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Frank Edelblut
Commissioner



Christine M. Brennan
Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
101 Pleasant Street
Concord, NH 03301
TEL. (603) 271-3495
FAX (603) 271-1953

May 1, 2019

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

REQUESTED ACTION

Authorize the Department of Education to contract with the individuals shown below to conduct Special Education Impartial Due Process Hearings, State Board of Education Hearings, Vocational Rehabilitation Hearings, and Alternative Dispute Resolution sessions, in an amount not to exceed \$155,000.00, effective upon Governor and Council Approval through June 30, 2021. 35% Federal funds, 65% General funds

John P. LeBrun, Esquire	Vendor Code: 263763
Amy B. Davidson, Esquire	Vendor Code: 159722
Peter T. Foley, Esquire	Vendor Code: 159636
Scott F. Johnson, Esquire	Vendor Code: 177681
Briana Hyde, Esquire	Vendor Code: 278089

Funds to support this request are anticipated to be available in the following accounts in FY 2020 and FY 2021, upon the availability and continued appropriation of funds in the future operating budget, with the ability to adjust encumbrances between Fiscal Years through the Budget Office without further Governor and Council Approval, if needed and justified, Governance, VR Field Programs—Federal, and IDEA—Special Education—Elem/Sec:

<u>ACCOUNT NUMBER</u>	<u>FY 20</u>	<u>FY 21</u>
06-56-56-560510-20220000-046-500464 Consultants	\$48,500.00	\$48,500.00
06-56-56-560510-20220000-102-500731 Contracts for Program Services	\$ 1,500.00	\$ 1,500.00
06-56-56-565010-25380000-046-500464 Consultants	\$ 7,500.00	\$ 7,500.00
06-56-56-562010-25040000-046-500464 Consultants	<u>\$20,000.00</u>	<u>\$20,000.00</u>
	<u>\$77,500.00</u>	<u>\$77,500.00</u>

EXPLANATION

An RFP was published in the *Manchester Union Leader* on January 21, 22, and 23, 2019, as well as published on the Department's web-page starting January 3, 2019 through January 25, 2019, for hearing officers to conduct special education due process hearings, State Board of Education hearings, mediations and neutral conferences. The five current hearing officers submitted applications. There were no new candidates.

The committee members responsible for the review of the request for proposal included the following individuals: Diana Fenton, Esquire, Chief of the Governance Unit; Bridget Pare, Education Consultant in the Governance Unit; and, Stephen Berwick, Coordinator, Dispute Resolution and Constituent Complaints in the Governance Unit.

The scoring for this proposal was conducted employing a consensus model.

The role of the committee members was advisory in nature. They provided information, analysis, and recommendations that were presented to the Commissioner of Education.

The Commissioner of Education reviews the information provided and makes the final decision regarding the award of such grants.

Appointment of hearing officers is a statutory requirement of administrative agencies. The department is required by State and Federal law to provide Hearing Officers to preside at Due Process Hearings and Alternative Dispute Resolution proceedings.

Candidates chosen fulfill Federal and State requirements for hearing officer/alternative dispute resolution officers in the following areas: Special Education Impartial Due Process Hearings, Vocational Rehabilitation Fair Hearings, State Board of Education hearings, mediations and neutral conferences.

Special Education Due Process hearing procedures are complex in terms of the length of time and in the legal issues brought before the hearing officer. The majority of due process hearings involve attorneys who represent school districts and parents. Federal law prohibits hearing officers from being employees of a state agency and, therefore, the department must enter into contracts with attorneys or other individuals with knowledge of state and federal special education laws. Federal law (Individuals with Disabilities Education Act) requires mediation be available upon request. Only twenty to thirty percent of the requests for hearing actually complete the entire process to a decision; mediation is one of the several effective tools that results in dispute resolution that is both cost efficient and less time consuming.

His Excellency, Governor Christopher T. Sununu
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State Board hearings are required under 21-N:11, Duties of Board. The State Board is charged with hearing appeals and issuing decisions which are considered final decisions of the Department of Education for purposes of RSA 541. These appeals are brought to the State Board by individuals with complaints regarding school systems or the Department of Education.

Additionally, in order to comply with the provisions of RSA 200-C:12, the Rehabilitation Act amendments of 1992 and federal and state regulations pertaining to Vocational Rehabilitation, the Department of Education is contracting with individuals for the services of hearing officers. Federal law requires hearings for vocational rehabilitation clients with claims for reimbursement and/or services.

Please note that the agreements with hearing officers represent an unspecified dollar amount per hearing officer. This allows the Department the opportunity to distribute in-coming requests for alternative dispute resolution and hearings and balance the workload among the hearing officers, basing the distribution on such factors as type of request, experience needed to handle said request, and number of cases currently outstanding for each hearing officer. Hearing officers are compensated based on the payment terms outlined in Exhibit B. This schedule was developed based upon the median and average costs of all hearings and mediations held during a one year time span.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Frank Edelblut', written in a cursive style.

Frank Edelblut
Commissioner of Education

Attachment A

SCORING FOR REVIEW

HEARING OFFICER AND ALTERNATIVE DISPUTE RESOLUTION OFFICER

Proposals were reviewed to determine the extent to which candidates provided information to demonstrate the following:

- | | |
|-----------|---|
| 30 Points | Expertise/Experience in the field of Administrative Hearings. |
| 20 Points | Demonstrated competency in written and verbal communication. |
| 30 Points | Experience with Special Education, General Education and Vocational Rehabilitation law. |
| 20 Points | Training and experience as a mediator. |

Each reviewer's score of all criteria listed was totaled for each proposal received. All total scores for each proposal were then computed. Contracts were offered to individuals based on their total score. Awards were made to individuals based on the aggregate score of the panel.

Table

Breakdown of Scoring:

Expertise/Experience in the field of Administrative Hearings (0-30 points)

Experience with Special Education, General Education, and Vocational Rehabilitation Law (0-30 points)

Scoring was to be broken down only as 0, 10, 20 or 30 points not in lesser numbers.

30 available points:

- | | |
|----|--------------------------------|
| 0 | meets none of the requirements |
| 10 | meets some of the requirements |
| 20 | meets most of the requirements |
| 30 | meets all of the requirements |

Training and experience as a mediator (0-20 points)

Demonstrated Competency in written and verbal communication (0-20 points)

Scoring was to be broken down only as 0, 10, 15 or 20 points not in lesser numbers.

20 Available points:

- | | |
|----|--------------------------------|
| 0 | meets none of the requirements |
| 10 | meets some of the requirements |
| 15 | meets most of the requirements |
| 20 | meets all of the requirements |

Five (5) proposals were received and scored as shown here:

Expertise/Experience in the field of Administrative Hearings (0-30 points)

Candidate	Stephen Berwick	Bridget Pare	Diana Fenton
Amy Davidson	30	30	30
Peter Foley	30	30	20
John LeBrun	30	30	20
Scott Johnson	30	30	20
Briana Hyde	25	30	10

Experience with Special Education, General Education, and Vocational Rehabilitation Law (0-30 points)

Candidate	Stephen Berwick	Bridget Pare	Diana Fenton
Amy Davidson	30	30	20
Peter Foley	30	30	20
John LeBrun	30	30	20
Scott Johnson	30	30	20
Briana Hyde	25	20	15

Scoring was to be broken down only as 0, 10, 20 or 30 points not in lesser numbers.
30 available points:

- 0 meets none of the requirements
- 10 meets some of the requirements
- 20 meets most of the requirements
- 30 meets all of the requirements

Training and experience as a mediator (0-20 points)

Candidate	Stephen Berwick	Bridget Pare	Diana Fenton
Amy Davidson	20	20	15
Peter Foley	20	20	20
John LeBrun	20	20	15
Scott Johnson	20	20	15
Briana Hyde	20	20	20

Demonstrated Competency in written and verbal communication (0-20 points)

Candidate	Stephen Berwick	Bridget Pare	Diana Fenton
Amy Davidson	20	15	15
Peter Foley	20	20	15
John LeBrun	20	10	15
Scott Johnson	20	15	20
Briana Hyde	20	20	15

Scoring was to be broken down only as 0, 10, 15 or 20 points not in lesser numbers.

20 Available points:

- 0 meets none of the requirements
- 10 meets some of the requirements
- 15 meets most of the requirements
- 20 meets all of the requirements

Total of all scores

Candidate	Stephen Berwick	Bridget Pare	Diana Fenton	Total Score
Amy Davidson	100	95	80	275
Peter Foley	100	100	75	275
John LeBrun	100	90	70	260
Scott Johnson	100	95	75	270
Briana Hyde	90	90	60	240

The RFP review took place between March 29 and March 31, 2019. The RFP review panel consisted of the following employees from the Department of Education:

Diana Fenton, Esquire, Chief of the Governance Unit. Diana was chosen to review the Hearing Officer and Alternative Dispute Resolution Officer contracts due to her experience in administrative law and her role as administrator of the adjudicative processes for the Department of Education.

Bridget Pare, Education Consultant, Governance Unit. Bridget was chosen to review the Hearing Officer and Alternative Dispute Resolution Officer contracts due to her experience with Special Education law as well as her role as manager of the Special Education complaint process which gives her insights into a candidate's experience in Special Education Impartial Due Process Hearings.

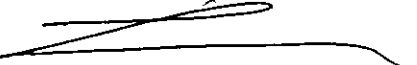
Stephen Berwick, Coordinator, Dispute Resolution and Constituent Complaints, Governance Unit. Stephen was chosen to review the Hearing Officer and Alternative Dispute Resolution Officer contracts due to his role as manager of the adjudicative processes and evaluator of hearing officer performance.

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 NH Department of Education		1.2 State Agency Address 101 Pleasant Street, Concord, NH 03301	
1.3 Contractor Name John P. LeBrun, Esquire		1.4 Contractor Address 25 Pearl Street, Henniker, NH 03242	
1.5 Contractor Phone Number (603) 496-5215	1.6 Account Number See Exhibit B	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$155,000.00
1.9 Contracting Officer for State Agency Diana Fenton, Esquire		1.10 State Agency Telephone Number 271-3189	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory John P. LeBrun, Esquire	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>5-2-19</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal] <u>Dawn M. Laflam</u>		DAWN M. LAFLAM Justice of the Peace State of New Hampshire My Commission Expires March 7, 2023	
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature <u>Frank Edelblut</u> Date: <u>5-15-19</u>		1.15 Name and Title of State Agency Signatory <u>Frank Edelblut, Commissioner</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Kassie A. Rudis</u> Director, On: <u>5-17-2019</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <u>RICHARD SALA</u> On: <u>MAY 17, 2019</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

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

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

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

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

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

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

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

7. PERSONNEL.

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

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

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.

Exhibit A

Scope of the Work:

Once selected, the ultimate number and type of case assignment (e.g. hearings or alternative dispute resolution) shall be at the sole discretion of the Office of Legislation and Hearings.

In the role of **Hearing Officer**, upon assignment of a case by the Office of Legislation and Hearings, the contractor shall:

1. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
2. Maintain accurate file management system for all administrative hearings as directed by the Office of Legislation and Hearings. Return the complete hearings file (consisting of an accordion folder containing four labeled files: 1. Pleadings; 2. Correspondence; 3. Record; and, 4. Exhibits) to the Office of Legislation and Hearings as directed by the Office of Legislation and Hearings following completion of proceeding.
3. Maintain administrative file checklist as directed by the Office of Legislation and Hearings.
4. Maintain confidential computer and telephone communications. Utilize a state issued email account for administrative hearing purposes.
5. Maintain accurate electronic recording/record of all administrative pre-hearings and hearings.
6. Conduct Pre-hearing conference with parties to hearing. Discuss in detail items in Pre-hearing Checklist at pre-hearing conference and memorialize in pre-hearing order as directed by the Office of Legislation and Hearings.
7. Explain subpoena process to parties. Issue subpoenas as necessary.
8. Ensure all administrative hearings are held within statutory deadlines unless Hearing Officer grants continuances for specific extensions of time. Any such extension must be documented immediately by the Hearing Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which a decision will be rendered.
9. Make written findings of facts following the hearing.
10. Make written rulings of law following the hearing.
11. Issue timely responses to all motions/continuance requests of the parties.
12. Issue a written Hearing Officer decision by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Hearing Officer, to the Office of Legislation and Hearings who shall mail decision to parties by certified mail.
13. Number the Orders in Hearing decisions under a section entitled Orders and ensure start and appropriate completion dates are included in Order.
14. Provide an electronic version in Microsoft Office Word, or as directed by the Office of Legislation and Hearings, of the Hearing Officer decision to the Office of Legislation and Hearings.
15. Format Hearing Officer Orders in accordance with the Hearing Officers' Guide to Administrative Process, or as otherwise directed by the Office of Legislation and Hearings.

Contractor Initials JPL
Date 5/2/19

EXHIBIT A – PAGE 2

16. Draft decisions, notify parties of rescheduled hearings and perform attendant secretarial duties such as rescheduling of hearings, bookkeeping, up-to-date billing and accounting.
17. File Weekly case reports with the Office of Legislation and Hearings by no later than noon on Monday for the prior week.
18. Attend training sessions at the Department of Education in Concord as scheduled by the Office of Legislation and Hearings.

In the role of **Alternative Dispute Resolution Officer** (e.g. Mediator or Neutral Officer), upon assignment of a case by the Office of Legislation and Hearings, the contractor shall:

19. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
20. Maintain accurate file management system for all Alternative Dispute Resolutions as directed by the Office of Legislation and Hearings. Return the complete hearings file to the Office of Legislation and Hearings as directed by the Office of Legislation and Hearings following completion of proceeding.
21. Maintain secure computer and telephone communications. Utilize a state issued email account for Alternative Dispute Resolution purposes.
22. Ensure all Alternative Dispute Resolution procedures are held within statutory deadlines unless Alternative Dispute Resolution Officer allows continuances for specific extensions of time. Any such extension must be documented immediately by the Alternative Dispute Resolution Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which the matter will be concluded.
23. Ensure timely responses to all inquiries of the parties.
24. Provide a written agreement and/or non-agreement by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Alternative Dispute Officer, to the Office of Legislation and Hearings.
25. If serving as Mediator, the Mediator shall notify the Hearing Officer and Office of Legislation and Hearings of the outcome of mediation sessions in a timely manner.
26. Draft written agreement and/or non-agreement, notify parties of rescheduled proceedings and attendant secretarial duties such as rescheduling of mediation/neutral conferences, bookkeeping, up-to-date billing and accounting.
27. File weekly case reports with the Office of Legislation and Hearings by no later than noon on Monday of each week.
28. Attend training sessions at the Department of Education in Concord.

Contractor Initials
Date

EP/L
1/2/19

Exhibit B

Payment Terms

The contracts represent an unspecified dollar amount per hearing officer. This allows the Department the opportunity to distribute in-coming requests for alternative dispute resolution and hearings and balance the workload among the hearing officers, basing the distribution on such factors as type of request, experience needed to handle such request, and number of cases currently outstanding for each hearing officer.

In consideration of the services to be performed by the Contractor, the State agrees to pay Contractor in accordance with the payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2021. This schedule was developed based on the median and average costs of all hearings and mediations held during a one year time span.

Mediation/Neutral Conference		Date	
Upon acceptance of case - \$100*			
<ul style="list-style-type: none"> Full Day (More than 3 hours) - \$250 (example 9-4) Less than 3 hours - \$150 (example: 9-noon; noon - 3) Second Day - \$125 			
Prior to Pre-Hearing		Date	
Upon acceptance of case - \$100*			
Determination on Motions - \$50 (Motion to Continue; Dispositive; Dismissal; Reconsideration; Discovery) <i>Total allowable for case: \$100</i>			
Sufficiency hearing - \$175			
Hearing		Date	
Pre-Hearing - \$150			
Hearing -			
<ul style="list-style-type: none"> 1st Day - More than 3 hours \$275; Less than 3 hours - \$155 2nd Day - More than 3 hours \$275; Less than 3 hours - \$155 			
Post-Hearing		Date	
Prepare decision - \$255			
<ul style="list-style-type: none"> Hearing Decision Summary Judgment 			
Report and Recommendation - \$200 (State Board)			
State Board - Findings of Fact/Rulings of Law - \$55 (State Board)			
Miscellaneous	Date	Details (mileage, time, other information necessary)	Payment (Less \$100.00 upon acceptance)
Preparation of subpoenas (Total for case) \$20			
Mileage - \$0.535/mile**			Not Applicable
Travel time*** - \$30.00/hour, after first 2 hours***			
Training -			
<ul style="list-style-type: none"> ½ day (four hours or less) - \$150.00 Full day - \$300.00 			Not Applicable
Evaluation meeting \$30.00			
File Preparation (includes Indexes, Admin file, Pre-hearing checklists) - \$20 per case if at close of settlement; withdrawal; dismissal <u>or</u> \$50 per case after full hearing and decision rendered			
Actual postage up to \$20.00 per case (Mailing of orders, mailing file folder to DOE)			
Consultation (court, OSEP, OCR, DOE) \$30.00**			
OTHER - Describe			

Items not covered in this schedule - From time to time there may be an unusual situation that arises where a hearing officer is required to perform a hearing-related task for which no monetary reimbursement has been contemplated. In those situations, the department will consider reimbursement based on either the per diem rate, as set out for training, a flat fee rate analogous to one of the above rates or no payment as it determines is warranted by the situation.

Contractor Initials JK
Date 1/21/21

EXHIBIT B – PAGE 2

**If travel involved or an unusual situation arises, this money will be applied to the amount before any additional payment is authorized. This amount includes weekly update of cases.*

***Only with prior approval from the office of legislation and hearings. Mileage is if, and only if, a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord.*

****See explanation for upon acceptance of case – the \$30.00/hour, after the first two hours will NOT apply to first 2 hours of travel time – i.e. payment for 3 hour round trip will be \$30 not \$90.*

Limitation on Price: This contract will not exceed \$155,000.00.

Source of Funding: Funding for this contract is 65% General Funds from the account titled Governance and 35% Federal Funds from VR Field Programs-Federal and IDEA-Special Ed-Elem/Sec as follows:

<u>ACCOUNT NUMBER</u>	<u>FY 20</u>	<u>FY 21</u>
06-56-56-560510-20220000-046-500464 Consultants	\$48,500.00	\$48,500.00
06-56-56-560510-20220000-102-500731 Contracts for Program Services	\$ 1,500.00	\$ 1,500.00
06-56-56-565010-25380000-046-500464 Consultants	\$ 7,500.00	\$ 7,500.00
06-56-56-562010-25040000-046-500464 Consultants	<u>\$20,000.00</u>	<u>\$20,000.00</u>
	\$77,500.00	\$77,500.00

Method of Payment:

Payment will be made upon the submittal of an invoice based on the payment schedule above which records activities that have taken place in accordance with the terms of the contract.

Invoices will be submitted to:

Stephen W. F. Berwick
NH Department of Education
101 Pleasant Street
Concord, NH 03301

Contractor Initials JS
Date 5/21/19

Exhibit C

Special Provisions:

Authorize the Department of Education to waive Section 14, 14.1, and 14.1.1. Contractor will carry appropriate levels of personal automobile insurance during the term of this contract, per the coverage levels as set forth in the attached policy:

State Farm Insurance Company

Individuals contracting in their own name do not require Workers' Compensation.

Terms and Conditions:

Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State of New Hampshire to fund this project is \$155,000 for the biennium - \$77,500 for FY 20 and \$77,500 for FY 21.

Contractor will consult Hearing Officers' Guide to Administrative Procedures whenever a question arises as to proper procedure prior to contacting the Office of Legislation and Hearings.

When delivering services under an approved contract, the contractor shall work under the direct supervision of the Coordinator of Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings for this project.

At the conclusion of proceedings, the Coordinator, Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings shall mail an evaluation to each party. The evaluations shall be used by the Coordinator, Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings as one of the components of the annual evaluation of contracted Hearing Officers performance.

The contracted individual will be paid mileage at the current state rate round-trip only with prior approval from the office of legislation and hearings. Mileage will be paid from the contracted individual's primary business address to hearing/mediation site if and only if a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord venues.

Conflicts of Interest:

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Record-keeping systems shall be maintained which facilitate the early and efficient identification of conflicts of interest.

Termination:

All Hearing Officer Contracts are subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.

This Agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This Agreement may be terminated by either party without cause upon thirty days prior notice in writing.

Contractor Initials

Date

JAL
5/2/19

EXHIBIT C – PAGE 2

Termination cont.:

In the event that the Contractor fails to complete a case or where the Contractor has recused himself/herself due to conflict of interest, any funds paid for such case(s) shall be reimbursed and any funds payable shall be forfeited.

In the event that the Contractor fails to submit a closed case within the time period allowed by the law, or fails to comply with other record keeping or reporting requirements established by the DOE, the Contract may be terminated by the DOE immediately upon notice to the Contractor and any funds paid for such case(s) shall be reimbursed and any funds payable shall be forfeited.

In the event Contractor withdraws from a case prior to final disposition, under circumstances agreed to by the DOE, Contractor shall be entitled to receive credit for services rendered in that case as listed in Exhibit B.

Contractor Initials JXL
Date 5/21/19

EXHIBIT D**Contractor Obligations**

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC § 1001 and § 1020.

Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials
Date 5/2/19

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
 2. Does not have a proposed debarment pending;
 3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials JVL
Date 5/2/19

Exhibit F

Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials JHL
Date 5/21/19

Exhibit G**Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality****Rights to Inventions Made Under a Contract or Agreement**

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials JKL
Date 8/2/19

Exhibit H

Termination

a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract.
If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages.
If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials
Date

JYL
5/2/19

VEHICLE INFORMATION

Review your policy information carefully. If anything is incorrect, or if there are any changes to your vehicle information, please let us know right away.

Vehicle Description	Vehicle Identification Number (VIN)	Who principally drives this vehicle?	How is this vehicle normally used?
2018 HYUNDAI ELANTRA		JOHN LEBRUN	Business.

The premium for this renewal was determined using an annual mileage this vehicle is expected to be driven that was developed from information we obtained or was provided by you. Please contact us if you expect your annual mileage to change over the next year.

Premium Adjustment

Each year, we review our medical payments and personal injury protection coverages claim experience to determine

the vehicle safety discount that is applied to each make and model. In addition, we review the comprehensive, collision, bodily injury and property damage claim experience annually to determine which makes and models have earned decreases or increases from State Farm's standard rates. If any changes result from our reviews, adjustments are reflected in the rates shown on this renewal notice.

DRIVER INFORMATION**Assigned Driver(s)**

The following driver(s) are assigned to the vehicle(s) on this policy.

Name	Age as of January 20, 2019	Gender	Marital Status
JOHN P LEBRUN			

Principal Driver & Assigned Drivers

For each automobile, the **Principal Driver** is the individual who most frequently drives it.

Each driver is designated as an **Assigned Driver** on the household automobile that he or she most frequently drives.

Your premium may be influenced by the information shown for these drivers.

IMPORTANT NOTICE REGARDING YOUR PREMIUM

State Farm works hard to offer you the best combination of price, service, and protection. The amount you pay for automobile insurance is determined by many factors such as the coverages you have, where you live, the kind of car you drive, how your car is used, who drives the car, and information from consumer reports.

You have the right to request, no more than once during a 12-month period, that your policy be re-rated using a current credit-based insurance score. Re-rating could result in a lower rate, no change in rate, or a higher rate. If you would like us to reevaluate your credit-based insurance score or have any questions on how your premium was determined, please contact your State Farm agent.

COVERAGE AND LIMITS See your policy for an explanation of these coverages.

A	Liability	
	Bodily Injury 250,000/500,000	
	Property Damage 100,000	
C	Medical Payments 10,000	\$
D	Comprehensive	\$
G	250 Deductible Collision	\$
R1	Auto Rental & Travel Expense	
	80% Per Day, \$500 Max	\$
U	Uninsured Motor Vehicle	
	Bodily Injury 250,000/500,000	\$
Amount Due		

The claim experience on your make and model of vehicle has resulted in an increase to your vehicle rating group for collision coverage.

The claim experience on your make and model of vehicle has resulted in an increase to your liability rating group for bodily injury and/or property damage coverages.

If any coverage you carry is changed to give broader protection with no additional premium charge, we will give you the broader protection without issuing a new policy, starting on the date we adopt the broader protection.

DISCOUNTS These adjustments have already been applied to your premium.

Multiple Line	✓
Safe Driver	✓
See enclosed notice for more information about this discount.	
Total Discounts	

RESUME

John P. LeBrun

EDUCATION:

- 1983 - J.D. - Franklin Pierce Law Center
Concord, N.H.
- 1976 - M.A. - University of Rhode Island
Kingston, R.I.
Major in Economics
- 1975 - B.A. - Rhode Island College
Providence, R.I.
Major in Economics

WORK EXPERIENCE:

- 2015-Present Law Office John P. LeBrun, PLLC
25 Pearl Street
Henniker, NH 03242
- 1990-2015 Goldman & LeBrun, PA
Concord, New Hampshire
Partner - General Practice Law Firm
- 1984 - 1990 Law Office of Stephen R. Goldman, P.A.
Concord, New Hampshire
Associate - General Practice Law Firm
- 1975 - 1976 Instructor of Economics (part-time)
Fisher Junior College
- 1982 - 1994 Instructor of Economics, Business Law
and Real Estate Law (part-time)
New Hampshire College
- 1985 - 1990 Instructor (part-time) Notre Dame College

HEARING OFFICER EXPERIENCE:

- 1990 - Present Hearing Officer - State of New Hampshire
Department of Education
- Due Process Hearings

- State Board Hearings
- Mediations
- Vocational Rehabilitation Fair Hearings

2.

OTHER ADMINISTRATIVE EXPERIENCE

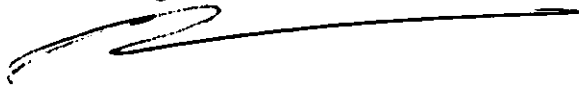
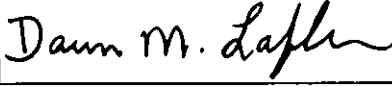
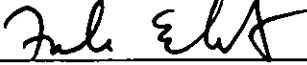

1996 - Present	Defense Counsel, Concord District Court Involuntary Emergency Admission (IEA) Hearings
1986 - 1996	Special Justice, Concord District Court Involuntary Emergency Admission (IEA) Hearings

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 NH Department of Education		1.2 State Agency Address 101 Pleasant Street, Concord, NH 03301	
1.3 Contractor Name Amy B. Davidson, Esquire		1.4 Contractor Address P.O. Box 625, Contoocook, NH 03229	
1.5 Contractor Phone Number (603) 496-6730	1.6 Account Number See Exhibit B	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$155,000.00
1.9 Contracting Officer for State Agency Diana Fenton, Esquire		1.10 State Agency Telephone Number 271-3189	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Amy B. Davidson, Esquire	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>5-2-19</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]		DAWN M. LAFLAM Justice of the Peace State of New Hampshire Commission Expires March 7, 2023	
1.13.2 Name and Title of Notary or Justice of the Peace			
1.14 State Agency Signature  Date: <u>5-15-19</u>		1.15 Name and Title of State Agency Signatory <u>Frank E. Abbott, Commissioner</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Harriet A. Ruelis</u> Director, On: <u>5.17.2019</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <u>Liamas Sana</u>  On: <u>MAY 17, 2019</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

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

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

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

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

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

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

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

7. PERSONNEL.

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

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

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.

Exhibit A

Scope of the Work:

Once selected, the ultimate number and type of case assignment (e.g. hearings or alternative dispute resolution) shall be at the sole discretion of the Office of Legislation and Hearings.

In the role of **Hearing Officer**, upon assignment of a case by the Office of Legislation and Hearings, the contractor shall:

1. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
2. Maintain accurate file management system for all administrative hearings as directed by the Office of Legislation and Hearings. Return the complete hearings file (consisting of an accordion folder containing four labeled files: 1. Pleadings; 2. Correspondence; 3. Record; and, 4. Exhibits) to the Office of Legislation and Hearings as directed by the Office of Legislation and Hearings following completion of proceeding.
3. Maintain administrative file checklist as directed by the Office of Legislation and Hearings.
4. Maintain confidential computer and telephone communications. Utilize a state issued email account for administrative hearing purposes.
5. Maintain accurate electronic recording/record of all administrative pre-hearings and hearings.
6. Conduct Pre-hearing conference with parties to hearing. Discuss in detail items in Pre-hearing Checklist at pre-hearing conference and memorialize in pre-hearing order as directed by the Office of Legislation and Hearings.
7. Explain subpoena process to parties. Issue subpoenas as necessary.
8. Ensure all administrative hearings are held within statutory deadlines unless Hearing Officer grants continuances for specific extensions of time. Any such extension must be documented immediately by the Hearing Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which a decision will be rendered.
9. Make written findings of facts following the hearing.
10. Make written rulings of law following the hearing.
11. Issue timely responses to all motions/continuance requests of the parties.
12. Issue a written Hearing Officer decision by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Hearing Officer, to the Office of Legislation and Hearings who shall mail decision to parties by certified mail.
13. Number the Orders in Hearing decisions under a section entitled Orders and ensure start and appropriate completion dates are included in Order.
14. Provide an electronic version in Microsoft Office Word, or as directed by the Office of Legislation and Hearings, of the Hearing Officer decision to the Office of Legislation and Hearings.
15. Format Hearing Officer Orders in accordance with the Hearing Officers' Guide to Administrative Process, or as otherwise directed by the Office of Legislation and Hearings.

Contractor Initials

Date



4/2/19

EXHIBIT A – PAGE 2

16. Draft decisions, notify parties of rescheduled hearings and perform attendant secretarial duties such as rescheduling of hearings, bookkeeping, up-to-date billing and accounting.
17. File Weekly case reports with the Office of Legislation and Hearings by no later than noon on Monday for the prior week.
18. Attend training sessions at the Department of Education in Concord as scheduled by the Office of Legislation and Hearings.

In the role of **Alternative Dispute Resolution Officer** (e.g. Mediator or Neutral Officer), upon assignment of a case by the Office of Legislation and Hearings, the contractor shall:

19. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
20. Maintain accurate file management system for all Alternative Dispute Resolutions as directed by the Office of Legislation and Hearings. Return the complete hearings file to the Office of Legislation and Hearings as directed by the Office of Legislation and Hearings following completion of proceeding.
21. Maintain secure computer and telephone communications. Utilize a state issued email account for Alternative Dispute Resolution purposes.
22. Ensure all Alternative Dispute Resolution procedures are held within statutory deadlines unless Alternative Dispute Resolution Officer allows continuances for specific extensions of time. Any such extension must be documented immediately by the Alternative Dispute Resolution Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which the matter will be concluded.
23. Ensure timely responses to all inquiries of the parties.
24. Provide a written agreement and/or non-agreement by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Alternative Dispute Officer, to the Office of Legislation and Hearings.
25. If serving as Mediator, the Mediator shall notify the Hearing Officer and Office of Legislation and Hearings of the outcome of mediation sessions in a timely manner.
26. Draft written agreement and/or non-agreement, notify parties of rescheduled proceedings and attendant secretarial duties such as rescheduling of mediation/neutral conferences, bookkeeping, up-to-date billing and accounting.
27. File weekly case reports with the Office of Legislation and Hearings by no later than noon on Monday of each week.
28. Attend training sessions at the Department of Education in Concord.


Contractor Initials 
Date 5/2/19

Exhibit B

Payment Terms

The contracts represent an unspecified dollar amount per hearing officer. This allows the Department the opportunity to distribute in-coming requests for alternative dispute resolution and hearings and balance the workload among the hearing officers, basing the distribution on such factors as type of request, experience needed to handle such request, and number of cases currently outstanding for each hearing officer.

In consideration of the services to be performed by the Contractor, the State agrees to pay Contractor in accordance with the payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2021. This schedule was developed based on the median and average costs of all hearings and mediations held during a one year time span.

Mediation/Neutral Conference		Date	
Upon acceptance of case - \$100*			
• Full Day (More than 3 hours) - \$250 (example 9-4)			
• Less than 3 hours - \$150 (example: 9-noon; noon - 3)			
• Second Day - \$125			
Prior to Pre-Hearing		Date	
Upon acceptance of case - \$100*			
Determination on Motions - \$50 (Motion to Continue; Dispositive; Dismissal; Reconsideration; Discovery) Total allowable for case: \$100			
Sufficiency hearing - \$175			
Hearing		Date	
Pre-Hearing - \$150			
Hearing -			
• 1 st Day - More than 3 hours \$275; Less than 3 hours - \$155			
• 2 nd Day - More than 3 hours \$275; Less than 3 hours - \$155			
Post-Hearing		Date	
Prepare decision - \$255			
• Hearing Decision			
• Summary Judgment			
Report and Recommendation - \$200 (State Board)			
State Board - Findings of Fact/Rulings of Law - \$55 (State Board)			
Miscellaneous	Date	Details (mileage, time, other information necessary)	Payment (Less \$100.00 upon acceptance)
Preparation of subpoenas (Total for case) \$20			
Mileage - \$0.535/mile**			Not Applicable
Travel time*** - \$30.00/hour, after first 2 hours***			
Training -			Not Applicable
• ½ day (four hours or less) - \$150.00			
• Full day - \$300.00			
Evaluation meeting \$30.00			
File Preparation (includes Indexes, Admin file, Pre-hearing checklists) - \$20 per case if at close of settlement; withdrawal; dismissal <u>or</u> \$50 per case after full hearing and decision rendered			
Actual postage up to \$20.00 per case (Mailing of orders, mailing file folder to DOE)			
Consultation (court, OSEP, OCR, DOE) \$30.00**			
OTHER - Describe			

Items not covered in this schedule - From time to time there may be an unusual situation that arises where a hearing officer is required to perform a hearing-related task for which no monetary reimbursement has been contemplated. In those situations, the department will consider reimbursement based on either the per diem rate, as set out for training, a flat fee rate analogous to one of the above rates or no payment as it determines is warranted by the situation.

Contractor Initials *AWD*
Date *3/24/19*

EXHIBIT B – PAGE 2

**If travel involved or an unusual situation arises, this money will be applied to the amount before any additional payment is authorized. This amount includes weekly update of cases.*

***Only with prior approval from the office of legislation and hearings. Mileage is if, and only if, a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord.*

****See explanation for upon acceptance of case – the \$30.00/hour, after the first two hours will NOT apply to first 2 hours of travel time – i.e. payment for 3 hour round trip will be \$30 not \$90.*

Limitation on Price: This contract will not exceed \$155,000.00.

Source of Funding: Funding for this contract is 65% General Funds from the account titled Governance and 35% Federal Funds from VR Field Programs-Federal and IDEA-Special Ed-Elem/Sec as follows:

<u>ACCOUNT NUMBER</u>		<u>FY 20</u>	<u>FY 21</u>
06-56-56-560510-20220000-046-500464	Consultants	\$48,500.00	\$48,500.00
06-56-56-560510-20220000-102-500731	Contracts for Program Services	\$ 1,500.00	\$ 1,500.00
06-56-56-565010-25380000-046-500464	Consultants	\$ 7,500.00	\$ 7,500.00
06-56-56-562010-25040000-046-500464	Consultants	<u>\$20,000.00</u>	<u>\$20,000.00</u>
		\$77,500.00	\$77,500.00

Method of Payment:

Payment will be made upon the submittal of an invoice based on the payment schedule above which records activities that have taken place in accordance with the terms of the contract.

Invoices will be submitted to:

Stephen W. F. Berwick
NH Department of Education
101 Pleasant Street
Concord, NH 03301

Contractor Initials 

Date 5/2/19

Exhibit C

Special Provisions:

Authorize the Department of Education to waive Section 14, 14.1, and 14.1.1. Contractor will carry appropriate levels of personal automobile insurance during the term of this contract, per the coverage levels as set forth in the attached policy:

Allstate Insurance Company

Individuals contracting in their own name do not require Workers' Compensation.

Terms and Conditions:

Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State of New Hampshire to fund this project is \$155,000 for the biennium - \$77,500 for FY 20 and \$77,500 for FY 21.

Contractor will consult Hearing Officers' Guide to Administrative Procedures whenever a question arises as to proper procedure prior to contacting the Office of Legislation and Hearings.

When delivering services under an approved contract, the contractor shall work under the direct supervision of the Coordinator of Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings for this project.

At the conclusion of proceedings, the Coordinator, Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings shall mail an evaluation to each party. The evaluations shall be used by the Coordinator, Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings as one of the components of the annual evaluation of contracted Hearing Officers performance.

The contracted individual will be paid mileage at the current state rate round-trip only with prior approval from the office of legislation and hearings. Mileage will be paid from the contracted individual's primary business address to hearing/mediation site if and only if a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord venues.

Conflicts of Interest:

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Record-keeping systems shall be maintained which facilitate the early and efficient identification of conflicts of interest.

Termination:

All Hearing Officer Contracts are subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.

This Agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This Agreement may be terminated by either party without cause upon thirty days prior notice in writing.

Contractor Initials

Date

AMB
5/2/19

EXHIBIT C – PAGE 2

Termination cont.:

In the event that the Contractor fails to complete a case or where the Contractor has recused himself/herself due to conflict of interest, any funds paid for such case(s) shall be reimbursed and any funds payable shall be forfeited.

In the event that the Contractor fails to submit a closed case within the time period allowed by the law, or fails to comply with other record keeping or reporting requirements established by the DOE, the Contract may be terminated by the DOE immediately upon notice to the Contractor and any funds paid for such case(s) shall be reimbursed and any funds payable shall be forfeited.

In the event Contractor withdraws from a case prior to final disposition, under circumstances agreed to by the DOE, Contractor shall be entitled to receive credit for services rendered in that case as listed in Exhibit B.


Contractor Initials 
Date 5/2/19

EXHIBIT D**Contractor Obligations**

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials
Date

MPD
3/2/19

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
 2. Does not have a proposed debarment pending;
 3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials
Date



5/2/19

Exhibit F

Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials

Date

MSD
5/2/19

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials 

Date 5/2/19

Exhibit H

Termination

a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract.

If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages.

If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials
Date

[Signature]
5/2/19

Renewal auto policy declarations

Your policy effective date is December 4, 2018



Page 1 of 5

Total Premium for the Policy Period

Please review your insured vehicles and verify their VINs are correct.

Vehicles covered	Identification Number (VIN)	Premium
1999 Audi A4 Avant		\$
2017 Honda Fit		
Additional coverages		

If you pay in installments*	\$
If you pay in full (includes FullPay® Discount)	\$

* Your bill will be mailed separately. Before making a payment, please refer to your latest bill, which includes payment options and installment fee information. If you do not pay in full, you will be charged an installment fee(s). If you do not pay your bill by the due date shown on your billing statement, you may be charged a late fee.

Discounts (included in your total premium)

Safe Driving Club®	\$	Multiple Policy	\$
Passive Restraint	\$	Antilock Brakes	\$
New Car	\$	Electronic Stability Control	\$

Total discounts	\$
-----------------	----

Policy discounts

Safe Driving Club®	\$	Multiple Policy	\$
--------------------	----	-----------------	----

1999 Audi A4 Avant discounts

Passive Restraint	\$	Antilock Brakes	\$
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2017 Honda Fit discounts

Passive Restraint	\$	Antilock Brakes	\$
New Car	\$	Electronic Stability Control	\$

Listed drivers on your policy

Amy Davidson -

Information as of October 15, 2018

Summary

Named Insured(s)
Amy B Davidson
Mailing address

Policy number

Your policy provided by
Allstate Fire and Casualty Insurance Company

Policy period
Beginning **December 4, 2018** through
June 4, 2019 at 12:01 a.m. standard time

Your Allstate agency is
Colt-Vien and Assoc
197 Loudon Rd/S 230
Concord NH 03301
(603) 224-7444
BVien@allstate.com

Some or all of the information on your Policy Declarations is used in the rating of your policy or it could affect your eligibility for certain coverages. Please notify us immediately if you believe that any information on your Policy Declarations is incorrect. We will make corrections once you have notified us, and any resulting rate adjustments, will be made only for the current policy period or for future policy periods. Please also notify us immediately if you believe any coverages are not listed or are inaccurately listed.



Renewal auto policy declarations
Policy number:
Policy effective date: December 4, 2018

Page 3 of 5



Coverage	Limits	Deductible	Premium
Tape	Not purchased*		
Total premium for 2017 Honda Fit			\$

* This coverage can provide you with valuable protection. To help you stay current with your insurance needs, contact your Allstate agent to discuss coverage options and other products and services that can help protect you.



VIN

Rating information

- This vehicle is driven over 7,500 miles per year, 10 - 20 miles to work/school

Additional coverage

The following policy coverage is also provided.

Coverage	Limits	Deductible	Premium
Uninsured Motorists Insurance			\$
 Bodily Injury	\$100,000 each person \$300,000 each accident	Not applicable	
 Property Damage	\$25,000 each accident	Not applicable	Included
Automobile Death Indemnity Insurance	Not purchased*		
Automobile Disability Income Protection	Not purchased*		
Total			\$

* This coverage can provide you with valuable protection. To help you stay current with your insurance needs, contact your Allstate agent to discuss coverage options and other products and services that can help protect you.

Your policy documents

Your automobile policy consists of this Policy Declarations and the documents in the following list. Please keep these together.

- New Hampshire Allstate Fire and Casualty Insurance Company Insurance Policy -
- New Hampshire Auto Policy - Amendatory Endorsement -
- Drivewise® Enrollment Endorsement -

Important payment and coverage information

Here is some additional, helpful information related to your coverage and paying your bill:

- ▶ A \$10.00 late fee may be assessed if payment is received after the due date.
- ▶ Your Gold Protection package contains the following features:
 - Accident Waiver Enhancement feature
 - Safe Driving Deductible Reward feature



AMY B. DAVIDSON

PROFESSIONAL

LAW OFFICE OF AMY B. DAVIDSON, Contoocook, NH, March 1992 – present; Private practice with concentration in mental health and disability law; represent individuals with mental illness at involuntary admission and guardianship hearings, administrative hearings and New Hampshire Supreme Court appeals. Panel attorney, New Hampshire Bar Association Domestic Violence Emergency (DOVE) Project (1993 to present). Experienced in family and juvenile law. Served as guardian *ad litem* in New Hampshire courts, 1994 to 2014 (Board certified, 2004 – 2014); faculty for guardian *ad litem* training in the Probate Courts, 2004 to 2014.

NEW HAMPSHIRE DEPARTMENT OF EDUCATION, Concord, NH, July 2001 – present; Hearing Officer/Alternative Dispute Resolution Officer. Preside over Impartial Due Process Hearings and State Board hearings, and serve as a mediator and neutral evaluator in cases involving special education, student discipline, bullying, teacher contracts and other matters which come before the Department.

RIVIER UNIVERSITY, Nashua, NH, January 1999 – May 2001; Adjunct Faculty, Family Law Instructor, Paralegal Studies Program.

COLLEGE FOR LIFELONG LEARNING, Manchester, NH, April 1997 – May 1997; Adjunct Faculty. Family Law Instructor, Paralegal program.

DISABILITY RIGHTS CENTER, INC., Concord, NH, March 1985 – October 1991; Staff Attorney. Represented individuals with disabilities in federal and state courts and before administrative agencies, in matters involving special education, rights to treatment and services, housing and benefits; participated in workshops, conferences and legislative activities which addressed disability-related issues.

SOUTHERN TIER LEGAL SERVICES, Bath, NY, August 1982 – March 1985; Reginald Heber Smith Community Lawyer Fellow/Staff Attorney. Represented low-income clients in cases involving housing, public benefits, education, disability and mental health; organized and conducted Social Security/SSI and special education workshops for community groups.

UNIVERSITY OF NEW HAMPSHIRE SCHOOL OF LAW, Concord, NH, August, 1980 – March 1982; Civil Procedure Teaching Assistant. Prepared and taught weekly sessions for first year law students.

A BETTER CHANCE, INC., Concord, NH, September 1980 – June 1981, Tutor. Worked with inner city students in a residential setting; assisted with academics and college preparation.

CENTER FOR EVALUATION AND RESEARCH OF RHODE ISLAND COLLEGE, Providence, RI, May 1978 – May 1979; Graduate Research Assistant. Evaluated compensatory education programs throughout Rhode Island; responsibilities included conducting interviews, classroom observations, development of testing and survey instruments, report preparation and data analysis.

SOUTH NORFOLK COUNTY ARC, INC., Sharon, MA, August 1978 – June 1979; Assistant House Manager. Provided community-based services to eight women with developmental challenges.

EDUCATION

UNIVERSITY OF NEW HAMPSHIRE SCHOOL OF LAW
(formerly Franklin Pierce Law Center), Concord, NH, Juris Doctor, 1982.

RHODE ISLAND COLLEGE, Providence, RI, Master of Arts, Social Psychology and Personality, 1979.

BOSTON UNIVERSITY, Boston, MA, Bachelor of Arts, Psychology, 1974.

BAR ADMISSIONS

STATE: New Hampshire – 1985
Massachusetts – 1984
New York – 1983

FEDERAL: U.S. District Court, District of Massachusetts - 1994
U.S. Court of Appeals for the First Circuit – 1989
U.S. District Court, District of New Hampshire – 1985
U.S. District Court, Western District of New York – 1983

PROFESSIONAL MEMBERSHIPS

New Hampshire Bar Association
NHBA Mental & Physical Disabilities Law Section

MISCELLANEOUS INTERESTS

Animal welfare and rescue; volunteering for local animal shelters;

Conservation and environmental concerns;

Professional musician/piano teacher;

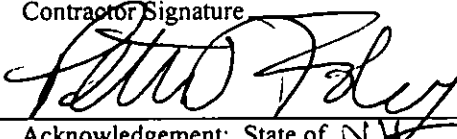
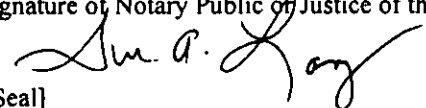


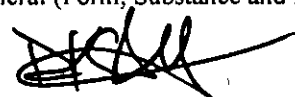
Competitive triathlete and runner; also enjoy trail and road biking, kayaking, Nordic and alpine skiing, snowshoeing, swimming, hiking, volleyball, tennis, badminton, skating.

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 NH Department of Education		1.2 State Agency Address 101 Pleasant Street, Concord, NH 03301	
1.3 Contractor Name Peter T. Foley, Esquire		1.4 Contractor Address P.O. Box 2753, Concord, NH 03302	
1.5 Contractor Phone Number (603) 224-6368	1.6 Account Number See Exhibit B	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$155,000.00
1.9 Contracting Officer for State Agency Diana Fenton, Esquire		1.10 State Agency Telephone Number 271-3189	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Peter T. Foley, Esquire	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>5-7-19</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u>Sue A. Lang, Notary Public</u>			
1.14 State Agency Signature  Date: <u>5-15-19</u>		1.15 Name and Title of State Agency Signatory <u>Frank Elbellet, Commissioner</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Yasmi A. Ruane</u> Director, On: <u>5-17-2019</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <u>Ricardo Sana</u>  On: <u>MAY 17, 2019</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

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

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

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

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

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

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

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

7. PERSONNEL.

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

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

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.

Exhibit A

Scope of the Work:

Once selected, the ultimate number and type of case assignment (e.g. hearings or alternative dispute resolution) shall be at the sole discretion of the Office of Legislation and Hearings.

In the role of **Hearing Officer**, upon assignment of a case by the Office of Legislation and Hearings, the contractor shall:

1. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
2. Maintain accurate file management system for all administrative hearings as directed by the Office of Legislation and Hearings. Return the complete hearings file (consisting of an accordion folder containing four labeled files: 1. Pleadings; 2. Correspondence; 3. Record; and, 4. Exhibits) to the Office of Legislation and Hearings as directed by the Office of Legislation and Hearings following completion of proceeding.
3. Maintain administrative file checklist as directed by the Office of Legislation and Hearings.
4. Maintain confidential computer and telephone communications. Utilize a state issued email account for administrative hearing purposes.
5. Maintain accurate electronic recording/record of all administrative pre-hearings and hearings.
6. Conduct Pre-hearing conference with parties to hearing. Discuss in detail items in Pre-hearing Checklist at pre-hearing conference and memorialize in pre-hearing order as directed by the Office of Legislation and Hearings.
7. Explain subpoena process to parties. Issue subpoenas as necessary.
8. Ensure all administrative hearings are held within statutory deadlines unless Hearing Officer grants continuances for specific extensions of time. Any such extension must be documented immediately by the Hearing Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which a decision will be rendered.
9. Make written findings of facts following the hearing.
10. Make written rulings of law following the hearing.
11. Issue timely responses to all motions/continuance requests of the parties.
12. Issue a written Hearing Officer decision by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Hearing Officer, to the Office of Legislation and Hearings who shall mail decision to parties by certified mail.
13. Number the Orders in Hearing decisions under a section entitled Orders and ensure start and appropriate completion dates are included in Order.
14. Provide an electronic version in Microsoft Office Word, or as directed by the Office of Legislation and Hearings, of the Hearing Officer decision to the Office of Legislation and Hearings.
15. Format Hearing Officer Orders in accordance with the Hearing Officers' Guide to Administrative Process, or as otherwise directed by the Office of Legislation and Hearings.

Contractor Initials PA
Date 5/7/12

EXHIBIT A – PAGE 2

16. Draft decisions, notify parties of rescheduled hearings and perform attendant secretarial duties such as rescheduling of hearings, bookkeeping, up-to-date billing and accounting.
17. File Weekly case reports with the Office of Legislation and Hearings by no later than noon on Monday for the prior week.
18. Attend training sessions at the Department of Education in Concord as scheduled by the Office of Legislation and Hearings.

In the role of **Alternative Dispute Resolution Officer** (e.g. Mediator or Neutral Officer), upon assignment of a case by the Office of Legislation and Hearings, the contractor shall:

19. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
20. Maintain accurate file management system for all Alternative Dispute Resolutions as directed by the Office of Legislation and Hearings. Return the complete hearings file to the Office of Legislation and Hearings as directed by the Office of Legislation and Hearings following completion of proceeding.
21. Maintain secure computer and telephone communications. Utilize a state issued email account for Alternative Dispute Resolution purposes.
22. Ensure all Alternative Dispute Resolution procedures are held within statutory deadlines unless Alternative Dispute Resolution Officer allows continuances for specific extensions of time. Any such extension must be documented immediately by the Alternative Dispute Resolution Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which the matter will be concluded.
23. Ensure timely responses to all inquiries of the parties.
24. Provide a written agreement and/or non-agreement by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Alternative Dispute Officer, to the Office of Legislation and Hearings.
25. If serving as Mediator, the Mediator shall notify the Hearing Officer and Office of Legislation and Hearings of the outcome of mediation sessions in a timely manner.
26. Draft written agreement and/or non-agreement, notify parties of rescheduled proceedings and attendant secretarial duties such as rescheduling of mediation/neutral conferences, bookkeeping, up-to-date billing and accounting.
27. File weekly case reports with the Office of Legislation and Hearings by no later than noon on Monday of each week.
28. Attend training sessions at the Department of Education in Concord.

Contractor Initials
Date

PR
5/19/12

Exhibit B

Payment Terms

The contracts represent an unspecified dollar amount per hearing officer. This allows the Department the opportunity to distribute in-coming requests for alternative dispute resolution and hearings and balance the workload among the hearing officers, basing the distribution on such factors as type of request, experience needed to handle such request, and number of cases currently outstanding for each hearing officer.

In consideration of the services to be performed by the Contractor, the State agrees to pay Contractor in accordance with the payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2021. This schedule was developed based on the median and average costs of all hearings and mediations held during a one year time span.

Mediation/Neutral Conference		Date	
Upon acceptance of case - \$100*			
<ul style="list-style-type: none"> • Full Day (More than 3 hours) - \$250 (example 9-4) • Less than 3 hours - \$150 (example: 9-noon; noon - 3) • Second Day - \$125 			
Prior to Pre-Hearing		Date	
Upon acceptance of case - \$100*			
Determination on Motions - \$50 (Motion to Continue; Dispositive; Dismissal; Reconsideration; Discovery) <i>Total allowable for case: \$100</i>			
Sufficiency hearing - \$175			
Hearing		Date	
Pre-Hearing - \$150			
Hearing -			
<ul style="list-style-type: none"> • 1st Day - More than 3 hours \$275; Less than 3 hours - \$155 • 2nd Day - More than 3 hours \$275; Less than 3 hours - \$155 			
Post-Hearing		Date	
Prepare decision - \$255			
<ul style="list-style-type: none"> • Hearing Decision • Summary Judgment 			
Report and Recommendation - \$200 (State Board)			
State Board - Findings of Fact/Rulings of Law - \$55 (State Board)			
Miscellaneous	Date	Details (mileage, time, other information necessary)	Payment (Less \$100.00 upon acceptance)
Preparation of subpoenas (Total for case) \$20			
Mileage - \$0.535/mile**			Not Applicable
Travel time*** - \$30.00/hour, after first 2 hours***			
Training -			Not Applicable
<ul style="list-style-type: none"> • ½ day (four hours or less) - \$150.00 • Full day - \$300.00 			
Evaluation meeting \$30.00			
File Preparation (includes Indexes, Admin file, Pre-hearing checklists) - \$20 per case if at close of settlement; withdrawal; dismissal <u>or</u> \$50 per case after full hearing and decision rendered			
Actual postage up to \$20.00 per case (Mailing of orders, mailing file folder to DOE)			
Consultation (court, OSEP, OCR, DOE) \$30.00**			
OTHER - Describe			

Items not covered in this schedule - From time to time there may be an unusual situation that arises where a hearing officer is required to perform a hearing-related task for which no monetary reimbursement has been contemplated. In those situations, the department will consider reimbursement based on either the per diem rate, as set out for training, a flat fee rate analogous to one of the above rates or no payment as it determines is warranted by the situation.

Contractor Initials DPB
Date 6/17

EXHIBIT B – PAGE 2

**If travel involved or an unusual situation arises, this money will be applied to the amount before any additional payment is authorized. This amount includes weekly update of cases.*

***Only with prior approval from the office of legislation and hearings. Mileage is if, and only if, a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord.*

****See explanation for upon acceptance of case – the \$30.00/hour, after the first two hours will NOT apply to first 2 hours of travel time – i.e. payment for 3 hour round trip will be \$30 not \$90.*

Limitation on Price: This contract will not exceed \$155,000.00.

Source of Funding: Funding for this contract is 65% General Funds from the account titled Governance and 35% Federal Funds from VR Field Programs-Federal and IDEA-Special Ed-Elem/Sec as follows:

<u>ACCOUNT NUMBER</u>		<u>FY 20</u>	<u>FY 21</u>
06-56-56-560510-20220000-046-500464	Consultants	\$48,500.00	\$48,500.00
06-56-56-560510-20220000-102-500731	Contracts for Program Services	\$ 1,500.00	\$ 1,500.00
06-56-56-565010-25380000-046-500464	Consultants	\$ 7,500.00	\$ 7,500.00
06-56-56-562010-25040000-046-500464	Consultants	<u>\$20,000.00</u>	<u>\$20,000.00</u>
		\$77,500.00	\$77,500.00

Method of Payment:

Payment will be made upon the submittal of an invoice based on the payment schedule above which records activities that have taken place in accordance with the terms of the contract.

Invoices will be submitted to:

Stephen W. F. Berwick
NH.Department of Education
101 Pleasant Street
Concord, NH 03301

Contractor Initials

Date



5/17/19

Exhibit C

Special Provisions:

Authorize the Department of Education to waive Section 14, 14.1, and 14.1.1. Contractor will carry appropriate levels of personal automobile insurance during the term of this contract, per the coverage levels as set forth in the attached policy:

Amica Insurance Company

Individuals contracting in their own name do not require Workers' Compensation.

Terms and Conditions:

Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State of New Hampshire to fund this project is \$155,000 for the biennium - \$77,500 for FY 20 and \$77,500 for FY 21.

Contractor will consult Hearing Officers' Guide to Administrative Procedures whenever a question arises as to proper procedure prior to contacting the Office of Legislation and Hearings.

When delivering services under an approved contract, the contractor shall work under the direct supervision of the Coordinator of Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings for this project.

At the conclusion of proceedings, the Coordinator, Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings shall mail an evaluation to each party. The evaluations shall be used by the Coordinator, Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings as one of the components of the annual evaluation of contracted Hearing Officers performance.

The contracted individual will be paid mileage at the current state rate round-trip only with prior approval from the office of legislation and hearings. Mileage will be paid from the contracted individual's primary business address to hearing/mediation site if and only if a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord venues.

Conflicts of Interest:

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Record-keeping systems shall be maintained which facilitate the early and efficient identification of conflicts of interest.

Termination:

All Hearing Officer Contracts are subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.

This Agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This Agreement may be terminated by either party without cause upon thirty days prior notice in writing.

Contractor Initials
Date


6/1/11

EXHIBIT C – PAGE 2

Termination cont.:

In the event that the Contractor fails to complete a case or where the Contractor has recused himself/herself due to conflict of interest, any funds paid for such case(s) shall be reimbursed and any funds payable shall be forfeited.

In the event that the Contractor fails to submit a closed case within the time period allowed by the law, or fails to comply with other record keeping or reporting requirements established by the DOE, the Contract may be terminated by the DOE immediately upon notice to the Contractor and any funds paid for such case(s) shall be reimbursed and any funds payable shall be forfeited.

In the event Contractor withdraws from a case prior to final disposition, under circumstances agreed to by the DOE, Contractor shall be entitled to receive credit for services rendered in that case as listed in Exhibit B.

Contractor Initials
Date




EXHIBIT D**Contractor Obligations**

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC § 1001 and § 1020.

Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials

Date


Handwritten signature and date 5/14/19.

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
 2. Does not have a proposed debarment pending;
 3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials
Date

[Handwritten Signature]
[Handwritten Date: 5/1/19]

Exhibit F

Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sflllin.pdf>).
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials
Date

[Handwritten Signature]
5/2/19

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials 
Date 5/7/19

Exhibit H

Termination

a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract.

If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages.

If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials

Date

5/7/17



Log out



Billing & Payments

Claim Center

Policies & Documents

Your Profile

Home

Billing & Payments

Claim Center

Policies & Documents

Your Profile

Mr. Peter T. Foley

Account Number:

Coverages*

[Back to Summary](#)



Coverages shown below are effective as of tomorrow 03/09/2019.

NH Auto

Policy Period: 03/04/2019 - 03/04/2020

Policy Status: Active

- As a result of a change you made to your policy, the total of the coverage premium displayed below may not equal the policy premium amount listed on the Summary page.

Jump to vehicle-specific coverages:

[2004 VOLVO XC70 AWD](#)

Bodily Injury Liability

Limit	\$100,000 per person \$300,000 per accident
Premium	\$

[More About This Coverage](#)

Property Damage Liability

Limit	\$50,000 per accident
Premium	\$

[More About This Coverage](#)

Uninsured Motorist Bodily Injury

Limit	\$100,000 per person \$300,000 per accident
Premium	\$

[More About This Coverage](#)

Limit	\$5,000 per accident
Premium	\$

[More About This Coverage](#)

[Back to top](#)

Vehicles covered under this policy:

2004 VOLVO XC70 AWD

VIN

This page is an overview of your current auto policy coverages and may or may not include changes not yet in effect. The coverage descriptions are for educational purposes only, do not include policy-specific limits, and may vary by policy and state. Neither this page nor the coverage descriptions constitute a binding contract. Your Policy, Policy Declaration, and/or Amended Declarations are the primary sources of reference for your coverage information and govern your Policy and any subsequent claim.

To access the Policy, Policy Declarations, or the Amended Declarations, [view your policy documents](#).

*The premiums displayed may be a portion of your total cost.

[Amica Products](#)

Auto Insurance
Home Insurance
Life Insurance
Condo Insurance
Renters Insurance
Retirement Products
Marine Insurance
Motorcycle Insurance
Umbrella Insurance
Small Business
Wedding & Event

[About Us](#)

Company Facts & History
Mission Statement
Awards and Recognition
Careers
In Your Community
Media Center
Amica Today Magazine
Annual Report
Licensing Information
Amica Mobile

[Manage Your Account](#)

Billing and Payments
Policies and Documents
Claim Center
Your Profile

[Tools and Services](#)

Roadside Assistance
Car Connection
Contractor Connection
Refer a Friend



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PETER T. FOLEY

EDUCATION

Georgetown University Law Center, Washington, D.C.

J.D. cum laude, 1981

Honors: Law Review: American Criminal Law Review

Editor, 1980-81

Member, 1979-80

Stonehill College, North Easton, Massachusetts

A.B. magna cum laude, 1978, Political Science

Honors: Lambda Epsilon Sigma Honor Society

Phi Alpha Theta Honor Society

EMPLOYMENT

LEGAL

Foley Law Office, Concord, New Hampshire

Solo Practitioner, July 1991 - present

Established and maintain private law practice specializing in administrative/government law, mediation/hearing officer services and election law.

Representative clients: New Hampshire Department of Education, New Hampshire Department of Justice, New Hampshire Retirement System.

GOVERNMENTAL

State of New Hampshire, Office of the Attorney General, Concord, NH

Senior Assistant Attorney General, December 1986 - January 1991

Member of management team of fifty-attorney law office with emphasis on supervision of professional and support staff of the Office's Civil Bureau.

As Civil Litigation Coordinator, organized and oversaw all aspects of twelve-attorney Civil Bureau's state and federal litigation, including case assignment, discovery, pretrial practice, settlement negotiation and jury trial preparation and presentation.

Assistant Attorney General, August 1983- December 1986

Attorney, September 1981 - August 1983

Advised state agencies and officials regarding legal aspects of departmental administration including statutory interpretation, administrative rulemaking, contract negotiation and contract drafting. Maintained individual litigation caseload in state and federal courts with extensive involvement in the defense of medical negligence claims and Section 1983 civil rights actions. Represented state agencies and officials in civil actions in state superior and probate court, federal district court and before state administrative bodies. Wrote legal briefs and orally argued on behalf of state agencies and officials in civil appellate proceedings in the New Hampshire Supreme Court and the First Circuit Court of Appeals. State agency clients included Department of Revenue, Department of Health and Human Services, New Hampshire Hospital and Laconia State School.

EMPLOYMENT

HIGHER EDUCATION

University of New Hampshire School of Law, Concord, New Hampshire
Adjunct Professor - Sports Law, August 1991 – present

Develop, design and teach curriculum for two law school courses that use professional and amateur sports case studies to teach principles of contract, labor, antitrust, constitutional and individual rights law.

Adjunct Professor - Advanced Legal Writing, August 1996 - May 1998

Designed and taught curriculum that used “real life” court cases to teach advanced legal writing skills to second and third year law students.

POLITICAL

Kerry-Edwards Campaign, Manchester, New Hampshire

July 2004–November 2004

Associate New Hampshire Counsel

Member of five-person core legal team of New Hampshire Democratic State Party Coordinated Campaign with individual specialty in student voting legal intervention and protection. Unprecedented college student registration, turnout and poll access provided margin of Democratic victory in 2004 NH Presidential and Gubernatorial elections.

Dean for America, November 2003 - March 2004

Co-Legal Counsel, New Hampshire, Maine and Wisconsin GOTV Program.

Established and coordinated a network of volunteer attorneys and law students to provide Election Day registration information and legal protection to college students and other individuals seeking to register to vote in 2004 Democratic primaries.

Shaheen for Senate, September – November 2002

Gore/Lieberman 2000, October – November 2000

On-Site Legal Coordinator, Student GOTV

Student Legal Advocate and Observer of Election Day student voter registration process at Durham, NH (University of New Hampshire) and Plymouth, NH (Plymouth State University) polling centers.

MEDIA

New Hampshire Public Radio, Concord, New Hampshire

Commentator, April 1998 - 2004

Wrote, produced and recorded sports humor essays for NHPR's local segments of National Public Radio's daily news programs, *Morning Edition* and *All Things Considered*.

KUSC Radio, Los Angeles, California

Commentator, Marketplace, September 1997 – 2001

Monitor Radio, Boston, Massachusetts

Commentator, March 1995 - July 1997

Wrote, produced and recorded sports law and sports business essays for two nationally syndicated daily news programs.

BAR MEMBERSHIP

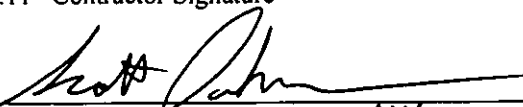

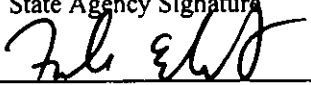
State of New Hampshire (1981)

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 NH Department of Education		1.2 State Agency Address 101 Pleasant Street, Concord, NH 03301	
1.3 Contractor Name Scott F. Johnson, Esquire		1.4 Contractor Address P.O. Box 549, Warner, NH 03278	
1.5 Contractor Phone Number (603) 456-2937	1.6 Account Number See Exhibit B	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$155,000.00
1.9 Contracting Officer for State Agency Diana Fenton, Esquire		1.10 State Agency Telephone Number 271-3189	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Scott F. Johnson, Esquire	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>5/10/19</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]		PATRICIA M. EDES, Notary Public State of New Hampshire My Commission Expires Jan. 24, 2023	
1.13.2 Name and Title of Notary or Justice of the Peace <u>Patricia M. Edes, Notary Public</u>			
1.14 State Agency Signature  Date: <u>5-15-19</u>		1.15 Name and Title of State Agency Signatory <u>Frank Edelblut, Commissioner</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Yusuf A. Rucki</u> Director, On: <u>5-17-2019</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <u>Richard J. Smith</u> On: <u>MAY 17, 2019</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

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

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

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

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

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

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

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

7. PERSONNEL.

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

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

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.

Exhibit A

Scope of the Work:

Once selected, the ultimate number and type of case assignment (e.g. hearings or alternative dispute resolution) shall be at the sole discretion of the Office of Legislation and Hearings.

In the role of **Hearing Officer**, upon assignment of a case by the Office of Legislation and Hearings, the contractor shall:

1. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
2. Maintain accurate file management system for all administrative hearings as directed by the Office of Legislation and Hearings. Return the complete hearings file (consisting of an accordion folder containing four labeled files: 1. Pleadings; 2. Correspondence; 3. Record; and, 4. Exhibits) to the Office of Legislation and Hearings as directed by the Office of Legislation and Hearings following completion of proceeding.
3. Maintain administrative file checklist as directed by the Office of Legislation and Hearings.
4. Maintain confidential computer and telephone communications. Utilize a state issued email account for administrative hearing purposes.
5. Maintain accurate electronic recording/record of all administrative pre-hearings and hearings.
6. Conduct Pre-hearing conference with parties to hearing. Discuss in detail items in Pre-hearing Checklist at pre-hearing conference and memorialize in pre-hearing order as directed by the Office of Legislation and Hearings.
7. Explain subpoena process to parties. Issue subpoenas as necessary.
8. Ensure all administrative hearings are held within statutory deadlines unless Hearing Officer grants continuances for specific extensions of time. Any such extension must be documented immediately by the Hearing Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which a decision will be rendered.
9. Make written findings of facts following the hearing.
10. Make written rulings of law following the hearing.
11. Issue timely responses to all motions/continuance requests of the parties.
12. Issue a written Hearing Officer decision by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Hearing Officer, to the Office of Legislation and Hearings who shall mail decision to parties by certified mail.
13. Number the Orders in Hearing decisions under a section entitled Orders and ensure start and appropriate completion dates are included in Order.
14. Provide an electronic version in Microsoft Office Word, or as directed by the Office of Legislation and Hearings, of the Hearing Officer decision to the Office of Legislation and Hearings.
15. Format Hearing Officer Orders in accordance with the Hearing Officers' Guide to Administrative Process, or as otherwise directed by the Office of Legislation and Hearings.

Contractor Initials
Date


7/5/10/19

EXHIBIT A – PAGE 2

16. Draft decisions, notify parties of rescheduled hearings and perform attendant secretarial duties such as rescheduling of hearings, bookkeeping, up-to-date billing and accounting.
17. File Weekly case reports with the Office of Legislation and Hearings by no later than noon on Monday for the prior week.
18. Attend training sessions at the Department of Education in Concord as scheduled by the Office of Legislation and Hearings.

In the role of **Alternative Dispute Resolution Officer** (e.g. Mediator or Neutral Officer), upon assignment of a case by the Office of Legislation and Hearings, the contractor shall:

19. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
20. Maintain accurate file management system for all Alternative Dispute Resolutions as directed by the Office of Legislation and Hearings. Return the complete hearings file to the Office of Legislation and Hearings as directed by the Office of Legislation and Hearings following completion of proceeding.
21. Maintain secure computer and telephone communications. Utilize a state issued email account for Alternative Dispute Resolution purposes.
22. Ensure all Alternative Dispute Resolution procedures are held within statutory deadlines unless Alternative Dispute Resolution Officer allows continuances for specific extensions of time. Any such extension must be documented immediately by the Alternative Dispute Resolution Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which the matter will be concluded.
23. Ensure timely responses to all inquiries of the parties.
24. Provide a written agreement and/or non-agreement by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Alternative Dispute Officer, to the Office of Legislation and Hearings.
25. If serving as Mediator, the Mediator shall notify the Hearing Officer and Office of Legislation and Hearings of the outcome of mediation sessions in a timely manner.
26. Draft written agreement and/or non-agreement, notify parties of rescheduled proceedings and attendant secretarial duties such as rescheduling of mediation/neutral conferences, bookkeeping, up-to-date billing and accounting.
27. File weekly case reports with the Office of Legislation and Hearings by no later than noon on Monday of each week.
28. Attend training sessions at the Department of Education in Concord.

Contractor Initials
Date

[Signature]
5/10/19

Exhibit B

Payment Terms

The contracts represent an unspecified dollar amount per hearing officer. This allows the Department the opportunity to distribute in-coming requests for alternative dispute resolution and hearings and balance the workload among the hearing officers, basing the distribution on such factors as type of request, experience needed to handle such request, and number of cases currently outstanding for each hearing officer.

In consideration of the services to be performed by the Contractor, the State agrees to pay Contractor in accordance with the payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2021. This schedule was developed based on the median and average costs of all hearings and mediations held during a one year time span.

Mediation/Neutral Conference		Date	
Upon acceptance of case - \$100*			
<ul style="list-style-type: none"> • Full Day (More than 3 hours) - \$250 (example 9-4) • Less than 3 hours - \$150 (example: 9-noon; noon - 3) • Second Day - \$125 			
Prior to Pre-Hearing		Date	
Upon acceptance of case - \$100*			
Determination on Motions - \$50 (Motion to Continue; Dispositive; Dismissal; Reconsideration; Discovery) <i>Total allowable for case: \$100</i>			
Sufficiency hearing - \$175			
Hearing		Date	
Pre-Hearing - \$150			
Hearing -			
<ul style="list-style-type: none"> • 1st Day - More than 3 hours \$275; Less than 3 hours - \$155 • 2nd Day - More than 3 hours \$275; Less than 3 hours - \$155 			
Post-Hearing		Date	
Prepare decision - \$255			
<ul style="list-style-type: none"> • Hearing Decision • Summary Judgment 			
Report and Recommendation - \$200 (State Board)			
State Board - Findings of Fact/Rulings of Law - \$55 (State Board)			
Miscellaneous	Date	Details (mileage, time, other information necessary)	Payment (Less \$100.00 upon acceptance)
Preparation of subpoenas (Total for case) \$20			
Mileage - \$0.535/mile**			Not Applicable
Travel time*** - \$30.00/hour, after first 2 hours***			
Training -			Not Applicable
<ul style="list-style-type: none"> • ½ day (four hours or less) - \$150.00 • Full day - \$300.00 			
Evaluation meeting \$30.00			
File Preparation (includes Indexes, Admin file, Pre-hearing checklists) - \$20 per case if at close of settlement; withdrawal; dismissal <u>or</u> \$50 per case after full hearing and decision rendered			
Actual postage up to \$20.00 per case (Mailing of orders, mailing file folder to DOE)			
Consultation (court, OSEP, OCR, DOE) \$30.00**			
OTHER - Describe			

Items not covered in this schedule - From time to time there may be an unusual situation that arises where a hearing officer is required to perform a hearing-related task for which no monetary reimbursement has been contemplated. In those situations, the department will consider reimbursement based on either the per diem rate, as set out for training, a flat fee rate analogous to one of the above rates or no payment as it determines is warranted by the situation.

Contractor Initials 
Date 5/10/19

EXHIBIT B – PAGE 2

**If travel involved or an unusual situation arises, this money will be applied to the amount before any additional payment is authorized. This amount includes weekly update of cases.*

***Only with prior approval from the office of legislation and hearings. Mileage is if, and only if, a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord.*

****See explanation for upon acceptance of case – the \$30.00/hour, after the first two hours will NOT apply to first 2 hours of travel time – i.e. payment for 3 hour round trip will be \$30 not \$90.*

Limitation on Price: This contract will not exceed \$155,000.00.

Source of Funding: Funding for this contract is 65% General Funds from the account titled Governance and 35% Federal Funds from VR Field Programs-Federal and IDEA-Special Ed-Elem/Sec as follows:

<u>ACCOUNT NUMBER</u>		<u>FY 20</u>	<u>FY 21</u>
06-56-56-560510-20220000-046-500464	Consultants	\$48,500.00	\$48,500.00
06-56-56-560510-20220000-102-500731	Contracts for Program Services	\$ 1,500.00	\$ 1,500.00
06-56-56-565010-25380000-046-500464	Consultants	\$ 7,500.00	\$ 7,500.00
06-56-56-562010-25040000-046-500464	Consultants	<u>\$20,000.00</u>	<u>\$20,000.00</u>
		\$77,500.00	\$77,500.00

Method of Payment:

Payment will be made upon the submittal of an invoice based on the payment schedule above which records activities that have taken place in accordance with the terms of the contract.

Invoices will be submitted to:

Stephen W. F. Berwick
NH Department of Education
101 Pleasant Street
Concord, NH 03301

Contractor Initials

Date

[Signature]
5/10/19

Exhibit C

Special Provisions:

Authorize the Department of Education to waive Section 14, 14.1, and 14.1.1. Contractor will carry appropriate levels of personal automobile insurance during the term of this contract, per the coverage levels as set forth in the attached policy:

The Concord Group Insurance Company

Individuals contracting in their own name do not require Workers' Compensation.

Terms and Conditions:

Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State of New Hampshire to fund this project is \$155,000 for the biennium - \$77,500 for FY 20 and \$77,500 for FY 21.

Contractor will consult Hearing Officers' Guide to Administrative Procedures whenever a question arises as to proper procedure prior to contacting the Office of Legislation and Hearings.

When delivering services under an approved contract, the contractor shall work under the direct supervision of the Coordinator of Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings for this project.

At the conclusion of proceedings, the Coordinator, Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings shall mail an evaluation to each party. The evaluations shall be used by the Coordinator, Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings as one of the components of the annual evaluation of contracted Hearing Officers performance.

The contracted individual will be paid mileage at the current state rate round-trip only with prior approval from the office of legislation and hearings. Mileage will be paid from the contracted individual's primary business address to hearing/mediation site if and only if a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord venues.

Conflicts of Interest:

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Record-keeping systems shall be maintained which facilitate the early and efficient identification of conflicts of interest.

Termination:

All Hearing Officer Contracts are subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.

This Agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This Agreement may be terminated by either party without cause upon thirty days prior notice in writing.

Contractor Initials
Date


5/10/19

EXHIBIT C – PAGE 2

Termination cont.:

In the event that the Contractor fails to complete a case or where the Contractor has recused himself/herself due to conflict of interest, any funds paid for such case(s) shall be reimbursed and any funds payable shall be forfeited.

In the event that the Contractor fails to submit a closed case within the time period allowed by the law, or fails to comply with other record keeping or reporting requirements established by the DOE, the Contract may be terminated by the DOE immediately upon notice to the Contractor and any funds paid for such case(s) shall be reimbursed and any funds payable shall be forfeited.

In the event Contractor withdraws from a case prior to final disposition, under circumstances agreed to by the DOE, Contractor shall be entitled to receive credit for services rendered in that case as listed in Exhibit B.

Contractor Initials
Date


5/10/19

EXHIBIT D**Contractor Obligations**

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initial
Date


5/10/19

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
 2. Does not have a proposed debarment pending;
 3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initial _____
Date _____

5/10/19

Exhibit F

Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfillin.pdf>).
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.

Contractor Initials
Date



5/10/19

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials
Date


5/10/19

Exhibit H

Termination

a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract.
If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages.
If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.

b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials
Date


5/10/19



THE CONCORD GROUP INSURANCE COMPANIES

(Concord General Mutual Insurance Company, 4 Bouton Street, Concord, NH 03301-5006)

ANNIVERSARY RENEWAL DECLARATIONS

Refer billing, policy or coverage questions to:

Named Insured and Address:

Online/Access: [REDACTED]

(Davis & Towle, Morrill & Everett, Inc.
P.O. Box 1260
Concord, NH 03302
(603) 224-9551

(Scott Johnson
[REDACTED]
[REDACTED]

THIS IS NOT A BILL. Your bill will be sent separately.

This Anniversary Renewal Declaration reflects your renewal coverages, rating information and premiums. Any changes in your rating information, such as driving record history, driver's age or credits, are reflected herein.

The enclosed policy form(s) becomes part of your policy effective this renewal and should be attached to your policy. Read the form(s) and the explanatory notice carefully.

Please contact your agent with any questions or corrections.

As Valued Customer Since 2016

Policy Number	Policy Type	Policy Period	Effective Date	Payment Plan
[REDACTED]	Personal/Automobile	06/30/2018 TO 06/30/2019 112:01 A/M Standard Time	06/30/2018	4-Pay

POLICY PREMIUM SUMMARY

Year	Model Year	Vehicle Description	Vehicle ID#	Garaging Location	Annual Premium
11	2010	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
12	2009	SUBARU FORESTER 2.5XT LIMITED	[REDACTED]	Warner, NH	\$690.00
13	2009	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
14	2000	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
15	2009	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
TOTAL VEHICLE PREMIUM					[REDACTED]
(OTHER COVERAGES					[REDACTED]
ANNUAL POLICY PREMIUM					[REDACTED]

DRIVERS and DRIVER DISCOUNTS

#	Name	Date of Birth	License #	State Licensed	Good Student	Distant Student	Defensive Driver
11	Scott Johnson	[REDACTED]	[REDACTED]	[REDACTED]			
12	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			
13	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			
14	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			

(Scott Johnson

[Effective: 06/30/2018

(CREDITS and DISCOUNTS

Credits and Discounts Applied to Your Policy Premium	
Advance Quote	Multi-Car Discount
Longevity	Account Credit 1235772
Term With Prior Carrier	Safe Car
Total Credits and Discounts	

VEHICLES

Year	Make/Model	Comp/Old Symbol	Zip Code Territory
2	2009 SUBARU FORESTER 2.5XT LIMITED	118/18	03278

(COVERAGES

Coverages Applied to Your Policy Premium is shown		Veh 1	Veh 2
Bodily Injury	[Each Person/Each Occurrence	\$500,000/\$500,000	\$141
Property Damage	[Each Occurrence	\$100,000	\$138
Medical Payments	[Each Person	\$5,000	\$15
Uninsured / Underinsured Motorists	[Each Person/Each Occurrence	\$500,000/\$500,000	\$114
Other Than Collision	[Each Person/Each Occurrence	\$250 Ded.	\$46
Collision	[Each Person/Each Occurrence	\$500 Ded.	\$209
Transportation Expense	[Each Person/Each Occurrence	Daily \$20 / Max \$500	Incl.
Towing and Labor	[Each Person/Each Occurrence	\$25 each occurrence	\$4
Personal/Auto Coverage Enhancements (PAGE)	[Each Person/Each Occurrence	\$25 each occurrence	Incl.
Personal/Auto Coverage Enhancements (Plus (PAGE+)	[Each Person/Each Occurrence	\$25 each occurrence	\$25
Total Premium for Each Vehicle		\$17	\$690

TOTAL VEHICLE PREMIUM

Scott F. Johnson, Esq.

Experience

- 1999 - **Concord Law School at Kaplan University**
Present **Professor of Law.** Develop and teach Administrative Law, Administrative Advocacy, ADR & Technology, Civil Procedure, Constitutional Law, Education Law, Health Law, and Special Education courses in an online platform. Create and grade student assessments. Serve on various academic and faculty governance committees including Admissions, Curriculum, and Faculty Council.
- 2006 – **New Hampshire Department of Education, Concord, NH**
Present **Hearing Officer/Mediator**
Serve as a hearing officer in education cases, which includes special education, student discipline, teacher employment and licensing matters, bullying, and educational hardship matters. Duties also include serving as a mediator and using other forms of ADR to help parties resolve matters.
- 2002 - **Franklin Pierce Law Center, Concord, NH**
2006 **Visiting/Adjunct Professor.** Developed and taught Education Law, Special Education Law, and Administrative Law classes.
- 1997-2004 **Stein, Volinsky & Callaghan, Concord, NH**
Attorney. Represented clients in civil litigation including administrative, trial, and appellate practice. Appeared before numerous administrative agencies, trial courts, the New Hampshire Supreme Court, and the First Circuit Court of Appeals. Practice focused on education law, disability law, employment law, health law, and constitutional law.

Education

Franklin Pierce Law Center, Concord, NH

- J.D. May, 1997
- Class rank: Top 5%
- Scholar's Paper Award, First Annual Academic Convocation for Law Students, Suffolk University Law School
- Quarter-finalist, National Health Law Moot Court Competition, Southern Illinois University School of Law
- Annual Survey of New Hampshire Law, Editor
- Teaching Assistant, Moot Court
- Public Interest Coalition, Co-Chair

University of North Carolina at Charlotte, Charlotte, NC

- B.A., Political Science, 1992
- Minor in American Studies

Bar Admissions

- Admitted to New Hampshire Bar November, 1997
- Admitted to practice before the New Hampshire Supreme Court, Federal District Court in New Hampshire, First Circuit Court of Appeals, and the United States Supreme Court.

Publications

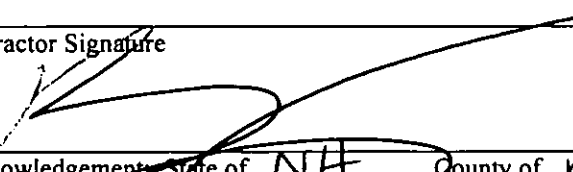
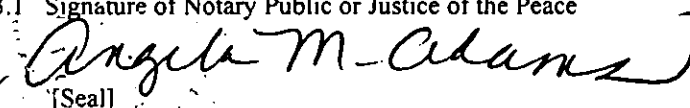
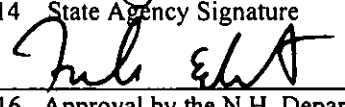
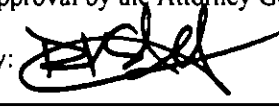
- *Education Law: A Problem Based Approach 3rd^d Edition*, with Sarah E. Redfield, Lexis-Nexis Publishing (2015).
- *Rowley Forever More? A Call for Clarity and Change*, Vol 41, Journal of Law & Education 25 (2012).
- *Special Education Law, 5th Edition*, with Laura Rothstein, Sage Publications (2012).
- *New Hampshire Special Education Law Manual: A Guide for Parents, Educators, Advocates & Attorneys*, 4th Edition, NHedLaw, LLC (2008).
- *Administrative Agencies: A Comparison of New Hampshire and Federal Agencies History, Structure and Rulemaking Requirements*, 4 Pierce L. Rev. 435 (2006).
- *Preventing Physical Restraints in Schools: A Guide for Parents, Educators & Professionals*, Education Law Resource Center (2005).
- *Focus on Equality Shifts to Adequacy as Brown v. Board Turns 50*, Vol. 34 Your School and the Law Issue 34 (2004).
- *Reexamining Rowley: A New Focus in Special Education Law*, 2 BYU Education Law Journal 561 (2003).
- *Bragdon v. Abbott: Analysis and Implications for People Living with HIV/AIDS and Other Disabilities*, 40 New Hampshire Bar Journal 1 (1999).
- *HB 117: The State's Plan to Fund Educational Adequacy is Too Little Too Late*, Vol 2. Issue 3 New Hampshire Law Bulletin (June 1999).
- *Suing Under the Americans With Disabilities Act or Seeking Disability Benefits: A Hobson's Choice for People With Disabilities*. Vol. 6, No. 1 Journal of Individual Employment Rights 49 (1997-98).
- *Opening Up Attorney Disciplinary Proceedings: Here comes the sun. It's all right?* 37 New Hampshire Bar Journal 10 (1996).

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 NH Department of Education		1.2 State Agency Address 101 Pleasant Street, Concord, NH 03301	
1.3 Contractor Name Briana Hyde, Esquire		1.4 Contractor Address 154 Maplewood Avenue, Portsmouth, NH 03801	
1.5 Contractor Phone Number (603) 319-1731	1.6 Account Number See Exhibit B	1.7 Completion Date June 30, 2021	1.8 Price Limitation \$155,000.00
1.9 Contracting Officer for State Agency Diana Fenton, Esquire		1.10 State Agency Telephone Number 271-3189	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Briana Hyde, Esquire	
1.13 Acknowledgements: State of <u>NH</u> , County of <u>Merrimaack</u> On <u>5/2/19</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u>Angela M. Adams, Notary</u>			
1.14 State Agency Signature  Date: <u>5-15-19</u>		1.15 Name and Title of State Agency Signatory <u>Frank E. Abbott, Commissioner</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: <u>Harrie C. Quolis</u> Director, On: <u>5-17-2019</u>			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  <u>Ricardo Silva</u> On: <u>MAY 17, 2019</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

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

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

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

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

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

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

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

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

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

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

7. PERSONNEL.

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

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

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.

Exhibit A

Scope of the Work:

Once selected, the ultimate number and type of case assignment (e.g. hearings or alternative dispute resolution) shall be at the sole discretion of the Office of Legislation and Hearings.

In the role of **Hearing Officer**, upon assignment of a case by the Office of Legislation and Hearings, the contractor shall:

1. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
2. Maintain accurate file management system for all administrative hearings as directed by the Office of Legislation and Hearings. Return the complete hearings file (consisting of an accordion folder containing four labeled files: 1. Pleadings; 2. Correspondence; 3. Record; and, 4. Exhibits) to the Office of Legislation and Hearings as directed by the Office of Legislation and Hearings following completion of proceeding.
3. Maintain administrative file checklist as directed by the Office of Legislation and Hearings.
4. Maintain confidential computer and telephone communications. Utilize a state issued email account for administrative hearing purposes.
5. Maintain accurate electronic recording/record of all administrative pre-hearings and hearings.
6. Conduct Pre-hearing conference with parties to hearing. Discuss in detail items in Pre-hearing Checklist at pre-hearing conference and memorialize in pre-hearing order as directed by the Office of Legislation and Hearings.
7. Explain subpoena process to parties. Issue subpoenas as necessary.
8. Ensure all administrative hearings are held within statutory deadlines unless Hearing Officer grants continuances for specific extensions of time. Any such extension must be documented immediately by the Hearing Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which a decision will be rendered.
9. Make written findings of facts following the hearing.
10. Make written rulings of law following the hearing.
11. Issue timely responses to all motions/continuance requests of the parties.
12. Issue a written Hearing Officer decision by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Hearing Officer, to the Office of Legislation and Hearings who shall mail decision to parties by certified mail.
13. Number the Orders in Hearing decisions under a section entitled Orders and ensure start and appropriate completion dates are included in Order.
14. Provide an electronic version in Microsoft Office Word, or as directed by the Office of Legislation and Hearings, of the Hearing Officer decision to the Office of Legislation and Hearings.
15. Format Hearing Officer Orders in accordance with the Hearing Officers' Guide to Administrative Process, or as otherwise directed by the Office of Legislation and Hearings.

Contractor Initials

Date

[Signature]
5/2/19

EXHIBIT A – PAGE 2

16. Draft decisions, notify parties of rescheduled hearings and perform attendant secretarial duties such as rescheduling of hearings, bookkeeping, up-to-date billing and accounting.
17. File Weekly case reports with the Office of Legislation and Hearings by no later than noon on Monday for the prior week.
18. Attend training sessions at the Department of Education in Concord as scheduled by the Office of Legislation and Hearings.

In the role of **Alternative Dispute Resolution Officer** (e.g. Mediator or Neutral Officer), upon assignment of a case by the Office of Legislation and Hearings, the contractor shall:

19. Conduct proceedings as mandated by statute and set forth in the Hearing Officers' Guide to Administrative Process.
20. Maintain accurate file management system for all Alternative Dispute Resolutions as directed by the Office of Legislation and Hearings. Return the complete hearings file to the Office of Legislation and Hearings as directed by the Office of Legislation and Hearings following completion of proceeding.
21. Maintain secure computer and telephone communications. Utilize a state issued email account for Alternative Dispute Resolution purposes.
22. Ensure all Alternative Dispute Resolution procedures are held within statutory deadlines unless Alternative Dispute Resolution Officer allows continuances for specific extensions of time. Any such extension must be documented immediately by the Alternative Dispute Resolution Officer who will indicate in writing who requested extension, when the extension was granted, the reason for the extension, and the new end date by which the matter will be concluded.
23. Ensure timely responses to all inquiries of the parties.
24. Provide a written agreement and/or non-agreement by end date listed on initial scheduling notice, or, in the case of a continuance granted, by the new end date established by parties and Alternative Dispute Officer, to the Office of Legislation and Hearings.
25. If serving as Mediator, the Mediator shall notify the Hearing Officer and Office of Legislation and Hearings of the outcome of mediation sessions in a timely manner.
26. Draft written agreement and/or non-agreement, notify parties of rescheduled proceedings and attendant secretarial duties such as rescheduling of mediation/neutral conferences, bookkeeping, up-to-date billing and accounting.
27. File weekly case reports with the Office of Legislation and Hearings by no later than noon on Monday of each week.
28. Attend training sessions at the Department of Education in Concord.

Contractor Initials
Date

Be
5/2/19

Exhibit B

Payment Terms

The contracts represent an unspecified dollar amount per hearing officer. This allows the Department the opportunity to distribute in-coming requests for alternative dispute resolution and hearings and balance the workload among the hearing officers, basing the distribution on such factors as type of request, experience needed to handle such request, and number of cases currently outstanding for each hearing officer.

In consideration of the services to be performed by the Contractor, the State agrees to pay Contractor in accordance with the payment schedule provided below, commencing on the date of Governor and Council approval through June 30, 2021. This schedule was developed based on the median and average costs of all hearings and mediations held during a one year time span.

Mediation/Neutral Conference		Date	
Upon acceptance of case - \$100*			
<ul style="list-style-type: none"> • Full Day (More than 3 hours) - \$250 (example 9-4) • Less than 3 hours - \$150 (example: 9-noon; noon - 3) • Second Day - \$125 			
Prior to Pre-Hearing		Date	
Upon acceptance of case - \$100*			
Determination on Motions - \$50 (Motion to Continue; Dispositive; Dismissal; Reconsideration; Discovery) Total allowable for case: \$100			
Sufficiency hearing - \$175			
Hearing		Date	
Pre-Hearing - \$150			
Hearing -			
<ul style="list-style-type: none"> • 1st Day - More than 3 hours \$275; Less than 3 hours - \$155 • 2nd Day - More than 3 hours \$275; Less than 3 hours - \$155 			
Post-Hearing		Date	
Prepare decision - \$255			
<ul style="list-style-type: none"> • Hearing Decision • Summary Judgment 			
Report and Recommendation - \$200 (State Board)			
State Board - Findings of Fact/Rulings of Law - \$55 (State Board)			
Miscellaneous	Date	Details (mileage, time, other information necessary)	Payment (Less \$100.00 upon acceptance)
Preparation of subpoenas (Total for case) \$20			
Mileage - \$0.535/mile**			Not Applicable
Travel time*** - \$30.00/hour, after first 2 hours***			
Training -			
<ul style="list-style-type: none"> • ½ day (four hours or less) - \$150.00 • Full day - \$300.00 			Not Applicable
Evaluation meeting \$30.00			
File Preparation (includes Indexes, Admin file, Pre-hearing checklists) - \$20 per case if at close of settlement; withdrawal; dismissal <u>or</u> \$50 per case after full hearing and decision rendered			
Actual postage up to \$20.00 per case (Mailing of orders, mailing file folder to DOE)			
Consultation (court, OSEP, OCR, DOE) \$30.00**			
OTHER - Describe			

Items not covered in this schedule - From time to time there may be an unusual situation that arises where a hearing officer is required to perform a hearing-related task for which no monetary reimbursement has been contemplated. In those situations, the department will consider reimbursement based on either the per diem rate, as set out for training, a flat fee rate analogous to one of the above rates or no payment as it determines is warranted by the situation.

Contractor Initials BC
Date 5/2/19

EXHIBIT B – PAGE 2

**If travel involved or an unusual situation arises, this money will be applied to the amount before any additional payment is authorized. This amount includes weekly update of cases.*

***Only with prior approval from the office of legislation and hearings. Mileage is if, and only if, a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord.*

****See explanation for upon acceptance of case – the \$30.00/hour, after the first two hours will NOT apply to first 2 hours of travel time – i.e. payment for 3 hour round trip will be \$30 not \$90.*

Limitation on Price: This contract will not exceed \$155,000.00.

Source of Funding: Funding for this contract is 65% General Funds from the account titled Governance and 35% Federal Funds from VR Field Programs-Federal and IDEA-Special Ed-Elem/Sec as follows:

<u>ACCOUNT NUMBER</u>		<u>FY 20</u>	<u>FY 21</u>
06-56-56-560510-20220000-046-500464	Consultants	\$48,500.00	\$48,500.00
06-56-56-560510-20220000-102-500731	Contracts for Program Services	\$ 1,500.00	\$ 1,500.00
06-56-56-565010-25380000-046-500464	Consultants	\$ 7,500.00	\$ 7,500.00
06-56-56-562010-25040000-046-500464	Consultants	<u>\$20,000.00</u>	<u>\$20,000.00</u>
		\$77,500.00	\$77,500.00

Method of Payment:

Payment will be made upon the submittal of an invoice based on the payment schedule above which records activities that have taken place in accordance with the terms of the contract.

Invoices will be submitted to:

Stephen W. F. Berwick
NH Department of Education
101 Pleasant Street
Concord, NH 03301

Contractor Initials BC
Date 8/21/19

Exhibit C

Special Provisions:

Authorize the Department of Education to waive Section 14, 14.1, and 14.1.1. Contractor will carry appropriate levels of personal automobile insurance during the term of this contract, per the coverage levels as set forth in the attached policy:

Safeco Insurance Company

Individuals contracting in their own name do not require Workers' Compensation.

Terms and Conditions:

Unless otherwise deleted or modified by mutual agreement between the State of New Hampshire and the contractor, all terms and conditions contained within the State of New Hampshire Form P-37 contract shall be incorporated into the contract. The current estimated amount to be budgeted by the State of New Hampshire to fund this project is \$155,000 for the biennium - \$77,500 for FY 20 and \$77,500 for FY 21.

Contractor will consult Hearing Officers' Guide to Administrative Procedures whenever a question arises as to proper procedure prior to contacting the Office of Legislation and Hearings.

When delivering services under an approved contract, the contractor shall work under the direct supervision of the Coordinator of Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings for this project.

At the conclusion of proceedings, the Coordinator, Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings shall mail an evaluation to each party. The evaluations shall be used by the Coordinator, Dispute Resolution and Constituent Complaints in the Office of Legislation and Hearings as one of the components of the annual evaluation of contracted Hearing Officers performance.

The contracted individual will be paid mileage at the current state rate round-trip only with prior approval from the office of legislation and hearings. Mileage will be paid from the contracted individual's primary business address to hearing/mediation site if and only if a proceeding is held outside of Concord. Department will not pay mileage from home office to Concord venues.

Conflicts of Interest:

Upon assignment of a new case, Contractor shall make reasonable and diligent efforts to obtain and review relevant documents to determine if any potential conflicts of interest exist in the case. Record-keeping systems shall be maintained which facilitate the early and efficient identification of conflicts of interest.

Termination:

All Hearing Officer Contracts are subject to suspension or termination on the grounds of misfeasance, malfeasance or nonfeasance.

This Agreement may be terminated by the DOE for cause immediately upon notice to the Contractor. This Agreement may be terminated by either party without cause upon thirty days prior notice in writing.

Contractor Initials BA
Date 2/21/18

EXHIBIT C – PAGE 2

Termination cont.:

In the event that the Contractor fails to complete a case or where the Contractor has recused himself/herself due to conflict of interest, any funds paid for such case(s) shall be reimbursed and any funds payable shall be forfeited.

In the event that the Contractor fails to submit a closed case within the time period allowed by the law, or fails to comply with other record keeping or reporting requirements established by the DOE, the Contract may be terminated by the DOE immediately upon notice to the Contractor and any funds paid for such case(s) shall be reimbursed and any funds payable shall be forfeited.

In the event Contractor withdraws from a case prior to final disposition, under circumstances agreed to by the DOE, Contractor shall be entitled to receive credit for services rendered in that case as listed in Exhibit B.

Contractor Initials DR
Date 5/21/09

EXHIBIT D**Contractor Obligations**

Contracts in excess of the simplified acquisition threshold (currently set at \$250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference: 2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statement or representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Environmental Protection

(This clause is applicable if this Contract exceeds \$150,000. It applies to Federal-aid contracts only.)

The Contractor is required to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 (h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired in the preceding fiscal year exceeded \$10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials *BS*
Date *8/2/19*

Exhibit E

Federal Debarment and Suspension

- a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:
 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;
 2. Does not have a proposed debarment pending;
 3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.
- c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.
- d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials BC
Date 8/24/19

Exhibit F

Anti-Lobbying

The Contractor agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:

- a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal Agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions (<http://www.whitehouse.gov/omb/grants/sfllin.pdf>).
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making and entering into this transaction imposed by Section 1352, Title 31 and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- d. The Contractor also agrees, by signing this contract that it shall require that the language of this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed \$100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.
- e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completion and acceptance of any given project.


Contractor Initials 
Date 2/2/19

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Contractor Initials *BVC*
Date *8/7/19*

Exhibit H

Termination

a. Termination for Cause

The DOE may terminate the Contract for cause for reasons including but not limited to the following circumstances:

1. Contractor's failure to perform the services as detailed herein and in any modifications to the Contract.
2. Contractor's failure to complete the Contract within the timeframe specified herein and in any modifications to the Contract.
3. Contractor's failure to comply with any of the material terms of the Contract.

If the DOE contemplates termination under the provisions of Subsections a.1., a.2., or a.3 above, the DOE shall issue a written notice of default describing the deficiency. The Contractor shall have five (5) business days to cure such deficiency. In the event the Contractor does not cure such deficiency, the DOE may terminate the Contract without further consideration by issuing a Notice of Termination for Default and may recover compensation for damages.

If, after the Notice of Termination for Default has been issued, it is determined that the Contractor was not in default or the termination for default was otherwise improper, the termination shall be deemed to have been a Termination for Convenience.


b. Termination for Convenience

The DOE may terminate the Contract for convenience, in whole or in part, when, for any reason, the DOE determines that such termination is in its best interest. The contract can be terminated due to reasons known to the non-Federal entity, i.e., including but not limited to program changes, changes in state-of-the-art equipment or technology, insufficient funding, etc. The Contract termination is effected by notifying the Contractor, in writing, specifying that all or a portion of the Contract is terminated for convenience and the termination effective date. The Contractor shall be compensated only for work satisfactorily completed prior to the termination of the Contract. The Contractor is not entitled to loss or profit. The amount due to the Contractor is determined by the DOE.

In the event of termination for convenience, the DOE shall be liable to the Contractor only for Contractor's work performed prior to termination.

c. The DOE's Right to Proceed with Work

In the event this Contract is terminated for any reason, the DOE shall have the option of completing the Contract or entering into an agreement with another party to complete services outlined in the Contract.

Contractor Initials 
Date 3/21/19



HYDEST1

OP ID: KH

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/11/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Spence & Mathews Ins Agency PO Box 715 - 4 Sullivan Sq Berwick, ME 03901 Kelly S Higgins	CONTACT NAME: Kelly Higgins	
	PHONE (A/C No. Ext.): 207-698-1210	FAX (A/C No.): 207-698-4324
INSURED Briana Hyde	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Safeco	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		
NAIC # 24740		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY					EACH OCCURRENCE \$
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR					DAMAGE TO RENTED PREMISES (Ea occurrence) \$
						MED EXP (Any one person) \$
						PERSONAL & ADV INJURY \$
	GEN'L AGGREGATE LIMIT APPLIES PER:					GENERAL AGGREGATE \$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC					PRODUCTS - COMPOP AGG \$
	OTHER:					\$
A	AUTOMOBILE LIABILITY			12/18/2018	12/18/2019	COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$ 500,000
	<input type="checkbox"/> ALL OWNED AUTOS	<input checked="" type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident) \$ 500,000
	<input checked="" type="checkbox"/> HIRED AUTOS	<input checked="" type="checkbox"/> NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident) \$ 100,000
						\$
	UMBRELLA LIAB	<input type="checkbox"/> OCCUR				EACH OCCURRENCE \$
	EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$
	DED	RETENTION \$				\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N				PER STATUTE OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> N/A				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$

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

CERTIFICATE HOLDER

CANCELLATION

NH Department of Education
101 Pleasant St.
Concord, NH 03301

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Briana M. Hyde (Coakley)

EDUCATION:

Juris Doctor 5/00
Massachusetts School of Law, Andover, Massachusetts
Admitted to practice law in New Hampshire and Massachusetts

Bachelor of Arts/Political Science Major 6/97
University of New Hampshire, Durham, New Hampshire

LEGAL EXPERIENCE:

Partner 3/07-present
Coakley & Hyde PLLC, Portsmouth, NH

I am a partner and trial attorney for a law firm that handles all aspects of civil litigation. I have a strong legal background representing non-profit organizations, employment law, contracts, business law, commercial law and administrative law. My specialties are in the areas of family law and special education law. I have been recruited to teach continuing education classes in each areas of my specialty. I, along with my law partner, manage and maintain every aspect of owning and operating a very successful law practice.

Hearing Officer/Mediator 7/17-present
New Hampshire Department of Education

I am a contract employee for the New Hampshire Department of Education to oversee and conduct hearings and Alternative Dispute sessions as required by statute and administrative law and procedures. I issue written orders and decisions as part of the process in addition to mediating disputes that are brought before the New Hampshire Department of Education. I issue timely responses to all requests of the parties. Throughout my duties I maintain compliance with security and confidentiality requirements in telephone and computer communications.

Professor of Law 1/08-present
Massachusetts School of Law, Andover, MA

I am employed by the Massachusetts School of Law as an adjunct professor to teach law students the specialized area of New Hampshire practice. This class introduces law students interested in practicing law in New Hampshire to the procedural differences of practice in New Hampshire. I am responsible for creating a class schedule, presenting the material, and examining the students' knowledge and understanding of the course material.

Attorney 3/02-3/07
Shaines & McEachern, P.A., Portsmouth, NH

Employed as a trial attorney for medium sized law firm that handles all aspects of civil law with special emphasis in litigation. Responsible for overseeing all aspects of civil litigation passed on to me by the Senior partner. Areas of practice include representing non-profit organizations, business law, employment law, contracts, tax law, workers' compensation – plaintiff, personal injury, wills and trusts, probate, family law, municipal law, tenant (commercial and residential), administrative law and ERISA litigation.

PROFESSIONAL EXPERIENCE:

Professor of Graduate Studies
Northeastern University

05/11-present

I am employed by Northeastern University as a faculty lecturer for the College of Professional Studies in Non-Profit Management and Human Resource Management, for the required courses of Legal Governance Issues in Non-Profit Organizations and Human Resources Management for profit and in Non-Profit Organizations. I am responsible for creating the course schedule, content and presentation of material through a number of sources, i.e. live lecture, Blackboard, and video to provide students with knowledge and understanding of course material based on my experience and training in the industry.

Professor of Business
Bay Path College

11/10-3/11

Employed by Bay Path College as a professor in the business department to teach Business Policy I and Business Policy II. These two capstone courses require that the students apply business knowledge and skill through class discussions, including online discussions, and through Capstone's simulated competition.

COMMUNITY AND PROFESSIONAL AFFILIATIONS:

New Hampshire Conflict Resolution Association, Board Member (2016-present)
Children's Museum of New Hampshire, Board Member (2013-2016)
Children's Museum of New Hampshire Legal Governance Committee and Chair (2015-2016)
Collaborative Law Alliance of New Hampshire, Member (2010-present)
American Inns of Court (2002-2013)
Rotary Club of Portsmouth, New Hampshire (2001-2008)
New Hampshire Bar Association (2002-Present)
National Alliance for the Mentally Ill, Volunteer (2000)
Sexual Assault Support Services, Crisis Advocate (1993-1994)
MSL, Student Bar Association, President (1999-2000)
MSL, Student Bar Association, Director (1998-1999)
MSL, Student Bar Association, Representative (1997-1998)
American Trial Lawyers Association (1998-2000)
ATLA, Student Attorney, Regional Trial Competitions (2nd Place 1999 & 2000)
UNH, Memorial Union Board of Governors (1993-1996)