



DEPARTMENT OF ENVIRONMENTAL SERVICES

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Robert R. Scott, Commissioner

March 19, 2018

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

**REQUESTED ACTION**

Authorize the NH Department of Environmental Services (NHDES) to execute a **SOLE SOURCE** amendment to contract #1051314 with Absolute Resource Associates, LLC. (ARA) Portsmouth, NH, (VC #159136-B001) by extending the contract to June 30, 2019 from June 30, 2018, and increasing the contract amount by \$99,000 from \$95,500 to \$194,500, effective upon Governor and Council approval through June 30, 2019. The original contract was approved on June 15, 2016 item #54. Funding is 66% General Fund, 25% Fee Funds, and 9% Federal.

Funding is available in the accounts listed below with the authority to adjust encumbrances in each of the state fiscal years through the Budget Office if needed and justified.

Dept. of Environmental Services Account No. 03-44-44	FY 2018	FY 2019
442010-1435-102-500731 Sludge Analysis Fund, Contract for Program Services		\$12,000.00
444010-5392-102-500731 Hazardous Waste Cleanup Fund, Contract for Program Services	\$7,000.00	\$3,000.00
444010-2589-102-500731 CERCLA Maintenance Fund, Contract for Program Services		\$65,000.00
444010-2590-102-500731 CERCLA Program Fund, Contract for Program Services		\$9,000.00
444010-1400-102-500731 Oil Remediation Fund, Contract for Program Services		\$3,000.00
<b>TOTALS:</b>	<b>\$7,000.00</b>	<b>\$92,000.00</b>

**EXPLANATION**

The purpose of the requested action is to increase funding in FY18 and to extend the contract one year thru FY19. Increased funding in FY18 is necessary due to the recent discovery of per- and polyfluorinated alkyl substances (PFAS) in wastewater treatment plant sludges at concentrations that might result in violations of the corresponding Ambient Groundwater Quality Standards (AGQS) at land application sites. Recent data obtained from land application sites in other states has demonstrated groundwater quality impacts at concentrations above the current AGQS. The additional FY18 funding

under the Hazardous Waste Cleanup Fund will be used in conjunction with the Sludge Analysis Fund to analyze sludge samples from active wastewater treatment plants and sludge, soil and water samples from land application sites and nearby drinking water supply wells to determine whether land application of wastewater treatment plant sludges have impacted local groundwater and drinking water quality and whether revisions to the land application rules and procedures are necessary. The results of these analyses will identify impacted water supplies so that corrective actions can be implemented in a timely manner. The contract was originally approved by G&C on June 15, 2016, item #54. This amendment is considered **Sole Source** as the increase is greater than 10% of the original contract price. Due to the nature of the analytical tests required, including emerging contaminants, it is necessary for the NHDES to have an outside laboratory under contract to assist in meeting its laboratory needs.

Extension of the contract period from June 30, 2018 to June 30, 2019 is necessary because this additional potential PFAS threat to groundwater and drinking water quality was not discovered until the late stages of the laboratory procurement process which resulted in insufficient time to issue revised bid documents and complete the procurement process prior to June 30, 2018. Further, extension of the contract performance period is necessary to facilitate continued sampling and analysis of environmental media at federal sites such as Superfund Sites and former U.S. Department of Defense Sites as well as hazardous waste sites and oil release sites.

NHDES established an objective process for evaluating bids when awarding contracts for laboratory services. ARA was the lowest priced qualified bidder during the original contract procurement bidding process in 2016. ARA has agreed to honor the prices, terms, and conditions in its original contract for this Amendment. ARA has been responsive and professional with regard to conducting NHDES-requested laboratory services. Their unit rates continue to reflect fair market value.

NHDES plans to initiate a new laboratory contract procurement bidding process early in FY 2019 and does not plan to request an additional amendment to this contract. To date only \$31,718 remains of the original contract amount of \$95,500.

This contract amendment has been approved by the Office of the Attorney General as to form, content and execution. EPA supports the contract.

We respectfully request your approval.



Robert R. Scott, Commissioner  
NH Department of Environmental Services

Attachments: Contract Agreement Amendment

**Absolute Resource Associates, LLC**  
**AGREEMENT FOR LABORATORY ANALYTICAL SERVICES**

**Amendment No. 1**

**WHEREAS**, pursuant to an Agreement, approved by the Governor and Executive Council on June 15, 2016, Item # 54 (the "Agreement"), the Contractor has agreed to provide certain services upon the terms and conditions specified in the Agreement, in consideration of payment by the State of certain sums specified therein; and

**WHEREAS**, pursuant to paragraph 18 of the Agreement, the Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties thereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire; and

**WHEREAS**, the State and the Contractor have agreed to amend the Agreement in certain respects; and

**NOW, THEREFORE**, in consideration of the foregoing and of the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. Amendment and Modification of Agreement: The Agreement is hereby amended as follows:
  - (a) The price limitation set forth in Item 1.8 of the Agreement shall be increased by \$99,000, from \$95,500 to \$194,500. Exhibit B to the Agreement is modified to reflect the additional payment of \$99,000, as follows:

Dept. of Environmental Services Account No. 03-44-44	Original Totals	Totals of Amendment No. 1	Revised Totals
442010-1435-102-500731 Sludge Analysis Fund, Contract for Program Services	\$20,000.00	\$12,000.00	\$32,000.00
444010-5392-102-500731 Hazardous Waste Cleanup Fund, Contract for Program Services	\$6,000.00	\$10,000.00	\$16,000.00
444010-2589-102-500731 CERCLA Maintenance Fund, Contract for Program Services	\$54,000.00	\$65,000.00	\$119,000.00
444010-2590-102-500731 CERCLA Program Fund, Contract for Program Services	\$9,500.00	\$9,000.00	\$18,500.00
444010-1400-102-500731 Oil Remediation Fund, Contract for Program Services	\$6,000.00	\$3,000.00	\$9,000.00
<b>TOTALS:</b>	<b>\$95,500.00</b>	<b>\$99,000.00</b>	<b>\$194,500.00</b>

Initials/Date:    / 2/28/2018

- (b) The completion date as set forth in Item 1.7 of the Agreement shall be extended for one year from June 30, 2018 to June 30, 2019.
- 2. Effective Date of Amendment: This Amendment No. 1 shall take effect as of the date of its approval by the Governor and Executive Council of the State of New Hampshire.
- 3. Continuance of Contract: Except as specifically amended and modified by the terms and conditions of this Amendment No. 1, the Contract and the obligations of the parties thereunder shall remain in full force and effect in accordance with the terms and conditions set forth therein.

**IN WITNESS WHEREOF,**

THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF ENVIRONMENTAL SERVICES

By: *Robert R. Scott*  
Robert R. Scott, Commissioner

Absolute Resource Associates, LLC

By: *Susan C. Sylvester*  
Susan C. Sylvester, President/LLC Manager

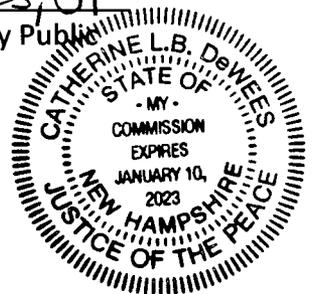
STATE OF NEW HAMPSHIRE  
COUNTY OF *Rockingham*

On this *28* day of *February*, 2018, before the undersigned officer, personally appeared Susan C. Sylvester, who acknowledged herself to be the President / LLC Manager of Absolute Resource Associates, LLC, who executed the foregoing instrument for the purpose therein contained.

IN WITNESS THEREOF, I hereunto set my hand and official seal.

*Catherine L.B. DeWees*  
Notary Public

*Catherine L.B. DeWees, JP*  
Name and Title of Notary Public



**Approval by OFFICE OF THE ATTORNEY GENERAL:**

Date: *3/29/18* By: *[Signature]*

**Approval by GOVERNOR AND EXECUTIVE COUNCIL:**

Date: \_\_\_\_\_ By: \_\_\_\_\_

"CORPORATE CERTIFICATE"

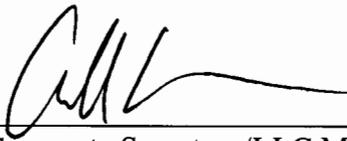
I, (Name) Cliff Chase hereby certify that I am duly elected Secretary/LLC Member of (Corporation) Absolute Resource Associates, LLC.

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 February 26, 2018.

VOTED: That (Name) Susan C Sylvester is duly authorized to execute all documents of the LLC including deeds, mortgages, leases, promissory notes, checks and other instruments; and to enter into contracts or execute and deliver any instrument in the name of and on behalf of the LLC; 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) February 26, 2018 and that (Name) Susan C. Sylvester is duly elected (Title) President/LLC Manager of this Corporation.

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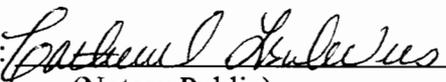
ATTEST:   
(Corporate Secretary/LLC Member)

DATE: 2/20/18

CORPORATE SEAL



NOTARY SEAL

ATTEST:   
(Notary Public)

COMMISSION EXPIRES: 1/10/23

DATE: 2/20/18

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

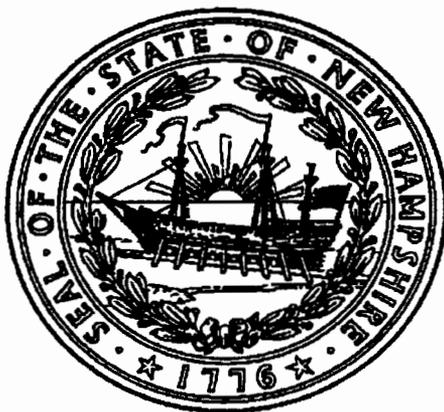
# State of New Hampshire

## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that ABSOLUTE RESOURCE ASSOCIATES LLC is a New Hampshire Limited Liability Company registered to transact business in New Hampshire on November 15, 2000. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 363755



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 23rd day of February A.D. 2018.

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

William M. Gardner  
Secretary of State



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The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

*Michael Rainey*



**Thomas S. Burack, Commissioner**

May 23, 2016

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

**APPROVED G & C**

DATE 6/15/16  
 ITEM # 59

**REQUESTED ACTION**

Authorize the Department of Environmental Service (DES) to enter into a contract with Absolute Resources Associates, LLC. (Vendor Code #: 159136-B001) Portsmouth, NH in the amount not to exceed \$95,500.00, for laboratory analytical services, effective as of July 1, 2016 through June 30, 2018. Funding is 10% Federal, 34% Fee Funds, and 56% General Fund.

Funding is available as follows, with the authority to adjust encumbrances in each State Fiscal year through the Budget Office, if needed and justified. Funding for FY2018 is contingent upon appropriation and available funds.

<b>Dept. of Environmental Services Account # 03-44-44</b>	<b>FY 2017</b>	<b>FY2018</b>
442010-1435-102-500731	\$10,000.00	\$10,000.00
Sludge Analysis Fund, Contract for Program Services		
444010-5392-102-500731	\$3,000.00	\$3,000.00
Hazardous Waste Cleanup Fund, Contract for Program Services		
444010-2589-102-500731	\$22,000.00	\$32,000.00
CERCLA Maintenance Fund, Contract for Program Services		
444010-2590-102-500731	\$3,500.00	\$6,000.00
CERCLA Program Fund, Contract for Program Services		
444010-1400-102-500731	\$3,000.00	\$3,000.00
Oil Remediation Fund, Contract for Program Services		
<b>TOTALS:</b>	<b>\$41,500.00</b>	<b>\$54,000.00</b>

**EXPLANATION**

DES has periodic need for analytical services performed on hazardous waste, soil, water, and sludge samples. In addition, there are certain tests, for example Chemical Oxygen Demand (COD) or polychlorinated biphenyls (PCB), that the laboratories of the Department of Health and Human Services do not perform. Due to the nature of the analytical tests requested and constraints imposed by sample

matrices and holding times, it is necessary for the DES to have an outside laboratory under contract to assist in meeting its laboratory needs.

DES has established an objective process for evaluating bids when awarding contracts for laboratory services. In addition to the bid price, this selection process evaluates a laboratory's ability to meet the Quality Requirements specified in the bid proposal and their ability to perform all the analytical services in Exhibit A-1, to ensure that DES receives a quality product and controls costs. The contract is awarded to the technically qualified laboratory that offers a responsive bid at the lowest cost. Three laboratories responded to the DES request for proposal (RFP). As indicated in the RFP, the following matrix of potential samples (based on previous contract history) expected per year was used to calculate the low bid:

<b>MATRIX FOR CALCULATING COST OF ANALYSES</b>			
<b>Parameter</b>	<b>Unit Price</b>	<b>Number of Tests</b>	<b>Total Price</b>
Individual Metals (soil) – Section A		30	
8270 ABN (soil) – Section A		25	
PAH (soil) – Section A		10	
TOC (soil) – Section B		20	
Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans – Section B		5	
1,4-Dioxane – Section A		10	
SPLP extract + metals analysis - Section A		5	
COD – Section B		5	
PCB's in soil – Section A		10	
Asbestos – Section B		3	
Full Exhibit A-1 Section C analysis		15	

Bids were reviewed and scored by Michael Rainey, supervisor of the DES Residuals Management Section. All three responding laboratories submitted a complete bid package. A tabulation of the bidders' qualifications and prices for the matrix for calculating costs of analyses is shown below.

<b>Laboratory</b>	<b>Package Complete and Meets Qualifications</b>	<b>Cost Based on RFP Matrix</b>	<b>Ranking</b>
Absolute Resource Associates	yes	\$35,095	1
ChemServe Environmental Analysts	yes	\$39,928	2
Eastern Analytical, Inc.	yes	\$42,520	3

Absolute Resource Associates is the lowest qualified bidder and has agreed to honor the prices, terms, and conditions quoted in its original bid.

Absolute Resource Associates is a laboratory that fully meets the quality assurance/quality control standards required by the state and federal governments, including those required by the U.S. Environmental Protection Agency (USEPA) and the National Environmental Laboratory Accreditation Conference. Absolute Resource Associates has the laboratory capability to perform the analyses in accordance with specifications set forth by DES programs for both enforcement and site remediation

functions by providing for the identification and quantification of environmental contaminants and hazardous characteristics in soil, air, water, sludge, and waste samples.

This contract has been approved by the Department of Justice as to form, substance, and execution.

We respectfully request your approval.

A handwritten signature in black ink, reading "Thomas S. Burack". The signature is written in a cursive style with a horizontal line underneath the name.

Thomas S. Burack, Commissioner

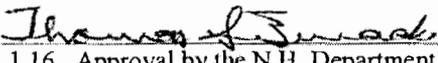
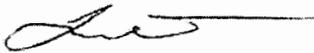
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name New Hampshire - Dept. of Environmental Services		1.2 State Agency Address 29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095	
1.3 Contractor Name Absolute Resource Associates		1.4 Contractor Address 124 Heritage Avenue #16 Portsmouth, NH 03801	
1.5 Contractor Phone Number 603-436-2001	1.6 Account Number See Exhibit B	1.7 Completion Date June 30, 2018	1.8 Price Limitation \$95,500.00
1.9 Contracting Officer for State Agency Michael Rainey		1.10 State Agency Telephone Number (603) 271-2818	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Susan C. Sylvester, President	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Roxingham</u> On <u>4/13/16</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 or Justice of the Peace Catherine L.B. Dewees Notary Public, State of New Hampshire My Commission Expires March 6, 2018 [Seal] 			
1.13.2 Name and Title of Notary or Justice of the Peace <u>CATHERINE L.B. DEWEES, Notary Public</u>			
1.14 State Agency Signature  Date: <u>5/23/2016</u>		1.15 Name and Title of State Agency Signatory <u>THOMAS S. BURACK, COMMISSIONER</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>May 24, 2016</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

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

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

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

**5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.**

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

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

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

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

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

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

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

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

**7. PERSONNEL.**

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

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

Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

## 8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

## 9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. **TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

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

12. **ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and 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 \$1,000,000 per occurrence and \$2,000,000 aggregate; and

14.1.2 special cause of loss coverage form 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 thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

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

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

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

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

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

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

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

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

PCB's in soil – Section A	55.00	10	550.00
Asbestos – Section B	15.00	3	45.00
Full Exhibit A-1, Section C analysis	980.00	15	14700.00
TOTAL			<del>36,095.00</del> <i>KS</i> 35095.00

EXHIBIT A-1

BID FORM

The undersigned hereby offers to perform services for the New Hampshire Department of Environmental Services as specified at the prices quoted in Exhibit A-1 in complete accordance with the provisions set forth in this bid form.

Return one copy of the bidder qualification requirements materials together with two copies of the completed Exhibit A-1 to Michael Rainey, Department of Environmental Services, Wastewater Engineering Bureau, PO Box 95, 29 Hazen Dr., Concord NH 03302-0095. This bid must be received no later than 4:00 pm on February 26, 2016.

BIDDER Absolute Resource Associates

Mailing Address: 124 Heritage Ave  
Portsmouth, NH  
03801

Susan C. Sylvester  
Type or print name of authorized signatory

*Susan C. Sylvester*  
Signature of authorized person

Date: 2-25-11

EXHIBIT A-1

SECTION A

The following analytical services are required. A quotation must be provided for each analysis listed. Price shall be quoted on a per sample basis; all sample preparation costs and repeat analytical runs are to be included in the cost except where itemized; price is same for all matrices. Quotations should also be provided for additional costs for priority analyses performed in less than five (5) days. Where a method is not specified, indicate the method and/or method revision to be used. If a subcontractor will be used, this must be indicated for each analyte and the final cost quoted.

ANALYTE	EPA METHODS	PRICE PER SAMPLE	PRIORITY PRICE
<b>I. WASTE CHARACTERIZATION</b>			
Corrosivity	9040/9045	5.00	5.00
Ignitability:	1010/1030	15.00	30.00
Flashpoint	1010	15.00	30.00
<b>TCLP or SPLP ANALYSIS</b>			
Extraction for Volatiles (ZHE)	1311/1312	50.00	100.00
Extraction for SOC, Metals, Pest, Herb	1311/1312	50.00	100.00
Analytical charges:			
Volatiles	8260	90.00	180.00
Semi-Volatiles	8270	165.00	330.00
Pesticides	8081	80.00	160.00
Herbicides	8151 - subcontract	120.00	240.00
Metals		70.00	140.00
<b>II. ORGANIC ANALYSES</b>			
Base Neutral/Acid Extractables (soil)	8270	165.00	330.00
Acid Extractables (soil)	8270	125.00	250.00
Base Neutral Extractables (soil)	8270	115.00	230.00
Polynuclear Aromatic Hydrocarbons (soil)	8270/8310	115.00	230.00
Organochlorine Pesticides	608/8081	80.00	160.00
Organochlorine Pesticides & PCB's	608/8081+8082	110.00	220.00
PCB's in Water/Soil	608/8082	55.00	110.00
PCB's in Water as decachlorobiphenyl	508A - subcontract	460.00	920.00
PCB's in Oil	8082	55.00	110.00
PCB's on Wipes/Filter	8082	55.00	110.00
PCB's in Tissue		65.00	130.00
1,4-Dioxane	8260 SIM	55.00	110.00
<b>III. INORGANIC ANALYSES</b>			
Individual Metals (soil)**		25.00	50.00
Total and Amenable Cyanide	9010C, 9012A, 9014	50.00	100.00

\* VOC analysis shall also meet the requirements of DES guidance, *Changes in VOC Analytical Requirements*, found on the DES webpage at

[http://des.nh.gov/organization/divisions/waste/hwrp/sss/hwrp/guidance\\_documents.htm](http://des.nh.gov/organization/divisions/waste/hwrp/sss/hwrp/guidance_documents.htm).

\*\* Metals by requested EPA method including required digestion for any sample submitted.

## EXHIBIT A-1

## SECTION B

The following analytical services are requested on a less frequent basis. Where a method is not specified, indicate the method and/or method revision to be used for drinking water, waste water and/or hazardous waste. If a subcontractor will be used for these analyses, this must be indicated for each analyte with the final cost quoted.

ANALYTE	METHOD	PRICE PER SAMPLE
<b>I. ORGANIC ANALYSES</b>		
Chlorinated Phenoxy Herbicides	8151/515/555 - Subcontract	120.00
Carbon Dioxide in Monitored Natural Attenuation		15.00
Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans	1613 - Subcontract	420.00
Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans	8280 - Subcontract	420.00
Formaldehyde	8315 - Subcontract	170.00
Hexane Extractable Material	1664	40.00
Organophosphorus Pesticides	8141 - Subcontract	160.00
VOA's in air-Tedlar Bags	TO1/TO15 - Subcontract	170.00
VOA's in air-SUMMA canisters	TO15 - Subcontract	200.00
Total Organic Carbon (solid)	Subcontract	50.00
Total Organic Halide (TOX)	Subcontract	90.00
Volatile Fatty Acids	Subcontract	270.00
Volatiles (low level soil-bisulfate)	8260	100.00
<b>II. INORGANIC ANALYSES</b>		
Asbestos	Subcontract	15.00
Carbonaceous Biochemical Oxygen Demand, (cBOD <sub>5</sub> ), mg/L		45.00
Chemical Oxygen Demand		15.00
Chloride (in waste samples)	9056/9253	50.00
Grain Size	Subcontract	75.00
MBAS		90.00
Perchlorate	Subcontract	90.00
Sulfide		25.00
Total Phenols		35.00
% Solids		15.00
% Sulfur	Subcontract	96.00

ANALYTE	METHOD	PRICE PER SAMPLE
IV. Priority Pick-up & Reporting		
Priority Pick-up		No Charge
Report in EMD Excel Format		No Charge

EXHIBIT A-1

SECTION C

The following analytical services are requested to meet the requirements of the sludge management rule Env-Wq 800. The price quoted is final cost per sample and includes all sample preparation and repeat analytical runs. If a subcontractor will be used for these analyses, this must be indicated for each analyte group with the final cost quoted.

Section C-1. Volatile Organic Compounds

METHOD

PRICE PER SAMPLE

SW 8260B

90.00

Compound	Det Limit mg/kg	Compound	Det Limit mg/kg
Dichlorodifluoromethane	2.0	Chloromethane	2.0
Vinyl chloride	2.0	Bromomethane	2.0
Chloroethane	2.0	Trichlorofluoromethane	2.0
Diethyl ether	5.0	Acetone	5.0
1,1-Dichloroethene	2.0	Methylene chloride	2.0
Carbon disulfide	2.0	Methyl tert-butyl ether	2.0
trans-1,2-Dichloroethene	2.0	1,1-Dichloroethane	2.0
2-Butanone	2.0	2,2-Dichloropropane	2.0
cis-1,2-Dichloroethene	2.0	Chloroform	2.0
Bromochloromethane	2.0	Tetrahydrofuran	2.0
1,1,1-Trichloroethane	2.0	1,2-Dichloropropene	2.0
Carbon tetrachloride	2.0	1,2-Dichloroethane	2.0
Benzene	2.0	Trichloroethene	2.0
1,2-Dichloropropane	2.0	Dichlorobromomethane	2.0
Dibromomethane	2.0	4-Methyl-2-pentanone	2.0
cis-1,3-Dichloropropene	2.0	Toluene	2.0
trans-1,3-Dichloropropene	2.0	1,1,2-Trichloroethane	2.0
2-Hexanone	5.0	1,3-Dichloropropane	2.0
Tetrachloroethene	2.0	Dibromochloromethane	2.0
1,2-Dibromoethane	2.0	Chlorobenzene	2.0
1,1,1,2-Tetrachloroethane	2.0	Ethylbenzene	2.0
m&p-Xylene	10	o-Xylene	5.0
Styrene	2.0	Bromoform	2.0
Isopropylbenzene	5.0	1,1,2,2-Tetrachloroethane	2.0

1,2,3-Trichloropropane	2.0	n-Propylbenzene	5.0
Bromobenzene	2.0	1,3,5-Trimethylbenzene	5.0
2-Chlorotoluene	2.0	4-Chlorotoluene	2.0
tert-Butylbenzene	5.0	1,2,4-Trimethylbenzene	5.0
sec-Butylbenzene	5.0	p-Isopropyltoluene	5.0
1,3-Dichlorobenzene	5.0	1,4-Dichlorobenzene	5.0
n-Butylbenzene	5.0	1,2-Dichlorobenzene	5.0
1,2-Dibromo-3-chloropropane	2.0	1,2,4-Trichlorobenzene	2.0
Hexachlorobutadiene	2.0	Naphthalene	5.0
1,2,3-Trichlorobenzene	2.0		

### Section C- 2. Semi-volatile Compounds

METHOD

PRICE PER SAMPLE

SW 8270D

165.00

Compound	Det Limit mg/kg	Compound	Det Limit mg/kg
1,2-Diphenylhydrazine (as Azobenzene)	2.5	2,4,5-Trichlorophenol	5.0
2,4,6-Trichlorophenol	2.5	2,4-Dichlorophenol	2.5
2,4-Dimethylphenol	2.5	2,4-Dinitrophenol	12
2,4-Dinitrotoluene	2.5	2,6-Dinitrotoluene	2.5
2-Chloronaphthalene	10	2-Chlorophenol	2.5
2-Methylnaphthalene	5.0	2-Methylphenol	5.0
2-Nitrophenol	5.0	3,3'-Dichlorobenzidine	4.0
3-Nitroaniline	5.0	3&4-Methylphenol	5.0
4,6-Dinitro-2-methylphenol	12	2-Nitroaniline	5.0
4-Bromophenyl phenylether	10	4-Chloro-3-methylphenol	10
4-Chloroaniline	2.5	4-Chlorophenyl phenylether	10
4-Nitroaniline	5.0	4-Nitrophenol	12
Acenaphthene	5.0	Acenaphthylene	5.0
Anthracene	5.0	Benzidine	12
Benzo(a)anthracene	2.5	Benzo(a)pyrene	2.5
Benzo(b)fluoranthene	5.0	Benzo(g,h,i)perylene	5.0
Benzo(k)fluoranthene	5.0	bis(2-Chloroethoxy)methane	5.0
bis(2-Chloroethyl) ether	2.5	bis(2-Chloroisopropyl)ether	2.5
bis(2-Ethylhexyl)phthalate	5.0	Butylbenzyl phthalate	5.0
Carbazole	2.5	Chrysene	5.0
Di-n-butyl phthalate	5.0	Di-n-octyl phthalate	5.0
Dibenzo(a,h)anthracene	2.5	Dibenzofuran	5.0
Diethyl phthalate	5.0	Dimethyl phthalate	5.0
Fluoranthene	5.0	Fluorene	5.0
Hexachlorobenzene	2.5	Hexachlorocyclopentadiene	5.0
Hexachloroethane	2.5	Indeno(1,2,3-cd)pyrene	2.5
Isophorone	2.5	n-Nitroso-di-n-propylamine	2.5
n-Nitrosodimethylamine	4.0	n-Nitrosodiphenylamine	2.5

Nitrobenzene	2.5	Pentachlorophenol	4.0
Phenanthrene	5.0	Phenol	5.0
Pyrene	5.0		

**Section C-3. Polychlorinated Biphenyls**

**METHOD**

**PRICE PER SAMPLE**

SW 8082A

55.00

Compound	Det Limit mg/kg	Compound	Det Limit mg/kg
PCB-1242	1.0	PCB-1254	1.0
PCB-1221	1.0	PCB-1232	1.0
PCB-1248	1.0	PCB-1260	1.0
PCB-1016	1.0		

**Section C-4. Metals**

**METHOD**

**PRICE PER SAMPLE**

SW 846 6000/7000 series

100.00

Metal*	Det Limit mg/kg	Metal	Det Limit mg/kg
Total Arsenic	10	Total Cadmium	1.0
Total Chromium	10	Total Copper	10
Total Lead	11	Total Mercury	0.05
Total Molybdenum	18	Total Nickel	10
Total Selenium	18	Total Zinc	10
Total Antimony	8	Total Beryllium	0.1
Total Silver	4.0	Total Thallium	10

\* Metals price per sample must include required digestion.

**Section C-5. Additional Analyses**

	Det Limit	METHOD	PRICE PER SAMPLE
pH	N/A	SM-4500-H or SW846 9045C	<u>5.00</u>
Percent solids		SM-2540G or CLP-4F	<u>5.00</u>
Nitrate-nitrite	30	M-4500-NO <sub>3</sub> , SW846-9210 or EPA 353-3000 series	<u>10.00</u>

	<u>Det Limit</u>	<u>METHOD</u>	<u>PRICE PER SAMPLE</u>
Total Kjeldahl nitrogen	300	SM-4500-N <sub>org</sub> or EPA-351.3	<u>25.00</u>
Ammonia nitrogen	30	SM-4500-NH <sub>3</sub> or EPA-350	<u>25.00</u>
Total organic nitrogen	N/A	calculation	<u>no charge</u>
Potassium	15	SM-3500-K or SW846 6000/7000 series	<u>10.00</u>
Phosphorus	15	SM-4500-P or EPA-365	<u>20.00</u>

**Section C-6. Dioxins**

	<u>Det. Limit</u>	<u>METHOD</u>	<u>PRICE PER SAMPLE</u>
Dioxins Total Toxic Equivalents	5 ppt TEQ	EPA 1613 A or B Subcontract	<u>420.00</u>

**Section C-7. Fecal Coliform**

	<u>Det Limit</u>	<u>METHOD</u>	<u>PRICE PER SAMPLE</u>
Fecal coliform	1000 MPN/g	SM 9221E, SM 9222 D or Methods 1680 or 1681 Subcontract	<u>50.00</u>

**TOTAL COST PER SAMPLE FOR A FULL EXHIBIT A-1, SECTION C ANALYSIS**

980.00

**EXHIBIT B**

**PAYMENT TERMS**

The contract and financial arrangements for the aforementioned services shall be as follows:

1. The STATE agrees to pay Absolute Resource Associates up to the price per analysis as specified in EXHIBIT A-1.
2. The STATE agrees to accept and pay invoices as submitted by Absolute Resource Associates no later than 30 days after completion of services in accordance with the conditions and specifications in EXHIBIT A-1 or after an invoice has been received by the Department, whichever is later.
3. The total amount of all payments made to Absolute Resource Associates by the STATE shall not exceed \$41,500 for FY 2017 and \$54,000 for FY 2018 unless said section is increased by the STATE in accordance with Governor and Council approval.
4. Funding for payments is available as follows, with the authority to adjust encumbrances in each State Fiscal year through the Budget Office, if needed and justified. Funding for FY2018 is contingent upon appropriation and available funds.

<b>Dept. of Environmental Services Account # 03-44-44</b>	<b>FY 2017</b>	<b>FY2018</b>
442010-1435-102-500731	\$10,000.00	\$10,000.00
Sludge Analysis Fund, Contract for Program Services		
444010-5392-102-500731	\$3,000.00	\$3,000.00
Hazardous Waste Cleanup Fund, Contract for Program Services		
444010-2589-102-500731	\$22,000.00	\$32,000.00
CERCLA Maintenance Fund , Contract for Program Services		
444010-2590-102-500731	\$3,500.00	\$6,000.00
CERCLA Program Fund , Contract for Program Services		
444010-1400-102-500731	\$3,000.00	\$3,000.00
Oil Remediation Fund, Contract for Program Services		
<b>TOTALS:</b>	<b>\$41,500.00</b>	<b>\$54,000.00</b>

Contractor Initials: SS  
Date: 4/13/16

EXHIBIT C

SPECIAL PROVISIONS

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There are no special provisions.

SS  
4/13/16

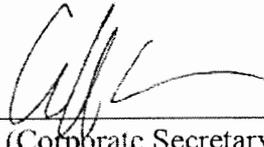
"CORPORATE CERTIFICATE"

I, (Name) Cliff Chase hereby certify that I am duly elected Secretary/LLC Member of (Corporation) Absolute Resource Associates, LLC.

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 March 28, 2016.

VOTED: That (Name) Susan C Sylvester is duly authorized to execute all documents of the LLC including deeds, mortgages, leases, promissory notes, checks and other instruments; and to enter into contracts or execute and deliver any instrument in the name of and on behalf of the LLC; and further authorized to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this vote.

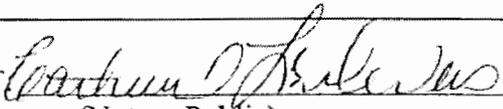
I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of (Date) March 28, 2016 and that (Name) Susan C. Sylvester is duly elected (Title) President/LLC Manager of this Corporation.

ATTEST:   
(Corporate Secretary/LLC Member)

DATE: 3/31/2016

CORPORATE SEAL

Catherine L.B. DeWees  
Notary Public, State of New Hampshire  
My Commission Expires March 6, 2018

ATTEST:   
(Notary Public)

COMMISSION EXPIRES: 3/16/18

DATE: 3/31/16

NOTARY SEAL

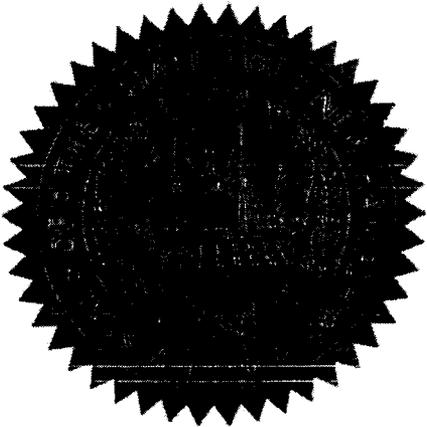
(NOTE: IF COMPANY IS NOT INCORPORATED, PLEASE CHECK THE BOX  .)

State of New Hampshire  
Department of State

CERTIFICATE

RECEIVED  
MAY 23 2016  
DES-WEB

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Absolute Resource Associates LLC is a New Hampshire limited liability company formed on November 15, 2000. I further certify that it is in good standing as far as this office is concerned, having filed the annual report(s) and paid the fees required by law; and that a certificate of cancellation has not been filed.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 16<sup>th</sup> day of May, A.D. 2016

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

William M. Gardner  
Secretary of State

