

5A dam



**THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION**



*Victoria F. Sheehan
Commissioner*

*William Cass, P.E.
Assistant Commissioner*

Bureau of Materials and Research
August 20, 2020

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

REQUESTED ACTION

The Department of Transportation requests placing this item on the Consent Calendar.

Authorize the Department of Transportation to amend Contract #4011024, with Pathway Services, Inc., Tulsa, Oklahoma (Vendor #172330), for the purchase of one 2020 Ford Transit 350 Crew Van, by extending the completion date from September 30, 2020 to June 30, 2021, effective upon Governor and Council approval. The original Agreement was approved by Governor and Council on May 6, 2020, Item #57. Time extension only, no new funding.

EXPLANATION

On May 6, 2020, the Governor and Council authorized the subject vehicle purchase agreement with Pathway Services, Inc. (Pathways) (Item #57; copy of Resolution attached) in the amount of \$43,000.00. The purchase includes one 2020 Ford Transit 350 Crew Van on which a road condition data collection vehicle will be assembled by Pathways under separate contract. Due to the COVID-19 outbreak earlier in the year, the Ford Motor Company significantly delayed delivery of the vehicle to Pathways. As a result, Pathways is unable to assemble and deliver the road condition data collection vehicle to the New Hampshire Department of Transportation prior to the contract expiring on September 30, 2020.

This amended Agreement has been approved by the Attorney General as to form and execution. Copies of the fully-executed amended Agreement are on file at the Secretary of State's Office and the Department of Administrative Services, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

It is respectfully requested that authority be given to amend this Agreement for vehicle purchase as outlined above.

Sincerely,

Victoria F. Sheehan
Commissioner

Attachments

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
ROAD CONDITION DATA COLLECTION SERVICES AND
DATA COLLECTION VEHICLE PROCUREMENT CONTRACT
CONTRACT 4011024
CONTRACT AMENDMENT 4011024-A**

This Contract Amendment ("Amendment") is entered into this 24 day of August, 2020, by and between the State of New Hampshire, acting by and through the New Hampshire Department of Transportation, 7 Hazen Drive, Concord, NH 03302, (hereinafter referred to as "the State") and Pathway Services, Inc., P.O. Box 472105, Tulsa, OK 74147, (hereinafter referred to as "the Contractor"), collectively referred to as "the Parties."

WHEREAS, the Parties have entered into a contract, approved by the Governor and Executive Council on May 6, 2020, item #57, (hereinafter referred to as "the Contract");

WHEREAS, on Friday, March 13, 2020, the President of the United States declared a National Emergency concerning the Novel Coronavirus Disease (COVID-19) Outbreak, and on Friday, March 13, 2020, the Governor of the State of New Hampshire issued Executive Order 2020-04, an order declaring a State of Emergency due to COVID-19;

WHEREAS, the Parties desire to extend and amend the Contract as provided in this Amendment; and

WHEREAS, the Contract allows for amendments by an instrument in writing executed by both Parties;

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

1. Section 1.7, Completion Date, P-37 of the existing Contract is hereby deleted in its entirety and replaced with the following: June 30, 2021.
2. This Amendment hereunder shall become effective upon approval by the New Hampshire Governor and Executive Council.
3. Except as specifically amended and modified by the terms and conditions of this Amendment, the Contract and the obligations of the Parties hereunder, shall remain in full force and effect with the terms and condition set forth therein.

IN WITNESS WHEREOF, the Parties hereto have set their hands the date first-written above.

PATHWAY SERVICES, INC.

By:  _____

Rudy Blanco, President

Date: August 24, 2020

STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
ROAD CONDITION DATA COLLECTION SERVICES AND
DATA COLLECTION VEHICLE PROCUREMENT CONTRACT
CONTRACT 4011024
CONTRACT AMENDMENT 4011024-A

STATE OF NEW HAMPSHIRE
Department of Transportation



Peter Stannas, Director of Project Development

Date: 9/8/2020

Approval by the Attorney General's Office (Form, Substance, and Execution)

Allison B. Greenstein

Date: 9/8/2020

Print Name and Title

Approval by the Governor and Executive Council

G&C Item number: _____

G&C Meeting Date: _____

Certificate of Vote

I, Lavonne Blanco, Clerk/Secretary of Pathway Services Inc, do hereby certify that:

- (1) I am the duly elected and acting Clerk/Secretary of Pathway Services Inc, a Oklahoma corporation (State of incorporation);
- (2) I maintain and have custody and am familiar with the minute books of the Corporation;
- (3) I am duly authorized to issue certificates with respect to the contents of such books;
- (4) The following are true, accurate and complete copies of the resolutions adopted by the Board of Directors of the Corporation at a meeting of the said Board of Directors held on the 16th day of April, 2020, which meeting was duly held in accordance with Oklahoma (State of incorporation) law and the by-laws of the Corporation:

RESOLVED: That this Corporation enter into a contract with the State of New Hampshire, acting by and through the DoIT of the Transportation Department, providing for the performance of certain IT Consulting Services, and that the President be and hereby is authorized and directed for and on behalf of this Corporation to enter into the said contract with the State and to take any and all such actions and to execute, acknowledge and deliver for and on behalf of this Corporation any and all documents, agreements and other instruments (and any amendments, revisions or modifications thereto) and he may deem necessary, desirable or appropriate to accomplish the same;

RESOLVED: That the signature of any officer of this Corporation affixed to any instrument or document in or contemplated by these resolutions shall be conclusive evidence of the authority of said officer to bind this Corporation thereby;

- (5) The foregoing resolutions have not been revoked, annulled, or amended in any manner whatsoever and remain in full force and effect as of the date hereof;
- (6) The following person(s) (has) (have) been duly elected to and now occupy the office(s) indicated below:

Rudy Blanco President

- (7) The corporation has no seal.

IN WITNESS WHEREOF, I have hereunto set my hand as the Clerk/Secretary of the Corporation this 24 day of August, 2020.

Lavonne Blanco

Clerk/Secretary

STATE OF Oklahoma

COUNTY OF Tulsa

On this the 24 day of August, 2020 before me, Sandra Constable, the undersigned Officer, personally appeared Lavonne Blanco, who acknowledged her/himself to be the Corporate Secretary, of Pathway Services Inc., a corporation, and that she/he, as such Corporate Secretary being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by her/himself as Lavonne Blanco.

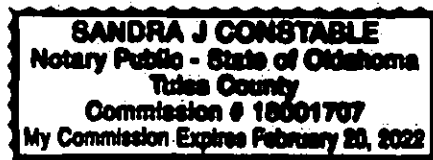
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Sandra Constable

Notary Public/Justice of the Peace

My Commission Expires: 2/20/2022

Official Seal:



State of New Hampshire

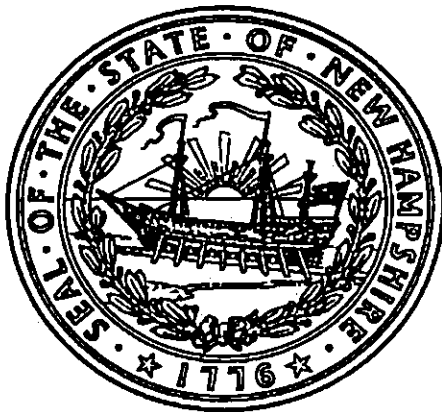
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that PATHWAY SERVICES INC. is a Oklahoma Profit Corporation registered to do business in New Hampshire as PATHWAY SERVICES OF OKLAHOMA on March 31, 2009. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 611227

Certificate Number: 0004983539



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 21st day of August A.D. 2020.

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

William M. Gardner
Secretary of State



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/28/2020

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 The Arrow Group 2720 North Hamlock Ct. Ste. A Broken Arrow OK 74012		CONTACT NAME: Amanda Applegate PHONE (Ac. No. Ext.): (918) 258-6681 E-MAIL ADDRESS: amanda@arrow-group.com FAX (Ac. No.): (918) 251-7893	
INSURED Pathway Services, Inc., DBA: Pathway Data Collection Serv P O Box 472105 Tulsa OK 74147		INSURER(S) AFFORDING COVERAGE INSURER A: Travelers Property Casualty Co of Ameri INSURER B: Travelers Indemnity Co INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: CL2022809492 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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			63080773518	3/1/2020	3/1/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 Technology Extend \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			8108L294027	3/1/2020	3/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist combined single \$ 1,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP23404662	3/1/2020	3/1/2021	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) if yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	US8M793611	3/1/2020	3/1/2021	PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A				EPL91M76157	3/1/2020	3/1/2021	

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

RECEIVED
 MAR 3 2020
 Bureau of Materials & Research
 NH Dept. of Transportation

CERTIFICATE HOLDER New Hampshire DOT Bureau of Materials & Research PO Box 483 5 Hazen Drive Concord, NH 03302-0483	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Terry D. Cupp/AMA
---	--

© 1988-2014 ACORD CORPORATION. All rights reserved.



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

G+C #57
Date 5/6/20



William Cass, P.E.
Assistant Commissioner

57 Jam

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

Bureau of Materials and Research
March 26, 2020

REQUESTED ACTION

Authorize the New Hampshire Department of Transportation to enter into a contract with Pathway Services, Inc. (Vendor 172330) of Tulsa, Oklahoma, for the purchase of one 2020 Ford Transit 350 Crew Van, in the amount of \$43,000.00, effective upon Governor and Council approval. The contract period will extend to September 30, 2020 and expire upon delivery and acceptance of the vehicle. 100% Highway Funds.

Funds to support this request are available in the following account for State FY 2020.

04-96-96-960515-30050000	
DOT-Mechanical Services	
030-500320 Equipment New Replacement	\$43,000.00

EXPLANATION

The NHDOT Bureau of Materials and Research, through its Pavement Management Section, has collected and processed road condition data in-house for many years. This data is stored on DoIT servers and made available to other parts of the State through its computer network, using customized computer software. The data supports the Pavement Management System and satisfies the Federal Highway Administration (FHWA) Highway Performance Monitoring System (HPMS) reporting requirements. The State owns and operates two data collection vehicles that are both at end-of-life for their intended purposes. Moving forward, the State will replace both existing vehicles with one new data collection vehicle. Additionally, the State will engage Pathway Services, Inc. to complete its network data collection activities including data storage and web hosting. The replacement data collection vehicle will be used to: maintain a current and accurate inventory of the road network by collecting roughness, rutting, and cracking distress data immediately following paving projects; perform special data collections for asset extractions and inventory initiatives; and continue QC/QA testing on newly constructed pavements in-house using a Department-owned vehicle and State personnel.

This Requested Action entails purchasing a 2020 Ford Transit 350 Crew Van (hereinafter referred to as "the Van") from Pathway Services, Inc. (Pathways). Pathways will use the Van to assemble the data

collection vehicle described in the paragraph above. The assembly, delivery, and associated support and warranty of the data collection vehicle are the subject of Contract 2019-060 coming before Governor and Executive Council under separate Requested Action.

The vendor selection process for this contract was initiated by a solicitation for road condition data collection service vendors and data collection vehicle manufacturers through a Request for Proposals (RFP #2019-060), which was posted on the State's Department of Administrative Services (DAS) website from September 13, 2019 to October 24, 2019. Answers to vendor's questions regarding clarification of the solicitation were posted to the DAS website on September 27, 2019, October 4, 2019, and October 17, 2019.

As a result of the solicitation, three firms submitted proposals: Mandli Communications, Inc., Fugro, and Pathway Services, Inc. Prior to the required oral interview and product demonstration component, Mandli Communications, Inc. dropped out of the selection process.

The selection process for this contract consisted of review and ranking of solicited written technical proposals, cost proposals, and oral interviews/presentations and product demonstrations by the selection panel comprised of five members representing the Department of Transportation and the Department of Information Technology. The selection panel included five members: Pavement Management Section Chief (Bureau of Materials and Research), Pavement Data Management Engineer (Bureau of Materials and Research), Data Collection Supervisor (Bureau of Materials and Research), Pavement Management Engineer (Bureau of Materials and Research), and IT Project Manager (Department of Information Technology).

The selection panel members reviewed the proposals individually between October 24, 2019 and November 8, 2019. The selection panel met subsequently on two occasions and came to consensus scoring for the respondents. In person interviews and product demonstrations were conducted in December, 2019, and consisted of two full days for each of the two competing firms. The panel, by consensus, rated each of the firms based on the following factors: 1) Response Scoring, 2) Cost, and 3) Oral Interviews/Presentations and Product Demonstrations. Having assessed all of the aforementioned factors, the selection panel scored and ranked Pathway Services, Inc. the highest of the two firms. The Scoring Summary is as follows:

Firm	Score Max 100%	Overall Rank
Pathway Services, Inc.	86.5%	1
Fugro	84.4%	2

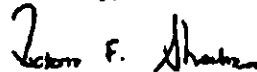
Pathway Services, Inc. is highly regarded in the United States in the field of road condition data collection and has been providing data collection services nationwide since 1996. Additionally, their proprietary data collection vehicle, the "PathRunner," has been their sole product since 1996. The NH Department of Transportation purchased a PathRunner from Pathway Services in 2009 and just completed the 11th data collection season with the same vehicle. The Bureau of Materials and Research has been very pleased with the performance of that vehicle and with the customer service offered by Pathways. The selection panel's ranking was submitted to the DOT Oversight Committee: Dennis Herrick, Administrator of the Bureau of Materials and Research; and Peter Stamnas, Director of Project Development for consideration and approval.

Pathways has agreed to separate the scope of work required by RFP #2019-060 into two contracts because the Van is not eligible for Federal Funding. The balance of the scope of work required by Pathways is eligible for Federal Funding and is incorporated into Contract 2019-060, which is before Governor and Executive Council under separate Requested Action. Pathways has agreed to provide the Van for a total amount not to exceed \$43,000.00. The contract has a completion date of September 30, 2020 and will expire upon delivery and acceptance of the PathRunner data collection vehicle.

The contract has been approved by the Attorney General as to form and execution. The Department has verified that the necessary funds are available. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services, and subsequent to your approval, will be on file at the Department.

We respectfully request your approval of this resolution.

Sincerely,



Victoria F. Sheehan
Commissioner

Attachments

Responses	Contract	Vendors	Amount/Score
2	NHDOT 2019-060 Road Condition Data Collection Services and Vehicle Procurement	Fugro Pathway Services, Inc.	84.4/100 86.5/100

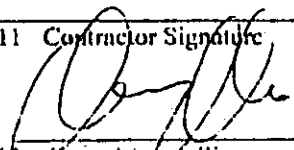
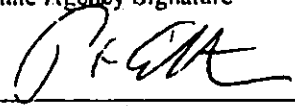
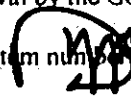
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name DEPARTMENT OF TRANSPORTATION		1.2 State Agency Address 7 HAZEN DRIVE CONCORD, NEW HAMPSHIRE 03302	
1.3 Contractor Name PATHWAY SERVICES, INC.		1.4 Contractor Address PO BOX 472105 TULSA, OKLAHOMA 74147	
1.5 Contractor Phone Number 918-259-9883	1.6 Account Number 04-96-96-960515-30050000 DOT-Mechanical Services 030-500320 Equipment New Replacement	1.7 Completion Date September 30, 2020	1.8 Price Limitation \$43,000.00
1.9 Contracting Officer for State Agency DENNIS HERRICK, P.E.		1.10 State Agency Telephone Number 603-271-3151	
1.11 Contractor Signature  Date: 4/17/2020		1.12 Name and Title of Contractor Signatory RUDY BLANCO, PRESIDENT	
1.13 State Agency Signature  Date: 4/22/20		1.14 Name and Title of State Agency Signatory PETER E. STAMMERS Director of Project Development	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By: <i>Takhmina Rakhmatova</i> On: 04/23/2020			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number:  DEPUTY SECRETARY OF STATE Date: MAY 06 2020			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("e"), 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 B 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 1.17, 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 1.13 ("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 affected by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part. 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 reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source 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 C 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 applicable 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 employment opportunity laws. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property 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. The Contractor 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 cured, 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 give the Contractor a written notice specifying the Event of Default and 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 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

8.3. 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.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, 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 B. In addition, at the State's direction, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 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.

10.2 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.

10.3 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.

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.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. **INDEMNIFICATION.** Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor

arising under this paragraph 13. 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 continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial 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 or excess; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 10.2 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 ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

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. The 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. **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.

17. **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.

18. **CHOICE OF LAW AND FORUM.** This Agreement shall be governed, interpreted and 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. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. **CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

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 or modifying provisions set forth in the attached EXHIBIT A 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 with respect to the subject matter thereof.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
ROAD CONDITION DATA COLLECTION SERVICES AND
DATA COLLECTION VEHICLE PROCUREMENT CONTRACT
EXHIBIT A
SPECIAL PROVISIONS**

NONE

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
ROAD CONDITION DATA COLLECTION SERVICES AND
DATA COLLECTION VEHICLE PROCUREMENT CONTRACT
EXHIBIT B
SCOPE OF SERVICES**

Pathways Services, Inc. (Pathways) shall sell, transfer, and deliver to the State one 2020 Ford Transit 350 Crew Van (hereinafter referred to as "the Van"). The Van shall meet the requirements specified in the NHDOT RFP 2019-060, which is incorporated by reference, as modified pursuant to Negotiated Items listed in Exhibit D. Pathways will use the Van to assemble a road condition data collection vehicle, as described in the Contract 2019-060.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
ROAD CONDITION DATA COLLECTION SERVICES AND
DATA COLLECTION VEHICLE PROCUREMENT CONTRACT
EXHIBIT C
PAYMENT TERMS**

Total amount of purchase will be \$43,000.00, paid through State Funds. Pathways shall invoice the State for 90% of the vehicle purchase price upon delivery and acceptance of the Van. The remaining 10% of the purchase price will be paid following a 60-day trial period of acceptance of the data collection vehicle.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
ROAD CONDITION DATA COLLECTION SERVICES AND
DATA COLLECTION VEHICLE PROCUREMENT CONTRACT
EXHIBIT D
NEGOTIATED ITEMS**

Negotiated Items:

1. Pathways shall purchase a Ford Transit 350 Crew Van with a 130-inch wheel base, which will be more easily accommodated within the garage at the NHDOT Bureau of Materials & Research.
2. Pathways shall provide running boards to all access points on the Van.
3. Pathways, together with the Van, shall purchase and transfer to the State the Ford PremiumCARE Service Plan through Ford Motor Company, which covers the parts and labor to repair all of the key components of the vehicle chassis – engine, transmission, steering, brakes, front suspension, electrical, etc. Ford PremiumCARE shall extend for up to 8 years or 150,000 miles, whichever comes first.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
ROAD CONDITION DATA COLLECTION SERVICES AND
DATA COLLECTION VEHICLE PROCUREMENT CONTRACT
EXHIBIT E
AGENCY RFP WITH ADDENDUMS, BY REFERENCE**

The State of New Hampshire Department of Transportation RFP 2019-060 Road Condition Data Collection Services and Vehicle Procurement dated September 10, 2019 along with Addendum #1 dated September 27, 2019, Addendum #2 dated October 4, 2019, and Addendum #3 dated October 17, 2019 are all hereby incorporated by reference as fully set forth herein.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
ROAD CONDITION DATA COLLECTION SERVICES AND
DATA COLLECTION VEHICLE PROCUREMENT CONTRACT
EXHIBIT F
VENDOR PROPOSAL, BY REFERENCE**

Pathway Services, Inc. Proposal to the New Hampshire Department of Transportation RFP 2019-060 Road Condition Data Collection Services and Vehicle Procurement dated October 22, 2019 is hereby incorporated by reference as fully set forth herein.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
ROAD CONDITION DATA COLLECTION SERVICES AND
DATA COLLECTION VEHICLE PROCUREMENT CONTRACT
EXHIBIT G
CERTIFICATES AND ATTACHMENTS**

Attached are:

- A. Pathways' Certificate of Good Standing
- B. Pathways' Certificate of Vote/Authority
- C. Pathways' Certificate of Insurance

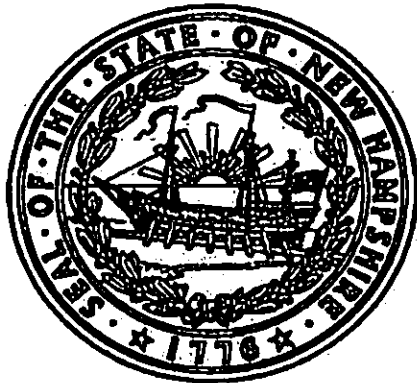
**State of New Hampshire
Department of State**

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that PATHWAY SERVICES INC. is a Oklahoma Profit Corporation registered to do business in New Hampshire as PATHWAY SERVICES OF OKLAHOMA on March 31, 2009. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 611227

Certificate Number: 0004876829



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 1st day of April A.D. 2020.

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

William M. Gardner
Secretary of State

Certificate of Vote

I, Lavonne Blanco, Clerk/Secretary of Pathway Services Inc., do hereby certify that:

- (1) I am the duly elected and acting Clerk/Secretary of Pathway Services Inc., a Oklahoma corporation (State of incorporation);
- (2) I maintain and have custody and am familiar with the minute books of the Corporation;
- (3) I am duly authorized to issue certificates with respect to the contents of such books;
- (4) The following are true, accurate and complete copies of the resolutions adopted by the Board of Directors of the Corporation at a meeting of the said Board of Directors held on the 17 day of April, 2020, which meeting was duly held in accordance with Oklahoma (State of incorporation) law and the by-laws of the Corporation:

RESOLVED: That this Corporation enter into a contract with the State of New Hampshire, acting by and through the DoIT of the Transportation Department, providing for the performance of certain IT Consulting Services, and that the President be and hereby is authorized and directed for and on behalf of this Corporation to enter into the said contract with the State and to take any and all such actions and to execute, acknowledge and deliver for and on behalf of this Corporation any and all documents, agreements and other instruments (and any amendments, revisions or modifications thereto) and he may deem necessary, desirable or appropriate to accomplish the same;

RESOLVED: That the signature of any officer of this Corporation affixed to any instrument or document in or contemplated by these resolutions shall be conclusive evidence of the authority of said officer to bind this Corporation thereby;

- (5) The foregoing resolutions have not been revoked, annulled, or amended in any manner whatsoever and remain in full force and effect as of the date hereof;
- (6) The following person(s) (has) (have) been duly elected to and now occupy the office(s) indicated below:

Rudy Blanco President

- (7) The corporation has no seal.

IN WITNESS WHEREOF, I have hereunto set my hand as the Clerk/Secretary of the Corporation
this 17 day of April, 2020.

Lavonne Blanco

Clerk/Secretary

STATE OF Oklahoma

COUNTY OF Tulsa

On this the 17 day of April, 2020, before me, Sandra J Constable, the undersigned Officer, personally appeared Rudy Blanco, who acknowledged her/himself to be the President, of Pathway Services, a corporation, and that she/he, as such President being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by her/himself as Rudy Blanco.

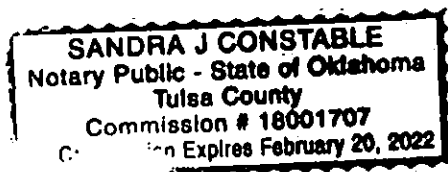
IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Sandra J Constable

Notary Public/Justice of the Peace

My Commission Expires: 2/20/2022

Official Seal:





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/28/2020

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 The Arrow Group 2720 North Hemlock Ct. Ste. A Broken Arrow OK 74012	CONTACT NAME: Amanda Applegate	PHONE (AC, No. Ext): (918) 258-6681	FAX (AC, No.): (918) 251-7893
	E-MAIL ADDRESS: amanda@arrow-group.com		
INSURED Pathway Services, Inc., DBA: Pathway Data Collection Serv P O Box 472105 Tulsa OK 74147	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Travelers Property Casualty Co of Ameri		25674
	INSURER B: Travelers Indemnity Co		25658
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES CERTIFICATE NUMBER: CL2022809492 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.

USER ID	TYPE OF INSURANCE	ADDL ISURR (INSR, WOOD)	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		63086773518	3/1/2020	3/1/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/PROP AGG \$ 2,000,000 Technology Extend \$
	GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC					
B	<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS		61081294027	3/1/2020	3/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist combined single \$ 1,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		CUP23404662	3/1/2020	3/1/2021	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$
L	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	UBEM793611	3/1/2020	3/1/2021	PER STATUTE <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
			EP191M76157	3/1/2020	3/1/2021	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 104, Additional Remarks Schedule, may be attached if more space is required)

RECEIVED
MAR 3 2020
Bureau of Materials & Research
and Dept. of Transportation

CERTIFICATE HOLDER New Hampshire DOT Bureau of Materials & Research PO Box 483 5 Hazen Drive Concord, NH 03302-0483	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Terry D. Cupp/AMA

© 1988-2014 ACORD CORPORATION. All rights reserved.