



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



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CHRISTOPHER D. CLEMENT, SR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

Bureau of Finance & Contracts
March 25, 2013

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

REQUESTED ACTION

Authorize the Department of Transportation to enter into an Agreement with Canon Solutions America, Inc., Chicago, IL, Vendor #230331, for a lease for the Océ Plotwave 900 Wide Format Engineering Printer to be located in the DOT Print Shop, at an annual cost of \$42,558.72 and a total cost of \$212,793.60, for producing engineering size plan prints, effective upon Governor and Council approval, through May 1, 2018. 100% Highway Funds.

Funds totaling \$212,793.60 will be available as follows:

Table with 7 columns: Account Number, FY 2013, FY 2014, FY 2015, FY 2016, FY 2017, FY 2018. Row 1: 04-96-96-960215-3001 Bureau of Finance & Contracts. Row 2: 022-500255 Lease Office Equip. \$14,186.24 \$42,558.72 \$42,558.72 \$42,558.72 \$42,558.72 \$28,372.48

Funding for fiscal years 2014, 2015, 2016, 2017, and 2018 is contingent upon the availability and continued appropriations of funds.

EXPLANATION

This new Océ Plotwave 900 Engineering Scanner/Printer along with a Wide Format Color scanner will replace the current Océ 9876 Scanner/Printing System Originally purchased in 2001. As the current Océ 9876 Scanner/Printer and software associated with the daily operation has aged, the ability to perform functions of scanning and printing have become more costly to this Agency over the last 4 years. Parts for this machine have become more difficult to locate due to equipment's age, and cost of operation makes it increasingly harder to justify continuing the current maintenance cost of over \$ 30,000.00 per year.

In addition to the above, the Division of Project Development will transfer plotting of engineering prints from their Océ 9600 plotter to this new Plotwave 900, and thus save the Department of Transportation \$6,000.00 dollars yearly on maintenance agreements on their Océ 9600.

The new Océ Plotwave 900 Engineering Format Printer/Scanner System will have the capability to produce plans thirty-six inches wide up to fifty feet in length. This machine will be utilized by the Departments of Transportation and Administrative Services (Bureau of Public Works) for the reproduction and scanning of standard engineering plan size prints 24" x 36" or larger, associated with construction projects, including road, bridge and public works facilities.

Administrative Services, Division of Plant and Property Management, put out a Request for Bid, and Canon Solutions America was the only bidder. The annual cost of \$42,558.72 includes a trade in value for the existing Océ 9876 equipment and the removal thereof, maintenance provided by the contractor, and software to operate the equipment. The amount for FY 2013 is prorated for a begin date of March 1, 2013.

This lease agreement has been approved by the Attorney General as to form and execution, and funding for each fiscal year is contingent upon the availability and continued appropriations of funds. Copies of the fully signed lease agreement are on file with the Attorney General, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

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

Attachments.

Subject:

Canon Solutions America, Inc.

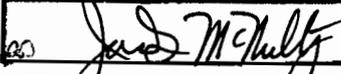
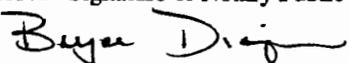
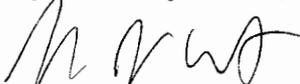
FORM NUMBER P-37 (version 1/09)

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name State of New Hampshire, Department of Transportation		1.2 State Agency Address 7 Hazen Drive, Concord, NH 03301	
1.3 Contractor Name Canon Solutions America, Inc.		1.4 Contractor Address 5450 N. Cumberland Ave. Chicago, IL 60656	
1.5 Contractor Phone Number 1-781-768-6918	1.6 Account Number 04-96-96-960215-3001-022	1.7 Completion Date May 1, 2018	1.8 Price Limitation \$212,793.60
1.9 Contracting Officer for State Agency Patrick McKenna, Director of Finance		1.10 State Agency Telephone Number 603-271-3466	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Jack McNulty, Vice President - Finance Large Format Systems	
1.13 Acknowledgement: State of <u>Illinois</u> , County of <u>Cook</u> On <u>3-14-13</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 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]		OFFICIAL SEAL BRYCE DISPENSA NOTARY PUBLIC - STATE OF ILLINOIS MY COMMISSION EXPIRES: 02/19/14	
1.13.2 Name and Title of Notary or Justice of the Peace Bryce Dispensa			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Patrick K. McKenna, Director of Finance	
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) By:  On: 3/21/13			
1.18 Approval by the Governor and Executive Council 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, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("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. 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 consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written 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 \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance 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 fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

Contractor Initials: *Jma*
Date: 3-14-13

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) 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.

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

Canon Solutions America, Inc.

Full Service & Lease Agreement

Effective upon Governor & Council Approval.

Completion Date: 60 Months from installation date.

- (1) OCE Plotwave 900 Printer Engine with six (6) roll media capability.
- (1) Plotwave 910 Monochrome Scanner.
- (1) TC4XTSA 36" Color Scanner.
- (1) Reprodesk Server Software with PC and 19" flat panel monitor.
- Trade – In and removal of existing OCE 9800 System.
- Lease includes 150,000 square feet allowance per quarter, excess billed @ \$0.0148 per square foot. Includes 10 cartons of toner per year.

PRICING RESPONSE TABLE

ITEM DESCRIPTION	QUANTITY	BID PRICE
OCE PLOTWAVE 900 PRINTER ENGINE WITH 6 ROLL MEDIA CAPABILITY	1	Included in pricing below
PLOTWAVE 910 MONOCHROME SCANNER	1	Included in pricing below
TC4XTSA 36" COLOR SCANNER	1	Included in pricing below
REPRODESK SERVER SOFTWARE WITH PC AND 19" FLAT PANEL MONITOR	1	Included in pricing below
PRICING FOR ABOVE ITEMS INCLUDES ALL SHIPPING, INSTALLATION, MAINTENANCE AND TRAINING		
TRADE-IN AND REMOVAL OF EXISTING OCE 9800 SYSTEM*	1	Included in pricing with Trade-In
TOTAL PRICE WITH TRADE-IN		\$3,546.56 per month** Prices are fixed for 60 months
TOTAL PRICE WITHOUT TRADE-IN		\$4,203.56 per month** Prices are fixed for 60 months

*STATE MAY CHOOSE NOT TO TRADE-IN EXISTING OCE 9800 SYSTEM, YOUR PRICING FOR THE NEW EQUIPMENT SHOULD BE HONORED WITH OR WITHOUT TRADE-IN

** Includes 150,000 square foot allowance per quarter, excess billed @ \$0.0148 per square foot. Includes 10 cartons of toner per year.

EXHIBIT B

Canon Solutions America, Inc.

Contract Price

Full Service & Lease Agreement.

- Base Contract \$3,564.56 per month, Prices are fixed for 60 months.
- Includes 150,000 square foot allowance per quarter and 10 cartons of toner per year.
- Excess will be billed at \$0.0148 per square foot.

PRICING RESPONSE TABLE

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** Includes 150,000 square foot allowance per quarter, excess billed @ \$0.0148 per square foot. Includes 10 cartons of toner per year.

CANON SOLUTIONS AMERICA, INC.

Assistant Secretary's Certificate

The undersigned, Steven I. Himelstein, Assistant Secretary of Canon Solutions America, Inc. (the "Company") does hereby certify that:

The individuals named below have been and are duly authorized to execute contracts, bids, and request(s)-for-proposal on behalf of the Company for the sale of equipment, supplies, software, and maintenance services by the Company.

- **Enterprise Services and Solutions**

Toyotsugu Kuwamura
Tracie Sokol
Charles Bruschi
Steven Cohen

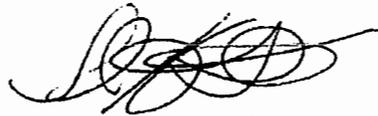
- **Large Format Solutions**

Toyotsugu Kuwamura
Malkon Baboyian
Charles Bruschi
Jack McNulty
Jeff Schweizer
Ron Trickle
Rob Abernathy

- **Production Printing Solutions**

Toyotsugu Kuwamura
Malkon Baboyian
Charles Bruschi
Dale Druke
Ron Trickle
Ed Jansen
Carl Billing

Dated: March 14, 2013



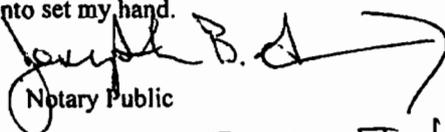
Steven I. Himelstein
Assistant Secretary

ACKNOWLEDGMENT

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.

On this the 14th day of March, 2013, before me, the undersigned officer, personally appeared Steven I. Himelstein, known to me (or satisfactorily proven) to be the Assistant Secretary of Canon Solutions America, Inc., a New York corporation, and that he as such being authorized to do so, executed the foregoing Assistant Secretary's Certificate for the purposes therein contained as his free act and deed and the free act and deed of said Canon Solutions America, Inc.

In Witness Whereof I hereunto set my hand.


Notary Public

Print Name: Joseph B Tuchinsky

My commission expires: August 24, 2013

JOSEPH B. TUCHINSKY
Notary Public, State of New York
No. 4905567
Qualified in Nassau County
Commission Expires August 24, 2013

State of New Hampshire Department of State

CERTIFICATE OF AUTHORITY OF

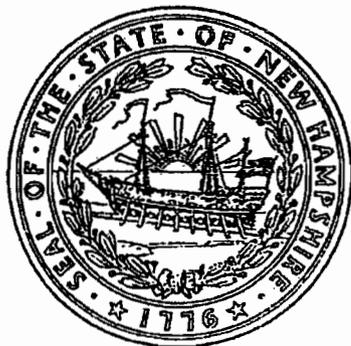
CANON SOLUTIONS AMERICA, INC.

The undersigned, as Secretary of State of the State of New Hampshire, hereby certifies that an Application of CANON SOLUTIONS AMERICA, INC. for a Certificate of Authority to transact business in this State, duly signed pursuant to the provisions of the New Hampshire Business Corporation Act, has been received in this office.

ACCORDINGLY the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Authority to CANON SOLUTIONS AMERICA, INC. to transact business in this State under the name of CANON SOLUTIONS AMERICA, INC. and attaches hereto a copy of the Application for such Certificate.

Business ID#: 686356

IN TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 31st day of January, 2013 A.D.



William M. Gardner
Secretary of State

