



THE STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION



CHRISTOPHER D. CLEMENT, SR. COMMISSIONER

JEFF BRILLHART, P.E. ASSISTANT COMMISSIONER

Bureau of Environment June 3, 2013

Her Excellency, Governor Margaret Wood Hassan and the Honorable Council State House Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Transportation to enter into a three year agreement with three pre-qualified, low bid, cost-based contracts for a combined total of \$300,000.00 with the following firms: (1) Stoney Ridge Environmental LLC, Alton, NH, (vendor #167412) for \$125,000 (2) Gove Environmental Services Inc., Exeter, NH, (vendor #156637) for \$100,000 and (3) FB Environmental Associates, Portsmouth, NH, (vendor #167656) for \$75,000 to undertake certain environmental investigations from the date of Governor and Council approval through May 31, 2016.

Funding is available as follows and is contingent upon the availability and continued appropriation of funds in FY 2014, 2015 and 2016:

Table with 4 columns: Description, FY14, FY15, FY16. Row 1: 04-096-96-963515-3054 Consolidated Federal Aid, \$100,000, \$100,000, \$100,000. Row 2: 046-500464 Gen Consultants Non-Benefit, \$100,000, \$100,000, \$100,000.

The Consolidated Federal Funds, AU 3054, is utilized at this time to encumber funds for this request. Actual funding sources will be determined by each particular project incurring expenses as a result of this request.

EXPLANATION

The Department requires consultant services from three (3) on-call consulting firms, with specific qualifications in wetland functional evaluation, assessment of wetland impacts, development of wetland mitigation monitoring strategies, monitoring wetland mitigation construction, plant and animal surveys, data collection to support NHDES Stream Crossing rules, and identification of areas under the NHDES Shoreland Protection Act jurisdictional limits. As appropriate, the consultants may also engage in technology development and other support services related to environmental issues.

The Department proposes to retain these qualified environmental engineering consulting firm to assist the Department with a number of environmental related tasks in and adjacent to proposed and existing highway rights-of-way, Department construction sites, and at Department owned mitigation facilities. The consultant shall perform, as necessary, tasks required to develop wetland mitigation, stream restoration and construction monitoring, and assessment of stream geomorphology prior to, during, and after construction. The need for such services is in response to the National Environmental Policy Act of 1969, P.L. 91-910, which directed that, during the development of a project, a systematic interdisciplinary approach be used to assess beneficial and adverse social, economic and environmental effects of the project.

The services to be provided will assist in maintaining the quality of the environment in the State of New Hampshire and will allow the Department to follow pertinent federal and state environmental regulations. The total combined fee will not exceed \$300,000.00.

The selection process was in accordance with the Department's "selection procedures for low-bid technical service statewide contract's" dated February 26, 1998. The contract will be administered by the Bureau of Environment. The selection process for this low bid selection contract was initiated by a solicitation for consultant services for three (3) Statewide On-Call Environmental / Wetland Services contracts. The assignment was listed as a "Possible Action Project" on the Department's website in October 31, 2012, asking for letters of interest from qualified firms. From the list of firms that submitted letters of interest, a Pre-Qualification Evaluation Team reviewed these letters of interest and prepared a Qualified Bidders List of Consultants on January 18, 2013 for consideration and approval by the Assistant Commissioner. Upon receipt of that approval, seventeen (17) qualified firms were notified on February 12, 2013 to submit one bid for consideration on three new three-year service agreements.

To enable proper comparison of bids, each consultant was given the same sample project, which is representative of the work to be completed by environmental scientists working under this service agreement. The Department provided the hours for a set number of hypothetical tasks and the consultant used their hourly wages to determine the overall cost to complete this assignment. Bids were received from sixteen firms: two of these firms were disqualified for irregular bids, and the three consultants with the lowest bids were selected for the contract. The comparative bids for the sample project from each pre-qualified firm were as follows:

<b>Consultant</b>	<b>Location</b>	<b>Total Bid</b>
Stoney Ridge Environmental LLC	Alton, NH	\$8,811.22
Gove Environmental Services, Inc.	Exeter, NH	\$11,377.50
FB Environmental Associates	Portsmouth, NH	\$13,994.80
S.W. Cole Engineering, Inc.	Sommersworth, NH	\$15,492.71
Dubois & King, Inc.	Bedford, NH	\$16,621.00
Vanasse Hangen Brustlin, Inc.	Bedford, NH	\$17,385.00
Fieldstone Land Consultants PLLC	Milford, NH	\$18,625.00
The Louis Berger Group, Inc.	Manchester, NH	\$21,259.62
Tighe & Bond	Portsmouth, NH	\$21,393.50
The Smart Associates	Concord, NH	\$22,242.95
Matrix New World Engineering, Inc.	Nashua, NH	\$23,421.00
TRC Solutions	Manchester, NH	\$24,991.50
GZA Geo Environmental, Inc.	Manchester, NH	\$25,860.81
CDM Smith	Cambridge, MA	\$28,802.29

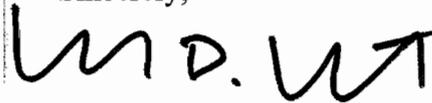
In accordance with the bid process, the lowest bidder is awarded the largest contract for \$125,000. The following two (2) lowest bidders are respectively awarded contracts for \$100,000 and \$75,000. Three contracts are proposed to assure timely services as required to meet Department design and construction schedules.

Each of the firms bidding has a solid reputation and is qualified to provide the required environmental / wetland evaluation services. This area of expertise is essential to the Department's ongoing environmental effort in support of the transportation program.

The contracts have 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 contracts are on file at the Secretary of State's office and the Department of Administrative Services office, 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 enter into these contracts for consulting services as outlined above.

Sincerely,

A handwritten signature in black ink, appearing to read "C.D. Clement, Sr.", with a stylized flourish at the end.

Christopher D. Clement, Sr.  
Commissioner

CDC/KTN/MGL/awr







# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/13/2013

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).

<b>PRODUCER</b> Derry office Brownell Insurance Center, Inc. 5 Nashua Rd. Londonderry, NH 03038	<b>CONTACT NAME:</b> Rick Jr	<b>FAX (A/C. No.):</b> (603)437-4846
	<b>PHONE (A/C. No. Ext.):</b> (603)437-1992	<b>E-MAIL ADDRESS:</b> rickjr@brownellinsurance.com
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURED</b> Stoney Ridge Environmental, LLC 229 Prospect Mountain Road Alton, NH 03809	<b>INSURER A :</b>	
	<b>INSURER B :</b> Maine Mutual Group	
	<b>INSURER C :</b>	
	<b>INSURER D :</b>	
	<b>INSURER E :</b>	
<b>INSURER F :</b>		

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
B	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X		KA0117779	5/3/2013	5/3/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 500,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA-LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			N/A			WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

**CERTIFICATE HOLDER****CANCELLATION**

NHDOT - New Hampshire Dept. of Transportation  
 7 Hazen Drive  
 P.O. Box 483  
 Concord, NH 03302

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

© 1988-2010 ACORD CORPORATION. All rights reserved.



# CERTIFICATE OF LIABILITY INSURANCE

FBENV-1

OP ID: RR

DATE (MM/DD/YYYY)

05/23/2013

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).

<b>PRODUCER</b> Turner Barker Insurance 160 Preble Street Portland, ME 04101 Joan P. Hopkins, CIC	Phone: 207-773-8156 Fax: 207-773-6647	<b>CONTACT NAME:</b> _____ <b>PHONE (A/C, No, Ext):</b> _____ <b>E-MAIL ADDRESS:</b> _____ <b>FAX (A/C, No):</b> _____
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> FB Environmental Associates Forrest Bell 97A Exchange St Ste 305 Portland, ME 04101	<b>INSURER A : Nautilus Insurance</b>	
	<b>INSURER B : Maine Employers Mutual Ins Co</b>	
	<b>INSURER C :</b>	
	<b>INSURER D :</b>	
	<b>INSURER E :</b>	
	<b>INSURER F :</b>	

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X		ECP200349601	08/15/2012	08/15/2013	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000
	<input checked="" type="checkbox"/> Pollution						PERSONAL & ADV INJURY \$ 2,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC
A	AUTOMOBILE LIABILITY			ECP200349601	08/15/2012	08/15/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED RETENTION \$						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			1810078281	07/06/2012	07/06/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$ 100,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 100,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000
A	Professional			ECP200349600	08/15/2012	08/15/2013	Ea claim 2,000,000
							Agg 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required):  
 State of New Hampshire is included as additional insured for general liability with regards to the named insured's premises and/or ongoing operations only where required by a written contract executed prior to the commencement of the named insured's work for or on behalf of certificate holder. Professional liability retention is \$5,000 each claim

<b>CERTIFICATE HOLDER</b>  NEWHDOT  State of New Hampshire Dept of Transportation PO Box 483 Concord, NH 03302-0483	<b>CANCELLATION</b>  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 

© 1988-2010 ACORD CORPORATION. All rights reserved.



# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
05/29/2013

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).

<b>PRODUCER</b> Davis Towle Morrill & Everett 115 Airport Road P O Box 1260 Concord, NH 03302-1260	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 603 225-6611      FAX (A/C, No): 603-225-7935 E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE      NAIC #	
<b>INSURED</b> Gove Environmental Services 8 Continental Drive Building 2 - Unit H Exeter, NH 03833-7507	INSURER A: Hanover Insurance	
	INSURER B: Nautilus Insurance Co	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES      CERTIFICATE NUMBER:      REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			OBV481496304	01/17/2013	01/17/2014	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			AWV481536904	01/17/2013	01/17/2014	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED    RETENTION \$ <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE			AWV481536904	01/17/2013	01/17/2014	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WDV482691304	01/17/2013	01/17/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$500,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$500,000
B	Professional Liability			CCP200214201	04/18/2013	04/18/2014	\$2,000,000 Aggregate \$2,000,000 Each Claim \$10,000 deductible

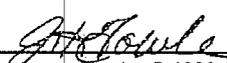
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101; Additional Remarks Schedule, if more space is required)

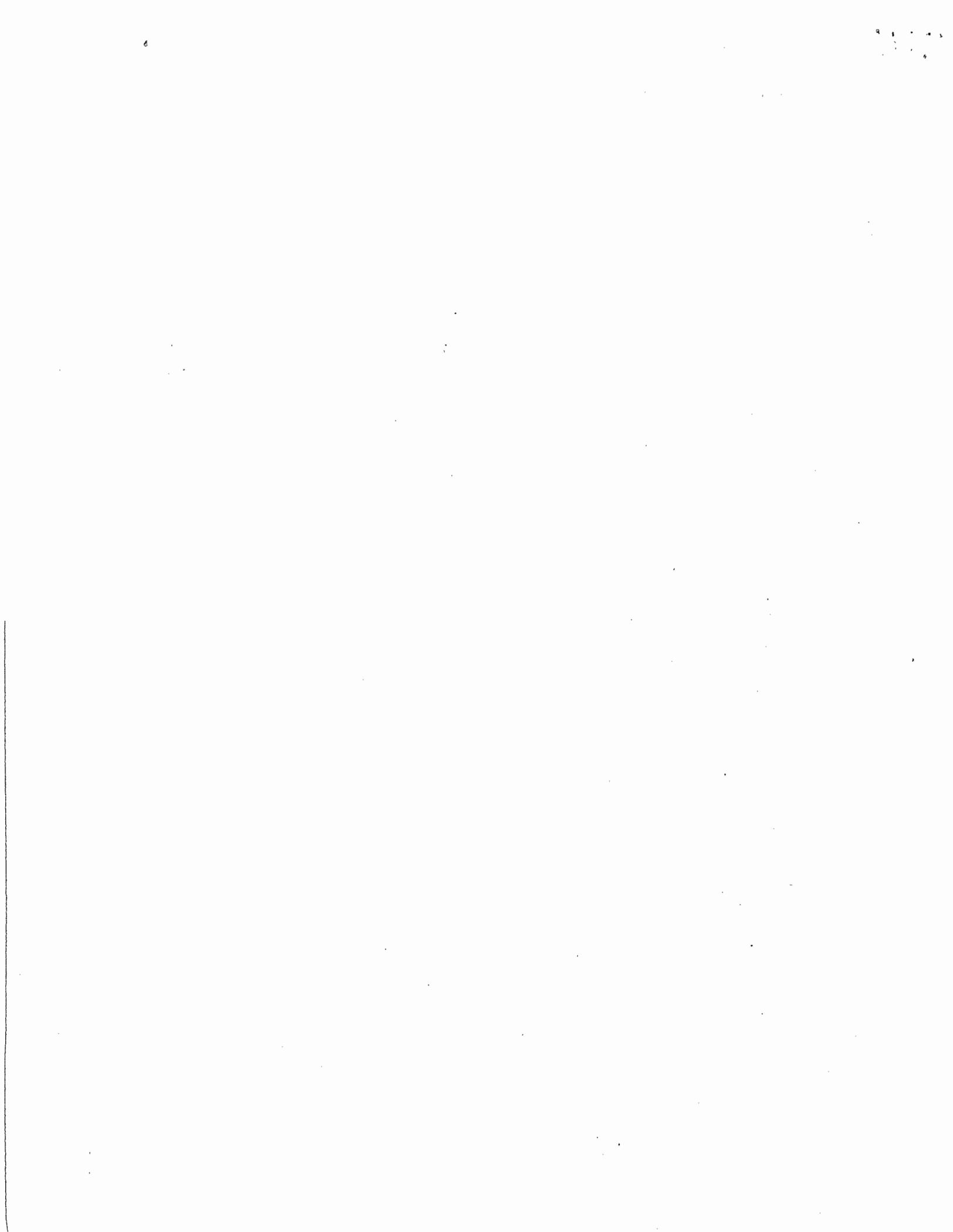
\*\* Workers Comp Information \*\*

Proprietors/Partners/Executive Officers/Members Excluded: James P Gove

The State of New Hampshire is included as additional insured on the General Liability when required in a signed written contract.

JOB: Statewide Environmental/Wetland Service Agreement

<b>CERTIFICATE HOLDER</b> State of New Hampshire Dept of Transportation 7 Hazen Drive Concord, NH 03302	<b>CANCELLATION</b> 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 



STATEWIDE ON-CALL  
ENVIRONMENTAL WETLAND SERVICES

TABLE OF CONTENTS

PREAMBLE.....	1
ARTICLE I - DESCRIPTION OF PROFESSIONAL SERVICES TO BE RENDERED .....	2
A. DESCRIPTION OF SERVICES.....	2
B. SCOPE OF WORK.....	2
1. Wetlands Delineation .....	2
2. Wetland Mitigation.....	3
3. Stream Crossing Assessment.....	3
4. Monitoring of Wetland and/or Stream Restoration Mitigation Sites .....	3
5. Invasive Species Delineation.....	4
6. Rare Plants / Endangered Species Investigations .....	4
C. STAFFING .....	4
D. QUALITY CONTROL.....	4
E. TASK ORDERS .....	5
F. MATERIAL FURNISHED BY THE DEPARTMENT OF TRANSPORTATION .....	5
G. WORK SCHEDULE AND PROGRESS REPORTS .....	5
H. SUBMISSION OF REPORTS, PLANS AND DOCUMENTS.....	6
I. DELIVERABLES.....	6
ARTICLE II - COMPENSATION OF CONSULTANT FOR ON-CALL SERVICES	
AGREEMENTS.....	8
A. AGREEMENT GENERAL FEE.....	8
B. METHOD OF COMPENSATION FOR TASK ORDERS .....	8
C. MODIFIED COST-PLUS-FIXED-FEE FORMAT.....	8
D. LUMP-SUM FORMAT.....	10
E. SUBCONSULTANT SUPPORTING SERVICES.....	10
F. INVOICING AND PAYMENT .....	10
G. RECORDS - REPORTS .....	11
ARTICLE III - GENERAL PROVISIONS.....	12
A. HEARINGS, ETC.....	12
B. CONTRACT PROPOSALS .....	12
ARTICLE IV - STANDARD PROVISIONS.....	13
A. STANDARD SPECIFICATIONS .....	13
B. REVIEW BY STATE AND FHWA - CONFERENCES - INSPECTIONS .....	13
C. EXTENT OF CONTRACT .....	13
1. Contingent Nature of Agreement.....	13
2. Termination.....	13
D. REVISIONS TO REPORTS, PLANS OR DOCUMENTS.....	14
E. ADDITIONAL SERVICES.....	15
F. OWNERSHIP OF PLANS .....	15
G. SUBLETTING.....	16

H. GENERAL COMPLIANCE WITH LAWS, ETC.....	16
I. BROKERAGE.....	16
J. CONTRACTUAL RELATIONS .....	16
1. Independent Contractor.....	16
2. Claims and Indemnification .....	16
3. Insurance .....	17
4. No Third-Party Rights.....	18
5. Construction of Agreement.....	18
K. AGREEMENT MODIFICATION.....	18
L. EXTENSION OF COMPLETION DATE(S).....	18
M. TITLE VI (NONDISCRIMINATION-OF FEDERALLY-ASSISTED PROGRAMS) COMPLIANCE.....	18
N. DISADVANTAGED BUSINESS ENTERPRISE POLICY AGREEMENT REQUIREMENTS	20
1. Policy.....	20
2. Disadvantaged Business Enterprise (DBE) Obligation .....	20
3. Sanctions for Non-Compliance .....	21
O. DOCUMENTATION .....	21
P. CLEAN AIR AND WATER ACTS .....	21

**ATTACHMENTS**

1. CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS, ETC.
2. CONSULTANT DISCLOSURE STATEMENT FOR PREPARATION OF ENVIRONMENTAL EVALUATIONS
3. CERTIFICATION OF CONSULTANT/SUBCONSULTANT
4. CERTIFICATION OF STATE DEPARTMENT OF TRANSPORTATION
5. CERTIFICATION FOR FEDERAL-AID CONTRACTS EXCEEDING \$100,000 IN FEDERAL FUNDS
6. SEAL-AND-SIGNATURE PAGE
7. CERTIFICATION OF AUTHORITY / VOTE
8. CERTIFICATION OF GOOD STANDING
9. CERTIFICATION OF INSURANCE

STATEWIDE ON-CALL  
ENVIRONMENTAL WETLAND SERVICES

AGREEMENT  
FOR PROFESSIONAL SERVICES

PREAMBLE

THIS AGREEMENT made this 30<sup>th</sup> day of April in the year 2013 by and between the STATE OF NEW HAMPSHIRE, hereinafter referred to as the STATE, acting by and through its COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the COMMISSIONER, acting under Chapter 228 of the Revised Statutes Annotated, and Stoney Ridge Environmental, LLC, with principal place of business at 229 Prospect Mountain Road, in the Town of Alton, State of New Hampshire, hereinafter referred to as the CONSULTANT, witnesses that

The Department of Transportation, State of New Hampshire, hereinafter referred to as the DEPARTMENT, requires on-call environmental / wetland related services for various projects and facilities located throughout the STATE.

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

## ARTICLE I

### ARTICLE I - DESCRIPTION OF PROFESSIONAL SERVICES TO BE RENDERED

NOW THEREFORE, in consideration of the undertakings of the parties hereinafter set forth, the DEPARTMENT hereby engages the CONSULTANT, who agrees to render services to the DEPARTMENT which shall include, but not be restricted to, the following items, in accordance with conditions and terms hereinafter set forth:

#### A. DESCRIPTION OF SERVICES

The types of services required under the terms of this AGREEMENT shall generally include, but are not necessarily limited to providing environmental analyses and/or related technical services for various projects or stages of projects and/or environmental documents located throughout the State, and related support services.

#### B. SCOPE OF WORK

##### 1. Wetlands Delineation

This task involves the delineation of wetlands, assessment of wetlands functions and values, completion of wetlands reports, preparing permit applications, such as for a NHDES Wetlands and/or Shoreland Permit, and coordination with Natural Resource agencies as necessary and as directed by the DEPARTMENT.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Delineate wetlands within the project area in accordance with the *US Army Corps of Engineers Wetlands Delineation Manual* (Jan 1987) and *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region* (Version 2.0, January 2012). Utilizing *Field Indicators of Hydric Soils in the United States* (Version 7.0, 2010), the *National List of Plant Species that Occur in Wetlands: Northeast (Region 1)* (May 1988), and *Classification of Wetlands and Deepwater Habitats of the United States* (Cowardin, 1979) as reference standards.
- Gather descriptive information, site sketch, and photographs of the wetlands within the project area.
- Flag delineated wetlands within the project area. Label flags with an alphanumeric sequence.
- GPS flag locations, as appropriate, and provide electronic files compatible with NH Department of Transportation's criteria (MicroStation and GIS).
- Assess Functions and Values using the US Army Corps of Engineers' *Highway Methodology Workbook Supplement* (November 1995) and best professional judgment.
- Prepare a Wetlands Delineation Report that identifies the locations of the delineated wetlands, identifies their classification, discusses the Functions and Values of the jurisdictional wetland areas, and identifies the flagging numbering system.
- Meet, as necessary, with Federal and State Natural Resource Agencies to discuss the findings and the evaluation of wetlands and/or to field-review areas of environmental concerns.
- Complete the NH Department of Environmental Services' Standard Dredge and Fill and/or Shoreland Permit applications.

## ARTICLE I

### 2. Wetland Mitigation

This task involves the investigation, development and/or refinement of wetland mitigation options necessitated as compensation for unavoidable wetland impacts associated with highway projects.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Investigate potential sites, which would compensate for unavoidable impacts to jurisdictional wetlands and loss of their functions and values resulting from the proposed highway project.
- Prepare a Potential Wetland Mitigation Assessment Report that identifies and evaluates mitigation sites. The Report will detail the potential acreages of preservation, restoration or creation, and the functions and values replication potentials at each site. The report will also detail the potential use of an in-lieu fee paid to the NHDES Aquatic Resource Mitigation (ARM) Fund.
- Coordinate with project engineers to provide conceptual sketch for wetland creation sites, which may include preparation of a wetland mitigation technical report, containing information required by the US Army Corps of Engineers' current "Regulatory Guidance Letter" and "Mitigation Plan Checklist".
- Meet, as necessary, with Natural Resource Agencies, local officials, and/or concerned parties to discuss the findings and the evaluations of the wetland mitigation sites and/or to field review these potential areas.

### 3. Stream Crossing Assessment

This task involves the investigation, assessment, data collection and technical report preparation of the evaluation of stream crossings.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Perform assessments, data collection and all necessary documentation for a stream crossing in accordance with the NH Department of Environmental Services' Stream Crossing Rules (Chapter *Env-Wt 900*).

### 4. Monitoring of Wetland and/or Stream Restoration Mitigation Sites

This task involves field personnel inspecting of Wetland and/or Stream Restoration Mitigation construction sites and directing the DEPARTMENT's Contractor in the successful completion of a created mitigation to achieve the stated functions of the Mitigation Technical Report.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Monitor wetland mitigation sites (creation, restoration and preservation) in accordance with conditions detailed in the US Army Corps of Engineers' Section 404 Permit and the NH Wetlands Bureau's Dredge and Fill Permit and in accordance with specific Wetland Mitigation Plans and Commitments.
- Be able to communicate effectively to manage the construction of all aspects of the Mitigation Plan with the DEPARTMENT's contractor. Coordinate actions to ensure the work is being performed in accordance with the Plan.

## ARTICLE I

- Review, document and amend the Mitigation Design based on unanticipated field conditions in consultation with the DEPARTMENT and/or permitting agencies, as needed.
- Oversee remedial actions required to ensure the establishment of a functioning mitigation site.
- Prepare Construction Monitoring Reports that evaluate the mitigation site construction.
- Monitor and assess the constructed mitigation site to assure the site is functioning as designed
- Prepare a Wetland Mitigation Monitoring Report for distribution to appropriate natural resource agencies, local officials and/or interested parties

### 5. Invasive Species Delineation

This task involves delineation of invasive species as necessary.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Delineate the location of invasive species within the project area. Identify species and extent of infestation.
- GPS locations and provide electronic files compatible with NH Department of Transportation's criteria (MicroStation and GIS).

### 6. Rare Plants / Endangered Species Investigations

This task involves the determination of the presence of rare plants, endangered species, exemplary natural communities or wildlife habitats as necessary and as directed by the DEPARTMENT.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Coordinate, as necessary, with the NH Natural Heritage Bureau, NH Fish & Game Department and/or US Fish and Wildlife Service to determine the presence of rare plants, endangered species, exemplary natural communities or wildlife habitats.
- Conduct plant surveys to determine location and extent of rare plant populations.
- Conduct habitat assessments and biological surveys to assess potential for or presence of endangered wildlife.

## C. STAFFING

The CONSULTANT shall furnish the DEPARTMENT with a list of qualified personnel including their labor classification, current direct-labor wage rates, and office location prior to entering into negotiations for this AGREEMENT. The CONSULTANT shall utilize the personnel approved by the DEPARTMENT during negotiations for this AGREEMENT for the performance of the work. If at any time the CONSULTANT is unable to use the personnel specified, it shall request approval from the DEPARTMENT to use other personnel. To obtain DEPARTMENT approval, the CONSULTANT shall request the substitution in writing and provide resumes for the new individuals at least 14 days in advance of the proposed substitutions, for review by the DEPARTMENT.

## D. QUALITY CONTROL

The CONSULTANT is expected to perform in a professional manner and all work shall be neat, well organized, fully comply with the requirements of this AGREEMENT and Task Orders, and meet the specified accuracy

## ARTICLE I

requirements. The DEPARTMENT will reject any data that does not comply with the above. The DEPARTMENT will decide when the data and services have fully met the project requirements. The CONSULTANT will not be paid for insufficient work.

### E. TASK ORDERS

As needs develop, the DEPARTMENT will issue specific Task Orders to the CONSULTANT. These Task Orders will be initiated by a Request for Proposal (RFP) letter that will include a detailed description of the project or elements of work, an outline of the services required, responsibilities of the parties, materials to be supplied by the DEPARTMENT (e.g., any investigations previously conducted for the project, such as an Initial Site Assessment) and other information necessary to complete the work for the Task Order. The CONSULTANT shall then submit to the DEPARTMENT for approval a scope of work and fee proposal that includes the names of all personnel to be assigned to the Task Order and a tentative work schedule for each Task Order assigned. The DEPARTMENT will review the CONSULTANT'S proposal and schedule negotiations, if necessary, to clarify the proposed scope of work (e.g., describe the level of hazardous materials investigation required and define the extent of work), discuss the personnel proposed, the number of work hours needed, and any other associated proposed costs in order to establish the final not-to-exceed or lump-sum amount for the Task Order. Upon approval of the CONSULTANT'S proposal by the DEPARTMENT and FHWA (if applicable), the DEPARTMENT will issue a Task Order Authorization to Proceed Letter. A conference may be required to turn over a Task Order to the CONSULTANT. Costs associated with the CONSULTANT'S preparation of a scope of work and fee for a Task Order are non-reimbursable.

### F. MATERIAL FURNISHED BY THE DEPARTMENT OF TRANSPORTATION

The DEPARTMENT will furnish the following data to the CONSULTANT:

1. Appropriate maps, plans and reports as available, for use by the CONSULTANT
2. Results from other investigations and studies
3. A right-of-entry permit, when necessary, obtained from the private property owners allowing access to the property and permission to perform testing and other necessary work.

### G. WORK SCHEDULE AND PROGRESS REPORTS

The CONSULTANT shall be aware that the services to be performed under this AGREEMENT will be on an as-needed basis. In addition, the CONSULTANT shall realize that emergency situations may arise that will require immediate response/action.

The CONSULTANT shall be available to begin performance of the services designated in the Contract promptly upon receipt from the DEPARTMENT of a Notice to Proceed Letter. The CONSULTANT shall complete

## ARTICLE I

the services required for each Task Order without delay unless unable to do so for causes not under the CONSULTANT'S control.

It is imperative that close coordination between the CONSULTANT and the DEPARTMENT be maintained at all times so as to ensure compliance with the DEPARTMENT'S requirements for specific Task Orders.

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

The CONSULTANT shall develop an acceptable reporting system capable of indicating project status on at least a monthly basis for all critical activities of the project. Monthly progress reports shall be submitted by the CONSULTANT to the DEPARTMENT, giving the percentage of completion of the work required by this AGREEMENT. These monthly progress reports shall be received by the DEPARTMENT by the 10<sup>th</sup> day of each month.

### H. SUBMISSION OF REPORTS, PLANS AND DOCUMENTS

Each CONSULTANT submission shall be supplemented with any material or descriptive matter necessary to facilitate a comprehensive review.

### I. DELIVERABLES

All work and supporting documents for Task Orders completed under this AGREEMENT shall be developed by the CONSULTANT and delivered to the DEPARTMENT according to the following formats:

**Electronic Transfer of Data:** The DEPARTMENT requires the following to ensure compatibility with software used by the DEPARTMENT and to ensure the efficient and timely exchange of computer files between the DEPARTMENT and the CONSULTANT.

All files submitted must be fully compatible with the formats listed in this document without any conversion or editing by the DEPARTMENT. Any files requiring conversion and/or editing by the DEPARTMENT will not be accepted. All files shall be virus free. All files shall use the DEPARTMENT'S file naming convention.

**Computer Aided Design/Drafting (CAD/D) files:** All CAD/D files shall be in accordance with the Deliverable Requirements described in the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time this AGREEMENT was executed, or any later version. All files submitted must be fully compatible with the current version of MicroStation being used by the DEPARTMENT. (The DEPARTMENT'S CAD/D Procedures and Requirements document can be found on the CAD/D website by following the "Downloads" link at [www.nh.gov/dot/cadd/](http://www.nh.gov/dot/cadd/).)

**Word Processing, Spreadsheet, and Database Files:** For each Phase, all relevant files shall be provided in a format fully compatible, as appropriate, with the following:

- o Word Processing: Microsoft Word 2003

## ARTICLE I

- Spreadsheets: Microsoft Excel 2003
- Databases: Microsoft Access 2003

These specifications will be updated as necessary to reflect changes in DEPARTMENT software such as adding new software or updating to new versions of existing software. In such instances, the CONSULTANT will be promptly notified.

**Computer File Exchange Media:** Electronic files shall be exchanged between the DEPARTMENT and the CONSULTANT using the following media as appropriate for Windows Operating Systems:

- Compact Disc (CD): Files on CD(s) should be actual size, not compressed.
- DVD: Files on DVD(s) should be actual size, not compressed.
- Email: Files 1 MB or smaller may be transferred via Email. If compressed, the files should be self-extracting.

**Copies:** The CONSULTANT shall provide hard (paper) and electronic copies of the deliverables for each Phase of Work. For all deliverables, provide electronic copies in two electronic versions; an electronic version in the original electronic file format (i.e., MicroStation (\*.DGN), Microsoft Word (\*.DOC), Microsoft Excel (\*.XLS), etc.) and an electronic version in Adobe Acrobat (\*.PDF) file format.

Upon completion of the AGREEMENT, the CONSULTANT shall turn over all documentation, including, but not limited to, all reports, test results, drawings, plans, and all financial supporting documentation in the formats described above.

### J. **DATE OF COMPLETION**

The date of completion for the professional services rendered under this AGREEMENT is (DATE) unless terminated earlier upon the depletion of the total amount payable under this AGREEMENT, or extended as allowed by the following provision:

No new tasks may be assigned after (DATE). The CONSULTANT shall complete any tasks begun, but not completed prior to (DATE) in accordance with the methods of compensation specified in Article II and all other applicable portions and contractual requirements of this Agreement. This shall be subject to the written mutual agreement of both parties, which shall include a revised Date of Completion to allow completion of the previously assigned work.

ARTICLE II

ARTICLE II - COMPENSATION OF CONSULTANT FOR ON-CALL SERVICES AGREEMENTS

A. AGREEMENT GENERAL FEE

In consideration of the terms and obligations of this AGREEMENT, the STATE, through the DEPARTMENT, hereby agrees to pay and the CONSULTANT agrees to accept as full compensation for the combined total cost of all work, expenses, and profit for Task Orders issued under this AGREEMENT, an amount not to exceed \$125,000. (The CONSULTANT shall note that no payments will be made for work, expenses, or profit, whether authorized or not, exceeding the \$125,000 total amount.)

B. METHOD OF COMPENSATION FOR TASK ORDERS

The method of compensation for Task Orders issued under this agreement will either be a Modified Cost-Plus-Fixed-Fee format with method of payment as described in Section C, below, or a Lump-Sum format with method of payment as described in Section D, below.

C. MODIFIED COST-PLUS-FIXED-FEE FORMAT

The following costing items are incorporated as part of this AGREEMENT:

1. Task Order Cost - The negotiated not-to-exceed cost of each modified cost-plus-fixed-fee format Task Order will be based on the types of labor classifications required along with the number of labor hours negotiated for each labor classification multiplied by the corresponding contract labor rate for the current contract period, and the other factors (fixed fee, direct expenses, and subconsultant costs) as follows:

$$\begin{aligned} & \text{Labor Costs (Sum of negotiated hours x contract labor rates)} \\ + & \text{ Fixed Fee (negotiated amount)} \\ + & \text{ Direct Expenses (estimated amount)} \\ + & \text{ Subconsultant Costs (estimated amount or lump sum)} \\ \hline = & \text{ Task Order Cost} \end{aligned}$$

2. Contract Labor Rates – The contract labor rates will be the total hourly wage for each labor classification including overhead and annual contract adjustment rate (when applicable) as follows:

$$\begin{aligned} & \text{Direct Labor Rate (\$/hr)} \\ + & \text{ Direct Labor Rate x Overhead Rate (\%)} \\ \hline = & \text{ Contract Labor Rate (\$/hr) for Base Period (CLRBP)} \end{aligned}$$

$\text{CLRBP} \times \text{Annual Contract Adjustment Rate (\%)} = \text{Contract Labor Rate for Contract Period 2 (CLRCP2)}$   
 $\text{CLRCP2} \times \text{Annual Contract Adjustment Rate (\%)} = \text{Contract Labor Rate for Contract Period 3 (CLRCP3)*}$

\*Same formula for additional contract periods, when applicable.

The contract labor rates will be a firm-fixed-price per contract period. The originally negotiated contract labor rates for the labor classifications included in this AGREEMENT shall remain in effect for a one-year base period from the date that this AGREEMENT becomes effective. The rates for subsequent one-year periods include an

ARTICLE II

annual contract adjustment rate. However, contract labor rates that are in effect at the time a particular Task Order is issued shall remain effective throughout the duration of that Task Order and shall apply to all amendments issued for the Task Order. The contract labor rates for a Task Order will not be adjusted for the annual contract adjustment rate if the contract year changes during the duration of the Task Order.

(The annual contract adjustment rate is set by the DEPARTMENT'S Consultant Selection Committee at their first meeting in January of each year and will be used for all On-Call contracts negotiated during that calendar year.)

In the event that the Completion Date of this AGREEMENT is extended for a period of six months or less, either in accordance with the provisions included in Article I, Section J - Date of Completion, or by an amendment to the AGREEMENT, the contract labor rates for the last Contract Period shall remain in effect. For an extension to the Completion Date of this AGREEMENT for a period longer than 6 months, the annual contract adjustment rate shall apply and an additional Contract Period will be established.

In accordance with DEPARTMENT policy, the maximum direct labor rate allowed for all labor classifications under this AGREEMENT shall be \$50.00 per hour (including annual contract adjustment rate) for the life of the Contract.

CONTRACT LABOR RATES (PER HOUR)

<u>Classification</u>	<u>Base Period</u>	<u>Contract Period 2</u>	<u>Contract Period 3</u>
Environmental Manager	\$49.55	\$51.04	\$52.57
Senior Wetland Scientist	\$36.55	\$37.66	\$38.78
Wetland Scientist	\$28.43	\$29.28	\$30.16
Technician	\$23.12	\$23.81	\$24.53
Typist/data entry	\$19.43	\$20.01	\$20.61

3. Annual Contract Adjustment Rate -- The Contract Labor Rates for each one-year contract period after the initial contract base period shall include the annual contract adjustment rate. For this AGREEMENT, the annual contract adjustment rate for each one-year Contract Period after the initial base period is 3.0%.
4. Overhead Factor - Not applicable to this AGREEMENT.
5. Fixed Fee - A fixed fee for profit and non-reimbursed costs shall be a negotiated amount for each Task Order based on the estimated risk to be borne by the CONSULTANT [maximum 10.00% of Labor Costs (including overhead)]. The fixed fee may only be adjusted (increased or decreased) if there is a significant change in the scope or character of the work, as determined by the DEPARTMENT. Any change to the fixed fee shall be documented in writing by a DEPARTMENT Bureau-level amendment. Upon satisfactory completion of the Task Order, the CONSULTANT will be paid the originally-negotiated or amended amount of the fixed

## ARTICLE II

fee, regardless of whether the actual number of hours used to complete the Task Order is less or more than the originally-negotiated or amended number of hours.

6. Direct Expenses - Direct expenses shall be negotiated as a not-to-exceed amount for each Task Order and reimbursed at actual cost. Reimbursable direct expense items include work such as borings, laboratory tests, field survey, special electronic computer services, services of other specialists, printing, photogrammetry, traffic counts, reproductions, and travel not included in normal overhead expenses whether performed by the CONSULTANT or other parties and shall be billed at actual cost. The reimbursable costs for mileage and for per diem (lodging and meals) shall be that allowed by the CONSULTANT'S established policy but shall not exceed that allowed in the Federal Acquisition Regulations (Subpart 31.205-46) and in the Federal Travel Regulations. The General Services Administration (GSA), Regulation 41 CFR Part 301-4, specifies the FTR automobile mileage reimbursement. Mileage and per diem costs shall be subject to approval by the DEPARTMENT.
7. Subconsultant Costs - Subconsultant costs may be either negotiated as a not-to-exceed amount for each Task Order and reimbursed at actual cost or negotiated as a lump-sum amount.

### D. LUMP-SUM FORMAT

1. Task Order Cost - The negotiated total amount of each lump-sum format Task Order will be considered full compensation for all services for the Task Order performed to the satisfaction of the DEPARTMENT. Said lump-sum amount includes all labor, overhead, profit (maximum 15.00% of total labor + total overhead; based on the estimated risk to be borne by the CONSULTANT), direct expenses, and subconsultant costs. The lump-sum amount may only be adjusted (increased or decreased) if there is a significant change in the scope or character of the work, as determined by the DEPARTMENT. Any change to the lump-sum amount shall be documented in writing by a DEPARTMENT Bureau-level amendment.

### E. SUBCONSULTANT SUPPORTING SERVICES

(Subconsultant Supporting Services were not anticipated during negotiations for this AGREEMENT.)

### F. INVOICING and PAYMENT

The CONSULTANT shall submit two copies of invoices to the DEPARTMENT containing the following:

- (a) Task Order number, project name and number (if applicable);
- (b) Number, description, and cost of each item being billed (modified cost-plus-fixed-fee format);
- (d) Quantity delivered/Percentage completed this billing period of each item being billed;
- (e) Amount due for each item being billed (modified cost-plus-fixed-fee format);
- (f) Invoice amount/Total due
- (g) Amount billed through this invoice (contract cumulative)

## ARTICLE II

### (h) Percentage of contract complete

The DEPARTMENT will compensate the CONSULTANT the amount agreed to for said Task Order upon the satisfactory completion and acceptance of the work. Payments will be made upon approval of the submittals/deliverables by the DEPARTMENT. The CONSULTANT may request partial payment for each separate Task Order, provided that no successive request for partial payment is submitted closer than 28 days. A progress report, a proper invoice, and, if requested by the DEPARTMENT, a copy of the plans and other supporting data, shall be submitted with each request for partial payment. A progress report shall be prepared and submitted by the CONSULTANT every thirty (30) days with each invoice requesting a partial payment for all Task Orders that exceed 60 days in length. Upon satisfactory completion and acceptance of the work for each individual Task Order, the CONSULTANT may submit a proper invoice to request final payment.

### G. RECORDS - REPORTS

The CONSULTANT shall maintain adequate cost records for all work performed under this AGREEMENT. All records and other evidence pertaining to cost incurred shall be made available at all reasonable times during the AGREEMENT period and for three (3) years from the date of final voucher payment for examination by the STATE, Federal Highway Administration, or other authorized representatives of the Federal Government, and copies thereof shall be furnished if requested. Applicable cost principles are contained in the Federal Acquisition Regulation (FAR) in Title 48 of the Code of Federal Regulations (Subpart 31.2 and Subpart 31.105).

The DEPARTMENT shall have the right, at the time of audit, to review all items charged to overhead on this project. If, in the opinion of the DEPARTMENT, such payment is unreasonable, the CONSULTANT shall be required to justify such payment or payments before they will be approved as direct or indirect costs.

All costs as described in the foregoing paragraphs are to be determined by actual records kept during the term of the AGREEMENT, which are subject to audit by the STATE and Federal Governments. The final payment, and all partial payments made, may be adjusted to conform to this final audit. In no case will any adjustments exceed the total amount to be paid shown in Article II, Section A – Agreement General Fee. All Subconsultant costs may also be subject to audit by the STATE and Federal Governments.

ARTICLE III

ARTICLE III - GENERAL PROVISIONS

A. HEARINGS, ETC.

(Not applicable to this AGREEMENT)

B. CONTRACT PROPOSALS

(Not applicable to this AGREEMENT)

## ARTICLE IV

### ARTICLE IV – STANDARD PROVISIONS

#### A. STANDARD SPECIFICATIONS

The CONSULTANT agrees to follow the provisions of the current Design Manuals of the DEPARTMENT, Standard Specifications for Road and Bridge Construction and Standard Plans for Road and Bridge Construction of the DEPARTMENT, and the current LRFD Bridge Design Specifications of the American Association of State Highway and Transportation Officials (AASHTO) and amendments thereto, or other professional codes or standards applicable to the services to be performed under this AGREEMENT. When a publication (including interim publications) is specified, it refers to the most recent date of issue in effect at the time of execution of this AGREEMENT.

#### B. REVIEW BY STATE AND FHWA - CONFERENCES - INSPECTIONS

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

The location of the office where the work will be available for inspection by STATE and Federal Highway Administration representatives is 240 Mechanic Street, Suite 100, Lebanon, New Hampshire 03766.

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

#### C. EXTENT OF CONTRACT

##### 1. Contingent Nature of Agreement

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

##### 2. Termination

The DEPARTMENT shall have the right at any time, and for any cause, to terminate the work required of the CONSULTANT by this AGREEMENT by written notice of such termination provided to the CONSULTANT by the DEPARTMENT, and, in the event of such a termination of this AGREEMENT without fault on the part of the CONSULTANT, the CONSULTANT shall be entitled to compensation for all work theretofore satisfactorily performed, pursuant to this AGREEMENT, such compensation to

## ARTICLE IV

be fixed, insofar as possible, based upon the work performed prior to termination. If no contract or contracts for construction of the project contemplated by this AGREEMENT is (are) entered into within two (2) years after satisfactory completion of the services outlined in Article I, all of the services contemplated by this AGREEMENT shall be deemed to have been completed.

It shall be a breach of this AGREEMENT if the CONSULTANT shall fail to render timely the services required under this AGREEMENT, in accordance with sound professional principles and practices, to the reasonable satisfaction of the DEPARTMENT, or shall be in such financial condition as to be unable to pay its just debts as they accrue, or shall make an assignment for the benefit of creditors, or shall be involved in any proceeding, voluntary or involuntary, resulting in the appointment of a receiver or trustee over its affairs, or shall become dissolved for any cause. In the event of the happening of any one or more of the foregoing contingencies, or upon the substantial breach of any other provisions of this AGREEMENT by the CONSULTANT, its officers, agents, employees, and subconsultants, the DEPARTMENT shall have the absolute right and option to terminate this AGREEMENT forthwith, and, in addition, may have and maintain any legal or equitable remedy against the CONSULTANT for its loss and damages resulting from such breach or breaches of this AGREEMENT; provided, however, that as to all plans, drawings, tracings, estimates, specifications, reports, proposals, sketches, diagrams, and calculations, together with all material and data theretofore furnished to the DEPARTMENT by the CONSULTANT, of a satisfactory nature in accordance with this AGREEMENT, which plans, drawings, tracings, etc., are of use to the DEPARTMENT, the CONSULTANT shall be entitled to a credit, based on the contract rate for the work so performed in a satisfactory manner and of use and benefit to the DEPARTMENT.

### D. REVISIONS TO REPORTS, PLANS OR DOCUMENTS

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

Furthermore, prior to final approval of plans, specifications, estimates, reports, or documents by the DEPARTMENT, the CONSULTANT shall make such revisions of them as directed by the DEPARTMENT, without additional compensation therefore, except as hereinafter provided:

1. If, after its written approval thereof, the DEPARTMENT shall require changes to the plans or documents that revise engineering or other factors specifically approved, thereby necessitating revisions of the contract plans or documents, or,
2. When applicable, if during the term of this AGREEMENT, a revision of the alignment is ordered by the DEPARTMENT to the extent that the revised alignment will lie completely or partially outside the limit

## ARTICLE IV

of the survey data plotted by the CONSULTANT (this does not apply to those adjustments and refinements to the alignments anticipated under the scope of work), or,

3. If, after approval by the DEPARTMENT of the final contract plans or documents, the CONSULTANT shall be ordered in writing by the DEPARTMENT to make revisions, or to perform services other than those necessary to adapt said plans, reports, or documents to conditions observed during field inspections and encountered during construction; the CONSULTANT shall be entitled to compensation therefore in accordance with Article II, Section B, such compensation to be in addition to the fee specified in Article II, Section A, for its original work on the plans, reports or documents.

### E. ADDITIONAL SERVICES

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

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

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

### F. OWNERSHIP OF PLANS

All data, plans, drawings, tracings, estimates, specifications, proposals, sketches, diagrams, calculations, reports, or other documents collected, prepared, or undertaken either manually or electronically by the CONSULTANT under the provisions of this AGREEMENT, immediately shall become the property of the DEPARTMENT, and, when completed, shall bear the CONSULTANT'S endorsement. The CONSULTANT shall surrender to the DEPARTMENT, upon demand at any time, or submit to its inspection, any data, plan, drawing, tracing, estimate, specification, proposal, sketch, diagram, calculation, report, or document which shall have been collected, prepared, or undertaken by the CONSULTANT pursuant to this AGREEMENT, or shall have been hitherto furnished to the CONSULTANT by the DEPARTMENT. The CONSULTANT shall have the right, with the written approval of the DEPARTMENT, to use any of the data prepared by it and hitherto delivered to the DEPARTMENT at any later stage of the project contemplated by this AGREEMENT.

## ARTICLE IV

### G. SUBLETTING

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

All subcontracts shall be in writing and those exceeding \$10,000 shall contain all provisions of this AGREEMENT, including "Certification of CONSULTANT/Sub consultant". For sub consultants working on wetland evaluations, mapping, noise studies and air-quality studies, the minimum limits of their professional liability (errors and omissions) insurance coverage shall be not less than \$1,500,000 in the aggregate. If coverage is claims made, the period to report claims shall extend for not less than three years from the date of substantial completion of the construction contract. No retention (deductible) shall be more than \$25,000. A copy of each subcontract shall be submitted for the DEPARTMENT'S files.

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

The CONSULTANT shall comply with all Federal, STATE, and local laws and ordinances applicable to any of the work involved in this AGREEMENT and shall conform to the requirements and standards of STATE, municipal, railroad, and utility agencies whose facilities and services may be affected by the construction of this project. The services shall be performed so as to cause minimum interruption to said facilities and services.

### I. BROKERAGE

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

### J. CONTRACTUAL RELATIONS

#### 1. Independent Contractor

The CONSULTANT agrees that its relation to the STATE is as an independent contractor and not as an agent or employee of the STATE.

#### 2. Claims and Indemnification

##### a. Non-Professional Liability Indemnification

## ARTICLE IV

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

b. Professional Liability Indemnification

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

- c. These covenants shall survive the termination of the AGREEMENT. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the STATE, which immunity is hereby reserved by the STATE.

3. Insurance

a. Required Coverage

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

1. Commercial or comprehensive general liability insurance, including contractual coverage, for all claims of bodily injury, death, or property damage, in policy amounts of not less than \$250,000 per occurrence and \$2,000,000 in the aggregate (STATE to be named as an additional insured); and
2. comprehensive automobile liability insurance covering all motor vehicles, including owned, hired, borrowed, and non-owned vehicles, for all claims of bodily injury, death, or property damage, in policy amounts of not less than \$500,000 combined single limit; and
3. professional liability (errors and omissions) insurance coverage of not less than \$2,000,000 in the aggregate. If coverage is claims made, the period to report claims shall extend for not less than three years from the date of substantial completion of the construction contract. No retention (deductible) shall be more than \$75,000; and
4. workers' compensation and employer's liability insurance as required by law.

b. Proof of Insurance

The policies described in paragraph (a) of this section and Section G shall be in the standard form employed in the STATE, issued by underwriters licensed or approved by the Department of Insurance of the STATE. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than 30 days, or 10 days in cases of non-payment of premium,

## ARTICLE IV

after written notice thereof has been received by the STATE. The CONSULTANT shall provide to the STATE a certificate of insurance evidencing the required coverages, retention (deductible), and cancellation clause prior to submittal of the AGREEMENT to Governor and Council for approval and shall have a continuing duty to provide new certificates of insurance as the policies are amended or renewed.

### 4. No Third-Party Rights

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

### 5. Construction of Agreement

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

## K. AGREEMENT MODIFICATION

The assignment of the CONSULTANT, generally established by the scope of work in this AGREEMENT, shall not be modified in any way without prior approval of the Governor and Council.

## L. EXTENSION OF COMPLETION DATE(S)

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

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

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

### 1. Compliance with Regulations

## ARTICLE IV

The CONSULTANT shall comply with Title VI of the Civil Rights Act of 1964 regulations relative to nondiscrimination in federally-assisted programs of the DEPARTMENT, such regulations entitled Title 49 Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the REGULATIONS), and which are herein incorporated by reference and made a part of this AGREEMENT.

### 2. Nondiscrimination

The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, religion, age, sex, handicap, sexual orientation, or national origin in the selection and retention of sub consultants, including procurements of materials and leases of equipment specific to this project. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.

### 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment

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

### 4. Information and Reports

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

### 5. Sanctions for Noncompliance

In the event of the CONSULTANT'S noncompliance with nondiscrimination provisions of this AGREEMENT, the DEPARTMENT shall impose sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies; and/or

## ARTICLE IV

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

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

### N. DISADVANTAGED BUSINESS ENTERPRISE POLICY AGREEMENT REQUIREMENTS

#### 1. Policy

It is the policy of the United States Department of Transportation (USDOT) to ensure nondiscriminatory opportunity for Disadvantaged Business Enterprises (DBE's), as defined in 49 Code of Federal Regulations (CFR) Part 26, to participate in the performance of agreements and any sub agreements financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 apply to this AGREEMENT.

#### 2. Disadvantaged Business Enterprise (DBE) Obligation

The STATE and its CONSULTANTS agree to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 CFR Part 26, to participate in the performance of agreements and any sub agreements financed in whole or in part with Federal funds. In this regard, the STATE and its CONSULTANTS shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the opportunity to compete for and perform work

## ARTICLE IV

specified in the agreements. The STATE and its CONSULTANTS shall not discriminate on the basis of race, color, religion, age, sex, handicap, sexual orientation, or national origin in the award and performance of agreements financed in whole or in part with Federal funds.

### 3. Sanctions for Non-Compliance

The CONSULTANT is hereby advised that failure of the CONSULTANT, or any Sub consultant performing work under this AGREEMENT, to carry out the requirements set forth in paragraphs 1 and 2 above, shall constitute a breach of agreement and, after the notification of the United States Department of Transportation, may result in termination of this AGREEMENT by the STATE or such remedy as the STATE deems appropriate.

### O. DOCUMENTATION

The CONSULTANT shall document the results of the work to the satisfaction of the DEPARTMENT and the Federal Highway Administration. This shall include preparation of progress reports, plans, specifications, and estimates and similar evidences of attainment of objectives called for in this AGREEMENT.

### P. CLEAN AIR AND WATER ACTS

If the amount of the AGREEMENT or subcontract there under exceeds \$100,000, the CONSULTANT or subconsultant shall comply with applicable standards, orders, or requirements issued under Section 306 of the Federal Clean Air Act (43 U.S.C. 1857(h)), Section 508 of the Federal Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants, or loans of facilities included on the EPA List of Violating Facilities. The CONSULTANT or subconsultant shall report violations to the FHWA and to the U. S. Environmental Protection Agency Assistant Administrator for Enforcement (EN-329).

Attachment 1

CERTIFICATION WITH REGARD TO THE PERFORMANCE OF  
PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO  
THE EQUAL OPPORTUNITY CLAUSE AND THE FILING OF REQUIRED REPORTS

The CONSULTANT CB, proposed subconsultant \_\_\_\_\_, hereby certifies that it has \_\_\_\_\_, has not CB, participate in previous contract or subcontract subject to the equal opportunity clause, as required by Executive Order 11246 and that has \_\_\_\_\_, has not CB, with Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Stoney Ledge Environmental LLC  
(Company)  
By: [Signature]  
Managing Member / Principal  
(Title)

Date: 4/30/13

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1), and must be submitted by consultants and proposed subconsultants only in connect with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime consultants and subconsultants who have participated in a previous contract or subcontract subject to the Executive orders and have not filed the required reports should not that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontract unless such consultant submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

(Revised: June, 1980) NOTE: TO BE COMPLETED BY CONSULTANT WHEN SIGNING AGREEMENT.

*Attachment 2*

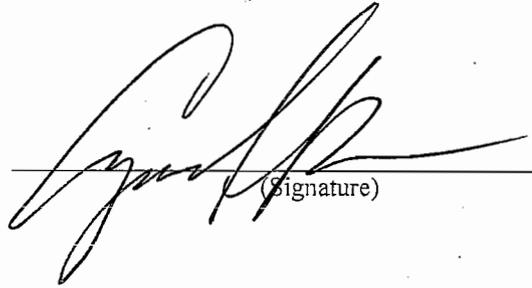
**CONSULTANT DISCLOSURE STATEMENT  
FOR PREPARATION OF  
ENVIRONMENTAL EVALUATIONS**

I hereby affirm that I have read and reviewed the CEQ regulation [40 CFR 1506.5(C)] and related guidance issued by CEQ and that pursuant thereto this firm has no financial or other interest in the outcome of this project.

I further hereby affirm that the information provided herein is true and correct and acknowledge that any knowingly false statement or false representative as to any material part contained herein may subject me to a fine and/or imprisonment, pursuant to pertinent provisions of the United States Code.

4/30/13

(Date)

A handwritten signature in black ink, appearing to be "John P. Smith", written over a horizontal line.

(Signature)

CERTIFICATION OF CONSULTANT/SUBCONSULTANT

I hereby certify that I am the Managing Member/Principal and duly-authorized representative of the firm of Stoney Ridge Environmental LLC and that neither I nor the above firm I here represent has:

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

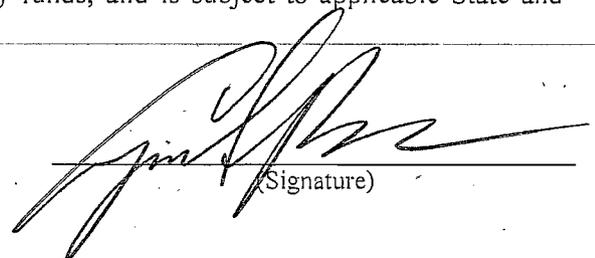
I/WE do also, under penalty of perjury under the laws of the United States, certify that except as noted below, the company or any person associated therewith in the capacity of (owner, partner, director, officer principal investigator, project director, manager, auditor, or any position involving the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

except as here expressly stated (if any):

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

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

4/30/13  
(Date)

  
(Signature)

CERTIFICATION OF STATE DEPARTMENT OF TRANSPORTATION

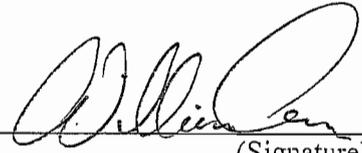
William J. Cass, P.E.  
Director of Project Development  
NH DOT

I hereby certify that I am the \_\_\_\_\_ of  
the Department of Transportation of the State of New Hampshire, and the above consulting firm or its  
representatives has not been required, directly or indirectly, as an express or implied condition in  
connection with obtaining or carrying out this  
Contract, to:

- (a) employ or retain, or agree to employ to retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee contribution, donation, or  
consideration of any kind:

except as her expressly stated (if any):

5/24/13  
(Date)

  
(Signature)

*Attachment 5*

**CERTIFICATION FOR FEDERAL-AID CONTRACTS  
EXCEEDING \$100,000 IN FEDERAL FUNDS**

The prospective participant certifies, by signing and submitting this agreement, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan. The entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with instructions.

This certification is a material representation of fact upon which reliance was placed when the transaction was made or entered into. Submission of this certification is prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower-tier subcontracts which exceed \$100,00 and that all such subrecipients shall certify and disclose accordingly.

Attachment 6

IN WITNESS WHEREOF the parties hereto have executed this AGREEMENT on the day and year first above written.

(SEAL)

Consultant

CONSULTANT

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

(Title)

*[Handwritten Signature]*  
\_\_\_\_\_  
*Managing Member/Principal*  
\_\_\_\_\_  
Dated: 4/30/13

Department of Transportation

THE STATE OF NEW HAMPSHIRE

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

*[Handwritten Signature]*  
\_\_\_\_\_  
William J. Cass, P.E.  
Director of Project Development  
\_\_\_\_\_  
DOT COMMISSIONER

Dated: \_\_\_\_\_

5/24/13

Attorney General

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

Dated: \_\_\_\_\_

6/7/13

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

*[Handwritten Signature]*  
\_\_\_\_\_  
Assistant Attorney General  
John S. Conforti

Secretary of State

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

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_

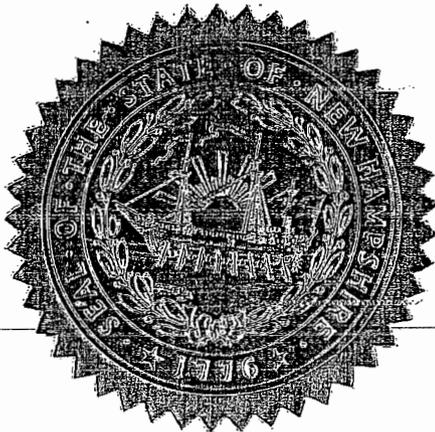
By: \_\_\_\_\_

# 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 Stoney Ridge Environmental LLC is a New Hampshire limited liability company formed on August 10, 2007. I further certify that it is in good standing as far as this office is concerned, having filed the annual report(s) and paid the fees required by law; and that a certificate of cancellation has not been filed.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 6<sup>th</sup> day of May, A.D. 2013

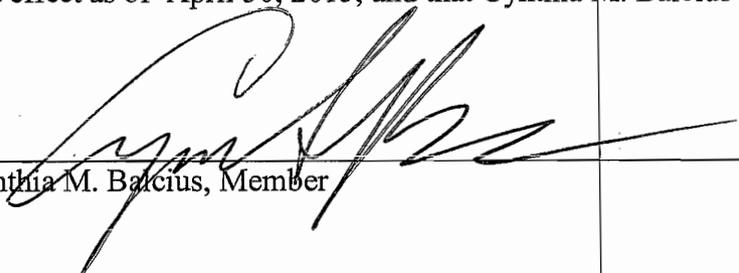
A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

**STONEY RIDGE ENVIRONMENTAL LLC**  
**Certificate of Vote**

I, Cynthia M. Balcius, hereby certify that I am duly elected Sole Member of Stoney Ridge Environmental LLC and as such, have full authority for the LLC.

I hereby certify that this election has not been amended or repealed and remains in full force and effect as of April 30, 2013, and that Cynthia M. Balcius remains the Sole Member.

  
Cynthia M. Balcius, Member

4/30/13  
Date







# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/13/2013

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).

<b>PRODUCER</b> Derry office Brownell Insurance Center, Inc. 5 Nashua Rd. Londonderry, NH 03038	<b>CONTACT NAME:</b> Rick J...	
	<b>PHONE (A/C, No, Ext):</b> (603)437-1992	<b>FAX (A/C, No):</b> (603)437-4846
<b>E-MAIL ADDRESS:</b> rickir@brownellinsurance.com		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURER A :</b>		
<b>INSURER B :</b> Maine Mutual Group		
<b>INSURER C :</b>		
<b>INSURER D :</b>		
<b>INSURER E :</b>		
<b>INSURER F :</b>		

**INSURED**  
 Stoney Ridge Environmental, LLC  
 229 Prospect Mountain Road  
 Alton, NH.03809.

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC.						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
B	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X		KA0117779	5/3/2013	5/3/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 500,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA-LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

**CERTIFICATE HOLDER****CANCELLATION**

NHDOT - New Hampshire Dept. of Transportation  
 7 Hazen Drive  
 P.O. Box 483  
 Concord, NH 03302

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

STATEWIDE ON-CALL  
ENVIRONMENTAL WETLAND SERVICES

TABLE OF CONTENTS

PREAMBLE.....	1
<b>ARTICLE I - DESCRIPTION OF PROFESSIONAL SERVICES TO BE RENDERED .....</b>	<b>2</b>
A. DESCRIPTION OF SERVICES.....	2
B. SCOPE OF WORK.....	2
1. Wetlands Delineation .....	2
2. Wetland Mitigation.....	3
3. Stream Crossing Assessment.....	3
4. Monitoring of Wetland and/or Stream Restoration Mitigation Sites .....	3
5. Invasive Species Delineation.....	4
6. Rare Plants / Endangered Species Investigations .....	4
C. STAFFING .....	4
D. QUALITY CONTROL.....	4
E. TASK ORDERS .....	5
F. MATERIAL FURNISHED BY THE DEPARTMENT OF TRANSPORTATION .....	5
G. WORK SCHEDULE AND PROGRESS REPORTS .....	5
H. SUBMISSION OF REPORTS, PLANS AND DOCUMENTS.....	6
I. DELIVERABLES.....	6
<b>ARTICLE II - COMPENSATION OF CONSULTANT FOR ON-CALL SERVICES</b>	
<b>AGREEMENTS .....</b>	<b>8</b>
A. AGREEMENT GENERAL FEE.....	8
B. METHOD OF COMPENSATION FOR TASK ORDERS .....	8
C. MODIFIED COST-PLUS-FIXED-FEE FORMAT.....	8
D. LUMP-SUM FORMAT.....	10
E. SUBCONSULTANT SUPPORTING SERVICES.....	10
F. INVOICING AND PAYMENT .....	10
G. RECORDS - REPORTS .....	11
<b>ARTICLE III - GENERAL PROVISIONS.....</b>	<b>12</b>
A. HEARINGS, ETC.....	12
B. CONTRACT PROPOSALS .....	12
<b>ARTICLE IV - STANDARD PROVISIONS.....</b>	<b>13</b>
A. STANDARD SPECIFICATIONS .....	13
B. REVIEW BY STATE AND FHWA - CONFERENCES - INSPECTIONS .....	13
C. EXTENT OF CONTRACT .....	13
1. Contingent Nature of Agreement.....	13
2. Termination.....	13
D. REVISIONS TO REPORTS, PLANS OR DOCUMENTS.....	14
E. ADDITIONAL SERVICES.....	15
F. OWNERSHIP OF PLANS .....	15
G. SUBLETTING.....	16

H. GENERAL COMPLIANCE WITH LAWS, ETC.....	16
I. BROKERAGE.....	16
J. CONTRACTUAL RELATIONS .....	16
1. Independent Contractor.....	16
2. Claims and Indemnification .....	16
3. Insurance .....	17
4. No Third-Party Rights.....	18
5. Construction of Agreement.....	18
K. AGREEMENT MODIFICATION.....	18
L. EXTENSION OF COMPLETION DATE(S).....	18
M. TITLE VI (NONDISCRIMINATION OF FEDERALLY-ASSISTED PROGRAMS) COMPLIANCE.....	18
N. DISADVANTAGED BUSINESS ENTERPRISE POLICY AGREEMENT REQUIREMENTS	20
1. Policy.....	20
2. Disadvantaged Business Enterprise (DBE) Obligation .....	20
3. Sanctions for Non-Compliance .....	21
O. DOCUMENTATION .....	21
P. CLEAN AIR AND WATER ACTS .....	21

ATTACHMENTS

1. CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS, ETC.
2. CONSULTANT DISCLOSURE STATEMENT FOR PREPARATION OF ENVIRONMENTAL EVALUATIONS
3. CERTIFICATION OF CONSULTANT/SUB CONSULTANT
4. CERTIFICATION OF STATE DEPARTMENT OF TRANSPORTATION
5. CERTIFICATION FOR FEDERAL-AID CONTRACTS EXCEEDING \$100,000 IN FEDERAL FUNDS
6. SEAL-AND-SIGNATURE PAGE
7. CERTIFICATION OF AUTHORITY / VOTE
8. CERTIFICATION OF GOOD STANDING
9. CERTIFICATION OF INSURANCE

STATEWIDE ON-CALL  
ENVIRONMENTAL WETLAND SERVICES

AGREEMENT  
FOR PROFESSIONAL SERVICES

PREAMBLE

THIS AGREEMENT made this 9 day of May in the year 2013 by and between the STATE OF NEW HAMPSHIRE, hereinafter referred to as the STATE, acting by and through its COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the COMMISSIONER, acting under Chapter 228 of the Revised Statutes Annotated, and Gove Environmental Services, with principal place of business at 8 Continental Dr., Bldg 2, Unit H, in the Town of Exeter, State of New Hampshire, hereinafter referred to as the CONSULTANT, witnesses that

The Department of Transportation, State of New Hampshire, hereinafter referred to as the DEPARTMENT, requires on-call environmental / wetland related services for various projects and facilities located throughout the STATE.

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

## ARTICLE I

### ARTICLE I - DESCRIPTION OF PROFESSIONAL SERVICES TO BE RENDERED

NOW THEREFORE, in consideration of the undertakings of the parties hereinafter set forth, the DEPARTMENT hereby engages the CONSULTANT, who agrees to render services to the DEPARTMENT which shall include, but not be restricted to, the following items, in accordance with conditions and terms hereinafter set forth:

#### A. DESCRIPTION OF SERVICES

The types of services required under the terms of this AGREEMENT shall generally include, but are not necessarily limited to providing environmental analyses and/or related technical services for various projects or stages of projects and/or environmental documents located throughout the State, and related support services.

#### B. SCOPE OF WORK

##### 1. Wetlands Delineation

This task involves the delineation of wetlands, assessment of wetlands functions and values, completion of wetlands reports, preparing permit applications, such as for a NHDES Wetlands and/or Shoreland Permit, and coordination with Natural Resource agencies as necessary and as directed by the DEPARTMENT.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Delineate wetlands within the project area in accordance with the *US Army Corps of Engineers Wetlands Delineation Manual* (Jan 1987) and *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region* (Version 2.0, January 2012). Utilizing *Field Indicators of Hydric Soils in the United States* (Version 7.0, 2010), the *National List of Plant Species that Occur in Wetlands: Northeast (Region 1)* (May 1988), and *Classification of Wetlands and Deepwater Habitats of the United States* (Cowardin, 1979) as reference standards.
- Gather descriptive information, site sketch, and photographs of the wetlands within the project area.
- Flag delineated wetlands within the project area. Label flags with an alphanumeric sequence.
- GPS flag locations, as appropriate, and provide electronic files compatible with NH Department of Transportation's criteria (MicroStation and GIS).
- Assess Functions and Values using the US Army Corps of Engineers' *Highway Methodology Workbook Supplement* (November 1995) and best professional judgment.
- Prepare a Wetlands Delineation Report that identifies the locations of the delineated wetlands, identifies their classification, discusses the Functions and Values of the jurisdictional wetland areas, and identifies the flagging numbering system.
- Meet, as necessary, with Federal and State Natural Resource Agencies to discuss the findings and the evaluation of wetlands and/or to field-review areas of environmental concerns.
- Complete the NH Department of Environmental Services' Standard Dredge and Fill and/or Shoreland Permit applications.

## ARTICLE I

### 2. Wetland Mitigation

This task involves the investigation, development and/or refinement of wetland mitigation options necessitated as compensation for unavoidable wetland impacts associated with highway projects.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Investigate potential sites, which would compensate for unavoidable impacts to jurisdictional wetlands and loss of their functions and values resulting from the proposed highway project.
- Prepare a Potential Wetland Mitigation Assessment Report that identifies and evaluates mitigation sites. The Report will detail the potential acreages of preservation, restoration or creation, and the functions and values replication potentials at each site. The report will also detail the potential use of an in-lieu fee paid to the NHDES Aquatic Resource Mitigation (ARM) Fund.
- Coordinate with project engineers to provide conceptual sketch for wetland creation sites, which may include preparation of a wetland mitigation technical report, containing information required by the US Army Corps of Engineers' current "Regulatory Guidance Letter" and "Mitigation Plan Checklist".
- Meet, as necessary, with Natural Resource Agencies, local officials, and/or concerned parties to discuss the findings and the evaluations of the wetland mitigation sites and/or to field review these potential areas.

### 3. Stream Crossing Assessment

This task involves the investigation, assessment, data collection and technical report preparation of the evaluation of stream crossings.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Perform assessments, data collection and all necessary documentation for a stream crossing in accordance with the NH Department of Environmental Services' Stream Crossing Rules (Chapter *Env-Wt 900*).

### 4. Monitoring of Wetland and/or Stream Restoration Mitigation Sites

This task involves field personnel inspecting of Wetland and/or Stream Restoration Mitigation construction sites and directing the DEPARTMENT's Contractor in the successful completion of a created mitigation to achieve the stated functions of the Mitigation Technical Report.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Monitor wetland mitigation sites (creation, restoration and preservation) in accordance with conditions detailed in the US Army Corps of Engineers' Section 404 Permit and the NH Wetlands Bureau's Dredge and Fill Permit and in accordance with specific Wetland Mitigation Plans and Commitments.
- Be able to communicate effectively to manage the construction of all aspects of the Mitigation Plan with the DEPARTMENT's contractor. Coordinate actions to ensure the work is being performed in accordance with the Plan.

## ARTICLE I

- Review, document and amend the Mitigation Design based on unanticipated field conditions in consultation with the DEPARTMENT and/or permitting agencies, as needed.
- Oversee remedial actions required to ensure the establishment of a functioning mitigation site.
- Prepare Construction Monitoring Reports that evaluate the mitigation site construction.
- Monitor and assess the constructed mitigation site to assure the site is functioning as designed
- Prepare a Wetland Mitigation Monitoring Report for distribution to appropriate natural resource agencies, local officials and/or interested parties

### 5. Invasive Species Delineation

This task involves delineation of invasive species as necessary.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Delineate the location of invasive species within the project area. Identify species and extent of infestation.
- GPS locations and provide electronic files compatible with NH Department of Transportation's criteria (MicroStation and GIS).

### 6. Rare Plants / Endangered Species Investigations

This task involves the determination of the presence of rare plants, endangered species, exemplary natural communities or wildlife habitats as necessary and as directed by the DEPARTMENT.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Coordinate, as necessary, with the NH Natural Heritage Bureau, NH Fish & Game Department and/or US Fish and Wildlife Service to determine the presence of rare plants, endangered species, exemplary natural communities or wildlife habitats.
- Conduct plant surveys to determine location and extent of rare plant populations.
- Conduct habitat assessments and biological surveys to assess potential for or presence of endangered wildlife.

### C. STAFFING

The CONSULTANT shall furnish the DEPARTMENT with a list of qualified personnel including their labor classification, current direct-labor wage rates, and office location prior to entering into negotiations for this AGREEMENT. The CONSULTANT shall utilize the personnel approved by the DEPARTMENT during negotiations for this AGREEMENT for the performance of the work. If at any time the CONSULTANT is unable to use the personnel specified, it shall request approval from the DEPARTMENT to use other personnel. To obtain DEPARTMENT approval, the CONSULTANT shall request the substitution in writing and provide resumes for the new individuals at least 14 days in advance of the proposed substitutions, for review by the DEPARTMENT.

### D. QUALITY CONTROL

The CONSULTANT is expected to perform in a professional manner and all work shall be neat, well organized, fully comply with the requirements of this AGREEMENT and Task Orders, and meet the specified accuracy

## ARTICLE I

requirements. The DEPARTMENT will reject any data that does not comply with the above. The DEPARTMENT will decide when the data and services have fully met the project requirements. The CONSULTANT will not be paid for insufficient work.

### E. TASK ORDERS

As needs develop, the DEPARTMENT will issue specific Task Orders to the CONSULTANT. These Task Orders will be initiated by a Request for Proposal (RFP) letter that will include a detailed description of the project or elements of work, an outline of the services required, responsibilities of the parties, materials to be supplied by the DEPARTMENT (e.g., any investigations previously conducted for the project, such as an Initial Site Assessment) and other information necessary to complete the work for the Task Order. The CONSULTANT shall then submit to the DEPARTMENT for approval a scope of work and fee proposal that includes the names of all personnel to be assigned to the Task Order and a tentative work schedule for each Task Order assigned. The DEPARTMENT will review the CONSULTANT'S proposal and schedule negotiations, if necessary, to clarify the proposed scope of work (e.g., describe the level of hazardous materials investigation required and define the extent of work), discuss the personnel proposed, the number of work hours needed, and any other associated proposed costs in order to establish the final not-to-exceed or lump-sum amount for the Task Order. Upon approval of the CONSULTANT'S proposal by the DEPARTMENT and FHWA (if applicable), the DEPARTMENT will issue a Task Order Authorization to Proceed Letter. A conference may be required to turn over a Task Order to the CONSULTANT. Costs associated with the CONSULTANT'S preparation of a scope of work and fee for a Task Order are non-reimbursable.

### F. MATERIAL FURNISHED BY THE DEPARTMENT OF TRANSPORTATION

The DEPARTMENT will furnish the following data to the CONSULTANT:

1. Appropriate maps, plans and reports as available, for use by the CONSULTANT
2. Results from other investigations and studies
3. A right-of-entry permit, when necessary, obtained from the private property owners allowing access to the property and permission to perform testing and other necessary work.

### G. WORK SCHEDULE AND PROGRESS REPORTS

The CONSULTANT shall be aware that the services to be performed under this AGREEMENT will be on an as-needed basis. In addition, the CONSULTANT shall realize that emergency situations may arise that will require immediate response/action.

The CONSULTANT shall be available to begin performance of the services designated in the Contract promptly upon receipt from the DEPARTMENT of a Notice to Proceed Letter. The CONSULTANT shall complete

## ARTICLE I

the services required for each Task Order without delay unless unable to do so for causes not under the CONSULTANT'S control.

It is imperative that close coordination between the CONSULTANT and the DEPARTMENT be maintained at all times so as to ensure compliance with the DEPARTMENT'S requirements for specific Task Orders.

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

The CONSULTANT shall develop an acceptable reporting system capable of indicating project status on at least a monthly basis for all critical activities of the project. Monthly progress reports shall be submitted by the CONSULTANT to the DEPARTMENT, giving the percentage of completion of the work required by this AGREEMENT. These monthly progress reports shall be received by the DEPARTMENT by the 10<sup>th</sup> day of each month.

### H. SUBMISSION OF REPORTS, PLANS AND DOCUMENTS

Each CONSULTANT submission shall be supplemented with any material or descriptive matter necessary to facilitate a comprehensive review.

### I. DELIVERABLES

All work and supporting documents for Task Orders completed under this AGREEMENT shall be developed by the CONSULTANT and delivered to the DEPARTMENT according to the following formats:

**Electronic Transfer of Data:** The DEPARTMENT requires the following to ensure compatibility with software used by the DEPARTMENT and to ensure the efficient and timely exchange of computer files between the DEPARTMENT and the CONSULTANT.

All files submitted must be fully compatible with the formats listed in this document without any conversion or editing by the DEPARTMENT. Any files requiring conversion and/or editing by the DEPARTMENT will not be accepted. All files shall be virus free. All files shall use the DEPARTMENT'S file naming convention.

**Computer Aided Design/Drafting (CAD/D) files:** All CAD/D files shall be in accordance with the Deliverable Requirements described in the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time this AGREEMENT was executed, or any later version. All files submitted must be fully compatible with the current version of MicroStation being used by the DEPARTMENT. (The DEPARTMENT'S CAD/D Procedures and Requirements document can be found on the CAD/D website by following the "Downloads" link at [www.nh.gov/dot/cadd/](http://www.nh.gov/dot/cadd/).)

**Word Processing, Spreadsheet, and Database Files:** For each Phase, all relevant files shall be provided in a format fully compatible, as appropriate, with the following:

- o Word Processing: Microsoft Word 2003

## ARTICLE I

- o Spreadsheets: Microsoft Excel 2003
- o Databases: Microsoft Access 2003

These specifications will be updated as necessary to reflect changes in DEPARTMENT software such as adding new software or updating to new versions of existing software. In such instances, the CONSULTANT will be promptly notified.

**Computer File Exchange Media:** Electronic files shall be exchanged between the DEPARTMENT and the CONSULTANT using the following media as appropriate for Windows Operating Systems:

- o Compact Disc (CD): Files on CD(s) should be actual size, not compressed.
- o DVD: Files on DVD(s) should be actual size, not compressed.
- o Email: Files 1 MB or smaller may be transferred via Email. If compressed, the files should be self-extracting.

**Copies:** The CONSULTANT shall provide hard (paper) and electronic copies of the deliverables for each Phase of Work. For all deliverables, provide electronic copies in two electronic versions; an electronic version in the original electronic file format (i.e., MicroStation (\*.DGN), Microsoft Word (\*.DOC), Microsoft Excel (\*.XLS), etc.) and an electronic version in Adobe Acrobat (\*.PDF) file format.

Upon completion of the AGREEMENT, the CONSULTANT shall turn over all documentation, including, but not limited to, all reports, test results, drawings, plans, and all financial supporting documentation in the formats described above.

### **J. DATE OF COMPLETION**

The date of completion for the professional services rendered under this AGREEMENT is (DATE) unless terminated earlier upon the depletion of the total amount payable under this AGREEMENT, or extended as allowed by the following provision:

No new tasks may be assigned after (DATE). The CONSULTANT shall complete any tasks begun, but not completed prior to (DATE) in accordance with the methods of compensation specified in Article II and all other applicable portions and contractual requirements of this Agreement. This shall be subject to the written mutual agreement of both parties, which shall include a revised Date of Completion to allow completion of the previously assigned work.

ARTICLE II

ARTICLE II - COMPENSATION OF CONSULTANT FOR ON-CALL SERVICES AGREEMENTS

A. AGREEMENT GENERAL FEE

In consideration of the terms and obligations of this AGREEMENT, the STATE, through the DEPARTMENT, hereby agrees to pay and the CONSULTANT agrees to accept as full compensation for the combined total cost of all work, expenses, and profit for Task Orders issued under this AGREEMENT, an amount not to exceed \$100,000. (The CONSULTANT shall note that no payments will be made for work, expenses, or profit, whether authorized or not, exceeding the \$100,000 total amount.)

B. METHOD OF COMPENSATION FOR TASK ORDERS

The method of compensation for Task Orders issued under this agreement will either be a **Modified Cost-Plus-Fixed-Fee** format with method of payment as described in Section C, below, or a **Lump-Sum** format with method of payment as described in Section D, below.

C. MODIFIED COST-PLUS-FIXED-FEE FORMAT

The following costing items are incorporated as part of this AGREEMENT:

1. **Task Order Cost** - The negotiated not-to-exceed cost of each modified cost-plus-fixed-fee format Task Order will be based on the types of labor classifications required along with the number of labor hours negotiated for each labor classification multiplied by the corresponding contract labor rate for the current contract period, and the other factors (fixed fee, direct expenses, and sub consultant costs) as follows:

Labor Costs (Sum of negotiated hours x contract labor rates)  
+ Fixed Fee (negotiated amount)  
+ Direct Expenses (estimated amount)  
+ Sub consultant Costs (estimated amount or lump sum)  

---

  
= Task Order Cost

2. **Contract Labor Rates** – The contract labor rates will be the total hourly wage for each labor classification including overhead and annual contract adjustment rate (when applicable) as follows:

Direct Labor Rate (\$/hr)  
+ Direct Labor Rate x Overhead Rate (%)  

---

  
= Contract Labor Rate (\$/hr) for Base Period (CLRBP)

CLRBP x Annual Contract Adjustment Rate (%) = Contract Labor Rate for Contract Period 2 (CLRCP2)

CLRCP2 x Annual Contract Adjustment Rate (%) = Contract Labor Rate for Contract Period 3 (CLRCP3)\*

\*Same formula for additional contract periods, when applicable.

The contract labor rates will be a firm-fixed-price per contract period. The originally negotiated contract labor rates for the labor classifications included in this AGREEMENT shall remain in effect for a one-year base period from the date that this AGREEMENT becomes effective. The rates for subsequent one-year periods include an

ARTICLE II

annual contract adjustment rate. However, contract labor rates that are in effect at the time a particular Task Order is issued shall remain effective throughout the duration of that Task Order and shall apply to all amendments issued for the Task Order. The contract labor rates for a Task Order will not be adjusted for the annual contract adjustment rate if the contract year changes during the duration of the Task Order.

(The annual contract adjustment rate is set by the DEPARTMENT'S Consultant Selection Committee at their first meeting in January of each year and will be used for all On-Call contracts negotiated during that calendar year.)

In the event that the Completion Date of this AGREEMENT is extended for a period of six months or less, either in accordance with the provisions included in Article I, Section J - Date of Completion, or by an amendment to the AGREEMENT, the contract labor rates for the last Contract Period shall remain in effect. For an extension to the Completion Date of this AGREEMENT for a period longer than 6 months, the annual contract adjustment rate shall apply and an additional Contract Period will be established.

In accordance with DEPARTMENT policy, the maximum direct labor rate allowed for all labor classifications under this AGREEMENT shall be \$50.00 per hour (including annual contract adjustment rate) for the life of the Contract.

**CONTRACT LABOR RATES (PER HOUR)**

<u>Classification</u>	<u>Base Period</u>	<u>Contract Period 2</u>	<u>Contract Period 3</u>
Environmental Manager	\$67.00	\$69.01	\$71.08
Senior Wetland Scientist	\$52.00	\$53.56	\$55.17
Wetland Scientist	\$34.00	\$35.02	\$36.07
Technician	\$32.00	\$32.96	\$33.95
Typist/data entry	\$16.00	\$16.48	\$16.97

3. **Annual Contract Adjustment Rate** – The Contract Labor Rates for each one-year contract period after the initial contract base period shall include the annual contract adjustment rate. For this AGREEMENT, the annual contract adjustment rate for each one-year Contract Period after the initial base period is 3.0%.
4. **Overhead Factor** - Not applicable to this AGREEMENT.
5. **Fixed Fee** - A fixed fee for profit and non-reimbursed costs shall be a negotiated amount for each Task Order based on the estimated risk to be borne by the CONSULTANT [maximum 10.00% of Labor Costs (including overhead)]. The fixed fee may only be adjusted (increased or decreased) if there is a significant change in the scope or character of the work, as determined by the DEPARTMENT. Any change to the fixed fee shall be documented in writing by a DEPARTMENT Bureau-level amendment. Upon satisfactory completion of the Task Order, the CONSULTANT will be paid the originally-negotiated or amended amount of the fixed

## ARTICLE II

fee, regardless of whether the actual number of hours used to complete the Task Order is less or more than the originally-negotiated or amended number of hours.

6. **Direct Expenses** - Direct expenses shall be negotiated as a not-to-exceed amount for each Task Order and reimbursed at actual cost. Reimbursable direct expense items include work such as borings, laboratory tests, field survey, special electronic computer services, services of other specialists, printing, photogrammetry, traffic counts, reproductions, and travel not included in normal overhead expenses whether performed by the CONSULTANT or other parties and shall be billed at actual cost. The reimbursable costs for mileage and for per diem (lodging and meals) shall be that allowed by the CONSULTANT'S established policy but shall not exceed that allowed in the Federal Acquisition Regulations (Subpart 31.205-46) and in the Federal Travel Regulations. The General Services Administration (GSA), Regulation 41 CFR Part 301-4, specifies the FTR automobile mileage reimbursement. Mileage and per diem costs shall be subject to approval by the DEPARTMENT.
7. **Sub consultant Costs** - Sub consultant costs may be either negotiated as a not-to-exceed amount for each Task Order and reimbursed at actual cost or negotiated as a lump-sum amount.

### D. LUMP-SUM FORMAT

1. **Task Order Cost** - The negotiated total amount of each lump-sum format Task Order will be considered full compensation for all services for the Task Order performed to the satisfaction of the DEPARTMENT. Said lump-sum amount includes all labor, overhead, profit (maximum 15.00% of total labor + total overhead; based on the estimated risk to be borne by the CONSULTANT), direct expenses, and sub consultant costs. The lump-sum amount may only be adjusted (increased or decreased) if there is a significant change in the scope or character of the work, as determined by the DEPARTMENT. Any change to the lump-sum amount shall be documented in writing by a DEPARTMENT Bureau-level amendment.

### E. SUB CONSULTANT SUPPORTING SERVICES

(Sub consultant Supporting Services were not anticipated during negotiations for this AGREEMENT.)

### F. INVOICING and PAYMENT

The CONSULTANT shall submit two copies of invoices to the DEPARTMENT containing the following:

- (a) Task Order number, project name and number (if applicable);
- (b) Number, description, and cost of each item being billed (modified cost-plus-fixed-fee format);
- (d) Quantity delivered/Percentage completed this billing period of each item being billed;
- (e) Amount due for each item being billed (modified cost-plus-fixed-fee format);
- (f) Invoice amount/Total due
- (g) Amount billed through this invoice (contract cumulative)

## ARTICLE II

### (h) Percentage of contract complete

The DEPARTMENT will compensate the CONSULTANT the amount agreed to for said Task Order upon the satisfactory completion and acceptance of the work. Payments will be made upon approval of the submittals/deliverables by the DEPARTMENT. The CONSULTANT may request partial payment for each separate Task Order, provided that no successive request for partial payment is submitted closer than 28 days. A progress report, a proper invoice, and, if requested by the DEPARTMENT, a copy of the plans and other supporting data, shall be submitted with each request for partial payment. A progress report shall be prepared and submitted by the CONSULTANT every thirty (30) days with each invoice requesting a partial payment for all Task Orders that exceed 60 days in length. Upon satisfactory completion and acceptance of the work for each individual Task Order, the CONSULTANT may submit a proper invoice to request final payment.

### G. RECORDS - REPORTS

The CONSULTANT shall maintain adequate cost records for all work performed under this AGREEMENT. All records and other evidence pertaining to cost incurred shall be made available at all reasonable times during the AGREEMENT period and for three (3) years from the date of final voucher payment for examination by the STATE, Federal Highway Administration, or other authorized representatives of the Federal Government, and copies thereof shall be furnished if requested. Applicable cost principles are contained in the Federal Acquisition Regulation (FAR) in Title 48 of the Code of Federal Regulations (Subpart 31.2 and Subpart 31.105).

The DEPARTMENT shall have the right, at the time of audit, to review all items charged to overhead on this project. If, in the opinion of the DEPARTMENT, such payment is unreasonable, the CONSULTANT shall be required to justify such payment or payments before they will be approved as direct or indirect costs.

All costs as described in the foregoing paragraphs are to be determined by actual records kept during the term of the AGREEMENT, which are subject to audit by the STATE and Federal Governments. The final payment, and all partial payments made, may be adjusted to conform to this final audit. In no case will any adjustments exceed the total amount to be paid shown in Article II, Section A – Agreement General Fee. All Sub consultant costs may also be subject to audit by the STATE and Federal Governments.

ARTICLE III

ARTICLE III - GENERAL PROVISIONS

A. HEARINGS, ETC.

(Not applicable to this AGREEMENT)

B. CONTRACT PROPOSALS

(Not applicable to this AGREEMENT)

## ARTICLE IV

### ARTICLE IV – STANDARD PROVISIONS

#### A. STANDARD SPECIFICATIONS

The CONSULTANT agrees to follow the provisions of the current Design Manuals of the DEPARTMENT, Standard Specifications for Road and Bridge Construction and Standard Plans for Road and Bridge Construction of the DEPARTMENT, and the current LRFD Bridge Design Specifications of the American Association of State Highway and Transportation Officials (AASHTO) and amendments thereto, or other professional codes or standards applicable to the services to be performed under this AGREEMENT. When a publication (including interim publications) is specified, it refers to the most recent date of issue in effect at the time of execution of this AGREEMENT.

#### B. REVIEW BY STATE AND FHWA - CONFERENCES - INSPECTIONS

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

The location of the office where the work will be available for inspection by STATE and Federal Highway Administration representatives is 240 Mechanic Street, Suite 100, Lebanon, New Hampshire 03766.

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

#### C. EXTENT OF CONTRACT

##### 1. Contingent Nature of Agreement

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

##### 2. Termination

The DEPARTMENT shall have the right at any time, and for any cause, to terminate the work required of the CONSULTANT by this AGREEMENT by written notice of such termination provided to the CONSULTANT by the DEPARTMENT, and, in the event of such a termination of this AGREEMENT without fault on the part of the CONSULTANT, the CONSULTANT shall be entitled to compensation for all work theretofore satisfactorily performed, pursuant to this AGREEMENT, such compensation to

## ARTICLE IV

be fixed, insofar as possible, based upon the work performed prior to termination. If no contract or contracts for construction of the project contemplated by this AGREEMENT is (are) entered into within two (2) years after satisfactory completion of the services outlined in Article I, all of the services contemplated by this AGREEMENT shall be deemed to have been completed.

It shall be a breach of this AGREEMENT if the CONSULTANT shall fail to render timely the services required under this AGREEMENT, in accordance with sound professional principles and practices, to the reasonable satisfaction of the DEPARTMENT, or shall be in such financial condition as to be unable to pay its just debts as they accrue, or shall make an assignment for the benefit of creditors, or shall be involved in any proceeding, voluntary or involuntary, resulting in the appointment of a receiver or trustee over its affairs, or shall become dissolved for any cause. In the event of the happening of any one or more of the foregoing contingencies, or upon the substantial breach of any other provisions of this AGREEMENT by the CONSULTANT, its officers, agents, employees, and sub consultants, the DEPARTMENT shall have the absolute right and option to terminate this AGREEMENT forthwith, and, in addition, may have and maintain any legal or equitable remedy against the CONSULTANT for its loss and damages resulting from such breach or breaches of this AGREEMENT; provided, however, that as to all plans, drawings, tracings, estimates, specifications, reports, proposals, sketches, diagrams, and calculations, together with all material and data theretofore furnished to the DEPARTMENT by the CONSULTANT, of a satisfactory nature in accordance with this AGREEMENT, which plans, drawings, tracings, etc., are of use to the DEPARTMENT, the CONSULTANT shall be entitled to a credit, based on the contract rate for the work so performed in a satisfactory manner and of use and benefit to the DEPARTMENT.

### D. REVISIONS TO REPORTS, PLANS OR DOCUMENTS

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

Furthermore, prior to final approval of plans, specifications, estimates, reports, or documents by the DEPARTMENT, the CONSULTANT shall make such revisions of them as directed by the DEPARTMENT, without additional compensation therefore, except as hereinafter provided:

1. If, after its written approval thereof, the DEPARTMENT shall require changes to the plans or documents that revise engineering or other factors specifically approved, thereby necessitating revisions of the contract plans or documents, or,
2. When applicable, if during the term of this AGREEMENT, a revision of the alignment is ordered by the DEPARTMENT to the extent that the revised alignment will lie completely or partially outside the limit

## ARTICLE IV

of the survey data plotted by the CONSULTANT (this does not apply to those adjustments and refinements to the alignments anticipated under the scope of work), or,

3. If, after approval by the DEPARTMENT of the final contract plans or documents, the CONSULTANT shall be ordered in writing by the DEPARTMENT to make revisions, or to perform services other than those necessary to adapt said plans, reports, or documents to conditions observed during field inspections and encountered during construction; the CONSULTANT shall be entitled to compensation therefore in accordance with Article II, Section B, such compensation to be in addition to the fee specified in Article II, Section A, for its original work on the plans, reports or documents.

### E. ADDITIONAL SERVICES

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

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

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

### F. OWNERSHIP OF PLANS

All data, plans, drawings, tracings, estimates, specifications, proposals, sketches, diagrams, calculations, reports, or other documents collected, prepared, or undertaken either manually or electronically by the CONSULTANT under the provisions of this AGREEMENT, immediately shall become the property of the DEPARTMENT, and, when completed, shall bear the CONSULTANT'S endorsement. The CONSULTANT shall surrender to the DEPARTMENT, upon demand at any time, or submit to its inspection, any data, plan, drawing, tracing, estimate, specification, proposal, sketch, diagram, calculation, report, or document which shall have been collected, prepared, or undertaken by the CONSULTANT pursuant to this AGREEMENT, or shall have been hitherto furnished to the CONSULTANT by the DEPARTMENT. The CONSULTANT shall have the right, with the written approval of the DEPARTMENT, to use any of the data prepared by it and hitherto delivered to the DEPARTMENT at any later stage of the project contemplated by this AGREEMENT.

## ARTICLE IV

### G. SUBLETTING

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

All subcontracts shall be in writing and those exceeding \$10,000 shall contain all provisions of this AGREEMENT, including "Certification of CONSULTANT/Sub consultant". For sub consultants working on wetland evaluations, mapping, noise studies and air-quality studies, the minimum limits of their professional liability (errors and omissions) insurance coverage shall be not less than \$1,500,000 in the aggregate. If coverage is claims made, the period to report claims shall extend for not less than three years from the date of substantial completion of the construction contract. No retention (deductible) shall be more than \$25,000. A copy of each subcontract shall be submitted for the DEPARTMENT'S files.

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

The CONSULTANT shall comply with all Federal, STATE, and local laws and ordinances applicable to any of the work involved in this AGREEMENT and shall conform to the requirements and standards of STATE, municipal, railroad, and utility agencies whose facilities and services may be affected by the construction of this project. The services shall be performed so as to cause minimum interruption to said facilities and services.

### I. BROKERAGE

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

### J. CONTRACTUAL RELATIONS

#### 1. Independent Contractor

The CONSULTANT agrees that its relation to the STATE is as an independent contractor and not as an agent or employee of the STATE.

#### 2. Claims and Indemnification

##### a. Non-Professional Liability Indemnification

## ARTICLE IV

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

b. Professional Liability Indemnification

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

- c. These covenants shall survive the termination of the AGREEMENT. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the STATE, which immunity is hereby reserved by the STATE.

3. Insurance

a. Required Coverage

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

1. Commercial or comprehensive general liability insurance, including contractual coverage, for all claims of bodily injury, death, or property damage, in policy amounts of not less than \$250,000 per occurrence and \$2,000,000 in the aggregate (STATE to be named as an additional insured); and
2. comprehensive automobile liability insurance covering all motor vehicles, including owned, hired, borrowed, and non-owned vehicles, for all claims of bodily injury, death, or property damage, in policy amounts of not less than \$500,000 combined single limit; and
3. professional liability (errors and omissions) insurance coverage of not less than \$2,000,000 in the aggregate. If coverage is claims made, the period to report claims shall extend for not less than three years from the date of substantial completion of the construction contract. No retention (deductible) shall be more than \$75,000; and
4. workers' compensation and employer's liability insurance as required by law.

b. Proof of Insurance

The policies described in paragraph (a) of this section and Section G shall be in the standard form employed in the STATE, issued by underwriters licensed or approved by the Department of Insurance of the STATE. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than 30 days, or 10 days in cases of non-payment of premium,

## ARTICLE IV

after written notice thereof has been received by the STATE. The CONSULTANT shall provide to the STATE a certificate of insurance evidencing the required coverages, retention (deductible), and cancellation clause prior to submittal of the AGREEMENT to Governor and Council for approval and shall have a continuing duty to provide new certificates of insurance as the policies are amended or renewed.

### 4. No Third-Party Rights

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

### 5. Construction of Agreement

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

## K. AGREEMENT MODIFICATION

The assignment of the CONSULTANT, generally established by the scope of work in this AGREEMENT, shall not be modified in any way without prior approval of the Governor and Council.

## L. EXTENSION OF COMPLETION DATE(S)

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

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

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

### 1. Compliance with Regulations

## ARTICLE IV

The CONSULTANT shall comply with Title VI of the Civil Rights Act of 1964 regulations relative to nondiscrimination in federally-assisted programs of the DEPARTMENT, such regulations entitled Title 49 Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the REGULATIONS), and which are herein incorporated by reference and made a part of this AGREEMENT.

2. Nondiscrimination

The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, religion, age, sex, handicap, sexual orientation, or national origin in the selection and retention of sub consultants, including procurements of materials and leases of equipment specific to this project. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment

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

4. Information and Reports

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

5. Sanctions for Noncompliance

In the event of the CONSULTANT'S noncompliance with nondiscrimination provisions of this AGREEMENT, the DEPARTMENT shall impose sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies; and/or

## ARTICLE IV

(b) cancellation, termination or suspension of the AGREEMENT, in whole or in part.

6. The CONSULTANT shall take such action with respect to any subcontract or procurement as the DEPARTMENT or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub consultant or supplier as a result of such direction, the CONSULTANT may request the DEPARTMENT to enter into such litigation to protect the interests of the STATE, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.
7. 23 CFR 710.405(b) and Executive Order 11246 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented in Department of Labor REGULATIONS (41 CFR Part 60), shall be applicable to this AGREEMENT and any sub agreements hereunder.

8. Incorporation of Provisions

The CONSULTANT shall include the provisions of paragraphs (1) through (7) in every subcontract, including procurements of materials and leases of equipment specific to the project, unless exempt by the REGULATIONS, or directives issued pursuant thereto.

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

### N. **DISADVANTAGED BUSINESS ENTERPRISE POLICY AGREEMENT REQUIREMENTS**

1. Policy

It is the policy of the United States Department of Transportation (USDOT) to ensure nondiscriminatory opportunity for Disadvantaged Business Enterprises (DBE's), as defined in 49 Code of Federal Regulations (CFR) Part 26, to participate in the performance of agreements and any sub agreements financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 apply to this AGREEMENT.

2. Disadvantaged Business Enterprise (DBE) Obligation

The STATE and its CONSULTANTS agree to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 CFR Part 26, to participate in the performance of agreements and any sub agreements financed in whole or in part with Federal funds. In this regard, the STATE and its CONSULTANTS shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the opportunity to compete for and perform work

## ARTICLE IV

specified in the agreements. The STATE and its CONSULTANTS shall not discriminate on the basis of race, color, religion, age, sex, handicap, sexual orientation, or national origin in the award and performance of agreements financed in whole or in part with Federal funds.

### 3. Sanctions for Non-Compliance

The CONSULTANT is hereby advised that failure of the CONSULTANT, or any Sub consultant performing work under this AGREEMENT, to carry out the requirements set forth in paragraphs 1 and 2 above, shall constitute a breach of agreement and, after the notification of the United States Department of Transportation, may result in termination of this AGREEMENT by the STATE or such remedy as the STATE deems appropriate.

### O. DOCUMENTATION

The CONSULTANT shall document the results of the work to the satisfaction of the DEPARTMENT and the Federal Highway Administration. This shall include preparation of progress reports, plans, specifications, and estimates and similar evidences of attainment of objectives called for in this AGREEMENT.

### P. CLEAN AIR AND WATER ACTS

If the amount of the AGREEMENT or subcontract there under exceeds \$100,000, the CONSULTANT or subconsultant shall comply with applicable standards, orders, or requirements issued under Section 306 of the Federal Clean Air Act (43 U.S.C. 1857(h)), Section 508 of the Federal Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants, or loans of facilities included on the EPA List of Violating Facilities. The CONSULTANT or subconsultant shall report violations to the FHWA and to the U. S. Environmental Protection Agency Assistant Administrator for Enforcement (EN-329).

Attachment 1

CERTIFICATION WITH REGARD TO THE PERFORMANCE OF  
PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO  
THE EQUAL OPPORTUNITY CLAUSE AND THE FILING OF REQUIRED REPORTS

The CONSULTANT \_\_\_\_\_, proposed subconsultant \_\_\_\_\_, herby certifies that it has \_\_\_\_\_, has not \_\_\_\_\_, participate in previous contract or subcontract subject to the equal opportunity clause, as required by Executive Order 11246 and that has \_\_\_\_\_, has not \_\_\_\_\_, with Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Gove Environmental Services, Inc.

(Company)

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

President

(Title)

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

5/9/13

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by consultants and proposed subconsultants only in connect with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime consultants and subconsultants who have participated in a previous contract or subcontract subject to the Executive orders and have not filed the required reports should not that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontract unless such consultant submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

(Revised: June, 1980) **NOTE: TO BE COMPLETED BY CONSULTANT WHEN SIGNING AGREEMENT.**

Attachment 2

CONSULTANT DISCLOSURE STATEMENT  
FOR PREPARATION OF  
ENVIRONMENTAL EVALUATIONS

I hereby affirm that I have read and reviewed the CEQ regulation [40 CFR 1506.5(C)] and related guidance issued by CEQ and that pursuant thereto this firm has no financial or other interest in the outcome of this project.

I further hereby affirm that the information provided herein is true and correct and acknowledge that any knowingly false statement or false representative as to any material part contained herein may subject me to a fine and/or imprisonment, pursuant to pertinent provisions of the United States Code.

5/9/13

(Date)



(Signature)

CERTIFICATION OF CONSULTANT/SUBCONSULTANT

I hereby certify that I am the James P. Gove and duly-  
authorized representative of the firm  
of Gove Environmental Services, Inc. and that neither I nor the above firm I here  
represent has:

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

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

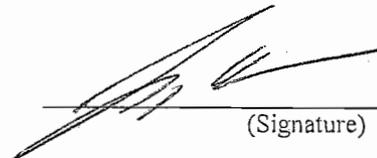
except as here expressly stated (if any):

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

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

5/9/13

(Date)

  
\_\_\_\_\_  
(Signature)

CERTIFICATION OF STATE DEPARTMENT OF TRANSPORTATION

William J. Cass, P.E.  
Director of Project Development  
NHSDOT

I hereby certify that I am the \_\_\_\_\_ of the Department of Transportation of the State of New Hampshire, and the above consulting firm or its representatives has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Contract, to:

- (a) employ or retain, or agree to employ to retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee contribution, donation, or consideration of any kind:

except as her expressly stated (if any):

5/30/13  
(Date)

  
(Signature)

*Attachment 5*

**CERTIFICATION FOR FEDERAL-AID CONTRACTS  
EXCEEDING \$100,000 IN FEDERAL FUNDS**

The prospective participant certifies, by signing and submitting this agreement, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan. The entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

---

- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with instructions.

This certification is a material representation of fact upon which reliance was placed when the transaction was made or entered into. Submission of this certification is prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower-tier subcontracts which exceed \$100,00 and that all such subrecipients shall certify and disclose accordingly.

IN WITNESS WHEREOF the parties hereto have executed this AGREEMENT on the day and year first above written.

(SEAL)

Consultant

CONSULTANT

By: [Signature]

(Title)

President, Gow Environmental Services, Inc.

Dated: 5/9/13

Department of Transportation

THE STATE OF NEW HAMPSHIRE

By: [Signature]

William J. Cass, P.E.  
Director of Project Development  
NH DOT

For DOT COMMISSIONER

Dated: 5/30/13

Attorney General

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

Dated: 5/17/13

By: [Signature]

Assistant Attorney General

John J. Conforti

Secretary of State

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

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_

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

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 GOVE ENVIRONMENTAL SERVICES, INC. is a New Hampshire corporation duly incorporated under the laws of the State of New Hampshire on February 3, 1989. I further certify that all fees and annual reports required by the Secretary of State's office have been received and that articles of dissolution have not been filed.



In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 6<sup>th</sup> day of May, A.D. 2013

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

William M. Gardner  
Secretary of State



GOVE ENVIRONMENTAL SERVICES, INC.

I, James P. Gove, hereby certify that I am duly elected President and Secretary of Gove Environmental Services, Inc., an S Corporation incorporated under the laws of New Hampshire.

It is hereby resolved that, I as President and Secretary of Gove Environmental Services, Inc. am authorized to sign any and all contracts and agreements of the Corporation including the State of New Hampshire..

Date: 5/9/13

Attest:

James P. Gove  
President



STATEWIDE ON-CALL  
ENVIRONMENTAL WETLAND SERVICES

TABLE OF CONTENTS

PREAMBLE.....	1
ARTICLE I - DESCRIPTION OF PROFESSIONAL SERVICES TO BE RENDERED .....	2
A. DESCRIPTION OF SERVICES.....	2
B. SCOPE OF WORK.....	2
1. Wetlands Delineation .....	2
2. Wetland Mitigation.....	3
3. Stream Crossing Assessment.....	3
4. Monitoring of Wetland and/or Stream Restoration Mitigation Sites .....	3
5. Invasive Species Delineation.....	4
6. Rare Plants / Endangered Species Investigations .....	4
C. STAFFING .....	4
D. QUALITY CONTROL.....	4
E. TASK ORDERS .....	5
F. MATERIAL FURNISHED BY THE DEPARTMENT OF TRANSPORTATION .....	5
G. WORK SCHEDULE AND PROGRESS REPORTS .....	5
H. SUBMISSION OF REPORTS, PLANS AND DOCUMENTS.....	6
I. DELIVERABLES.....	6
ARTICLE II - COMPENSATION OF CONSULTANT FOR ON-CALL SERVICES	
AGREEMENTS.....	8
A. AGREEMENT GENERAL FEE.....	8
B. METHOD OF COMPENSATION FOR TASK ORDERS.....	8
C. MODIFIED COST-PLUS-FIXED-FEE FORMAT.....	8
D. LUMP-SUM FORMAT.....	10
E. SUBCONSULTANT SUPPORTING SERVICES.....	10
F. INVOICING AND PAYMENT .....	10
G. RECORDS - REPORTS .....	11
ARTICLE III - GENERAL PROVISIONS.....	12
A. HEARINGS, ETC.....	12
B. CONTRACT PROPOSALS .....	12
ARTICLE IV - STANDARD PROVISIONS.....	13
A. STANDARD SPECIFICATIONS .....	13
B. REVIEW BY STATE AND FHWA - CONFERENCES - INSPECTIONS .....	13
C. EXTENT OF CONTRACT .....	13
1. Contingent Nature of Agreement.....	13
2. Termination.....	13
D. REVISIONS TO REPORTS, PLANS OR DOCUMENTS.....	14
E. ADDITIONAL SERVICES.....	15
F. OWNERSHIP OF PLANS .....	15
G. SUBLETTING.....	16

H. GENERAL COMPLIANCE WITH LAWS, ETC.....	16
I. BROKERAGE.....	16
J. CONTRACTUAL RELATIONS .....	16
1. Independent Contractor.....	16
2. Claims and Indemnification .....	16
3. Insurance .....	17
4. No Third-Party Rights.....	18
5. Construction of Agreement.....	18
K. AGREEMENT MODIFICATION.....	18
L. EXTENSION OF COMPLETION DATE(S).....	18
M. TITLE VI (NONDISCRIMINATION OF FEDERALLY-ASSISTED PROGRAMS) COMPLIANCE.....	18
N. DISADVANTAGED BUSINESS ENTERPRISE POLICY AGREEMENT REQUIREMENTS 20	
1. Policy.....	20
2. Disadvantaged Business Enterprise (DBE) Obligation .....	20
3. Sanctions for Non-Compliance.....	21
O. DOCUMENTATION .....	21
P. CLEAN AIR AND WATER ACTS.....	21

ATTACHMENTS

1. CERTIFICATION WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS OR SUBCONTRACTS, ETC.
2. CONSULTANT DISCLOSURE STATEMENT FOR PREPARATION OF ENVIRONMENTAL EVALUATIONS
3. CERTIFICATION OF CONSULTANT/SUBCONSULTANT
4. CERTIFICATION OF STATE DEPARTMENT OF TRANSPORTATION
5. CERTIFICATION FOR FEDERAL-AID CONTRACTS EXCEEDING \$100,000 IN FEDERAL FUNDS
6. SEAL-AND-SIGNATURE PAGE
7. CERTIFICATION OF AUTHORITY / VOTE
8. CERTIFICATION OF GOOD STANDING
9. CERTIFICATION OF INSURANCE

STATEWIDE ON-CALL  
ENVIRONMENTAL WETLAND SERVICES

AGREEMENT  
FOR PROFESSIONAL SERVICES

PREAMBLE

THIS AGREEMENT made this 20 day of May in the year 2013 by and between the STATE OF NEW HAMPSHIRE, hereinafter referred to as the STATE, acting by and through its COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the COMMISSIONER, acting under Chapter 228 of the Revised Statutes Annotated, and FB environmental, with principal place of business at 1950 Lafayette Rd., Suite 305, in the Town of Portsmouth, State of New Hampshire, hereinafter referred to as the CONSULTANT, witnesses that

The Department of Transportation, State of New Hampshire, hereinafter referred to as the DEPARTMENT, requires on-call environmental / wetland related services for various projects and facilities located throughout the STATE.

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

## ARTICLE I

### ARTICLE I - DESCRIPTION OF PROFESSIONAL SERVICES TO BE RENDERED

NOW THEREFORE, in consideration of the undertakings of the parties hereinafter set forth, the DEPARTMENT hereby engages the CONSULTANT, who agrees to render services to the DEPARTMENT which shall include, but not be restricted to, the following items, in accordance with conditions and terms hereinafter set forth:

#### A. DESCRIPTION OF SERVICES

The types of services required under the terms of this AGREEMENT shall generally include, but are not necessarily limited to providing environmental analyses and/or related technical services for various projects or stages of projects and/or environmental documents located throughout the State, and related support services.

#### B. SCOPE OF WORK

##### 1. Wetlands Delineation

This task involves the delineation of wetlands, assessment of wetlands functions and values, completion of wetlands reports, preparing permit applications, such as for a NHDES Wetlands and/or Shoreland Permit, and coordination with Natural Resource agencies as necessary and as directed by the DEPARTMENT.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Delineate wetlands within the project area in accordance with the *US Army Corps of Engineers Wetlands Delineation Manual* (Jan 1987) and *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region* (Version 2.0, January 2012). Utilizing *Field Indicators of Hydric Soils in the United States* (Version 7.0, 2010), the *National List of Plant Species that Occur in Wetlands: Northeast (Region 1)* (May 1988), and *Classification of Wetlands and Deepwater Habitats of the United States* (Cowardin, 1979) as reference standards.
- Gather descriptive information, site sketch, and photographs of the wetlands within the project area.
- Flag delineated wetlands within the project area. Label flags with an alphanumeric sequence.
- GPS flag locations, as appropriate, and provide electronic files compatible with NH Department of Transportation's criteria (MicroStation and GIS).
- Assess Functions and Values using the US Army Corps of Engineers' *Highway Methodology Workbook Supplement* (November 1995) and best professional judgment.
- Prepare a Wetlands Delineation Report that identifies the locations of the delineated wetlands, identifies their classification, discusses the Functions and Values of the jurisdictional wetland areas, and identifies the flagging numbering system.
- Meet, as necessary, with Federal and State Natural Resource Agencies to discuss the findings and the evaluation of wetlands and/or to field-review areas of environmental concerns.
- Complete the NH Department of Environmental Services' Standard Dredge and Fill and/or Shoreland Permit applications.

## ARTICLE I

### 2. Wetland Mitigation

This task involves the investigation, development and/or refinement of wetland mitigation options necessitated as compensation for unavoidable wetland impacts associated with highway projects.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Investigate potential sites, which would compensate for unavoidable impacts to jurisdictional wetlands and loss of their functions and values resulting from the proposed highway project.
- Prepare a Potential Wetland Mitigation Assessment Report that identifies and evaluates mitigation sites. The Report will detail the potential acreages of preservation, restoration or creation, and the functions and values replication potentials at each site. The report will also detail the potential use of an in-lieu fee paid to the NHDES Aquatic Resource Mitigation (ARM) Fund.
- Coordinate with project engineers to provide conceptual sketch for wetland creation sites, which may include preparation of a wetland mitigation technical report, containing information required by the US Army Corps of Engineers' current "Regulatory Guidance Letter" and "Mitigation Plan Checklist".
- Meet, as necessary, with Natural Resource Agencies, local officials, and/or concerned parties to discuss the findings and the evaluations of the wetland mitigation sites and/or to field review these potential areas.

### 3. Stream Crossing Assessment

This task involves the investigation, assessment, data collection and technical report preparation of the evaluation of stream crossings.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Perform assessments, data collection and all necessary documentation for a stream crossing in accordance with the NH Department of Environmental Services' Stream Crossing Rules (Chapter *Env-Wt 900*).

### 4. Monitoring of Wetland and/or Stream Restoration Mitigation Sites

This task involves field personnel inspecting of Wetland and/or Stream Restoration Mitigation construction sites and directing the DEPARTMENT's Contractor in the successful completion of a created mitigation to achieve the stated functions of the Mitigation Technical Report.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Monitor wetland mitigation sites (creation, restoration and preservation) in accordance with conditions detailed in the US Army Corps of Engineers' Section 404 Permit and the NH Wetlands Bureau's Dredge and Fill Permit and in accordance with specific Wetland Mitigation Plans and Commitments.
- Be able to communicate effectively to manage the construction of all aspects of the Mitigation Plan with the DEPARTMENT's contractor. Coordinate actions to ensure the work is being performed in accordance with the Plan.

## ARTICLE I

- Review, document and amend the Mitigation Design based on unanticipated field conditions in consultation with the DEPARTMENT and/or permitting agencies, as needed.
- Oversee remedial actions required to ensure the establishment of a functioning mitigation site.
- Prepare Construction Monitoring Reports that evaluate the mitigation site construction.
- Monitor and assess the constructed mitigation site to assure the site is functioning as designed
- Prepare a Wetland Mitigation Monitoring Report for distribution to appropriate natural resource agencies, local officials and/or interested parties

### 5. Invasive Species Delineation

This task involves delineation of invasive species as necessary.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Delineate the location of invasive species within the project area. Identify species and extent of infestation.
- GPS locations and provide electronic files compatible with NH Department of Transportation's criteria (MicroStation and GIS).

### 6. Rare Plants / Endangered Species Investigations

This task involves the determination of the presence of rare plants, endangered species, exemplary natural communities or wildlife habitats as necessary and as directed by the DEPARTMENT.

The CONSULTANT shall (as directed by the DEPARTMENT):

- Coordinate, as necessary, with the NH Natural Heritage Bureau, NH Fish & Game Department and/or US Fish and Wildlife Service to determine the presence of rare plants, endangered species, exemplary natural communities or wildlife habitats.
- Conduct plant surveys to determine location and extent of rare plant populations.
- Conduct habitat assessments and biological surveys to assess potential for or presence of endangered wildlife.

### C. STAFFING

The CONSULTANT shall furnish the DEPARTMENT with a list of qualified personnel including their labor classification, current direct-labor wage rates, and office location prior to entering into negotiations for this AGREEMENT. The CONSULTANT shall utilize the personnel approved by the DEPARTMENT during negotiations for this AGREEMENT for the performance of the work. If at any time the CONSULTANT is unable to use the personnel specified, it shall request approval from the DEPARTMENT to use other personnel. To obtain DEPARTMENT approval, the CONSULTANT shall request the substitution in writing and provide resumes for the new individuals at least 14 days in advance of the proposed substitutions, for review by the DEPARTMENT.

### D. QUALITY CONTROL

The CONSULTANT is expected to perform in a professional manner and all work shall be neat, well organized, fully comply with the requirements of this AGREEMENT and Task Orders, and meet the specified accuracy

## ARTICLE I

requirements. The DEPARTMENT will reject any data that does not comply with the above. The DEPARTMENT will decide when the data and services have fully met the project requirements. The CONSULTANT will not be paid for insufficient work.

### E. TASK ORDERS

As needs develop, the DEPARTMENT will issue specific Task Orders to the CONSULTANT. These Task Orders will be initiated by a Request for Proposal (RFP) letter that will include a detailed description of the project or elements of work, an outline of the services required, responsibilities of the parties, materials to be supplied by the DEPARTMENT (e.g., any investigations previously conducted for the project, such as an Initial Site Assessment) and other information necessary to complete the work for the Task Order. The CONSULTANT shall then submit to the DEPARTMENT for approval a scope of work and fee proposal that includes the names of all personnel to be assigned to the Task Order and a tentative work schedule for each Task Order assigned. The DEPARTMENT will review the CONSULTANT'S proposal and schedule negotiations, if necessary, to clarify the proposed scope of work (e.g., describe the level of hazardous materials investigation required and define the extent of work), discuss the personnel proposed, the number of work hours needed, and any other associated proposed costs in order to establish the final not-to-exceed or lump-sum amount for the Task Order. Upon approval of the CONSULTANT'S proposal by the DEPARTMENT and FHWA (if applicable), the DEPARTMENT will issue a Task Order Authorization to Proceed Letter. A conference may be required to turn over a Task Order to the CONSULTANT. Costs associated with the CONSULTANT'S preparation of a scope of work and fee for a Task Order are non-reimbursable.

### F. MATERIAL FURNISHED BY THE DEPARTMENT OF TRANSPORTATION

The DEPARTMENT will furnish the following data to the CONSULTANT:

1. Appropriate maps, plans and reports as available, for use by the CONSULTANT
2. Results from other investigations and studies
3. A right-of-entry permit, when necessary, obtained from the private property owners allowing access to the property and permission to perform testing and other necessary work.

### G. WORK SCHEDULE AND PROGRESS REPORTS

The CONSULTANT shall be aware that the services to be performed under this AGREEMENT will be on an as-needed basis. In addition, the CONSULTANT shall realize that emergency situations may arise that will require immediate response/action.

The CONSULTANT shall be available to begin performance of the services designated in the Contract promptly upon receipt from the DEPARTMENT of a Notice to Proceed Letter. The CONSULTANT shall complete

## ARTICLE I

the services required for each Task Order without delay unless unable to do so for causes not under the CONSULTANT'S control.

It is imperative that close coordination between the CONSULTANT and the DEPARTMENT be maintained at all times so as to ensure compliance with the DEPARTMENT'S requirements for specific Task Orders.

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

The CONSULTANT shall develop an acceptable reporting system capable of indicating project status on at least a monthly basis for all critical activities of the project. Monthly progress reports shall be submitted by the CONSULTANT to the DEPARTMENT, giving the percentage of completion of the work required by this AGREEMENT. These monthly progress reports shall be received by the DEPARTMENT by the 10<sup>th</sup> day of each month.

### H. SUBMISSION OF REPORTS, PLANS AND DOCUMENTS

Each CONSULTANT submission shall be supplemented with any material or descriptive matter necessary to facilitate a comprehensive review.

### I. DELIVERABLES

All work and supporting documents for Task Orders completed under this AGREEMENT shall be developed by the CONSULTANT and delivered to the DEPARTMENT according to the following formats:

**Electronic Transfer of Data:** The DEPARTMENT requires the following to ensure compatibility with software used by the DEPARTMENT and to ensure the efficient and timely exchange of computer files between the DEPARTMENT and the CONSULTANT.

All files submitted must be fully compatible with the formats listed in this document without any conversion or editing by the DEPARTMENT. Any files requiring conversion and/or editing by the DEPARTMENT will not be accepted. All files shall be virus free. All files shall use the DEPARTMENT'S file naming convention.

**Computer Aided Design/Drafting (CAD/D) files:** All CAD/D files shall be in accordance with the Deliverable Requirements described in the DEPARTMENT'S CAD/D Procedures and Requirements in effect at the time this AGREEMENT was executed, or any later version. All files submitted must be fully compatible with the current version of MicroStation being used by the DEPARTMENT. (The DEPARTMENT'S CAD/D Procedures and Requirements document can be found on the CAD/D website by following the "Downloads" link at [www.nh.gov/dot/cadd/](http://www.nh.gov/dot/cadd/).)

**Word Processing, Spreadsheet, and Database Files:** For each Phase, all relevant files shall be provided in a format fully compatible, as appropriate, with the following:

- o Word Processing: Microsoft Word 2003

## ARTICLE I

- o Spreadsheets: Microsoft Excel 2003
- o Databases: Microsoft Access 2003

These specifications will be updated as necessary to reflect changes in DEPARTMENT software such as adding new software or updating to new versions of existing software. In such instances, the CONSULTANT will be promptly notified.

**Computer File Exchange Media:** Electronic files shall be exchanged between the DEPARTMENT and the CONSULTANT using the following media as appropriate for Windows Operating Systems:

- o Compact Disc (CD): Files on CD(s) should be actual size, not compressed.
- o DVD: Files on DVD(s) should be actual size, not compressed.
- o Email: Files 1 MB or smaller may be transferred via Email. If compressed, the files should be self-extracting.

**Copies:** The CONSULTANT shall provide hard (paper) and electronic copies of the deliverables for each Phase of Work. For all deliverables, provide electronic copies in two electronic versions; an electronic version in the original electronic file format (i.e., MicroStation (\*.DGN), Microsoft Word (\*.DOC), Microsoft Excel (\*.XLS), etc.) and an electronic version in Adobe Acrobat (\*.PDF) file format.

Upon completion of the AGREEMENT, the CONSULTANT shall turn over all documentation, including, but not limited to, all reports, test results, drawings, plans, and all financial supporting documentation in the formats described above.

### J. **DATE OF COMPLETION**

The date of completion for the professional services rendered under this AGREEMENT is (DATE) unless terminated earlier upon the depletion of the total amount payable under this AGREEMENT, or extended as allowed by the following provision:

No new tasks may be assigned after (DATE). The CONSULTANT shall complete any tasks begun, but not completed prior to (DATE) in accordance with the methods of compensation specified in Article II and all other applicable portions and contractual requirements of this Agreement. This shall be subject to the written mutual agreement of both parties, which shall include a revised Date of Completion to allow completion of the previously assigned work.

ARTICLE II

ARTICLE II - COMPENSATION OF CONSULTANT FOR ON-CALL SERVICES AGREEMENTS

A. AGREEMENT GENERAL FEE

In consideration of the terms and obligations of this AGREEMENT, the STATE, through the DEPARTMENT, hereby agrees to pay and the CONSULTANT agrees to accept as full compensation for the combined total cost of all work, expenses, and profit for Task Orders issued under this AGREEMENT, an amount not to exceed \$75,000. (The CONSULTANT shall note that no payments will be made for work, expenses, or profit, whether authorized or not, exceeding the \$75,000 total amount.)

B. METHOD OF COMPENSATION FOR TASK ORDERS

The method of compensation for Task Orders issued under this agreement will either be a **Modified Cost-Plus-Fixed-Fee** format with method of payment as described in Section C, below, or a **Lump-Sum** format with method of payment as described in Section D, below.

C. MODIFIED COST-PLUS-FIXED-FEE FORMAT

The following costing items are incorporated as part of this AGREEMENT:

1. Task Order Cost - The negotiated not-to-exceed cost of each modified cost-plus-fixed-fee format Task Order will be based on the types of labor classifications required along with the number of labor hours negotiated for each labor classification multiplied by the corresponding contract labor rate for the current contract period, and the other factors (fixed fee, direct expenses, and sub consultant costs) as follows:

$$\begin{aligned} & \text{Labor Costs (Sum of negotiated hours x contract labor rates)} \\ + & \text{ Fixed Fee (negotiated amount)} \\ + & \text{ Direct Expenses (estimated amount)} \\ + & \text{ Sub consultant Costs (estimated amount or lump sum)} \\ \hline = & \text{ Task Order Cost} \end{aligned}$$

2. Contract Labor Rates – The contract labor rates will be the total hourly wage for each labor classification including overhead and annual contract adjustment rate (when applicable) as follows:

$$\begin{aligned} & \text{Direct Labor Rate (\$/hr)} \\ + & \text{ Direct Labor Rate x Overhead Rate (\%)} \\ \hline = & \text{ Contract Labor Rate (\$/hr) for Base Period (CLRBP)} \end{aligned}$$

$\text{CLRBP} \times \text{Annual Contract Adjustment Rate (\%)} = \text{Contract Labor Rate for Contract Period 2 (CLRCP2)}$   
 $\text{CLRCP2} \times \text{Annual Contract Adjustment Rate (\%)} = \text{Contract Labor Rate for Contract Period 3 (CLRCP3)*}$

\*Same formula for additional contract periods, when applicable.

The contract labor rates will be a firm-fixed-price per contract period. The originally negotiated contract labor rates for the labor classifications included in this AGREEMENT shall remain in effect for a one-year base period from the date that this AGREEMENT becomes effective. The rates for subsequent one-year periods include an

ARTICLE II

annual contract adjustment rate. However, contract labor rates that are in effect at the time a particular Task Order is issued shall remain effective throughout the duration of that Task Order and shall apply to all amendments issued for the Task Order. The contract labor rates for a Task Order will not be adjusted for the annual contract adjustment rate if the contract year changes during the duration of the Task Order.

(The annual contract adjustment rate is set by the DEPARTMENT'S Consultant Selection Committee at their first meeting in January of each year and will be used for all On-Call contracts negotiated during that calendar year.)

In the event that the Completion Date of this AGREEMENT is extended for a period of six months or less, either in accordance with the provisions included in Article I, Section J - Date of Completion, or by an amendment to the AGREEMENT, the contract labor rates for the last Contract Period shall remain in effect. For an extension to the Completion Date of this AGREEMENT for a period longer than 6 months, the annual contract adjustment rate shall apply and an additional Contract Period will be established.

In accordance with DEPARTMENT policy, the maximum direct labor rate allowed for all labor classifications under this AGREEMENT shall be \$50.00 per hour (including annual contract adjustment rate) for the life of the Contract.

CONTRACT LABOR RATES (PER HOUR)

<u>Classification</u>	<u>Base Period</u>	<u>Contract Period 2</u>	<u>Contract Period 3</u>
Environmental Manager	\$72.00	\$74.16	\$76.38
Senior Wetland Scientist	\$69.98	\$72.08	\$74.24
Wetland Scientist	\$41.53	\$42.78	\$44.06
Technician	\$28.80	\$29.66	\$30.55
Typist/data entry	\$20.80	\$21.42	\$22.07

3. Annual Contract Adjustment Rate – The Contract Labor Rates for each one-year contract period after the initial contract base period shall include the annual contract adjustment rate. For this AGREEMENT, the annual contract adjustment rate for each one-year Contract Period after the initial base period is 3.0%.
4. Overhead Factor - Not applicable to this AGREEMENT.
5. Fixed Fee - A fixed fee for profit and non-reimbursed costs shall be a negotiated amount for each Task Order based on the estimated risk to be borne by the CONSULTANT [maximum 10.00% of Labor Costs (including overhead)]. The fixed fee may only be adjusted (increased or decreased) if there is a significant change in the scope or character of the work, as determined by the DEPARTMENT. Any change to the fixed fee shall be documented in writing by a DEPARTMENT Bureau-level amendment. Upon satisfactory completion of the Task Order, the CONSULTANT will be paid the originally negotiated or amended amount of the fixed

## ARTICLE II

fee, regardless of whether the actual number of hours used to complete the Task Order is less or more than the originally negotiated or amended number of hours.

6. **Direct Expenses** - Direct expenses shall be negotiated as a not-to-exceed amount for each Task Order and reimbursed at actual cost. Reimbursable direct expense items include work such as borings, laboratory tests, field survey, special electronic computer services, services of other specialists, printing, photogrammetry, traffic counts, reproductions, and travel not included in normal overhead expenses whether performed by the CONSULTANT or other parties and shall be billed at actual cost. The reimbursable costs for mileage and for per diem (lodging and meals) shall be that allowed by the CONSULTANT'S established policy but shall not exceed that allowed in the Federal Acquisition Regulations (Subpart 31.205-46) and in the Federal Travel Regulations. The General Services Administration (GSA), Regulation 41 CFR Part 301-4, specifies the FTR automobile mileage reimbursement. Mileage and per diem costs shall be subject to approval by the DEPARTMENT.

7. **Sub consultant Costs** - Sub consultant costs may be either negotiated as a not-to-exceed amount for each Task Order and reimbursed at actual cost or negotiated as a lump-sum amount.

### D. LUMP-SUM FORMAT

1. **Task Order Cost** - The negotiated total amount of each lump-sum format Task Order will be considered full compensation for all services for the Task Order performed to the satisfaction of the DEPARTMENT. Said lump-sum amount includes all labor, overhead, profit (maximum 15.00% of total labor + total overhead; based on the estimated risk to be borne by the CONSULTANT), direct expenses, and sub consultant costs. The lump-sum amount may only be adjusted (increased or decreased) if there is a significant change in the scope or character of the work, as determined by the DEPARTMENT. Any change to the lump-sum amount shall be documented in writing by a DEPARTMENT Bureau-level amendment.

### E. SUB CONSULTANT SUPPORTING SERVICES

(Sub consultant Supporting Services were not anticipated during negotiations for this AGREEMENT.)

### F. INVOICING and PAYMENT

The CONSULTANT shall submit two copies of invoices to the DEPARTMENT containing the following:

- (a) Task Order number, project name and number (if applicable);
- (b) Number, description, and cost of each item being billed (modified cost-plus-fixed-fee format);
- (d) Quantity delivered/Percentage completed this billing period of each item being billed;
- (e) Amount due for each item being billed (modified cost-plus-fixed-fee format);
- (f) Invoice amount/Total due
- (g) Amount billed through this invoice (contract cumulative)

## ARTICLE II

### (h) Percentage of contract complete

The DEPARTMENT will compensate the CONSULTANT the amount agreed to for said Task Order upon the satisfactory completion and acceptance of the work. Payments will be made upon approval of the submittals/deliverables by the DEPARTMENT. The CONSULTANT may request partial payment for each separate Task Order, provided that no successive request for partial payment is submitted closer than 28 days. A progress report, a proper invoice, and, if requested by the DEPARTMENT, a copy of the plans and other supporting data, shall be submitted with each request for partial payment. A progress report shall be prepared and submitted by the CONSULTANT every thirty (30) days with each invoice requesting a partial payment for all Task Orders that exceed 60 days in length. Upon satisfactory completion and acceptance of the work for each individual Task Order, the CONSULTANT may submit a proper invoice to request final payment.

### G. RECORDS - REPORTS

The CONSULTANT shall maintain adequate cost records for all work performed under this AGREEMENT. All records and other evidence pertaining to cost incurred shall be made available at all reasonable times during the AGREEMENT period and for three (3) years from the date of final voucher payment for examination by the STATE, Federal Highway Administration, or other authorized representatives of the Federal Government, and copies thereof shall be furnished if requested. Applicable cost principles are contained in the Federal Acquisition Regulation (FAR) in Title 48 of the Code of Federal Regulations (Subpart 31.2 and Subpart 31.105).

The DEPARTMENT shall have the right, at the time of audit, to review all items charged to overhead on this project. If, in the opinion of the DEPARTMENT, such payment is unreasonable, the CONSULTANT shall be required to justify such payment or payments before they will be approved as direct or indirect costs.

All costs as described in the foregoing paragraphs are to be determined by actual records kept during the term of the AGREEMENT, which are subject to audit by the STATE and Federal Governments. The final payment, and all partial payments made, may be adjusted to conform to this final audit. In no case will any adjustments exceed the total amount to be paid shown in Article II, Section A – Agreement General Fee. All Sub consultant costs may also be subject to audit by the STATE and Federal Governments.

ARTICLE III

ARTICLE III - GENERAL PROVISIONS

A. HEARINGS, ETC.

(Not applicable to this AGREEMENT)

B. CONTRACT PROPOSALS

(Not applicable to this AGREEMENT)

## ARTICLE IV

### ARTICLE IV – STANDARD PROVISIONS

#### A. STANDARD SPECIFICATIONS

The CONSULTANT agrees to follow the provisions of the current Design Manuals of the DEPARTMENT, Standard Specifications for Road and Bridge Construction and Standard Plans for Road and Bridge Construction of the DEPARTMENT, and the current LRFD Bridge Design Specifications of the American Association of State Highway and Transportation Officials (AASHTO) and amendments thereto, or other professional codes or standards applicable to the services to be performed under this AGREEMENT. When a publication (including interim publications) is specified, it refers to the most recent date of issue in effect at the time of execution of this AGREEMENT.

#### B. REVIEW BY STATE AND FHWA - CONFERENCES - INSPECTIONS

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

The location of the office where the work will be available for inspection by STATE and Federal Highway Administration representatives is 240 Mechanic Street, Suite 100, Lebanon, New Hampshire 03766.

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

#### C. EXTENT OF CONTRACT

##### 1. Contingent Nature of Agreement

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

##### 2. Termination

The DEPARTMENT shall have the right at any time, and for any cause, to terminate the work required of the CONSULTANT by this AGREEMENT by written notice of such termination provided to the CONSULTANT by the DEPARTMENT, and, in the event of such a termination of this AGREEMENT without fault on the part of the CONSULTANT, the CONSULTANT shall be entitled to compensation for all work theretofore satisfactorily performed, pursuant to this AGREEMENT, such compensation to

## ARTICLE IV

be fixed, insofar as possible, based upon the work performed prior to termination. If no contract or contracts for construction of the project contemplated by this AGREEMENT is (are) entered into within two (2) years after satisfactory completion of the services outlined in Article I, all of the services contemplated by this AGREEMENT shall be deemed to have been completed.

It shall be a breach of this AGREEMENT if the CONSULTANT shall fail to render timely the services required under this AGREEMENT, in accordance with sound professional principles and practices, to the reasonable satisfaction of the DEPARTMENT, or shall be in such financial condition as to be unable to pay its just debts as they accrue, or shall make an assignment for the benefit of creditors, or shall be involved in any proceeding, voluntary or involuntary, resulting in the appointment of a receiver or trustee over its affairs, or shall become dissolved for any cause. In the event of the happening of any one or more of the foregoing contingencies, or upon the substantial breach of any other provisions of this AGREEMENT by the CONSULTANT, its officers, agents, employees, and sub consultants, the DEPARTMENT shall have the absolute right and option to terminate this AGREEMENT forthwith, and, in addition, may have and maintain any legal or equitable remedy against the CONSULTANT for its loss and damages resulting from such breach or breaches of this AGREEMENT; provided, however, that as to all plans, drawings, tracings, estimates, specifications, reports, proposals, sketches, diagrams, and calculations, together with all material and data theretofore furnished to the DEPARTMENT by the CONSULTANT, of a satisfactory nature in accordance with this AGREEMENT, which plans, drawings, tracings, etc., are of use to the DEPARTMENT, the CONSULTANT shall be entitled to a credit, based on the contract rate for the work so performed in a satisfactory manner and of use and benefit to the DEPARTMENT.

### D. REVISIONS TO REPORTS, PLANS OR DOCUMENTS

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

Furthermore, prior to final approval of plans, specifications, estimates, reports, or documents by the DEPARTMENT, the CONSULTANT shall make such revisions of them as directed by the DEPARTMENT, without additional compensation therefore, except as hereinafter provided:

1. If, after its written approval thereof, the DEPARTMENT shall require changes to the plans or documents that revise engineering or other factors specifically approved, thereby necessitating revisions of the contract plans or documents, or,
2. When applicable, if during the term of this AGREEMENT, a revision of the alignment is ordered by the DEPARTMENT to the extent that the revised alignment will lie completely or partially outside the limit

## ARTICLE IV

of the survey data plotted by the CONSULTANT (this does not apply to those adjustments and refinements to the alignments anticipated under the scope of work), or,

3. If, after approval by the DEPARTMENT of the final contract plans or documents, the CONSULTANT shall be ordered in writing by the DEPARTMENT to make revisions, or to perform services other than those necessary to adapt said plans, reports, or documents to conditions observed during field inspections and encountered during construction; the CONSULTANT shall be entitled to compensation therefore in accordance with Article II, Section B, such compensation to be in addition to the fee specified in Article II, Section A, for its original work on the plans, reports or documents.

### E. ADDITIONAL SERVICES

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

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

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

### F. OWNERSHIP OF PLANS

All data, plans, drawings, tracings, estimates, specifications, proposals, sketches, diagrams, calculations, reports, or other documents collected, prepared, or undertaken either manually or electronically by the CONSULTANT under the provisions of this AGREEMENT, immediately shall become the property of the DEPARTMENT, and, when completed, shall bear the CONSULTANT'S endorsement. The CONSULTANT shall surrender to the DEPARTMENT, upon demand at any time, or submit to its inspection, any data, plan, drawing, tracing, estimate, specification, proposal, sketch, diagram, calculation, report, or document which shall have been collected, prepared, or undertaken by the CONSULTANT pursuant to this AGREEMENT, or shall have been hitherto furnished to the CONSULTANT by the DEPARTMENT. The CONSULTANT shall have the right, with the written approval of the DEPARTMENT, to use any of the data prepared by it and hitherto delivered to the DEPARTMENT at any later stage of the project contemplated by this AGREEMENT.

## ARTICLE IV

### G. SUBLETTING

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

All subcontracts shall be in writing and those exceeding \$10,000 shall contain all provisions of this AGREEMENT, including "Certification of CONSULTANT/Sub consultant". For sub consultants working on wetland evaluations, mapping, noise studies and air-quality studies, the minimum limits of their professional liability (errors and omissions) insurance coverage shall be not less than \$1,500,000 in the aggregate. If coverage is claims made, the period to report claims shall extend for not less than three years from the date of substantial completion of the construction contract. No retention (deductible) shall be more than \$25,000. A copy of each subcontract shall be submitted for the DEPARTMENT'S files.

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

The CONSULTANT shall comply with all Federal, STATE, and local laws and ordinances applicable to any of the work involved in this AGREEMENT and shall conform to the requirements and standards of STATE, municipal, railroad, and utility agencies whose facilities and services may be affected by the construction of this project. The services shall be performed so as to cause minimum interruption to said facilities and services.

### I. BROKERAGE

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

### J. CONTRACTUAL RELATIONS

#### 1. Independent Contractor

The CONSULTANT agrees that its relation to the STATE is as an independent contractor and not as an agent or employee of the STATE.

#### 2. Claims and Indemnification

##### a. Non-Professional Liability Indemnification

## ARTICLE IV

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

b. Professional Liability Indemnification

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

- c. These covenants shall survive the termination of the AGREEMENT. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the STATE, which immunity is hereby reserved by the STATE.

3. Insurance

a. Required Coverage

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

1. Commercial or comprehensive general liability insurance, including contractual coverage, for all claims of bodily injury, death, or property damage, in policy amounts of not less than \$250,000 per occurrence and \$2,000,000 in the aggregate (STATE to be named as an additional insured); and
2. comprehensive automobile liability insurance covering all motor vehicles, including owned, hired, borrowed, and non-owned vehicles, for all claims of bodily injury, death, or property damage, in policy amounts of not less than \$500,000 combined single limit; and
3. professional liability (errors and omissions) insurance coverage of not less than \$2,000,000 in the aggregate. If coverage is claims made, the period to report claims shall extend for not less than three years from the date of substantial completion of the construction contract. No retention (deductible) shall be more than \$75,000; and
4. workers' compensation and employer's liability insurance as required by law.

b. Proof of Insurance

The policies described in paragraph (a) of this section and Section G shall be in the standard form employed in the STATE, issued by underwriters licensed or approved by the Department of Insurance of the STATE. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than 30 days, or 10 days in cases of non-payment of premium,

## ARTICLE IV

after written notice thereof has been received by the STATE. The CONSULTANT shall provide to the STATE a certificate of insurance evidencing the required coverages, retention (deductible), and cancellation clause prior to submittal of the AGREEMENT to Governor and Council for approval and shall have a continuing duty to provide new certificates of insurance as the policies are amended or renewed.

### 4. No Third-Party Rights

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

### 5. Construction of Agreement

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

## K. AGREEMENT MODIFICATION

The assignment of the CONSULTANT, generally established by the scope of work in this AGREEMENT, shall not be modified in any way without prior approval of the Governor and Council.

## L. EXTENSION OF COMPLETION DATE(S)

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

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

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

### 1. Compliance with Regulations

## ARTICLE IV

The CONSULTANT shall comply with Title VI of the Civil Rights Act of 1964 regulations relative to nondiscrimination in federally-assisted programs of the DEPARTMENT, such regulations entitled Title 49 Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the REGULATIONS), and which are herein incorporated by reference and made a part of this AGREEMENT.

### 2. Nondiscrimination

The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, religion, age, sex, handicap, sexual orientation, or national origin in the selection and retention of sub consultants, including procurements of materials and leases of equipment specific to this project. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.

### 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment

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

### 4. Information and Reports

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

### 5. Sanctions for Noncompliance

In the event of the CONSULTANT'S noncompliance with nondiscrimination provisions of this AGREEMENT, the DEPARTMENT shall impose sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies; and/or

## ARTICLE IV

- (b) cancellation, termination or suspension of the AGREEMENT, in whole or in part.
6. The CONSULTANT shall take such action with respect to any subcontract or procurement as the DEPARTMENT or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub consultant or supplier as a result of such direction, the CONSULTANT may request the DEPARTMENT to enter into such litigation to protect the interests of the STATE, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.
  7. 23 CFR 710.405(b) and Executive Order 11246 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented in Department of Labor REGULATIONS (41 CFR Part 60), shall be applicable to this AGREEMENT and any sub agreements hereunder.
  8. Incorporation of Provisions

The CONSULTANT shall include the provisions of paragraphs (1) through (7) in every subcontract, including procurements of materials and leases of equipment specific to the project, unless exempt by the REGULATIONS, or directives issued pursuant thereto.

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

### N. **DISADVANTAGED BUSINESS ENTERPRISE POLICY AGREEMENT REQUIREMENTS**

#### 1. Policy

It is the policy of the United States Department of Transportation (USDOT) to ensure nondiscriminatory opportunity for Disadvantaged Business Enterprises (DBE's), as defined in 49 Code of Federal Regulations (CFR) Part 26, to participate in the performance of agreements and any sub agreements financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 apply to this AGREEMENT.

#### 2. Disadvantaged Business Enterprise (DBE) Obligation

The STATE and its CONSULTANTS agree to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 CFR Part 26, to participate in the performance of agreements and any sub agreements financed in whole or in part with Federal funds. In this regard, the STATE and its CONSULTANTS shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the opportunity to compete for and perform work

## ARTICLE IV

specified in the agreements. The STATE and its CONSULTANTS shall not discriminate on the basis of race, color, religion, age, sex, handicap, sexual orientation, or national origin in the award and performance of agreements financed in whole or in part with Federal funds.

### 3. Sanctions for Non-Compliance

The CONSULTANT is hereby advised that failure of the CONSULTANT, or any Sub consultant performing work under this AGREEMENT, to carry out the requirements set forth in paragraphs 1 and 2 above, shall constitute a breach of agreement and, after the notification of the United States Department of Transportation, may result in termination of this AGREEMENT by the STATE or such remedy as the STATE deems appropriate.

### O. DOCUMENTATION

The CONSULTANT shall document the results of the work to the satisfaction of the DEPARTMENT and the Federal Highway Administration. This shall include preparation of progress reports, plans, specifications, and estimates and similar evidences of attainment of objectives called for in this AGREEMENT.

### P. CLEAN AIR AND WATER ACTS

If the amount of the AGREEMENT or subcontract there under exceeds \$100,000, the CONSULTANT or subconsultant shall comply with applicable standards, orders, or requirements issued under Section 306 of the Federal Clean Air Act (43 U.S.C. 1857(h)), Section 508 of the Federal Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants, or loans of facilities included on the EPA List of Violating Facilities. The CONSULTANT or subconsultant shall report violations to the FHWA and to the U. S. Environmental Protection Agency Assistant Administrator for Enforcement (EN-329).

Attachment 1

CERTIFICATION WITH REGARD TO THE PERFORMANCE OF  
PREVIOUS CONTRACTS OR SUBCONTRACTS SUBJECT TO  
THE EQUAL OPPORTUNITY CLAUSE AND THE FILING OF REQUIRED REPORTS

The CONSULTANT \_\_\_\_\_, proposed subconsultant \_\_\_\_\_, hereby certifies that it has \_\_\_\_\_, has not , participate in previous contract or subcontract subject to the equal opportunity clause, as required by Executive Order 11246 and that has \_\_\_\_\_, has not , with Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

FB Environmental Associates  
(Company)

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

Fant Bell

Principal  
(Title)

Date: 5/20/13

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by consultants and proposed subconsultants only in connect with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime consultants and subconsultants who have participated in a previous contract or subcontract subject to the Executive orders and have not filed the required reports should not that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontract unless such consultant submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

(Revised: June, 1980) NOTE: TO BE COMPLETED BY CONSULTANT WHEN SIGNING AGREEMENT.

*Attachment 2*

**CONSULTANT DISCLOSURE STATEMENT  
FOR PREPARATION OF  
ENVIRONMENTAL EVALUATIONS**

I hereby affirm that I have read and reviewed the CEQ regulation [40 CFR 1506.5(C)] and related guidance issued by CEQ and that pursuant thereto this firm has no financial or other interest in the outcome of this project.

I further hereby affirm that the information provided herein is true and correct and acknowledge that any knowingly false statement or false representative as to any material part contained herein may subject me to a fine and/or imprisonment, pursuant to pertinent provisions of the United States Code.

5/20/13  
(Date)

Fant Bell

(Signature)

CERTIFICATION OF CONSULTANT/SUBCONSULTANT

I hereby certify that I am the Forrest Bell and duly-  
authorized representative of the firm  
of FB Environmental Associates, and that neither I nor the above firm I here  
represent has:

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

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

except as here expressly stated (if any):

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

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

5/20/13  
(Date)

Forrest Bell  
(Signature)

New Hampshire Turnpike System  
Management's Discussion and Analysis  
For the Fiscal Year Ended June 30, 2012  
*Attachment 4*

Contacting the Turnpike System's Financial Management

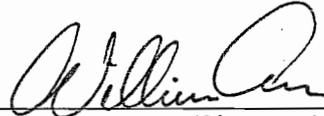
CERTIFICATION OF STATE DEPARTMENT OF TRANSPORTATION

This financial report is designed to provide New Hampshire citizens, the Legislature and the Executive Branch of government, as well as other interested parties, a general overview of the Turnpike System's financial activity for fiscal year 2012 and to demonstrate the Turnpike System's accountability for the project as it received from toll collections. If there are questions about this report or the need for additional information, contact the New Hampshire Department of Transportation, Division of Finance, John O. Morton Building, 7 Hazen Drive, Concord, NH 03302-0483. I hereby certify that I am the Director of Project Development of the Department of Transportation of the State of New Hampshire, and the above consulting firm or its representatives has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Contract, to:

- (a) employ or retain, or agree to employ to retain, any firm or person, or
- (b) pay, or agree to pay, to any firm, person, or organization, any fee contribution, donation, or consideration of any kind:

except as her expressly stated (if any):

5/29/13  
(Date)

  
(Signature)

*Attachment 5*

**CERTIFICATION FOR FEDERAL-AID CONTRACTS  
EXCEEDING \$100,000 IN FEDERAL FUNDS**

The prospective participant certifies, by signing and submitting this agreement, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan. The entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

---

- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with instructions.

This certification is a material representation of fact upon which reliance was placed when the transaction was made or entered into. Submission of this certification is prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower-tier subcontracts which exceed \$100,00 and that all such subrecipients shall certify and disclose accordingly.

IN WITNESS WHEREOF the parties hereto have executed this AGREEMENT on the day and year first above written.

(SEAL)

Consultant

CONSULTANT  
By: Fast Bell

(Title) Principal, FB Environmental Assoc.

Dated: 5/20/13

Department of Transportation

THE STATE OF NEW HAMPSHIRE  
By: William J. Cass

William J. Cass, P.E.  
Director of Project Development  
NH DOT

For DOT COMMISSIONER

Dated: 5/29/13

Attorney General

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

Dated: 6/17/13

By: John J. Conforti  
Assistant Attorney General

John J. Conforti

Secretary of State

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

Dated: \_\_\_\_\_

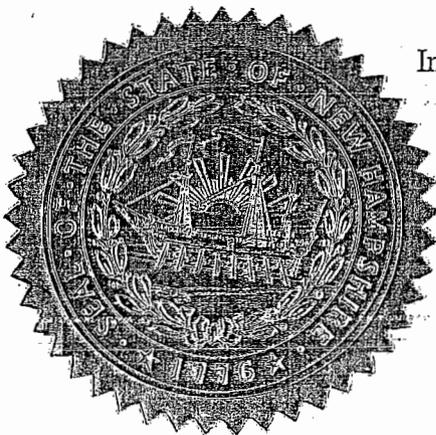
Attest: \_\_\_\_\_

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

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 FB Environmental Associates, LLC is a New Hampshire limited liability company formed on March 31, 2010. I further certify that it is in good standing as far as this office is concerned, having filed the annual report(s) and paid the fees required by law; and that a certificate of cancellation has not been filed.

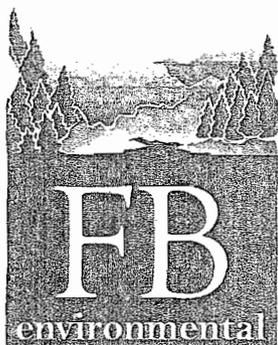


In TESTIMONY WHEREOF, I hereto  
set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 30<sup>th</sup> day of April, A.D. 2013

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

William M. Gardner  
Secretary of State

Corporate Resolution



I, Forrest Bell, hereby certify that I am the sole member of FB Environmental Associates LLC, a limited liability company established under N.H. RSA Chapter 304-C.

I hereby represent and certify that FB Environmental Associates LLC's agreement does not provide that management of FB Environmental Associates LLC is vested in a manager or managers.

I hereby represent and certify that I understand that the State of New Hampshire will rely on this certificate as evidence that: (1) I am the sole member of FB Environmental Associates LLC; (2) I am authorized to execute in the name of FB Environmental Associates LLC any instrument for apparently carrying on in the usual way the business or affairs of FB Environmental Associates LLC, including but not limited to executing an agreement with the State of New Hampshire relative to the "Statewide Environmental/Wetland Service Agreement"; (3) I am authorized to execute the Agreement in my capacity as the sole member in the name of FB Environmental Associates LLC, and that my execution of the Agreement binds FB Environmental Associates LLC.

97A Exchange  
Street  
Suite 305  
Portland, ME 04101

1950 Lafayette Rd,  
Suite 102  
Portsmouth, NH  
03801

207-221-6699

207-221-6716

(fax)

www.fbenvironmental.com

DATED: 5/20/13 ATTEST: Forrest Bell, owner  
(Signature & Title of Forrest Bell)

State of Maine, County of Cumberland

On this the 20<sup>th</sup> day of May 2013 before me Sarah E. Dunne, the undersigned officer, personally appeared Forrest Bell, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained.

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

Sarah E. Dunne  
(Name & Title) Notary Public

2/15/2018 Sarah E. Dunne



# CERTIFICATE OF LIABILITY INSURANCE

FBENV-1

OP ID: RR

DATE (MM/DD/YYYY)  
05/23/2013

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).

<b>PRODUCER</b> Turner Barker Insurance 160 Preble Street Portland, ME 04101 Joan P. Hopkins, CIC	Phone: 207-773-8156 Fax: 207-773-6647	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): E-MAIL ADDRESS:	FAX (A/C, No):																				
	<b>INSURED</b> FB Environmental Associates Forrest Bell 97A Exchange St Ste 305 Portland, ME 04101		<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A:</td> <td>Nautilus Insurance</td> <td></td> </tr> <tr> <td>INSURER B:</td> <td>Maine Employers Mutual Ins Co</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Nautilus Insurance		INSURER B:	Maine Employers Mutual Ins Co		INSURER C:			INSURER D:			INSURER E:			INSURER F:	
INSURER(S) AFFORDING COVERAGE		NAIC #																					
INSURER A:	Nautilus Insurance																						
INSURER B:	Maine Employers Mutual Ins Co																						
INSURER C:																							
INSURER D:																							
INSURER E:																							
INSURER F:																							

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	X	ECP200349601	08/15/2012	08/15/2013	EACH OCCURRENCE	\$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person)	\$ 5,000
	<input checked="" type="checkbox"/> Pollution					PERSONAL & ADV INJURY	\$ 2,000,000
GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 2,000,000
POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/>						PRODUCTS - COMP/OP AGG	\$ 2,000,000
AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000
ANY AUTO						BODILY INJURY (Per person)	\$
ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/>						BODILY INJURY (Per accident)	\$
<input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/>						PROPERTY DAMAGE (Per accident)	\$
UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/>						EACH OCCURRENCE	\$
EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/>						AGGREGATE	\$
DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>							\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N/A	1810078281	07/06/2012	07/06/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						
	If yes, describe under DESCRIPTION OF OPERATIONS below						
E.L. EACH ACCIDENT						\$ 100,000	
E.L. DISEASE - EA EMPLOYEE						\$ 100,000	
E.L. DISEASE - POLICY LIMIT						\$ 500,000	
A	Professional		ECP200349600	08/15/2012	08/15/2013	Ea claim	2,000,000
						Agg	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES. (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 State of New Hampshire is included as additional insured for general liability with regards to the named insured's premises and/or ongoing operations only where required by a written contract executed prior to the commencement of the named insured's work for or on behalf of certificate holder. Professional liability retention is \$5,000 each claim

<b>CERTIFICATE HOLDER</b>  NEWHDOT  State of New Hampshire Dept of Transportation PO Box 483 Concord, NH 03302-0483	<b>CANCELLATION</b>  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 
--	--

© 1988-2010 ACORD CORPORATION. All rights reserved.