



# State of New Hampshire

DEPARTMENT OF SAFETY  
OFFICE OF THE COMMISSIONER  
33 HAZEN DR. CONCORD, N.H. 03305  
603-271-2791

ROBERT L. QUINN  
COMMISSIONER OF SAFETY

February 21, 2020

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

### Requested Action

Authorize the Department of Safety, Division of State Police to exercise the two-year renewal option of the contract with TMDE Calibration Labs, Inc. (VC #162408-B001), P.O. Box 8, Richmond, ME, in an amount not to exceed \$22,000.00, increasing the total contract amount from \$66,000.00 to \$88,000.00 for the provision of repair and certification of Stalker and Decatur radar units. The contract will become effective upon Governor and Council approval through June 30, 2022. Funding source: 48.6% General, 28.3% Turnpike, 23.1% Highway.

Funds are available in the SFY2021 operating budget and contingent upon availability and continued appropriations in SFY2022 with the authority to adjust between fiscal years through the Budget Office if needed and justified.

02-23-23-234015-40030000	Dept. of Safety – Div. of State Police – Traffic Bureau	<u>SFY2021</u>	<u>SFY2022</u>
103-500737	Contracts for Services – Contract Repairs; Machine, Equip	\$11,000.00	\$11,000.00

### Explanation

This contract renewal will provide continued certification and repair of Stalker and Decatur radar units utilized by State Police Communications Maintenance. Upon certification of each radar unit and each tuning fork, TMDE will provide a certified calibration sheet to both the assigned trooper and state designee. These documents will be computer generated and will be able to be presented in a court of law as evidence of calibrations/repairs.

Respectfully submitted,

Robert L. Quinn  
Commissioner of Safety

Amendment

This agreement, (hereinafter called the "Amendment") by and between the New Hampshire Department of Safety, Division of State Police (hereinafter referred to as the "State"), and TMDE Calibration Labs, Inc. (hereinafter referred to as the "Contractor").

Whereas pursuant to an agreement (hereinafter referred to as the "Contract"), in the amount of \$66,000.00, the contractor agreed to perform certain services upon the terms and conditions specified in the contract and consideration of payment by the New Hampshire Department of Safety of certain sums therein.

Whereas the contractor and the state have agreed to amend the contract in certain aspects;

Now therefore, the parties hereto do hereby agree as follows:

1. Amendment and Modification

The contract is hereby amended as follows:

Section 1.7 Completion Date is extended from June 30, 2020 to June 30, 2022.

2. Section 1.8 Price Limitation is increased by \$22,000.00, changing the total contract amount from \$66,000.00 to \$88,000.00 for the provision of repair and certification of Stalker and Decatur radar units.

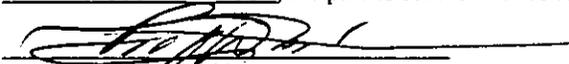
3. Exhibit B Pricing and Payment Terms add the following rate schedule for speed timing certifications for aircraft timing devices

Calibration of Robic SC-848	\$30.00
Calibration of Robic SC-899	\$30.00
Calibration of Kustom Signals Tracker	\$50.00

4. Effective Date and Continuance

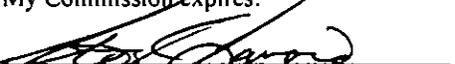
The amendment is effective upon Governor and Council approval. All other terms and conditions remain the same.

IN WITNESS WHEREOF, the parties set their hands as of the day and year written below.

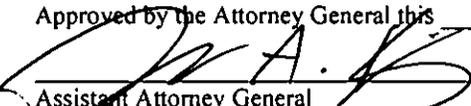
  
Peter A. White, President

On 2/10, 2020 personally appeared before me Loni Macmaster, whose identity I verified on the basis of in person at TMDE, to be the signer of the above and he/she acknowledged that he/she signed it. Executed the foregoing instrument for the purposes therein contained. IN WITNESS THEREOF, I hereunto set my hand and official seal.

LM 11/29/25 Loni Macmaster  
Notary Public Name and Title of Notary Public  
My Commission expires:

  
Steven R. Lavoie, Director of Administration  
N.H. Department of Safety

Approved by the Attorney General this 13<sup>th</sup> day of April, 2020.

  
Assistant Attorney General

Approved by the Governor and Council \_\_\_\_\_

\_\_\_\_\_  
Deputy Secretary of State

Loni MacMaster  
Notary Public, State of Maine  
My Commission Expires 11/29/2025

**UNANIMOUS CONSENT IN LIEU OF SPECIAL MEETING OF THE  
SHAREHOLDERS AND DIRECTORS OF T.M.D.E. CALIBRATION LABS, INC.**

The undersigned, pursuant to 13-C M.R.S.A. §704 and §822, being all of the Shareholders and Directors of T.M.D.E. Calibration Labs, Inc. do hereby consent to and approve the adoption of the following resolutions with the same effect as though adopted by a unanimous vote at a Special Meeting of the Shareholders and Directors of said Corporation duly called and held:

**Resolved:** The Corporation is authorized to enter into a contract with the State of New Hampshire.

**Resolved:** That the sole Shareholder, Director, and President, Peter White, be authorized to enter into any and all contracts with the State of New Hampshire and to execute any and all documents on behalf of the Corporation which are necessary and appropriate to accomplish the aforementioned matter.

Date: March 10, 2020

  
\_\_\_\_\_  
Peter White, Shareholder & Director

To Whom It May Concern:

As the sole Shareholder, Director and President, Peter White had authority to sign the form P-37 on 03/10/2020.

3/10/2020  
Date

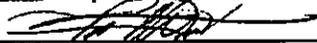
  
\_\_\_\_\_  
Peter White, Shareholder & Director

This consent has not been altered, amended, or revoked.

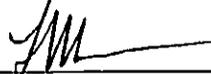
3/10/2020  
Date

  
\_\_\_\_\_  
Peter White, Shareholder & Director

In Witness Whereof, the parties set their hands as of the day and year written below

  
\_\_\_\_\_  
Peter A. White, President

On 3/10/20, 2020 personally appeared before me  
Loni MacMaster, whose identity I verified on the basis of  
In person at TMDE, to be the signer of the above and he/she acknowledged that he/she signed it.  
Executed the foregoing instrument for the purposes therein contained.  
IN WITNESS THEREOF, I hereunto set my hand and official seal.

  
\_\_\_\_\_  
Notary Public      My Commission Expires 11/29/25

Loni MacMaster  
\_\_\_\_\_  
Name and Title of Notary Public

Loni MacMaster  
Notary Public, State of Maine  
My Commission Expires 11/29/2025

**UNANIMOUS CONSENT IN LIEU OF SPECIAL MEETING OF THE  
SHAREHOLDERS AND DIRECTORS OF T.M.D.E. CALIBRATION LABS, INC.**

The undersigned, pursuant to 13-C M.R.S.A. §704 and §822, being all of the Shareholders and Directors of T.M.D.E. Calibration Labs, Inc. do hereby consent to and approve the adoption of the following resolutions with the same effect as though adopted by a unanimous vote at a Special Meeting of the Shareholders and Directors of said Corporation duly called and held:

**Resolved:** The Corporation is authorized to enter into a contract with the State of New Hampshire.

**Resolved:** That the sole Shareholder, Director, and President, Peter White, be authorized to enter into any and all contracts with the State of New Hampshire and to execute any and all documents on behalf of the Corporation which are necessary and appropriate to accomplish the aforementioned matter.

Date: February 10, 2020

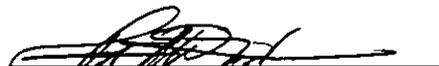


\_\_\_\_\_  
Peter White, Shareholder & Director

To Whom It May Concern:

As the sole Shareholder, Director and President, Peter White had authority to sign the form P-37 on 02/10/2020.

2/10/20  
Date

  
\_\_\_\_\_  
Peter White, Shareholder & Director

This consent has not been altered, amended, or revoked.

2/10/20  
Date

  
\_\_\_\_\_  
Peter White, Shareholder & Director

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**BY-LAWS OF**  
**T.M.D.E. CALIBRATION LABS, INC.**

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**ARTICLE I - OFFICES**

The principal office of the corporation shall be in the Town of Richmond, County of Sagadahoc and State of Maine. The corporation may also have offices at such other places within or without the State of Maine as the shareholders may from time to time determine, or the business of the corporation may require.

**ARTICLE II - SHAREHOLDERS**

**1. ANNUAL MEETING:**

(a) An annual meeting of the shareholders shall be held in each year on or about the first week in April. Annual meetings shall be held at the principal executive office of the corporation or at such other place within the State of Maine as may be determined by the board of directors and designated in the notice of the meeting.

(b) Any shareholders' meeting, annual or special, may be adjourned by the affirmative vote of a majority of the shares represented at such meeting either in person or by proxy. An adjournment may be voted regardless of whether a quorum is present. When a shareholders' meeting is adjourned for seven days or more, notice of the adjourned meeting must be given as in the case of an original meeting. When a meeting is adjourned for less than seven days, no notice of the time and place of the adjourned meeting need be given other than by announcement at the meeting at which the adjournment is voted, unless after the adjournment a new record date is fixed for the adjourned meeting.

2. SPECIAL MEETINGS:

Special meetings of the shareholders may be called for any purpose. Such meetings may be called at any time by the president or holders of shares entitled to cast not less than fifty-one per cent (51%) of the votes at the meeting on the written request of any person or persons.

3. ACTION BY WRITTEN CONSENT

Any action required by law to be taken at a meeting of the shareholders, and any other action that may be taken at a meeting of shareholders may be taken without a meeting if written consent, setting forth the action so taken, is signed by the holders of outstanding shares having not less the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted, if the consents of all shareholders entitled to vote were solicited in writing:

4. NOTICE OF MEETINGS:

Written notice, specifying the place, day, and hour of the meeting and, in the case of a special meeting, the general nature of the business to be transacted, shall be given not less than seven days before the date of the meeting. Such notice must be given personally or by mail or by other means of written communication, addressed to the shareholder at the address appearing on the books of the corporation or given by the shareholder to the corporation for the purpose of notice. If no such address appears or is given by a shareholder of record entitled to vote at the meeting, notice is given at the place where the principal executive office is located, or by publication at least once in a newspaper of general circulation in the county where the principal executive office is located. The notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by other means of written communication. An affidavit of mailing of any notice in accordance with the provisions of this section executed by the secretary or transfer agent shall be prima facie evidence of the giving of notice.

5. WAIVER OF NOTICE:

A shareholder may waive notice of any annual or special meeting by signing a written waiver of notice either before or after the date of such meeting.

6. RECORD DATE:

For the purpose of determining those shareholders right to notice of or to vote at any meeting of the shareholders, or to receive payment of any dividend, or in order to make a determination of

shareholders for any other proper purpose, the shareholders at any meeting may fix, in advance, a date as the record date for the determination of shareholders.

7. QUORUM:

The presence, at any shareholders' meeting, in person or by proxy, of persons entitled to vote a majority of the shares of the corporation then outstanding shall constitute a quorum for the transaction of business. In determining whether quorum requirements for a meeting have been met, any share that has been enjoined from voting or that cannot be lawfully voted for any reason shall not be counted.

8. PROXIES:

Every person entitled to vote at a shareholders' meeting of the corporation, or entitled to execute written consent authorizing action in lieu of a meeting, may do so either in person or by proxy executed in writing by the shareholder or by his duly authorized attorney in fact. No proxy shall be valid after six months from the date of its execution unless otherwise provided in the proxy.

9. VOTING:

Except as otherwise required by statute, all corporation action shall be authorized by a majority of the votes cast.

10. ORDER OF BUSINESS:

The order of business at the annual meeting of the shareholders and, insofar as possible, at all other meetings of shareholders, shall be as follows:

1. Call to order.
2. Proof of notice of meeting.
3. Reading and disposing of any unapproved minutes.
4. Reports of officers.
5. Reports of committees.
6. Disposition of unfinished business.
7. Disposition of new business.
8. Adjournment.

**ARTICLE III - OFFICERS**

1. OFFICERS, ELECTIONS, TERMS:

(a) Unless otherwise provided for in the Certificate of Incorporation, the shareholders may elect or appoint a president, one or more vice presidents, a secretary, a treasurer, and such other officers as it may determine, who shall have such duties, powers and functions as hereinafter provided.

(b) All officers shall be elected or appointed to hold office until the annual meeting of shareholders.

(c) Each officer shall hold office for the term of which he is elected or appointed, and until his successor has been elected or appointed and qualified.

2. REMOVAL, RESIGNATION, SALARY, ETC.:

(a) Any officer elected or appointed by the shareholders may be removed by the shareholders with or without cause.

(b) In the event of the death, resignation or removal of any officer, the shareholders in their discretion may elect or appoint a successor to fill the unexpired term.

(c) Any two or more offices may be held by the same person.

(d) The salaries of all officers shall be fixed by the shareholders.

3. PRESIDENT:

The president shall supervise the management of the business of the corporation and shall preside at all meetings of the shareholders except that he may designate another officer or director to preside in his stead.

4. VICE PRESIDENT:

During the absence or disability of the president, the vice president shall have all the powers and functions of the president. The vice president shall perform such other duties as the shareholders shall prescribe.

5. SECRETARY:

The secretary shall:

(a) Attend all meetings of the board and shareholders.

(b) Record all notes and minutes of all proceedings in a book to be kept for that purpose.

(c) Give or cause to be given, notice of all meetings of shareholders.

(d) Keep in safe custody the seal of the corporation and affix it to any instrument when authorized by the shareholders.

(e) When required, prepare or cause to be prepared and available at each meeting of shareholders, a certified list in alphabetical order of the names of shareholders entitled to vote there and indicating the number of shares of each respective class held by each.

(f) Keep all documents and records of the corporation as required by law or otherwise, in a proper and safe manner.

(g) Perform such other duties as may be prescribed by the shareholders.

#### 6. TREASURER:

The Treasurer shall:

(a) Have the custody of the corporate funds and securities.

(b) Keep full and accurate accounts of receipts and disbursements in the corporate book.

(c) Deposit all money and other valuables in the name and to the credit of the corporation in such depositories as may be designated by the shareholders.

(d) Disburse the funds of the corporation as may be ordered or authorized by the shareholders, and preserve proper vouchers for such disbursements.

(e) Render to the president and shareholders at the regular meetings of the shareholders, or whenever they require it, an account of all his transactions as and of the financial condition of the corporation.

(f) Render a full financial report at the annual meeting of the shareholders if so requested.

(g) Be furnished by all corporate officers and agents at his request, with such reports and statements as he may require as to all financial transactions of the corporation.

(h) Perform such other duties as are given to him by these by-laws or as from time to time are assigned to him by the shareholders or the president. The shareholders may from time to time designate and authorize any officer to sign checks.

#### 7. CLERK:

The clerk shall be elected by the shareholders and shall be sworn to the faithful performance of his duties. He shall be a resident of the State of Maine, shall send proper notices of all shareholders' meetings, and the records thereof, and faithfully perform all duties required by statute, the corporation, or the shareholders. The clerk need not be a shareholder.

### ARTICLE IV - STOCK CERTIFICATES

#### 1. FORM:

The shares of the corporation shall be represented by certificates signed by the President and Treasurer. Each such certificate also shall indicate:

- (a) The name of the record holder of the shares represented by such certificate;
- (b) The number of shares represented thereby;
- (c) The designation of any class or series of which such shares are a part;
- (d) That the shares are without par value;
- (e) Any rights of redemption and the redemption price;
- (f) Any rights of conversion, and the essential terms and period for conversion;
- (g) Any liens or restrictions on transfer or on the voting power of such shares;
- (h) That the shares are assessable, if that is the fact;
- (i) That assessments to which the shares are subject are collectible by personal action, if that is the fact;
- (j) The rights, preferences, privileges, and restrictions, when the shares of the corporation are classified or any class has two or more series, granted to or imposed on the respective classes or series of shares and the holders thereof, as established by the articles of incorporation or by any certificate of determination of preferences, as well as the number of shares constituting each series and the designation thereof; or a summary of such preferences, privileges, and restrictions with reference to the provisions of the articles of incorporation or certificate of determination of preferences establishing the same; or the office or agency of the corporation from which stockholders may obtain a copy of a statement of such rights, preferences, privileges, and restrictions or of such summary; and
- (k) For any certificates issued for shares prior to the full payment therefor, the amount remaining unpaid, the terms of payments to become due, and any restrictions on the transfer of such partly paid shares on the books of the corporation.

2. TRANSFERS:

Transfer of shares of the corporation shall be made in the manner set forth in the Uniform Commercial Code or as the case may be. The corporation shall maintain stock transfer books, and any transfer shall be registered thereon only on request and surrender of the stock certificate representing the transferred shares duly endorsed. Additionally, the shareholders may appoint one or more transfer agents or transfer clerks and one or more registrars as custodians of the transfer books, and may require all transfers to be made with and all shares certificates to bear the signatures of any of them. The

corporation shall have the absolute right to recognize as the owner of any share of stock issued by it, for all proper corporate purposes, including the voting of such shares and the issuance and payment of dividends on such shares, the person or persons in whose name the certificate representing such shares stands on its books. However, if a transfer of shares is made exclusively for the purpose of furnishing collateral security, and if such fact is made known to the secretary of the corporation or if applicable, to the corporation's transfer agent or transfer clerk, the record entry of such transfer shall state the limited nature thereof.

3. LOST, DESTROYED, AND STOLEN CERTIFICATES: No certificate for shares of stock in the corporation shall be issued in place of any certificate alleged to have been lost, destroyed, stolen, or mutilated except on production of such evidence and provision of such indemnity to the corporation as the shareholders may prescribe.

4. STOCK RESTRICTIONS

A. Restrictions on stock: No shareholder shall dispose of or encumber any part of his stock in the corporation, except under the following conditions:

I) The party desiring to dispose of or encumber his stock must first obtain the written consent of the other shareholders.

II) In the absence of such written consent, the party desiring to dispose of or encumber his stock upon receiving a bonafide offer, therefor which he desires to accept, shall give to the corporation and to the other shareholders written notice by registered mail of his intention, and such notice shall contain the following information:

1. the proposed purchaser;
2. the terms of the proposed sale, including:
  1. the price
  2. any financing being provided by the seller, including the amount being financed, the interest rate, the term and any security therefor.

Upon receipt of said notice, the corporation shall have the first option to purchase said shares on the same terms as contained in the notice described above, with the exception of the security being provided, if it is other than the buyer's guarantee or a pledge of the stock being transferred. The corporation shall have 14 days from the date of the notice to accept or reject the same.

In the event the corporation does not elect to purchase the stock, the other shareholders, or any

of them, shall have the same right, as that of the corporation, to purchase the stock offered.

If more than one shareholder desires to purchase, the shares shall be purchased by the shareholders so desiring on the basis of the percentage of their stock ownership before such purchase in relation to the total stock ownership of all shareholders wishing to purchase.

If within thirty days after the date such notice is mailed, neither the corporation or the remaining shareholders shall have purchased said stock then in such event the shareholder giving notice may sell, in accordance with said offer, all of said shareholder's stock. If said sale is not consummated, and the shareholder receives another offer he desires to accept, he must again offer the stock to the corporation and remaining shareholders as set forth above.

B. Endorsement on stock certificates: After endorsement the stock restrictions shall be printed upon all stock certificates. The certificates shall then be returned to the shareholders, who shall, subject to the terms herein, be entitled to exercise all rights of ownership of such stock. All stock hereafter issued to the shareholder shall bear the same endorsement.

C. Reference to this bylaw shall be printed upon all stock certificates.

## ARTICLE V - CORPORATE ACTIONS

### 1. CONTRACTS

The shareholders may authorize any officer or officers, or any agent or agents of the corporation, to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

### 2. LOANS:

No loans shall be made by the corporation to its officers or directors, and no loans shall be made by the corporation secured by its shares. No loans shall be made or contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name unless authorized by resolution of the shareholders. Such authority may be general or confined to specific instances.

### 3. CHECKS, DRAFTS, OR ORDERS:

All checks, drafts, or other orders for the payment of money by or to the corporation and all notes and other evidence of indebtedness issued in the name of the corporation shall be signed by such officer or officers or agent or agents of the corporation, and in such manner, as shall be determined by the shareholders.

### 4. DEPOSITS:

All funds of the corporation not otherwise employed shall be deposited to the credit of the corporation in such banks, trust companies, or other depositories as the shareholders may select.

5. VOTING SECURITIES HELD BY THE CORPORATION:

The president, or any vice president, or the secretary of the corporation shall have the authority to vote, represent, and exercise on behalf of the corporation all rights incidental to any and all shares of any other corporation standing in the name of the corporation. Such authority may be exercised by the designated officers in person or by proxy.

ARTICLE VI - MISCELLANEOUS

1. INSPECTION OF CORPORATE RECORDS:

The corporation shall keep correct and complete books and records of account and shall also keep minutes of all meetings of shareholders. Additionally, a record shall be kept at the principal executive office of the corporation, giving the names and addresses of all shareholders, and the number and class or classes of shares held by each. Any person who is the holder of a voting trust certificate or who is the holder of record of at least five per cent. (5%) of the outstanding voting shares of the corporation shall have the right to examine and copy, in person or by agent or attorney, at any reasonable time or times, for any proper purpose, the books and records of account of the corporation, the minutes, and the record of shareholders. On the written request of any shareholder, the corporation shall mail to such shareholder within thirty days after receipt of such request, a balance sheet as of the close of its latest fiscal year and a profit and loss statement for such fiscal year. If such request is received by the corporation before such financial statements are available for its latest fiscal year, the corporation shall mail such financial statements within ten days after they become available, but in any event within thirty days after the close of its latest fiscal year.

2. INSPECTION OF THE ARTICLES OF INCORPORATION AND BYLAWS:

The original or a copy of the articles of incorporation and bylaws of the corporation, as amended or otherwise altered to date, and certified by the secretary of the corporation, shall at all times be kept at the office of the Corporation's Clerk, Gregory J. Farris, Esquire, Farris Law, 251 Water Street, Gardiner, Maine. Such articles and bylaws shall be open to inspection by all shareholders of record or holders of voting trust certificates at all reasonable times during the business hours of the corporation.

3. FISCAL YEAR:

The fiscal year of the corporation shall begin on the first day of January of each year and end on

the thirty-first day of December of the same calendar year.

4. CORPORATE SEAL:

The shareholders shall adopt an official seal for the corporation, which shall be circular in form, and be inscribed with the name of the corporation, the state of incorporation, and the words "Corporate Seal."

5. CONSTRUCTION AND DEFINITION:

Unless the context requires otherwise, the general provisions, rules of construction, and definitions contained in the General Corporation Law of the State of Maine shall govern the construction of these by laws. Without limiting the foregoing, the masculine gender includes the feminine and neuter; the singular number includes the plural, and the plural number includes the singular; "shall" is mandatory and "may" is permissive; and "person" includes a corporation as well as a natural person.

ARTICLE VII - AMENDMENTS

These by laws may be altered, amended, or repealed by approval of a majority of the outstanding shares.

**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 T.M.D.E. CALIBRATION LABS, INC. is a Maine Profit Corporation registered to transact business in New Hampshire on October 28, 2010. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 638042

Certificate Number: 0004800173



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 10th day of February A.D. 2020.

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

William M. Gardner  
Secretary of State



February 12, 2020

NH Department of Safety  
Division of State Police  
Concord, NH 03305

RE: TMDE Calibration Labs, Inc.

To Whom it may Concern:

This letter is to notify you that TMDE Calibration Labs' commercial insurance policies will be renewed effective March 15, 2020.

We are finalizing premiums and coverages, and then the policies will be issued, at which time we will send you an updated certificate of liability insurance.

Should you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Spaulding", is written over a faint, illegible background.

Digitally signed by Heather A. Spaulding  
DN: cn=Heather A. Spaulding, o=Desmond &  
Payne, Inc., dba Cross Insurance - Lewiston,  
ou, email=hspaulding@crossagency.com,  
c=US  
Date: 2020.02.12 11:29:33 -05'00'

Heather Spaulding  
Business Account Representative  
hspaulding@crossagency.com



SP 55-04-2017-04



# State of New Hampshire

DEPARTMENT OF SAFETY  
OFFICE OF THE COMMISSIONER

33 HAZEN DR. CONCORD, NH 03305  
603/271-2791

RQ # 174977

JOHN J. BARTHELMES  
COMMISSIONER

GC # 149C  
06-21-2017

May 17, 2017

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

### Requested Action

Authorize the Department of Safety, Division of State Police to enter into a contract with TMDE Calibration Labs, Inc. (VC #162408-B001), P.O. Box 8, Richmond, ME, in an amount not to exceed \$66,000.00 for the provision of repair and certification of Stalker and Decatur radar units. The contract will become effective upon Governor and Council approval for the period of July 1, 2017 through June 30, 2020 with an option to extend for one (1) two (2) year period at the sole decision of the State. Funding source: 48.75% General, 27.33% Turnpike, 23.92% Highway.

Funds are anticipated to be available in SFY2018 through SFY2020, contingent upon continued appropriations with the authority to adjust between fiscal years through the Budget Office if needed and justified.

02-23-23-234015-40030000 - Dept. of Safety – Div. of State Police – Traffic Bureau  
103-500737 - Contracts for Services – Contract Repairs; Machine, Equip

<u>SFY2018</u>	<u>SFY2019</u>	<u>SFY2020</u>	<u>TOTAL</u>
\$22,000.00	\$22,000.00	\$22,000.00	\$66,000.00

### Explanation

This contract provides certification and repair of Stalker and Decatur radar units utilized by State Police Communications Maintenance. Upon certification of each radar unit and each tuning fork, TMDE will provide a certified calibration sheet to both the assigned trooper and state designee. These documents will be computer generated and will be able to be presented in a court of law as evidence of calibrations/repairs.

The Division of State Police released a Request for Bid (RFB DOS 2017-15). The RFB was advertised on the Purchase & Property website from March 13, 2017 through April 10, 2017. TMDE Calibration Labs, Inc. submitted the sole proposal.

Respectfully submitted,

John J. Barthelmes  
Commissioner of Safety

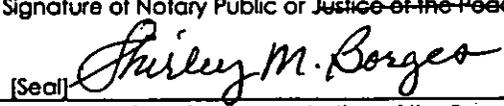
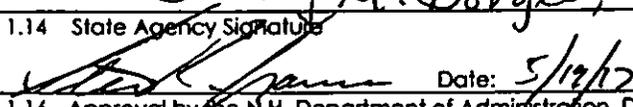
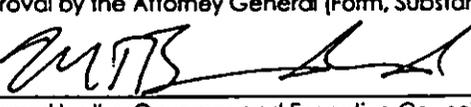
**Notice:** This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

**AGREEMENT**

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

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name Dept. of Safety, Div. of State Police		1.2 State Agency Address 33 Hazen Drive, Concord, NH 03305	
1.3 Contractor Name TMDE Calibration Labs, Inc.		1.4 Contractor Address 839 River Road, PO Box 8 Richmond, ME 04357	
1.5 Contractor Phone Number (207) 737-4493	1.6 Account Number See Exhibit B	1.7 Completion Date June 30, 2020	1.8 Price Limitation \$66,000.00
1.9 Contracting Officer for State Agency Kevin E. Connor		1.10 State Agency Telephone Number 603-223-4300	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Peter A. White - President	
1.13 Acknowledgement: State of <u>Maine</u> County of <u>Sagadahoc</u> On <u>5/4/2017</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]		<div style="border: 2px dashed black; padding: 5px;"> <b>SHIRLEY M. BORGES</b>                      Notary Public, State of Maine                      My Commission Expires 1/19/2021                 </div>	
1.13.2 Name and Title of Notary or Justice of the Peace <u>Shirley M. Borges, Notary Public</u>			
1.14 State Agency Signature  Date: <u>5/12/17</u>		1.15 Name and Title of State Agency Signatory STEVEN R. LAVOIE, DIRECTOR OF ADMINISTRATION	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>6/12/17</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

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

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

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

**4. CONDITIONAL NATURE OF AGREEMENT.**

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

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

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

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

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

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

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

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

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

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

**7. PERSONNEL**

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

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

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

#### 8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

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

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

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

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

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

12. **ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. **INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

#### 14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

**15. WORKERS' COMPENSATION.**

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

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

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

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

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

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

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

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

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

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

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

**EXHIBIT A  
SCOPE OF SERVICES**

TMDE Certification Labs, Inc. (Contractor) of Richmond, ME is being contracted by the Department of Safety, Division of State Police Communications Maintenance (State) to provide certification and repair of Stalker and Decatur radar and LIDAR units. The location and times to complete the work will be scheduled between the vendor and the respective Troop Commanders or department designee.

In the event off-site repairs are necessary, prior approval from the Troop Commander or their department designee is required and a repair and return date will be agreed upon. Any repair and return service which would be greater than two (2) weeks will be communicated to the Commander of Business and Project Administration or their department designee explaining the additional time required to complete the repair.

Vendor shall be responsible for all costs regarding off-site repairs of equipment to include shipping and insurance costs. The Division of State Police may provide delivery of the equipment to the vendor depending on the location of repair.

Upon calibration of each radar, LIDAR and tuning fork, the vendor shall provide a new certified calibration sheet for both the assigned Trooper and Business and Project Administration designee. These certification documents shall be computer generated, indicate the State of New Hampshire equipment number, and able to be presented in a court of law as evidence of calibrations and repairs.

**REPAIR WORK:**

All repairs to an individual radar, LIDAR and tuning fork, will not exceed a \$1,000.00 limit. The Business and Project Administration Bureau will be notified of any radar, LIDAR and tuning fork that need repairs exceeding the \$1,000.00 limit so that prior authorization may be obtained for such repairs.

The vendor will provide a list of repairs, replacement parts, and cost of labor per hour(s) for each unit serviced.

In the event any unit is deemed "non-repairable," due to the cost to repair vs. cost to replace, the Business and Project Administration Bureau will be notified.

Any "bench work" required on the units while being calibrated will be documented.

The contract will be effective upon Governor and Council approval for the period July 1, 2017 through June 30, 2020, with the option of the State alone, to extend the contract for one (1) two (2) year term.

The State shall have the right to terminate the contract at any time by giving the Contractor a thirty-(30) day written notice.

**EXHIBIT B  
PRICING AND PAYMENT TERMS**

The Contractor shall invoice the State of New Hampshire, Division of State Police as work is completed during the contract period at the rate of:

**Rate Schedule for Stalker FY2018 through FY2022:**

Calibrations/certifications per radar on-site:	\$35.00
Calibrations/certifications per LIDAR on-site:	\$50.00
Calibrations/certifications per tuning fork on site:	\$ 5.00
Hourly rate to repair, plus parts and shipping, if any:	\$60.00/hr.
Warranty on repairs: 90 days labor, one year parts	

**Rate Schedule for Decatur FY2018 through FY2022:**

Calibrations/certifications per radar on-site:	\$35.00
Calibrations/certifications per LIDAR on-site:	\$50.00
Calibrations/certifications per tuning fork on site:	\$ 5.00
Hourly rate to repair, plus parts and shipping, if any:	\$60.00/hr.
Warranty on repairs: 90 days labor, one year parts	

The State of New Hampshire agrees to make payment of such invoices within thirty (30) days of receipt of the invoice and the State's approval and acceptance. The Contractor agrees not to exceed the contract total of \$66,000.00 (\$20,000.00 for Stalker and \$2,000.00 for Decatur).

The State will have the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified.

The appropriate account number for the P-37 form, section 1.6 is:

OPTIONAL				
<u>SFY2018</u>	<u>SFY2019</u>	<u>SFY2020</u>	<u>SFY2021</u>	<u>SFY2022</u>
\$22,000.00	\$22,000.00	\$22,000.00	\$22,000.00	\$22,000.00

02-23-23-234015-40030000 - Dept. of Safety – Div. of State Police – Traffic Bureau  
103-500737 – Contracts for Operational Expenses – Contract Repairs; Machine and Equip.

**EXHIBIT C  
SPECIAL PROVISIONS**

There are no special provisions.

Contractor Initials AD  
Date 5/18/17