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THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

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

Bureau of Planning & Community Assistance
October 31, 2018

REQUESTED ACTION

Authorize the Department of Transportation to enter into a contract with the Central NH Regional Planning Commission (Vendor #154613), Concord, NH, in the amount of \$228,794.00 to provide Transportation Demand Management Services and Rideshare Coordination in the State of New Hampshire from October 31, 2018, or the date of Governor and Executive Council approval, whichever is later, through December 31, 2021. 100% Federal Funds.

Funding is available for FY 2019, and is contingent upon the availability and continued appropriation of funds for FY 2020, FY 2021 and FY 2022 as follows, with the ability to adjust encumbrances through the Budget Office between State Fiscal Years if needed and justified:

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
04-096-096-963515-3054	\$80,000.00	\$80,000.00	\$40,000.00	\$28,794.00
Consolidated Federal Aid				
046-500464 General Consultants-Non Benefit				

EXPLANATION

In response to concerns about growth and development pressures expressed during the development of the I-93 Salem to Manchester Project, the Department is undergoing a comprehensive Community Technical Advisory Program (CTAP) to provide technical planning assistance to the 26 towns and cities in the area influenced by the reconstruction of I-93. Central NH Regional Planning Commission, Southern NH Planning Commission, Rockingham Planning Commission, and Nashua Regional Planning Commission are the primary planning agencies for the 26 communities included in this CTAP effort. In order to address the issues as cost effectively as possible, initial efforts have been implemented through the regional planning commissions (RPC), to take advantage of their resources and expertise.

The NH Department of Transportation is interested in awarding I-93 Community Technical Assistance Program (CTAP) funds for planning projects aimed at fostering transit oriented development (TOD) and/or improved or expanded transit opportunities as part of a transportation demand management (TDM) strategy for the I-93 corridor within the CTAP region. Solicitations were made of the Regional Planning Commissions.

The Department approved this project award after a formal application process. Applications were evaluated on the following criteria: Building upon previously completed CTAP work, reduction of travel demand along the I-93 Corridor and surrounding area, the probability of success of work efforts, formation of partnerships for better sustainability opportunities, local and regional support of the project, and project understanding. The Department received two applications for funds: one from Central NH Regional Planning Commission and one from Southern NH Planning Commission. Both project applications demonstrated that the work could be very effectively completed to meet the criteria established. In addition, the NH Office of Strategic Initiative (OSI) is interested in providing funds through the Department as this project also meets statewide rideshare goals that OSI has funding to promote.

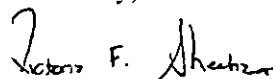
The Central NH Regional Planning Commission will utilize the funding to improve Transportation Demand Management services in the CTAP region, including additional coordination with already established rideshare efforts, updating of the CommuteSmart NH software, coordination with local and regional transit providers, promotion of special events to support rideshare, and the support of NH Rideshare software.

The Central NH Regional Planning Commission can accomplish this work for a total fee not to exceed \$366,000.00. The funding to be used is from FHWA Consolidated Federal funds associated with the I-93 projects (\$228,794.00), NH Office of Strategic Initiative funds (\$80,000.00) and local funds (\$57,206.00).

The Contract has been approved by the Attorney General as to form and execution and funding for each fiscal year is contingent upon the availability and continued appropriations of funds. Copies of the fully executed contract are on file at the Secretary of State's office and the Department of Administrative Services office, and subsequent to Governor and Executive Council approval, will be on file at the Department of Transportation.

It is respectfully requested that authority be given to enter into a Contract for professional services as detailed in the Requested Resolution.

Sincerely,



Victoria F. Sheehan
Commissioner

Attachments

CENTRAL NH REGIONAL
PLANNING COMMISSION

BUREAU OF PLANNING & COMMUNITY ASSISTANCE
TABLE OF CONTENTS

PREAMBLE.....1

ARTICLE I - DESCRIPTION OF PLANNING SERVICES TO BE RENDERED 2

A. LOCATION AND DESCRIPTION OF PROJECT..... 2

B. SCOPE OF WORK..... 2

C. MATERIAL FURNISHED BY THE DEPARTMENT OF TRANSPORTATION..... 2

D. WORK SCHEDULE AND PROGRESS REPORTS 2-3

E. SUBMISSION OF REPORTS, PLANS AND DOCUMENTS..... 3

F. DATE OF COMPLETION 3

ARTICLE II - COMPENSATION OF COMMISSION FOR SPECIFIC RATES OF PAY..... 4

A. GENERAL FEE..... 4

B. SALARY, BENEFITS AND INDIRECT COSTS..... 4-5

C. DIRECT EXPENSES..... 5

D. FIXED FEE..... 6

E. PAYMENTS..... 6

F. RECORDS - REPORTS.....6

ARTICLE III - GENERAL PROVISIONS..... 7

A. HEARINGS, ETC..... 7

B. CONTRACT PROPOSALS..... 7

ARTICLE IV - STANDARD PROVISIONS 8

A. STANDARD SPECIFICATIONS 8

B. REVIEW BY STATE AND FEDERAL HIGHWAY ADMINISTRATION -
CONFERENCE - INSPECTIONS 8

C. EXTENT OF CONTRACT..... 8

1. Contingent Nature of AGREEMENT 8

2. Termination 8-9

D. REVISIONS TO REPORTS, PLANS OR DOCUMENTS 9

E. ADDITIONAL SERVICES 10

F. OWNERSHIP OF PLANS..... 10

G. SUBLETTING 10-11

H. GENERAL COMPLIANCE WITH LAWS, ETC..... 11

I. BROKERAGE 11

J. CONTRACTUAL RELATIONS..... 11

1. Status of the COMMISSION..... 11

2. Claims and Indemnification 12

3. Insurance 12-13

4. No Third-Party Rights 13

5. Construction of AGREEMENT 14

K. AGREEMENT MODIFICATION..... 14

L. EXTENSION OF COMPLETION DATE(S)..... 14

M.	TITLE VI (NONDISCRIMINATION OF FEDERALLY ASSISTED PROGRAMS) COMPLIANCE.....	14-15-16
N.	DISADVANTAGED BUSINESS ENTERPRISE POLICY AGREEMENT REQUIREMENTS	17
	1. Policy.....	17
	2. Disadvantaged Business Enterprise (DBE) Obligation.....	17
	3. Sanctions for Non-Compliance.....	17

ATTACHMENTS

1. CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS, ETC.
2. CERTIFICATION OF CONSULTANT/SUBCONSULTANT
3. SEAL-AND-SIGNATURE PAGE
4. CERTIFICATE OF VOTE
5. INSURANCE CERTIFICATES
6. NONDISCRIMINATION ASSURANCE

**BUREAU OF PLANNING & COMMUNITY ASSISTANCE CONTRACT
FOR PLANNING SERVICES**

PREAMBLE

THIS AGREEMENT made by and between the STATE OF NEW HAMPSHIRE, hereinafter referred to as the STATE, acting by and through its COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the COMMISSIONER, acting under Chapter 228 of the Revised Statutes Annotated, and the Central NH Regional Planning Commission, with principal place of business at 28 Commercial Street, Ste. 3, in the City of Concord, State of New Hampshire, hereinafter referred to as the COMMISSION, witnesses that

The Department of Transportation, State of New Hampshire, hereinafter referred to as the DEPARTMENT, proposes to continue the comprehensive cooperative transportation planning process in all communities falling under the jurisdictions of the Central NH Regional Planning Commission.

The DEPARTMENT requires planning services to complete the tasks set forth in the attached work program.

This AGREEMENT becomes effective upon approval by the Governor and Council.

ARTICLE I

ARTICLE I - DESCRIPTION OF PLANNING SERVICES TO BE RENDERED

NOW THEREFORE, in consideration of the undertakings of the parties hereinafter set forth, the DEPARTMENT hereby engages the COMMISSION, who agrees to render services to the DEPARTMENT which shall include, but not be restricted to, the following items, in accordance with conditions and terms hereinafter set forth in the Community Technical Advisory Program (CTAP) Phase 3 Proposal.

A. LOCATION AND DESCRIPTION OF PROJECT

All communities falling under the jurisdiction of the Central NH Regional Planning Commission and their subconsultants.

B. SCOPE OF WORK

As described in the attached work program which forms a part of the AGREEMENT, which has been approved by the DEPARTMENT and Federal Highway Administration (FHWA).

C. MATERIAL FURNISHED BY THE DEPARTMENT OF TRANSPORTATION

The DEPARTMENT will furnish to the COMMISSION data and/or records pertinent to the work to be performed.

D. WORK SCHEDULE AND PROGRESS REPORTS

The COMMISSION shall begin performance of the services designated in the Contract promptly upon receipt from the DEPARTMENT of a Notice to Proceed and the material to be furnished as herein described. The COMMISSION shall complete these services without delay unless unable to do so for causes not under the COMMISSION'S control.

CTAP Phase 3 Proposal (w/ NH OSI funding) - September 4, 2018
CommuteSmart New Hampshire - Rideshare Coordination and TDM Services

This revised proposal seeks to address the need to expand Transportation Demand Management (TDM) services and coordination in the CTAP region, and by extension, the State of New Hampshire. The proposal is broken out into two segments: (1) TDM related activities within the CTAP area, and (2) TDM related activities throughout the remainder of the State of New Hampshire that seeks to extend the recent efforts of the agencies that participated in the rebranding of Commute Green NH to CommuteSmart New Hampshire (CSNH). The proposal incorporates CTAP funding as well as funding through the NH Office of Strategic Initiatives (NH OSI).

The proposed timeline of the program would be mid-October, 2018 through June 30, 2021, with all NH OSI funding encumbered by June 30, 2019. The project summary and overview of proposed tasks can be found below. The detailed budget is attached.

Project Summary

- (1) CTAP Area - The project would improve the provision of TDM services in the CTAP region and continued development of coordinated approach to TDM activities. Tasks would include a variety of TDM services, additional CSNH coordination and planning activities, and the update of the CommuteSmart NH trip logger software. A portion of the activities in the non-CTAP area is supported by funding from NH OSI. That funding must be encumbered by June 30, 2019.

Proposed RPCs/Transit Agencies*

- Central NH Regional Planning Commission (CNHRPC)
- Concord Area Transit (CAT)
- Nashua Regional Planning Commission (NRPC)
- Rockingham Planning Commission (RPC)
- Southern NH Planning Commission (SNHPC)
- Manchester Transit Authority (MTA)

Proposed CTAP Area budget

	CTAP Phase 3	NH OSI	Total
TDM Services in CTAP Region	\$132,000		\$132,000
Planning/Statewide Coordination	\$132,000	\$12,600	\$144,600
Trip Logger software update	\$10,000		\$10,000
Overall Contract administration/coordination	\$12,000	\$1,600	\$13,600
Subtotal	<u>\$286,000</u>	<u>\$14,200</u>	<u>\$300,200</u>
Less Local Match	\$44,702	\$2,219	\$46,921
Total	<u>\$241,298</u>	<u>\$11,981</u>	<u>\$253,279</u>

- (2) Non-CTAP Area - Funding to support the participation of other New Hampshire regional planning commissions and transit agencies to enhance statewide participation in CommuteSmart NH activities including special events (Bike to Work week, etc.) and promoting the use of the NH Rideshare software. Activities in the non-CTAP area is supported by funding from NH OSI and must be encumbered by June 30, 2019.

Proposed RPCs/Transit Agencies*

Advance Transit (AT)

Community Volunteer Transportation Company (CVTC)

Lakes Region Planning Commission (LRPC)

North Country Council (NCC)

Strafford Regional Planning Commission (SRPC)

Southwest Region Planning Commission (SWRPC)

Upper Valley Lake Sunapee Planning Commission (UVLSRPC)

CommuteSmart Seacoast

Proposed Non-CTAP Area budget

Planning/Statewide Coordination		\$65,800
	Less Local Match	<u>\$10,285</u>
	Total	\$55,515

- * *Note: The project summary identifies proposed Regional Planning Commission and Transit Agency participants in the CTAP area as well as throughout the remainder of the State. The participant list may be modified based upon the staff capabilities of the individual organizations. If changes are necessary, other organizations may be identified to participate or the budget by task would be reallocated among participating agencies.*

Summary of Proposed Tasks – FYs 2019, 2020, and 2021

1. TDM Services in CTAP Region

The CTAP area Regional Planning Commissions would coordinate to provide regionally-based TDM services to employers and communities. The following are potential services to be provided within the CTAP area:

- Assist employers and employees in signing up for ride-matching services and provide follow-up services as needed/requested
- Conduct employer site assessments to develop and implement strategies on improving employer and employee transportation options
- Provide geocoding, mapping and survey services to assist employers to manage parking and traffic and connect employees to services
- Provide trip planning assistance to employees
- Assist employers with establishing preferred parking, transit pass, parking cash out, alternative/flex scheduling and tax benefit programs for employees
- Assist employers and employees in establishing and growing vanpool programs
- Conduct park and ride and bike/pedestrian counts to identify and track trends
- Develop/support and promote emergency ride home programs

2. Planning/Statewide Coordination

CTAP area and non-CTAP area agencies will participate in future CommuteSmart NH planning activities, participate in regional and statewide events such as Bike to Work and Bike to School week, and work to improve the use and recognition of existing or new NH Rideshare software. In addition, this task will include discussions that could lead to better coordination of activities with the MassRIDES Ridematching Program.

3. Trip Logger software update

The initial version of the CSNH trip logger was developed through funding provided by the NH Charitable Foundation. Proposed updates to the CSNH Trip Logger are focused on improving and expanding the Trip Logger's capabilities. These improvements are needed to increase participation, help the RPCs and transit agencies engage with the public on TDM practices, offer improved programs and events to employers, and manage the database of participants more efficiently. These proposed updates are based on user-feedback as well as research into programs that exist elsewhere.

The proposed updates comprise various specific and general improvements. These include an improved and more user friendly method for logging regular trips, improved functionality for hosting events/challenges, and ability to manage data gathered (trips logged) for the administrator. Specific details of these proposed updates include the option of "save this trip" for regular trips entered on a daily or weekly basis, increased ability to host multiple events/challenges and the option for users to participate in multiple events/challenges, individual event/challenge leaderboards, and the ability for users to join or leave a team after signing up. Also included is the ability for the trips logged to be downloaded by the administrator into an excel document.

4. Overall Contract administration/coordination

CNHRPC staff will provide overall contract administration support and will coordinate/facilitate CommuteSmart NH activities. Subcontracts will be developed and managed with CTAP area and non-CTAP area RPCs and transit agencies.

Project Timeline and Schedule of Deliverables

Timeline

Project Initiation/Initial project coordination meeting	October, 2018
Development of enhanced statewide CSNH program activities	November 30, 2018 (ongoing)
Development of Initial suite of TDM services	November 1 - December 31, 2018
Completion of Trip Logger software update	December 31, 2018
Coordination with MassRIDES	December 31, 2018 (ongoing)
CSNH Coordination Meetings	October 31, 2018 (Quarterly)
Provision of TDM Services in CTAP Area	January 1, 2019 - June 30, 2021

Schedule of Deliverables

Monthly Reports - A report on rideshare coordination, TDM activities and overall CommuteSmart New Hampshire activities will be provided on a monthly basis.

CSNH Trip Logger Update - Completion of Trip Logger software update no later than June 30, 2019.

Annual Reports - An annual report on rideshare coordination, TDM activities and overall CommuteSmart New Hampshire activities will be prepared no later than July 31 of each of the three fiscal years.

CTAP Phase 3 Proposal (w/ NH OSI funding) - September 4, 2018
CommuteSmart New Hampshire - Rideshare Coordination and TDM Services

1. CTAP Area

Proposed Tasks - FYs 2019-21 (CTAP)

1. TDM Services (CTAP)
2. Planning/Statewide Coordination (CTAP)
3. Trip Logger software update (CTAP)
4. Overall Contract administration/coordination (CTAP)

	CNHRPC	RPC	NRPC	SNHPC	MTA	CAT	CTAP Subtotal
1. TDM Services (CTAP)	\$33,000	\$33,000	\$33,000	\$33,000			\$132,000
2. Planning/Statewide Coordination (CTAP)	\$22,000	\$22,000	\$22,000	\$22,000	\$22,000	\$22,000	\$132,000
3. Trip Logger software update (CTAP)	\$10,000						\$10,000
4. Overall Contract administration/coordination (CTAP)	\$12,000						\$12,000
Summary	\$77,000	\$55,000	\$55,000	\$55,000	\$22,000	\$22,000	\$286,000
Local Match (15.63%)	\$12,035	\$8,597	\$8,597	\$8,597	\$3,439	\$3,439	\$44,702
Total Less Match	\$64,965	\$46,404	\$46,404	\$46,404	\$18,561	\$18,561	\$241,298

Proposed Tasks - FY 2019 (NH OSI)

1. Planning/Statewide Coordination (NH OSI)
2. Overall Contract administration/coordination (NH OSI)

1. Planning/Statewide Coordination (NH OSI)	\$2,100	\$2,100	\$2,100	\$2,100	\$2,100	\$2,100	\$12,600
2. Overall Contract administration/coordination (NH OSI)	\$1,600						\$1,600
Summary	\$3,700	\$2,100	\$2,100	\$2,100	\$2,100	\$2,100	\$14,200
Local Match (15.63%)	\$578	\$328	\$328	\$328	\$328	\$328	\$2,219
Total Less Match	\$3,122	\$1,772	\$1,772	\$1,772	\$1,772	\$1,772	\$11,981

Summary (CTAP and NH OSI)	\$80,700	\$57,100	\$57,100	\$57,100	\$24,100	\$24,100	\$300,200
Local Match	\$12,613	\$8,925	\$8,925	\$8,925	\$3,767	\$3,767	\$46,921
Total Less Match	\$68,087	\$48,175	\$48,175	\$48,175	\$20,333	\$20,333	\$253,279
Match %	15.6%	15.6%	15.6%	15.6%	15.6%	15.6%	

2. Non-CTAP Area

Proposed Tasks - FY 2019 (NH OSI)

1. Planning/Statewide Coordination (NH OSI)

	Advance Transit	CVTC	LRPC	NCC	SRPC	SWRPC	UVLSRPC	CommuteSmart Seacoast	Non-CTAP Subtotal
1. Planning/Statewide Coordination (NH OSI)	\$8,225	\$8,225	\$8,225	\$8,225	\$8,225	\$8,225	\$8,225	\$8,225	\$65,800
Summary	\$8,225	\$8,225	\$8,225	\$8,225	\$8,225	\$8,225	\$8,225	\$8,225	\$65,800
Local Match (15.63%)	\$1,286	\$1,286	\$1,286	\$1,286	\$1,286	\$1,286	\$1,286	\$1,286	\$10,285
Total Less Match	\$6,939	\$6,939	\$6,939	\$6,939	\$6,939	\$6,939	\$6,939	\$6,939	\$55,515
Match %	15.6%	15.6%	15.6%	15.6%	15.6%	15.6%	15.6%	15.6%	

Summary

1. CTAP Area (CTAP and NH OSI)
2. Non CTAP Area (NH OSI)

	CTAP	OSI	Less Match	Total
1. CTAP Area (CTAP and NH OSI)	\$286,000	\$14,200	\$46,921	\$253,279
2. Non CTAP Area (NH OSI)		\$65,800	\$10,285	\$55,515
	\$286,000	\$80,000	\$57,206	\$308,794

ARTICLE I

The COMMISSION'S sequence of operation and performance of the work under the terms of this AGREEMENT shall be varied at the direction of the DEPARTMENT to give priority in critical areas so that schedules and other STATE commitments, either present or future, can be met.

The COMMISSION shall develop an acceptable reporting system capable of indicating project status on at least a monthly basis for all major task categories of the mutually agreed upon CTAP Phase 3 Proposal. Monthly progress reports shall be submitted by the COMMISSION to the DEPARTMENT, giving the percentage of completion of the work required by this AGREEMENT, based on both percentage of funding spent and on percentage of work actually completed, and a narrative explanation of each major task progress. These monthly progress reports must accompany invoices for payment in order for reimbursement to occur.

E. SUBMISSION OF REPORTS, PLANS AND DOCUMENTS

Reports, plans, and documents shall be submitted to the DEPARTMENT in accordance with the schedule outlined in the attached work program.

F. DATE OF COMPLETION

The date of completion for the Planning services rendered under this AGREEMENT shall be December 31, 2021.

ARTICLE II

ARTICLE II - COMPENSATION OF COMMISSION FOR SPECIFIC RATES OF PAY

The work required under the terms of this AGREEMENT shall be paid for in accordance with the following schedule and stipulations:

A. GENERAL FEE

The cost of all work and expenses under this AGREEMENT shall not exceed \$366,000 in State Fiscal Years 2019-2022. Of the \$366,000 fee, two sources, the Federal Highway Administration (FHWA) (funds not to exceed \$228,794.00) and the NH Office of Strategic Initiative (funds not to exceed \$80,000.00) will be combined to fund up to \$308,794 and the Central NH Regional Planning Commission to fund \$57,206. (The COMMISSION shall note that no payments will be made for work or expenses whether authorized or not, exceeding the \$308,794 total amount).

B. SALARY, BENEFITS AND INDIRECT COSTS

As agreed to between the Department and the COMMISSION, the COMMISSION, is to provide the information on salaries of all employees at the beginning of the contract or when any changes occur during the contract period.

The rates of all personnel working on the project shall be provided to the DEPARTMENT at the beginning of the STATE fiscal year. Any salary increase as a result of salary adjustments of existing personnel or new hire during the contract period shall be reported to the DEPARTMENT within thirty (30) days.

All actual salaries and reasonable increases thereof paid to technical or other employees assigned to this project shall be the result of a commission-wide evaluation of all employees and shall not be restricted to employees assigned to this project. Any overtime required for this project shall have the prior written approval of the DEPARTMENT.

All charges attributed to personnel costs namely employee benefits, payroll taxes and proportionate share of indirect costs shall be used in billing for all work done under this AGREEMENT. Employee benefits shall include holiday, sick and vacation pay, Commission's share of group medical and dental premiums, the Commission's share of long and short-term disability insurance premiums if applicable, and the Commission's share of retirement benefits, if applicable.

ARTICLE II

Payroll taxes shall include the employer's share of FICA.

The preceding costs may be applied to only straight time and overtime. The amounts shall be based on actual costs to the COMMISSION for such items during the period of the agreement and those allowable in accordance with the applicable cost principles contained in 2 CFR, Part 225 (formerly OMB Circular No. A-87). Indirect Cost Rate Proposals shall be submitted in accordance with 2 CFR, Part 225. If the annual indirect cost rate is not submitted within the timeframes specified in 2 CFR, Part 225, the Department, as provided in 2 CFR, Part 225, will set the indirect cost rate for the COMMISSION.

Actual salaries paid and percentage factor shall be used until such time as true costs of salary burden and overhead are fixed by audit. At that time, payments shall be adjusted to agree with the percentage factors as determined by audit for the period in which the work was performed, as approved by the DEPARTMENT.

C. DIRECT EXPENSES

Reimbursement for direct expenses includes work such as but not limited to field survey, purchase of computer, purchase of software and maintenance services, services of other specialists, printing, photogrammetry, traffic counts, reproductions and travel not included in normal overhead expenses whether performed by the COMMISSION or other parties and shall be billed at actual cost. The reimbursable costs for mileage and for per diem (lodging and meals) shall be that allowed by the COMMISSION'S established policy but shall not exceed that allowed in the Federal Travel Regulations (41 CFR 300 – 304). Mileage and per diem costs above those allowed in the Federal Travel Regulations shall be subject to prior approval by the DEPARTMENT. For training expenses to be reimbursed, they must be specifically listed in the CTAP Phase 3 Proposal scope of work or pre-approved by the DEPARTMENT, and are allowable under 23 CFR 260 400 – 407. Procurement methods must follow 23 CFR 420.121(j). Methods of equipment acquisition, use, and disposition must comply with 23 CFR 420.121(e) approved by the DEPARTMENT.

D. FIXED FEE

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ARTICLE II

E. PAYMENTS

Payments on account of the fee for services of eligible activities defined in 23 CFR 420 & 450 rendered under this AGREEMENT will be made by the DEPARTMENT based on a completely itemized, task-by-task bill submitted on a monthly basis by the COMMISSION as previously discussed. Proof of payment for direct expenses must be submitted before reimbursement is allowed. The DEPARTMENT will make payments to the COMMISSION within fifteen (15) business days of receipt of an acceptable bill. Eligible activities are those eligible for the class of funds used for the activity and must be in an approved CTAP Phase 3 Proposal. If, by error or omission, an ineligible activity is contained in the approved CTAP Phase 3 Proposal, said activity may be deemed to be ineligible and expenses pertaining to the activity will be considered non-reimbursable. NHDOT and FHWA have the final determination of eligible activities.

F. RECORDS - REPORTS

The COMMISSION shall maintain adequate cost records for all work performed under this AGREEMENT. Reports, studies, meeting minutes, plans, maps, data, and other work performed for the DEPARTMENT and/or other entities billed to this contract shall be submitted when completed. All records and other evidence pertaining to cost incurred shall be made available at all reasonable times during the AGREEMENT period and for three (3) years from the date of final voucher payment for examination by the STATE, Federal Highway Administration, or other authorized representatives of the Federal Government, and copies thereof shall be furnished if requested. Applicable cost principles are contained in 2 CFR 225.

When outstanding work remains to be completed, the COMMISSION shall submit monthly progress reports of work accomplished on a task-by-task basis in a manner satisfactory to the DEPARTMENT.

ARTICLE III - GENERAL PROVISIONS

A. **HEARINGS, ETC.**

Blank

B. **CONTRACT PROPOSALS**

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ARTICLE IV

ARTICLE IV - STANDARD PROVISIONS

A. STANDARD SPECIFICATIONS

Blank

B. REVIEW BY STATE AND FEDERAL HIGHWAY ADMINISTRATION - CONFERENCES -
INSPECTIONS

It is mutually agreed that all portions of the work covered by this AGREEMENT shall be subject to the inspection of duly-authorized representatives of the STATE and Federal Highway Administration, United States Department of Transportation, at such time or times as the STATE or Federal Highway Administration deems appropriate.

The location of the office where the work will be available for inspection by STATE and Federal Highway Administration representatives is at 28 Commercial Street, Suite 3 Concord, NH 03301.

It is further mutually agreed that any party, including the duly-authorized representatives of the Federal Highway Administration, may request and obtain conferences, visits to the site, and inspection of the work at any reasonable time.

C. EXTENT OF CONTRACT

1. Contingent Nature of AGREEMENT

Notwithstanding anything in this AGREEMENT to the contrary, all obligations of the STATE, including, without limitation, the continuance of payments, are contingent upon the availability and continued appropriation of funds, and in no event shall the STATE be liable for any payments in excess of such available appropriated funds. In the event of a reduction or termination of those funds, the STATE shall have the right to terminate this AGREEMENT.

2. Termination

The DEPARTMENT shall have the right for cause, to terminate the work required of the COMMISSION by this AGREEMENT, by written notice of such termination provided to the COMMISSION by the DEPARTMENT. In the event of such a termination of this

ARTICLE IV

AGREEMENT, without fault on the part of the COMMISSION, the COMMISSION shall be entitled to compensation for all work theretofore satisfactorily performed, pursuant to this AGREEMENT, such compensation to be fixed, insofar as possible, based upon the work performed prior to termination. It shall be a breach of this AGREEMENT if the COMMISSION shall fail to complete the tasks of the CTAP Phase 3 Proposal in a timely manner in accordance with sound professional principles and practices to the reasonable satisfaction of the DEPARTMENT or shall be in such financial condition as to be unable to pay its just debts as they accrue, or shall make an assignment for the benefit of creditors, or shall be involved in any proceeding, voluntary or involuntary, resulting in the appointment of a receiver or trustee over its affairs, or shall become dissolved for any cause. In the event of an occurrence of any one or more of the foregoing contingencies, or upon the substantial breach of any other provisions of this AGREEMENT by the COMMISSION, its officers, agents, employee, and subconsultants, the DEPARTMENT shall have the absolute right and option to terminate this AGREEMENT forthwith. In addition, the DEPARTMENT may have and maintain any legal or equitable remedy against the COMMISSION for its loss and damages resulting from such breach or breaches of this AGREEMENT; provided, however, that all work completed with products and data theretofore furnished to the DEPARTMENT by the COMMISSION, of a satisfactory nature in accordance with this AGREEMENT, shall be entitled to a credit, based on the contract rate for the work so performed in a satisfactory manner and of use and benefit to the DEPARTMENT.

D. REVISIONS TO REPORTS, PLANS OR DOCUMENTS

The COMMISSION shall perform such additional work as may be necessary to correct errors in the work required under the AGREEMENT, caused by errors and omissions by the COMMISSION, without undue delays and without additional cost to the DEPARTMENT.

ARTICLE IV

E. ADDITIONAL SERVICES

If, during the term of this AGREEMENT, additional Planning services are required due to a revision in the limits of the project, or it becomes necessary to perform services not anticipated during negotiation, the DEPARTMENT may, in writing, order the COMMISSION to perform such services, and the COMMISSION shall be paid a fee in accordance with the provisions of Article II, Section B.

If, during the term of this AGREEMENT, additional Planning services are performed by the COMMISSION due to the fact that data furnished by the DEPARTMENT are not usable or applicable, the STATE will, upon written approval of the DEPARTMENT, reimburse the COMMISSION for such additional services in accordance with the provisions of Article II, Section B.

If additional services are performed by the COMMISSION through its own acts, which are not usable or applicable to this project, the cost of such additional services shall not be reimbursable.

F. OWNERSHIP OF PLANS

All data, plans, maps, reports and other products prepared, or undertaken either manually or electronically by the COMMISSION, under the provisions of this AGREEMENT, are the property of the COMMISSION and DEPARTMENT. Copies of these will be provided to the DEPARTMENT upon request. The COMMISSION shall provide to the DEPARTMENT, or submit to its inspection, any data, plan, map and reports which shall have been collected, prepared, or undertaken by the COMMISSION, pursuant to this AGREEMENT, or shall have been hitherto furnished to the COMMISSION by the DEPARTMENT. The COMMISSION shall have the right to use any of the data prepared by it and hitherto delivered to the DEPARTMENT at any later stage of the project contemplated by this AGREEMENT.

G. SUBLETTING

The COMMISSION shall not sublet, assign or transfer any part of the COMMISSION'S services or obligations under this AGREEMENT without the prior approval and written consent of the DEPARTMENT.

ARTICLE IV

All subcontracts shall be in writing and those exceeding \$10,000 shall contain all provisions of this AGREEMENT, including "Certification of CONSULTANT/Subconsultant". A copy of each subcontract regardless of cost shall be submitted for the DEPARTMENT'S approval.

H. GENERAL COMPLIANCE WITH LAWS, ETC.

The COMMISSION shall comply with all Federal, STATE and local laws, and ordinances applicable to any of the work involved in this AGREEMENT and shall conform to the requirements and standards of STATE, municipal, agencies as appropriate. The COMMISSION agrees to comply with standards and requirements set forth in the NH Department's Administration of Planning Funds guidebook, unless such standards conflict with the provisions of this Agreement or with Federal or State laws and rules. The COMMISSION understands that the NH Department's Administration of Planning Funds guidebook constitutes part of this AGREEMENT.

I. BROKERAGE

The COMMISSION warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the COMMISSION, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the COMMISSION, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the STATE shall have the right to annul this Contract without liability, or, at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

J. CONTRACTUAL RELATIONS

1. Status of the COMMISSION

The COMMISSION is a political subdivision of the STATE as per RSA chapter 36. In the context of this AGREEMENT the COMMISSION shall not act as an agent or employee of the STATE.

ARTICLE IV

2. Claims and Indemnification

a. Non-Professional Liability Indemnification

The COMMISSION agrees to defend, indemnify and hold harmless the STATE and all of its officers, agents and employees from and against any and all claims, liabilities or suits arising from (or which may be claimed to arise from) any (i) acts or omissions of the COMMISSION or its subconsultants in the performance of this AGREEMENT allegedly resulting in property damage or bodily injury and/or (ii) misconduct or wrongdoing of the COMMISSION or its subconsultants in the performance of this AGREEMENT.

b. Professional Liability Indemnification

The COMMISSION agrees to defend, indemnify and hold harmless the STATE and all of its officers, agents and employees from and against any and all claims, liabilities or suits arising from (or which may be claimed to arise from) any negligent acts or omissions of the COMMISSION or its subconsultants in the performance of Planning services covered by this AGREEMENT.

c. These covenants shall survive the termination of the AGREEMENT. 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 by the STATE.

3. Insurance

a. Required Coverage

The COMMISSION shall, at its sole expense, obtain and maintain in force the following insurance:

1. Commercial or comprehensive general liability insurance including contractual coverage, for all claims of bodily injury, death or property damage, in policy

ARTICLE IV

amounts of not less than \$250,000 per occurrence and \$2,000,000 in the aggregate (STATE to be named as an additional insured); and

2. comprehensive automobile liability insurance covering all motor vehicles, including owned, hired, borrowed and non-owned vehicles, for all claims of bodily injury, death or property damage, in policy amounts of not less than \$500,000 combined single limit; and
3. workers' compensation and employer's liability insurance as required by law.

b. Proof of Insurance

The policies described in paragraph (a) of this section and Section G shall be in the standard form employed in the STATE, issued by underwriters licensed or approved by the Department of Insurance of the STATE. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than 30 days, or 10 days in cases of non-payment of premium, after written notice thereof has been received by the STATE. The COMMISSION shall provide to the STATE a certificate of insurance evidencing the required coverages, retention (deductible) and cancellation clause prior to submittal of the AGREEMENT to Governor and Council for approval and shall have a continuing duty to provide new certificates of insurance as the policies are amended or renewed.

4. No Third-Party Rights

It is not intended by any of the provisions of the AGREEMENT to make the public or any member thereof a third-party beneficiary of the AGREEMENT, or to authorize anyone not a party to this AGREEMENT to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract. The duties, obligations and responsibilities of the parties to this AGREEMENT with respect to third parties shall remain as imposed by law. No portion of this AGREEMENT shall be understood to be a waiver of the STATE'S sovereign immunity.

ARTICLE IV

5. Construction of AGREEMENT

This AGREEMENT is executed in a number of counterparts, each of which is an original and constitutes the entire AGREEMENT between the parties. This AGREEMENT shall be construed according to the laws of the STATE.

K. AGREEMENT MODIFICATION

The provisions of this AGREEMENT shall not be modified without the prior approval of the Governor and Council. Modifications to the CTAP Phase 3 Proposal within the Scope of this AGREEMENT may be made by mutual written agreement between the COMMISSION and the DEPARTMENT. It shall be the COMMISSION'S responsibility to request a modification to the DEPARTMENT in writing for the DEPARTMENT'S consideration prior to the approval.

L. EXTENSION OF COMPLETION DATE(S)

If, during the course of the work, the COMMISSION anticipates that he cannot comply with one or more of the completion dates specified in this AGREEMENT, it shall be the COMMISSION'S responsibility to notify the Department in writing at least ninety (90) days prior to the completion date(s) in question. The COMMISSION shall state the reasons that a completion date(s) cannot be met and request a revised date(s) for consideration by the DEPARTMENT.

M. TITLE VI (NONDISCRIMINATION OF FEDERALLY ASSISTED PROGRAMS) COMPLIANCE

- (1) programs of the DEPARTMENT such regulations entitled Title 49 Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), and which are herein incorporated by reference and made a part of this AGREEMENT.
- (2) Nondiscrimination: The COMMISSION with regard to the work performed by it during the AGREEMENT shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subconsultants, including procurements of materials and leases of equipment specific to this project. The COMMISSION shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of

ARTICLE IV

the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment:

In all solicitations either by competitive bidding or negotiation made by the COMMISSION for work to be performed under a subcontract, including procurements of materials or leases of equipment specific to the project, each potential subconsultant or supplier shall be notified by the COMMISSION of the COMMISSION'S obligations under this AGREEMENT and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The COMMISSION shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the DEPARTMENT or the FHWA to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a COMMISSION is in the exclusive possession of another who fails or refuses to furnish this information, the COMMISSION shall so certify to the DEPARTMENT or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the COMMISSION's noncompliance with nondiscrimination provisions of this AGREEMENT, the DEPARTMENT shall impose sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the COMMISSION under the AGREEMENT until the COMMISSION complies; and/or
- (b) cancellation, termination, or suspension of the AGREEMENT, in whole or in part.

ARTICLE IV

- (6) The COMMISSION shall take such action with respect to any subcontract or procurement as the DEPARTMENT or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that in the event a COMMISSION becomes involved in, or is threatened with litigation with a subconsultant or supplier as a result of such direction, the COMMISSION may request the DEPARTMENT to enter into such litigation to protect the interests of the STATE, and in addition, the COMMISSION may request the United States to enter into such litigation to protect the interests of the United States.
- (7) 23 CFR 710.405(b) and, Executive Order 11246 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented in Department of Labor REGULATIONS (41 CFR Part 60), shall be applicable to this AGREEMENT and any sub-agreements hereunder.
- (8) Incorporation of Provisions: The COMMISSION shall include the provisions of paragraphs (1) through (7) in every subcontract, including procurements of materials and leases of equipment specific to the project, unless exempt by the REGULATIONS, or directives issued pursuant thereto.

In accordance with EXECUTIVE ORDER 11246, the DEPARTMENT has the authority and responsibility to notify the Office of Federal Contract Compliance Programs of the United States Department of Labor if they become aware of any possible violations of Executive Order 11246 and 41 CFR Part 60. The Office of Federal Contract Compliance Programs is solely responsible for determining compliance with Executive Order 11246 and 41 CFR Part 60 and the COMMISSION should contact them regarding related compliance issues.

As defined in RSA 36 and described in Section J(1), Status of Consultant, of this Agreement, the CONSULTANT is a political subdivision of the STATE and, therefore, in accordance with 41 CFR Part 60-1.5(a)(4), any subdivision of the State is exempt from the requirement of filing the annual compliance reports provided for by 41 CFR Part 60-1.7(a)(1).

ARTICLE IV

N. DISADVANTAGED BUSINESS ENTERPRISE POLICY AGREEMENT REQUIREMENTS

1. Policy. It is the policy of the United States Department of Transportation (USDOT) to ensure nondiscriminatory opportunity for Disadvantaged Business Enterprises (DBE's), as defined in 49 Code of Federal Regulations (CFR) Part 26, to participate in the performance of agreements and any sub-agreements financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 applies to this AGREEMENT.
2. Disadvantaged Business Enterprise (DBE) Obligation. The STATE and its COMMISSIONs agree to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 CFR Part 26, to participate in the performance of agreements and any subagreements financed in whole or in part with Federal funds. In this regard, the STATE and its COMMISSIONs shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the opportunity to compete for and perform work specified in the agreements. The STATE and its COMMISSIONs shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of agreements financed in whole or in part with Federal funds.
3. Sanctions for Non-Compliance. The COMMISSION is hereby advised that failure of the COMMISSION, or any Subconsultant performing work under this AGREEMENT, to carry out the requirements set forth in paragraphs 1 and 2 above shall constitute a breach of agreement and, after the notification of the United States Department of Transportation, may result in termination of this AGREEMENT by the STATE or such remedy as the STATE deems appropriate.

CERTIFICATION OF CONSULTANT/SUBCONSULTANT

I hereby certify that I am the Ex. Director and duly-authorized representative of the firm of Central NH Regional Planning Commission, and that neither I nor the above firm I here represent has:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this Contract.
- (b) agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- (c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the Contract:

I/WE do also, under penalty of perjury under the laws of the United States, certify that, except as noted below, the company or any person associated therewith in the capacity of (owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of Federal funds): (a) is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency; (b) has not been suspended, debarred, voluntarily excluded or determined ineligibility by any Federal agency within the past three years; (c) does not have a proposed debarment pending; and (d) has not been indicted, convicted or had a civil judgment rendered against (it) by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

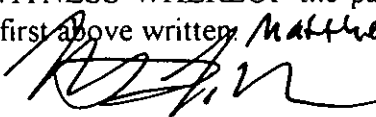
except as here expressly stated (if any):

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate below to whom it applies, the initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

I acknowledge that this certificate is to be furnished to the State Department of Transportation and the Federal Highway Administration, U. S. Department of Transportation, in connection with this Contract involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.


10/2/18
(Date)

MRM
(Signature)

IN WITNESS WHEREOF the parties hereto have executed this AGREEMENT
on the day and year first above written. Matthew S. Monahan, Notary Public, 10/2/18
 (Seal) 3/7/23

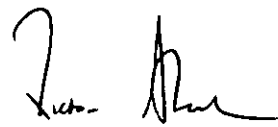
Consultant

CONSULTANT

Dated: 10/2/18 By:  _____
Executive Director

Department of Transportation

THE STATE OF NEW HAMPSHIRE

Dated: 11/5/18 By:  _____
Commissioner, NHDOT

Attorney General

This is to certify that the above AGREEMENT has been reviewed by this office and is approved as to form and execution.

Dated: 11/20/18 By: Alvin B. Weinstein _____
Assistant Attorney General

Secretary of State

This is to certify that the GOVERNOR AND COUNCIL on _____ approved this AGREEMENT.


Dated: _____ Attest: _____
By: _____
Secretary of State

CERTIFICATE OF VOTE

I, Keith Johnson, Secretary of the Central New Hampshire Regional Planning Commission (CNHRPC), do hereby certify that: (1) I am the duly elected and acting Secretary of the Commission, a regional planning agency established pursuant to the laws of the State of New Hampshire (RSA 36:45-53); (2) I review and maintain or cause to be maintained and am familiar with the minutes of the meetings of the Commission and its Executive Committee; (3) I am duly authorized to issue certificates with respect to the contents of such minutes; (4) at a regularly scheduled CNHRPC Executive Committee meeting held on June 14, 2018 the CNHRPC Executive Committee voted to enter into a contract with the New Hampshire Department of Transportation to undertake CommuteSmart New Hampshire Rideshare Coordination and TDM Services. The Commission further authorized the Executive Director to execute any documents which may be necessary to effectuate this contract; (5) this authorization has not been revoked, annulled or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and (6) the following person has been appointed to and now occupies the office indicated under item (4) above:

Michael Tardiff, Executive Director
(Printed name of officer authorized to sign)

IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary of the Commission, this 2 day of oct, 2018.




Keith Johnson, Secretary

STATE OF NEW HAMPSHIRE
County of Merrimack

On this the 2nd day of October, 2018, before me, Matthew J. Monahan, ~~Notary Public/Justice of the Peace~~, the undersigned officer, personally appeared Keith Johnson who acknowledged himself to be the Secretary of the Commission, being authorized so to do, executed the foregoing instrument for the purpose therein contained.

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



Notary Public/Justice of the Peace

COMMISSION EXPIRATION DATE: March 7, 2023

SEAL

NON-DISCRIMINATION ASSURANCES

The **AGENCY TITLE** (hereinafter referred to as the "RECIPIENT") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights ACT of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the ACT), and all requirements imposed by or pursuant to Title 49, Code of Federal REGULATIONS, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights ACT of 1964 (hereinafter referred to as the REGULATIONS) and other pertinent directives, to the end that in accordance with the ACT, REGULATIONS, and other pertinent directives, no person in the United States shall, on the grounds of race, color, or national origin, sex, age, disability, or religion, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or Activity for which the RECIPIENT receives Federal financial assistance from the Department of Transportation, including the Federal Highway and Federal Transit Administrations, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a)(1) of the REGULATIONS.

More specifically and without limiting the above general assurance, the RECIPIENT hereby gives the following specific assurances with respect to its UNIFIED PLANNING WORK PROGRAM:

1. That the RECIPIENT agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the REGULATIONS, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the REGULATIONS.
2. That the RECIPIENT shall insert the following notification in all solicitations for bids for work or material subject to the REGULATIONS and made in connection with the UNIFIED PLANNING WORK PROGRAM and, in adapted form in all proposals for negotiated agreements:

The AGENCY TITLE, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin, sex, age, disability, or religion in consideration for an award.

3. That the RECIPIENT shall insert the clauses of Appendix A of this assurance in every contract subject to this ACT and the REGULATIONS.
4. That this assurance obligates the RECIPIENT for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the RECIPIENT or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the RECIPIENT retains ownership or possession of the property.
5. That this assurance obligates the RECIPIENT for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the RECIPIENT or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the RECIPIENT retains ownership or possession of the property.

6. The RECIPIENT shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the ACT, the REGULATIONS, and this assurance.
7. The RECIPIENT agrees that the United States and the State of New Hampshire have the right to seek judicial enforcement with regard to any matter arising under the ACT, the REGULATIONS, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, agreements, property, discounts or other Federal financial assistance extended after the date hereof to the RECIPIENT by the State, acting for the U.S. Department of Transportation UNDER THE UNIFIED PLANNING WORK PROGRAM and is binding on the RECIPIENT, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest and other participants in the UNIFIED PLANNING WORK PROGRAM.

The person below is authorized to sign these assurances on behalf of the RECIPIENT:

Signature MTM Date: 10/2/18

Name/Title Michael Tardiff, Ex. Director

Attachments: Appendix A

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "CONTRACTOR") agrees as follows:

- (1) Compliance with Regulations: The CONTRACTOR shall comply with the REGULATIONS relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- (2) Nondiscrimination: The CONTRACTOR, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. The CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.
- (3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONTRACTOR for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by the CONTRACTOR of the CONTRACTOR'S obligations under this contract and the REGULATIONS relative to nondiscrimination on the grounds of race, color, national origin, sex, religion, age, or disability.
- (4) Information and Reports: The CONTRACTOR shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the RECIPIENT or the New Hampshire Department of Transportation to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of the CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information the CONTRACTOR shall so certify to the RECIPIENT or the New Hampshire Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the CONTRACTOR'S noncompliance with nondiscrimination provisions of this agreement, the RECIPIENT shall impose such contract sanctions as it or the New Hampshire Department of Transportation may determine to be appropriate, including, but not limited to:
 - (a) withholding of payments to the CONTRACTOR under the contract until the CONTRACTOR complies; and/or
 - (b) cancellation, termination, or suspension of the contract, in whole or in part.
- (6) Incorporation of Provisions: The CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONTRACTOR shall take such action with respect to any sub-agreement or procurement as the RECIPIENT or the New Hampshire Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, the CONTRACTOR may request the RECIPIENT to enter into such litigation to protect the interests of the RECIPIENT, and, in addition, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.