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Margaret D. LaBrecque
Commandant

New Hampshire Veterans Home

139 Winter Street
Tilton, NH 03276-5415



Telephone: (603) 527-4400
Fax : (603) 286-4242

September 11, 2017

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

REQUESTED ACTION

Authorize the New Hampshire Veterans Home to enter into a contract with Alliance Mechanical Inc., (Vendor #216354), 6 David Drive, Essex Junction, VT 05452, in the amount of \$38,432.72 for the sole purpose of providing services to convert 3 oil fired boilers to operate on natural gas at the New Hampshire Veterans Home effective date of G&C approval through December 31, 2017.

Funding source is 100% General Funds.

Funding is available in 01-14-14-140030-15240000, Department of Administrative Services, Energy Efficiency, as follows:

	<u>FY2018</u>	<u>Total</u>
034-500162 Contract Repairs: Building & Grounds	\$ 38,432.72	\$38,432.72

EXPLANATION

This contract provides for mechanical services necessary to convert the 3 main boilers at the Home which are currently running on #2 fuel oil to operate on natural gas. In March 2017, the New Hampshire Veterans Home advertised for bids on the State of NH Purchase and Property website as well as the New Hampshire Veterans Home website for Boiler Fuel Conversion Services. Alliance Mechanical Inc. submitted the lowest bid of the two vendors which responded to this RFP. Alliance Mechanical Inc. has satisfactorily done other mechanical repair service work in the past for the New Hampshire Veterans Home and we are therefore confident in the credentials of this contractor and as such feel comfortable in awarding this contract.

The State Energy Management Office of the Department of Administrative Services has reviewed the proposal and recommends its consideration since it has calculated a payback period of only 1.7 years.

This contract has been approved by the Attorney General's Office as to form, substance and execution. Your favorable action on this request would be appreciated.

Respectfully Submitted,

Margaret D. LaBrecque
NH Veterans Home
Commandant

Charles M. Arlinghaus
Department of Administrative Services
Commissioner

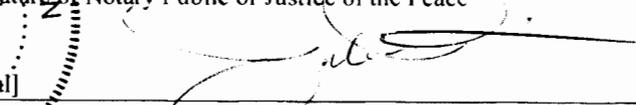
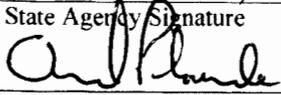
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

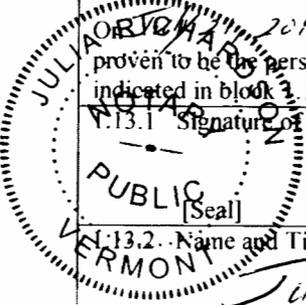
AGREEMENT

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

GENERAL PROVISIONS

I. IDENTIFICATION.

1.1 State Agency Name NH Veterans Home		1.2 State Agency Address 139 Winter Street, Tilton, NH 03276	
1.3 Contractor Name Alliance Mechanical, Inc.		1.4 Contractor Address 6 David Drive, Essex Jct, VT 05452	
1.5 Contractor Phone Number 603-790-8272	1.6 Account Number	1.7 Completion Date 12/31/17	1.8 Price Limitation \$38,432.72
1.9 Contracting Officer for State Agency Armand Plourde		1.10 State Agency Telephone Number 603-527-4847	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Jason Patnaude, President	
1.13 Acknowledgement: State of <u>Vermont</u> , County of <u>Orleans</u>			
2017, 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 			
1.13.2 Name and Title of Notary or Justice of the Peace <u>Julia Richardson, Notary</u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory ARMAND PLOURDE DIRECTOR OF ADMINISTRATIVE SERVICES	
Date: <u>7/27/17</u>			
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>9/2/17</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

Contractor Initials

Date 7/21/17

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.


7/21/17

**EXHIBIT A
SCOPE OF SERVICES**

A. Scope Of Services:

The NH Veterans Home proposes to enter into an agreement with a contractor to provide all mechanical services necessary to convert 3 boilers currently running #2 Fuel Oil to Natural Gas.

1. The Bidder shall provide all methods and means necessary to perform fuel conversion work to 3 boilers. Services that are required but not limited to are as follows:
 - All black iron gas piping needed from outside natural gas service location to all 3 respective boilers. Including fire stopping from concrete coring of gas piping installation through one fire rated wall
 - Removal of all 3 existing fuel oil burners, electric, and all existing fuel oil piping.
 - Installation of 3 new natural gas burners and associated gas piping.
 - Building Automation Controls shall be the responsibility of the contractor (See special conditions Exhibit C)
 - Installation of concrete pad for exterior gas service. The concrete pad will be 3' x 6' x 4" 4000 psi concrete for the meter site.
 - All start-up and adjustment needed to ensure boilers are running at optimum efficiency.
 - All gas piping shall be done in accordance to NFPA 54 National Fuel Gas Code. Trades people shall be NH Licensed Gas Fitters. A copy of license shall be included with your bid.

There are 3 boilers to be converted from #2 Fuel Oil to Natural Gas. Two of the boilers are Weil McLain model 1288's and one HB Smith model 28A-7. The anticipated Beckett parts needed for the boilers are:

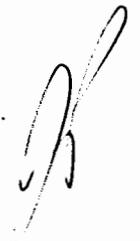
<u>Part Number</u>	<u>Quantity</u>	<u>Description</u>
BECCG500239	(2)	BURNER CHASSIS Weil McLain 1288
BEC51989035	(2)	WELDED INSERTION Weil McLain 1288
BECCG250216	(1)	BURNER CHASSIS HB SMITH 28A-7
BEC51989048	(1)	WELDED INSERTION HB SMITH 28A-7
WM 386300002	(2)	386-300-002 88 BEC BNR MNT PLT CF-3500 F/12&13
HB70641	(1)	BEC MOUNTING PLATE FOR HB SMITH 28A-7
HB69645	(1)	INSULATION BLOCK HB SMITH 28A-7

It will be the responsibility of the bidding vendor to verify all parts needed for the boilers for the conversion. It shall also be the responsibility of the bidding vendor to properly size all gas piping from the meter location to the boilers. Liberty Utilities is providing 2 psi of gas service to the boiler plant.

2. The Bidder shall visit the site and be familiar with the equipment and pertinent local conditions, such as location, accessibility and general character of the work area. The act of submitting a bid is to be considered full acknowledgement that the vendor has inspected the site and is familiar with the conditions and requirements of these specifications. It is the responsibility of each prospective bidder to verify all boilers and existing equipment.
3. The Bidder shall employ licensed technicians in the respective trades who shall be responsible for the work. Copy of the license must be submitted with bid.
4. **The Bidder shall apply for, obtain, and pay for all applicable building permits from the State of New Hampshire Office of the State Fire Marshal in accordance with RSA 155-A and RSA 674:51. The cost of the permits shall be part of the bid and paid for by the State of New Hampshire. There will be no markup allowed on this item and shall be passed along at cost by the contractor to the State of New Hampshire. Permitting information and guidelines can be found at:**

<https://www.nh.gov/safety/divisions/firesafety/building/state-building-permit-system.html>

5. The Bidder shall see that all local, State and Federal regulations are followed. Any fines assessed to the NH Veterans Home due to the lack of these regulations being followed will be the responsibility of the successful bidder.



6. The Bidder shall conduct his work so as to interfere as little as possible with State business, determine the State's normal working conditions and activities in progress and shall conduct the work in the least disruptive manner.
7. The Bidder shall do all the work and furnish all the materials, tools, equipment and safety devices necessary to perform in the manner within the time specified. The bidder shall complete the entire work to the satisfaction of the State and in accordance with the specifications herein mentioned, at the price herein agreed upon. All the work, labor, and equipment to be done and furnished under this contract, shall be done and finished strictly pursuant to, and in conformity with the specifications described herein and any directions of the State representatives as given from time to time during the progress of the work, under the terms of this contract.
8. The Bidder shall at his own expense, wherever necessary or required, furnish safety devices and take such other precautions as may be necessary to protect life and property.
9. The Bidder shall bear all losses resulting to him or to the Owner on account of the amount or character of the work, or because of the nature of the area in or on which the work being done is different from what was estimated or expected, or account of the weather, elements or other causes.
10. Unsatisfactory response to any or all of the listed services or requirements will be a basis for immediate termination of the contract.
11. The NH Veterans Home reserves the right to terminate this contract at any given time with a 30 day written notice.

B. INVOICING:

1. All invoices must include detail of work performed, dates and prices as well as documented proof of original cost of equipment to verify markup of items. Please include one original invoice and one copy. Payment will not be due until thirty (30) days after the invoice has been received at the NH Veterans Home business office.
2. Payment may be withheld if work is not performed as described under SCOPE OF SERVICES, and the immediate termination of this contract could occur.
3. A check will be issued through the State Treasurer and forwarded to the Vendor within fourteen (14) days after processing begins at the agency level. Payments will be for only what has been agreed to in the RFP. The NH Veterans Home does not pay late charges or interest.

C. INSURANCE:

1. The bidders shall furnish to the Contracting Officer, prior to the start of any work, insurance certificates for comprehensive general liability, automobile liability and worker's compensation in accordance with the following:
 - a. Comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per incident; and
 - b. Fire and extended coverage insurance covering all property which has been received from the State or purchased with funds provided for that purpose under this agreement.
 - c. The policies shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than 10 days after written notice thereof has been received by the State.

D. TERM:

The contract and all obligations of the parties there under, shall become effective upon acceptance by the State and shall be completed in their entirety prior to a specified date (Block 1.7). Any work undertaken by the contractor prior to the effective date shall be at his sole risk and, in the event that the contract shall not become effective, the State shall be under no obligation to reimburse the Contractor for any such work. The term of the contract shall be effective upon Governor and Executive Council Approval through December 31, 2017.



EXHIBIT B
BUDGET AND METHOD OF PAYMENT

A. **Invoicing:**

The Contractor shall invoice the NH Veterans Home per the hourly rate for time signed in and out at the Facility Service Department. All invoices must include detail of work performed, dates and location of service and prices. Please include one original invoice and one copy. Payment will not be due until thirty (30) days after the invoice has been received at the NH Veterans Home business office.

B. **Payment:**

Payment may be withheld if work is not performed as described under SCOPE OF SERVICES, and the immediate termination of this contract could occur.

Unless otherwise noted on the proposal, payment will be due thirty (30) days after invoicing. A check will be issued through the State Treasurer and forwarded to the Vendor within fourteen (14) days after processing begins at the agency level. Payments will be for only what has been agreed to in the contract. The NH Veterans Home does not pay late charges or interest.

C. **Other:**

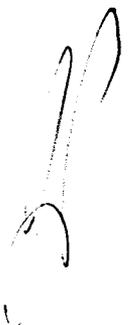
To receive proper payment, all invoicing for services must be sent to the agency's business office at:

NH Veterans Home
Attention: Accounts Payable
139 Winter Street
Tilton, NH 03276



EXHIBIT C
SPECIAL PROVSIONS

- 1- All building automation boiler controls for removal and re-installation shall be performed by ENE Systems of New Hampshire. You shall contact and hire ENE Systems of NII as a subcontractor to perform this work. Project costs can be obtained by contacting Paul O'Brien, General Manager of Service at the following:
 - a. Office 603-856-0330
 - b. Cell 603-860-2695
 - c. Email pobrien@eneofnh.com
 - d. Address 155 River Road, Unit 10 – Bow, NH 03304



NEW HAMPSHIRE VETERANS HOME

STANDARD EXHIBIT D
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT
BUSINESS ASSOCIATE AGREEMENT

The Contractor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 and those parts of the HITECH Act applicable to business associates. As defined herein, "Business Associate" shall mean the Contractor and subcontractors and agents of the Contractor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the State of New Hampshire, Veterans Home.

BUSINESS ASSOCIATE AGREEMENT

(1) **Definitions.**

- a. **"Breach"** shall have the same meaning as the term "Breach" in Title XXX, Subtitle D. Sec. 13400.
- b. **"Business Associate"** has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- c. **"Covered Entity"** has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- d. **"Designated Record Set"** shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.
- e. **"Data Aggregation"** shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.
- f. **"Health Care Operations"** shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.
- g. **"HITECH Act"** means the Health Information Technology for Economic and Clinical Health Act, Title XIII, Subtitle D, Part 1 & 2 of the American Recovery and Reinvestment Act of 2009.
- h. **"HIPAA"** means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162 and 164.
- i. **"Individual"** shall have the same meaning as the term "individual" in 45 CFR Section 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).
- j. **"Privacy Rule"** shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.

- k. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- l. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.501.
- m. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- n. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.
- o. "Unsecured Protected Health Information" means protected health information that is not secured by a technology standard that renders protected health information unusable, unreasonable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.
- p. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH Act.

(2) Use and Disclosure of Protected Health Information.

- a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, the Business Associate shall not, and shall ensure that its directors, officers, employees and agents, do not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
 - I. For the proper management and administration of the Business Associate;
 - II. As required by law, pursuant to the terms set forth in paragraph d. below; or
 - III. For data aggregation purposes for the health care operations of Covered Entity.
- c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with the HITECH Act, Subtitle D, Part 1, Sec. 13402 of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.

- e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

(3) **Obligations and Activities of Business Associate.**

- a. Business Associate shall report to the designated Privacy Officer of Covered Entity, in writing, any use or disclosure of PHI in violation of the Agreement, including any security incident involving Covered Entity data, in accordance with the HITECH Act, Subtitle D, Part 1, Sec. 13402.
- b. The Business Associate shall comply with all sections of the Privacy and Security Rule as set forth in, the HITECH Act, Subtitle D, Part 1, Sec. 13401 and Sec.13404.
- c. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- d. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section (3)b and (3)k herein. The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard provision #13 of this Agreement for the purpose of use and disclosure of protected health information.
- e. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.
- f. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.
- g. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.

- h. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
- i. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.
- j. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.
- k. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) Obligations of Covered Entity

- a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.
- c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

Contractor Initials: _____
Date: 7/21/17

(5) **Termination for Cause**

In addition to standard provision #10 of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit D. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) **Miscellaneous**

- a. **Definitions and Regulatory References.** All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, and the HITECH Act as amended from time to time. A reference in the Agreement, as amended to include this Exhibit D, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.
- b. **Amendment.** Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.
- c. **Data Ownership.** The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. **Interpretation.** The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule and the HITECH Act.
- e. **Segregation.** If any term or condition of this Exhibit D or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit D are declared severable.
- f. **Survival.** Provisions in this Exhibit D regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section 3D, the defense and indemnification provisions of section 3D and standard contract provision #13, shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit D.

NH VETERANS HOME

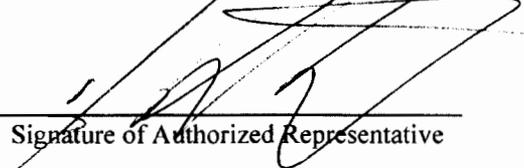
The State Agency Name

ALLIANCE MECHANICAL, INC.

Name of the Contractor



Signature of Authorized Representative



Signature of Authorized Representative

ARTAND PLOURDE

Name of Authorized Representative

JASON PATINAUDE

Name of Authorized Representative

DIRECTOR OF ADMINISTRATIVE SERVICES

Title of Authorized Representative

PRESIDENT

Title of Authorized Representative

7/27/17

Date

7/21/17

Date

Contractor Initials: JP

Date: 7/21/17

NEW HAMPSHIRE VETERANS HOME

Cost Breakdown - Natural Gas Conversion Services RFB VH 2017-003

Vendor

Original Bid 2017-003

Alliance Mechanical Inc

6 David Drive
Essex Jct, VT 05452

Labor	\$9,280.00	
Materials	\$21,126.00	
Gas Piping	\$1,104.00	
Fire Proofing	\$207.00	
Concrete Pad	\$345.00	
Permits	\$455.72	
Controls- ENE of NH	\$5,915.00	
<u>Total bid</u>		<u>\$38,432.72</u>

SAM Mechanical Services LLC

1181 Hooksett Road
Hooksett, NH 03106

Labor	\$19,400.00	
Materials	\$23,500.00	
Gas Piping	\$4,200.00	
Fire Proofing	\$1,700.00	
Concrete Pad	\$2,800.00	
Permits	\$717.00	
Controls- ENE of NH	\$5,685.00	
<u>Total bid</u>		<u>\$58,002.00</u>

SAVINGS

\$19,569.28



Certificate of Authority/Existence

This is to certify that Jason Patnaude is authorized to enter into contracts and sign on behalf of Alliance Mechanical, Inc.

Sincerely,

Remo Monfreda
Controller
Alliance Mechanical, Inc.

Notarized this 24th day of July, 2017 by:

Julia Richardson, Notary



**CONSENT TO CORPORATE ACTION BY THE DIRECTORS OF
ALLIANCE MECHANICAL INC.
IN LIEU OF MEETING OF THE DIRECTORS**

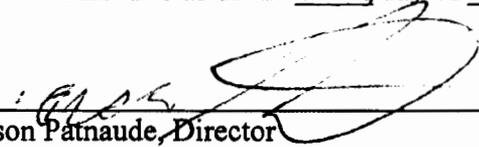
The undersigned, being all of the directors of Alliance Mechanical Inc., a Vermont corporation (the "Corporation"), hereby unanimously consent in writing to the adoption of the following resolutions and to the actions that they authorize, all in lieu of actions taken at a meeting of the directors, and hereby direct that a copy of this written consent be inserted in the Corporation's record book:

RESOLVED, that the Corporation is hereby authorized and empowered to enter into one or more contracts to perform services for NH Veterans Home (name of customer).

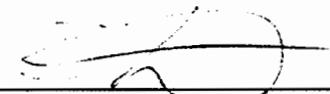
RESOLVED, that Jason Patnaude (Name), Vice President (Title) of the Corporation, hereby is authorized on behalf of the Corporation to negotiate the terms and conditions of, and execute and deliver, such contracts, documents, and instruments, and any amendments thereto, as such authorized person deems, in his sole discretion, to be necessary or desirable in order to carry out the provision of services authorized above.

RESOLVED, that the directors hereby ratify and affirm all prior actions taken by the Corporation through its directors and officers related to the provision of services authorized above.

Effective as of the 30th day of August, 2017.



Jason Patnaude, Director



Shaun Patnaude, Director



SECRETARY'S CERTIFICATE

I, Shawn Patnaude the Secretary of Alliance Mechanical Inc., a Vermont corporation (the "Corporation"), hereby certify that the following resolutions were duly adopted by the directors of the Corporation, and that the following resolutions are in full force and effect as of the date hereof without any change:

RESOLVED, that the Corporation is hereby authorized and empowered to enter into one or more contracts to perform services for NH Veterans Home (name of customer).

RESOLVED, that Jason Patnaude (Name), Vice President (Title) of the Corporation, hereby is authorized on behalf of the Corporation to negotiate the terms and conditions of, and execute and deliver, such contracts, documents, and instruments, and any amendments thereto, as such authorized person deems, in his sole discretion, to be necessary or desirable in order to carry out the provision of services authorized above.

RESOLVED, that the directors hereby ratify and affirm all prior actions taken by the Corporation through its directors and officers related to the provision of services authorized above.

Dated this 30th day of August, 2007.



Print Name: Shawn Patnaude
Secretary

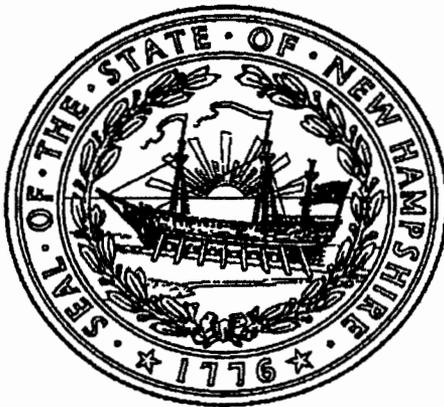
State of New Hampshire

Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that ALLIANCE MECHANICAL INC. is a Vermont Profit Corporation registered to transact business in New Hampshire on June 22, 2015. 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: 728145



IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 29th day of March A.D. 2017.

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

William M. Gardner
Secretary of State

