may include invoices,

payrolls, records of personnel, and other information relating to all matters covered in this agreement.

c. **Provision 14. INSURANCE AND BOND:** Add the following sub-sub-part:

14.1.3 Insurance against all claims arising from the Contractor's use of automobiles in the conduct of this agreement, in amounts of not less than \$250,000 per person bodily injury liability, \$500,000 per occurrence bodily injury liability and \$50,000 property damage liability.

5. ADD the following as Special Provisions to the extent not inconsistent with the express terms of this Agreement, the provisions of 32 CFR Part 33, Uniform Administrative Requirements for Grants and Cooperative Agreements, DoD Grant and Agreement Regulations (DoDGARS) (DoD 3210.6-R) as amended, Title 2 Code of Federal Regulations (CFR) Part 225, and NGR 5-1, are hereby incorporated into this MCA by reference as if fully set forth herein, shall govern this Agreement:

Section 803: Nondiscrimination.

The Grantee covenants and agrees that no person shall be subject to discrimination or denied benefits in connection with the State's performance under the MCA. Accordingly, and to the extent applicable, the Grantee covenants and agrees to comply with the following national policies prohibiting discrimination:

a. On the basis of race, color or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.), as implemented by DoD regulations at 32 CFR part 195.

b. On the basis of race, color or national origin, in Executive Order 11246 {3 CFR, 1964-1965 Comp. pg. 339}, as implemented by Department of Labor regulations at 41 CFR part 60.

c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DoD regulations at 32 CFR part 196.

d. On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.

e. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 45.

Section 804: Lobbying.

a. The state covenants and agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered federal actions. The awarding of any federal contract; the making of any federal grant; the making of any federal loan; the entering into of any CA; and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or Cooperative Agreement.

b. The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) is incorporated by reference and the state agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

Section 805: Drug-Free work Place.

The Grantee covenants and agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

Section 806: Environmental Protection.

a. The Grantee covenants and agrees that its performance under this Agreement shall comply with:

- (1) The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);
- (2) Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;
- (3) The Resources Conservation and Recovery Act (RCRA);
- (4) The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
- (5) The National Environmental Policy Act (NEPA);
- (6) The Resources Conservation and Recovery Act (RCRA);
- (7) The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at Subpart J of 40 CFR part 32;
- (8) To identify any impact this award may have on the quality of the human environment and provide help as needed to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and any applicable federal, state or local environmental regulation.

(9) The applicable provision of the Clean Air Act (42 U.S.C. § 7401, et seq.) and Clean Water Act (33 USC 1251, et seq.), as implemented by Executive Order 11738 [3 CFR, 1971-1975 comp., p.799].

b. In accordance with the EPA rules, the parties further agree that the Grantee shall also identify to the awarding agency (NGB) any impact this award may have on:

(1) The quality of the human environment, and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.

(2) Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.

(3) Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.

(4) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.

(5) Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).

(6) Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3).

Section 807: Use of United States Flag Carriers.

a. The state covenants and agrees that travel supported by U.S. Government funds under this agreement shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

b. The state agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. 1241), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).

Section 808: Debarment and Suspension.

The state covenants and agrees to comply with the requirements regarding debarment and suspension in Subpart C of the OMB guidance in 2 CFR part 180, as implemented by the DoD in 2 CFR Part 1125. The Grantee agrees to communicate the requirement to comply with Subpart C to persons at the next lower tier with whom the Grantee enters into transactions that are "covered transactions" under Subpart B of 2 CFR part 180 and the DoD implementation in 2 CFR Part 1125.

Section 809: Buy American Act.

The state covenants and agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community (EEC) on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

Section 810. Uniform Relocation Assistance and real Property Acquisition Policies

The state covenants and agrees that it will comply with CFR 49 part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. Section 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

Section 811: Copeland "Anti-Kickback" Act.

The state covenants and agrees that it will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. Section 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this agreement, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat of procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

Section 812: Contract Work Hours and Safety Standards Act.

The state covenants and agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be

required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1.5 times the basic rate of pay.

**STATE OF NEW HAMPSHIRE
THE ADJUTANT GENERAL'S DEPARTMENT
P37 AGREEMENT
EXHIBIT D - Environmental Management System
Notice for Contractors and Contractor Employees**

SUBJECT: Annual NHARNG ICRMP Review and development of Draft MOU

The New Hampshire Army National Guard (NHARNG) has implemented an environmental Management System (eMS), in accordance with Executive Orders 13423 and 13514, to guide its operations in an environmentally sound manner. Under its eMS, the NHARNG has identified significant activities, products or services that can interact with the environment (known as aspects) and potential environmental impacts from its operations. The significant environmental aspects are listed below:

- Energy Use
- Solid Waste and Recycling
- Vehicle Travel (fleet) Between Work Stations

These 3 significant aspects and their associated impacts are closely monitored by the NHARNG. Objectives and associated target completion dates have been developed to reduce the environmental impacts from Energy Use by Heating Ventilation and Air Conditioning (HVAC) activities. Further, the NHARNG is tracking the success of the implementation plans established to achieve the NHARNG's objectives.

For the purposes of this notice, applicability is limited to those actions that the contractor or subsequent employees are likely to perform on NHARNG properties.

The primary purpose of this notice is to communicate the three basic tenets of the NHARNG's eMS policy:

- eMS (ISO 14001) is the management system the NHARNG uses to implement the Adjutant General's Environmental Policy;
- The eMS Environmental Policy commits the NHARNG to comply with environmental laws and regulations, to prevent pollution and to promote continual improvement of the eMS; and
- Contractors are responsible for knowing the environmental impacts of their services, and must understand the management requirements for any activities that could affect any of NHARNG's significant aspects, or that could result in potential environmental impacts.

Energy Use

The NHARNG is committed to reducing its consumption of energy. Reducing energy consumption may be realized by turning off electrical equipment when not in use, or

NHARNG environmental Management System (eMS)
ISO 14001:4.4.2 Competency, Training and Awareness

reducing heating temperatures/increasing cooling temperatures, using alternative fuels (if available, such as E85 or biodiesel), etc. Contracts that include the use or installation of equipment will seek the most energy efficient technology within the scope of the contract.

Vehicle Travel (fleet) Between Work Stations

The NHARNG is committed to preventing pollution through monitoring of Federal GSA Fleet vehicle usage. Usage of fleet vehicles by contractors is prohibited.

Solid Waste and Recycling

The NHARNG is committed to diverting waste through recycling efforts. Contracts that include the disposal of waste will seek the highest level of reuse and recycling within the scope of the contract. All levels of recycling specified in the contract will be achieved and documented. The documentation of recycling and reuse will be submitted to the NHARNG in accordance with contract specifications. Executive Order 13514 specifies that at least 50 percent of construction and demolition materials and debris and at least 50 percent of non-hazardous solid waste must be diverted. Diverting means redirecting materials that might otherwise be placed in the waste stream to recycling or recovery.

Significant aspects likely to be affected by contractor's activities, products, or services:

(To be discussed at the Kickoff meeting)

Review of specific contract provisions related to environmental aspects:

(To be discussed at the Kickoff meeting)

Contact Information:

NHARNG Environmental Program Mgr.: Mr. Zachary Boyajian (603) 227-1439
NHARNG Environmental Compliance Specialist: Ms. Rebecca Martin (603) 227-5124

Resources Provided Upon Contractor Request:

NHARNG Integrated Cultural Resources Management Plan (ICRMP)
NHNG Green Procurement Plan
Facility Specific Integrated Contingency Plans (ICPs); established for the State Military Reservation, Manchester RC / FMS, Army Aviation Support Facility (AASF)
NHARNG Hazardous Waste Management Plan
Executive Order 13514
Executive Order 13423

STATE OF NEW HAMPSHIRE
THE ADJUTANT GENERAL'S DEPARTMENT

"CORPORATE CERTIFICATE"

I, (Name) Ellen R. Cowie hereby certify that I am duly elected Secretary of (Corporation) Northeast Archaeology Research Center, Inc.

I hereby certify the following is a true copy of a vote adopted by unanimous consent of the Board of Directors of the Corporation, on 3/26/2009

VOTED: That (Name) Ellen R. Cowie is duly authorized to enter into a specific contract namely "Annual NHARNG ICRMP Review and development of Draft MOU" with the State of New Hampshire, Adjutant General's Department and further authorized to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of (Date) 3/26/2009 and that (Name) Ellen R. Cowie is duly elected (Title) President and Clerk of this Corporation.

+
no seal

ATTEST: Ellen R. Cowie
(Corporate Secretary) Clerk

DATE: 8/19/2014

CORPORATE SEAL

ATTEST: [Signature]
(Notary Public)

COMMISSION EXPIRES: [Stamp]
STATE OF NEW HAMPSHIRE
COMM. EXP. 03-00-13

DATE: 8/19/14

+
NOTARY SEAL

(NOTE: IF COMPANY IS NOT INCORPORATED, PLEASE CHECK THE BOX .)

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 Northeast Archaeology Research Center, Inc. a(n) Maine corporation, is authorized to transact business in New Hampshire and qualified on April 20, 2009. 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 13th day of August, A.D. 2014

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)
08/19/2014

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 Shiretown Insurance Agency P.O. Box 392 166 Main St Farmington ME 04938- INSURED Northeast Archaeology Research Cent 382 Fairbanks Road Farmington ME 04938- | CONTACT NAME: PHONE (A/C, No, Ext): (207) 778-5282 FAX (A/C, No): (207) 778-9453 E-MAIL ADDRESS: shireins@gi.net PRODUCER CUSTOMER ID #Northeast Archaeology Research Cent INSURER(S) AFFORDING COVERAGE INSURER A :Peerless Insurance INSURER B :MEMIC INSURER C : INSURER D : INSURER E : INSURER F : |
|--|--|

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

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

| INSR LTR | TYPE OF INSURANCE | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|---|---|----------|---------------|-------------------------|-------------------------|--|
| A | GENERAL LIABILITY | | | BKS55983680 | 02/25/2014 | 02/25/2015 | EACH OCCURRENCE \$ 2,000,000 |
| | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR | | | | / / | / / | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC | | | | / / | / / | MED EXP (Any one person) \$ 15,000 |
| | AUTOMOBILE LIABILITY | | | | / / | / / | PERSONAL & ADV INJURY \$ 2,000,000 |
| | ANY AUTO | | | | / / | / / | GENERAL AGGREGATE \$ 2,000,000 |
| | ALL OWNED AUTOS | | | | / / | / / | PRODUCTS - COMP/OP AGG \$ 2,000,000 |
| | SCHEDULED AUTOS | | | | / / | / / | NOWND \$ |
| | HIRED AUTOS | | | | / / | / / | COMBINED SINGLE LIMIT (Ea accident) \$ |
| | NON-OWNED AUTOS | | | | / / | / / | BODILY INJURY (Per person) \$ |
| | UMBRELLA LIAB OCCUR | | | | / / | / / | BODILY INJURY (Per accident) \$ |
| | EXCESS LIAB CLAIMS-MADE | | | | / / | / / | PROPERTY DAMAGE (Per accident) \$ |
| | DEDUCTIBLE | | | | / / | / / | \$ |
| | RETENTION \$ | | | | / / | / / | \$ |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | 1810090603 | 02/26/2014 | 02/26/2015 | WC STATUTORY LIMITS OTHER |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) | Y/N | | | / / | / / | E.L. EACH ACCIDENT \$ 500,000 |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | <input checked="" type="checkbox"/> N/A | | | / / | / / | E.L. DISEASE - EA EMPLOYEE \$ 500,000 |
| | INMRC | | | BKS55983680 | 02/25/2014 | 02/25/2015 | E.L. DISEASE - POLICY LIMIT \$ 500,000 |

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

| | |
|--|--|
| CERTIFICATE HOLDER () - () - State of New Hampshire Adjunct General's Department 1 Minuteman Way Concord NH 03301-5607 | 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 |
|--|--|

**STATE OF NEW HAMPSHIRE
THE ADJUTANT GENERAL'S DEPARTMENT**

“REQUEST FOR PROPOSALS”

SUBJECT: Annual NHARNG ICRMP Review and development of Draft MOU

The Adjutant Generals Department is accepting written proposals until 4:00 p.m., prevailing time on Friday the 22nd day of August 2014 for Annual NHARNG ICRMP Review and development of Draft MOU. This project is contingent upon funding. Written proposals can be mailed or shipped to the Adjutant General's Department, NGNH-FMO-ENV (ATTN: Eileen F. Chabot, MPH), 1 Minuteman Way, Concord, NH 03301. Written proposals may be hand delivered the Building F, State Military Reservation, 1 Minuteman Way, Concord, NH 03301.

The specifications of the contract are identified on the attached sample P-37 Standard Agreement, Exhibit A (The Services), Exhibit B (The Contract Price, Method of Payment and Terms of Payment), Exhibit C (Special Provisions), and Exhibit D (Environmental Management System Notice for Contractors and Contractor Employees).

The Adjutant General's Department, State of New Hampshire reserves the rights to accept any or all proposals, or reject any or all proposals, that may be in the best interest of the state. It is also understood that the Adjutant General's Department, State of New Hampshire reserves the right to award all or a portion of the proposals. Companies, corporation or trade names, except sole proprietorships must be registered with the State of New Hampshire, Corporate Division, Secretary of State's Offices Concord, NH 03301, phone (603) 271-3244/3246.

Complete proposals will include: 1) Proposal Form, 2) Certificate of Authority, 3) Certificate from the Secretary of State's Office, 4) Certificate of Insurance showing coverage in the amount identified on the P-37 Standard Agreement, Section 14, 5) Description of staff members and qualifications, 6) Total itemized cost proposal, including costs of all labor, materials and expenses for each Project Task, 7) 3 customer references.

Proposals will be evaluated to ensure all required proposal documents were provided, personnel specified to perform the work are sufficiently qualified through education and relevant experience, and references provide favorable responses to the products received and experience working with the contractor. The Adjutant Generals Department will then consider the proposal price and the value of any additional cost to inform our selection.

Written or verbal communications should be addressed to: The Adjutant General of New Hampshire, NGNH-FMO-ENV (ATTN: Eileen F. Chabot, MPH), State Military Reservation, 1 Minuteman Way, Concord, NH, Phone (603) 225-1211, eileen.f.chabot.nfg@mail.mil .

STATE OF NEW HAMPSHIRE
THE ADJUTANT GENERAL'S DEPARTMENT
"PROPOSAL FORM"

SUBJECT: Annual NHARNG ICRMP Review and development of Draft MOU
PROPOSAL DUE DATE AND TIME: Friday August 22, 2014, 4:00 p.m.
LOCATION: Building F, State Military Reservation, 1 Minuteman Way, Concord NH

Greetings:

The undersigned, having carefully examined the specifications for Annual NHARNG ICRMP Review and development of Draft MOU and hereby Propose to furnish all materials, to perform all work for the above described project and provide all deliverables in strict accordance with said specifications.

The Adjutant General's Department, State of New Hampshire reserves the right to award all or portions of the contract and to reject all or portions of any Proposal.

In submitting this Proposal, it is understood that the Proposal Price is for the sum of all including all labor, materials and expenses found in the Proposal Form/Agreement Exhibit A, as per specifications, and shall be considered the fixed total price. It is also understood that the owner reserves the rights to accept any or all Proposals, or reject any or all Proposals, that may be in the best interest of the state.

The PROPOSAL PRICE Includes all work described and all costs for tasks (including all labor, materials and expenses) found in the Proposal Form/Agreement Exhibit A:

TOTAL PROPOSAL PRICE:

_____ \$ _____
(Written Amount) (Numerical)

In accordance with the Requirements of the "Request for Proposals" The following documents are being submitted with this Proposal Form to make a complete Proposal (Please Check that each has been attached):

- _____ Certificate of Authority
- _____ Certificate of Good Standing (Corporate Division, Secretary of State's Office)
- _____ Certificate of Insurance (P-37 Standard Agreement Section 14)
- _____ Description of staff members and qualifications
- _____ Total itemized cost proposal, including costs of labor, materials and expenses for each Project Task
- _____ List of 3 customer references

COMPANY NAME _____

ADDRESS _____

SIGNATURE OF CONTRACTOR'S REPRESENTATIVE _____

DATE _____ TITLE _____

PHONE NUMBER _____

E-MAIL _____

TENTATIVE AGENDA

Subject: Native American Consultation Meeting - Penobscot Indian Nation, Aroostook Band of Micmacs and New Hampshire National Guard

Date & Time: TBD Location: NHNG Joint Force Headquarters , 1 Minuteman Way, Concord, NH

DAY 1

0930 - 0950 – Welcome / Introductions

0950 - 1000 - Purpose of Native American Consultation meeting

1000 - 1045 – Interactive Discussion - NHNG- Penobscot Indian Nation & Aroostook Band of Micmacs Consultation Process

1045 - 1100 – BREAK

1100 – 1200 - Summary: NHNG’s Missions, Units and Activities and Archaeological Status of NHNG sites

1200 - 1300 - LUNCH

1300 - 1400 - Presentation, Review and Discussion of Preliminary Draft of NHARNG Integrated Cultural Resources Management Plan, 2013-2018 and potential framework for Memorandum of Understanding

1400 - 1500 – Interactive Discussion of Issues and Concerns - potential effects of proposed NHNG activities on properties of traditional, religious, or cultural significance to the Penobscot Indian Nation and the Aroostook Band of Micmacs.

1500 – 1600 – Walking Tour of NHNG Joint Force HQ, Concord & AASF

DAY 2

0900 – 1030 - Field Trip & Walking Tour – Pembroke Regional Training Institute (RTI) property, Pembroke, NH

1030 – 1130 – Field Trip to NH National Guard Training Site (NHNGTS) property, Center Strafford, NH

1130 – 1345 – Lunch & Tour of NHNGTS

1345 – 1420 – Field Trip to Pease Air National Guard Base (ANGB), Newington, NH

1420- 1520 – Tour of Pease ANGB

1520 – 1600 – Closing Thoughts – Interactive Discussion & Wrap-Up

DAY 3

0800 – Safe Trip – Departures for Maine

MEMORANDUM FOR RECORD

SUBJECT: Annual NHARNG ICRMP Review and Development of Draft MOU Request for Proposal and Award Record

1. The Adjutant General's Department sent the above-referenced Request for Proposal (RFP) via e-mail on August 8, 2014 to the following 12 individuals /companies:
 - a. David Boyes of HDR, Inc. at david.boyes@hdrinc.com
 - b. Robert Goodby of Monadnock Archaeological at rgoodby@monadarch.com.
 - c. Ellen Cowie of Northeast Archaeology Research Center at cowie@nearchaeology.com
 - d. Victoria Bunker of Victoria Bunker, Inc. at vbi_wp@tds.net
 - e. Kathleen Wheeler of Independent Archaeological Consulting, LLC at kwheeler@iac-llc.net
 - f. Justin DiVirgilio of Hartgen Archaeological Associates, Inc. at jdivirgilio@hartgen.com
 - g. Stephen A. Olausen of Public Archaeology Laboratory (PAL) at solausen@palinc.com
 - h. George H McCluskey, RPA, Archaeological and Historic Preservation Consultant ghm10829@hotmail.com
 - i. Nathan D. Hamilton, PhD of University of Southern Maine at casco@usm.maine.edu
 - j. Christopher Donta of Gray & Pape, Inc. at cdonta@graypape.com
 - k. Hope Luhman of Louis Berger Group, Inc. at hluhman@louisberger.com
 - l. Karen Mack of TRC at kemack@trcsolutions.com

2. Northeast Archaeology Research Center, Inc. and PAL Inc. both responded on 8/8/2014 that they would be submitting a proposal. HDR, Inc. responded on 8/8/2014 that they are currently reviewing the RFP and considering the submission of a proposal. Louis Berger Group, Inc. responded on 8/15/2014 that they would be submitting a proposal. The following individuals and companies e-mailed responses declining the invitation to bid on this RFP: Robert Goodby of Monadnock Archaeological and George H McCluskey, RPA Archaeological and Historic Preservation Consultant, on 8/9/2014; Victoria Bunker of Victoria Bunker, Inc. on 08/11/2014, and Justin DiVirgilio of Hartgen Archaeological Associates, Inc. on 08/14/2014.

3. The following proposals were received by 4:00 pm on August 22, 2014:

| | |
|---|-------------|
| a. Public Archaeological Laboratory inc (PAL) | \$17,142.00 |
| b. Northeast Archaeological Research Center Inc. (NARC) | \$7,751.96 |
| c. Louis Berger Group, Inc. | \$19,366.36 |
| d. HDR, Inc. | \$27,313.53 |

4. All proposals were evaluated by Eileen Chabot, Zachary Boyajian and Ethan Greene as specified in the RFP. NARC and PAL submitted complete proposal packages. PAL provided a copy of a Certificate of Good Standing, dated 6 May 2014 (not an original), but did not submit the Proposal Form. Louis Berger Group, Inc. and HDR, Inc. were missing their certificate from the NH Secretary of State Corporate Division. Further, HDR, Inc. did not provide a Certificate of Authority by the required deadline (it arrived on August 25, 2014 via e-mail). All companies who submitted proposals demonstrated that they have the requisite experience and qualified staff to fulfill the specifications of the RFP. All companies provided favorable references. NARC provided all the requested proposal documents as specified in the RFP and had the lowest cost.

5. NARC provided a complete proposal package, including itemized cost proposal per task. Hourly billing rates for all level of personnel were the lowest of all proposals. The amount of effort presented in the cost proposal matched the expected level of effort indicated by task in Exhibit A, "The Services". Based on these factors, NARC is chosen. The combination of low cost of personnel and level of effort provides the best value for the State.

6. Point of contact for this memorandum is the undersigned, at (603)225-1211 or eileen.f.chabot.nfg@mail.mil

A handwritten signature in black ink that reads "Eileen F. Chabot". The signature is written in a cursive, flowing style.

Eileen F. Chabot, MPH
NH Adjutant General's Department
Cultural Resources Program Manager