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State of New Hampshire

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

JOHN J. BARTHELMES
COMMISSIONER

April 16, 2018

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

Requested Action

Authorize the Department of Safety, Office of Highway Safety, to enter into a **sole source** contractual agreement with the University of New Hampshire Survey Center (Vendor Code 177867 B018), Durham, New Hampshire, in the amount of \$6500.00 to conduct the National Highway Traffic Safety Administration (NHTSA) Attitude Survey. Effective upon Governor and Council approval through September 15, 2018. Funding source: 100% Federal Funds

Funds are available in the SFY 2018/2019 operating budget and contingent upon availability and continued appropriations in SFY 2019 with the authority to adjust between fiscal years through the Budget Office if needed and justified.

02-23-23-231010-75410000 Dept. of Safety – Office of Commissioner – NHTSA Grants	<u>SFY 2019</u>
072 – 500577 Grants to Schools – Federal	\$6,500.00

Explanation

This is a **sole source** contract as the University of New Hampshire (UNH) developed the data collection methodology for the survey in accordance with NHTSA requirements; therefore, the survey used is proprietary. Governor and Council approval is being sought as the amount of this contract plus the amount of a previously approved contract yield a total amount above the Governor and Council approval threshold.

In an effort to develop Traffic Safety Performance Measures for states and federal agencies, the National Highway Traffic Safety Administration (NHTSA) and the Governors Highway Safety Association (GHSA) developed a basic set of questions to be used by states to track driver attitudes and awareness concerning impaired driving, seat belt use, and speeding issues. The Survey Center will again conduct the attached Attitude Survey in July 2018 as a component of the Granite State Poll which is conducted quarterly by the Survey Center as a means of gathering accurate public opinion data about New Hampshire. The poll is conducted in accordance with the highest levels of academic research utilizing strict data collection methodologies to ensure a randomly selected sample that is representative of the State of New Hampshire.

Respectfully submitted,


John J. Barthelmes
Commissioner of Safety

COOPERATIVE PROJECT AGREEMENT

between the

STATE OF NEW HAMPSHIRE, **Office of Highway Safety**

and the

University of New Hampshire of the UNIVERSITY SYSTEM OF NEW HAMPSHIRE

- A. This Cooperative Project Agreement (hereinafter "Project Agreement") is entered into by the State of New Hampshire, **Office of Highway Safety**, (hereinafter "State"), and the University System of New Hampshire, acting through **University of New Hampshire**, (hereinafter "Campus"), for the purpose of undertaking a project of mutual interest. This Cooperative Project shall be carried out under the terms and conditions of the Master Agreement for Cooperative Projects between the State of New Hampshire and the University System of New Hampshire dated November 13, 2002, except as may be modified herein.
- B. This Project Agreement and all obligations of the parties hereunder shall become effective on the date the Governor and Executive Council of the State of New Hampshire approve this Project Agreement ("Effective date") and shall end on **9/15/18**. If the provision of services by Campus precedes the Effective date, all services performed by Campus shall be performed at the sole risk of Campus and in the event that this Project Agreement does not become effective, State shall be under no obligation to pay Campus for costs incurred or services performed; however, if this Project Agreement becomes effective, all costs incurred prior to the Effective date that would otherwise be allowable shall be paid under the terms of this Project Agreement.
- C. The work to be performed under the terms of this Project Agreement is described in the proposal identified below and attached to this document as Exhibit A, the content of which is incorporated herein as a part of this Project Agreement.

Project Title: **NHTSA Attitude Survey**

- D. The Following Individuals are designated as Project Administrators. These Project Administrators shall be responsible for the business aspects of this Project Agreement and all invoices, payments, project amendments and related correspondence shall be directed to the individuals so designated.

State Project Administrator

Name: Steven R. Lavoie
 Address: Office of Highway Safety
33 Hazen Dr.
Concord, NH 03305

Phone: 603-271-2791

Campus Project Administrator

Name: Dianne Hall
 Address: University of New Hampshire
Sponsored Programs Administration
51 College Rd. Rm 116
Durham, NH 03824

Phone: 603-862-1942

- E. The Following Individuals are designated as Project Directors. These Project Directors shall be responsible for the technical leadership and conduct of the project. All progress reports, completion reports and related correspondence shall be directed to the individuals so designated.

State Project Director

Name: John J. Barthelmes
 Address: Office of Highway Safety
33 Hazen Dr.
Concord, NH 03301

Phone: 603-271-2791

Campus Project Director

Name: Andrew Smith
 Address: UNH Survey Center
Huddleston Hall, 73 Main St.
Durham, NH 03824-3564

Phone: 603-862-2226

Campus Authorized Official [Signature]
 Date 9/14/18

F. Total State funds in the amount of **\$6,500.00** have been allotted and are available for payment of allowable costs incurred under this Project Agreement. State will not reimburse Campus for costs exceeding the amount specified in this paragraph.

Check if applicable

Campus will cost-share _____ % of total costs during the term of this Project Agreement.

Federal funds paid to Campus under this Project Agreement are from Grant/Contract/Cooperative Agreement No. **P.L. 111-242 "Continuing Appropriations Act, 2011"** from **National Highway Traffic Safety Administration/US Department of Transportation** under CFDA# **20.600**. Federal regulations required to be passed through to Campus as part of this Project Agreement, and in accordance with the Master Agreement for Cooperative Projects between the State of New Hampshire and the University System of New Hampshire dated November 13, 2002, are attached to this document as Exhibit B, the content of which is incorporated herein as a part of this Project Agreement.

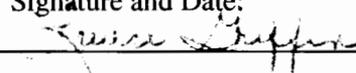
G. Check if applicable

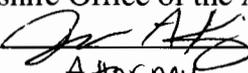
Article(s) _____ of the Master Agreement for Cooperative Projects between the State of New Hampshire and the University System of New Hampshire dated November 13, 2002 is/are hereby amended to read:

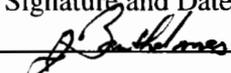
H. State has chosen **not to take** possession of equipment purchased under this Project Agreement.
 State has chosen **to take** possession of equipment purchased under this Project Agreement and will issue instructions for the disposition of such equipment within 90 days of the Project Agreement's end-date. Any expenses incurred by Campus in carrying out State's requested disposition will be fully reimbursed by State.

This Project Agreement and the Master Agreement constitute the entire agreement between State and Campus regarding this Cooperative Project, and supersede and replace any previously existing arrangements, oral or written; all changes herein must be made by written amendment and executed for the parties by their authorized officials.

IN WITNESS WHEREOF, the University System of New Hampshire, acting through the **University of New Hampshire** and the State of New Hampshire, **Office of Highway Safety** have executed this Project Agreement.

By An Authorized Official of:
University of New Hampshire
Name: Louise Griffin
Title: Senior Director, Sponsored Programs Administration
Signature and Date:  4/30/18

By An Authorized Official of: the New Hampshire Office of the Attorney General
Name: 
Title: Attorney
Signature and Date: Jessica A. King 4/30/18

By An Authorized Official of:
Office of Highway Safety
Name: John J. Barthelmes
Title: Coordinator, Office of Highway Safety
Signature and Date:  4/20/18

By An Authorized Official of: the New Hampshire Governor & Executive Council
Name: _____
Title: _____
Signature and Date: _____

EXHIBIT A

A. Project Title: NHTSA Attitude Survey

B. Project Period: May 1, 2018 - September 15, 2018

C. Objectives:

In an effort to develop Traffic Safety Performance Measures for states and federal agencies, the National Highway Traffic Safety Administration (NHTSA) and the Governors Highway Safety Association (GHSA) developed a basic set of questions to be used by states to track driver attitudes and awareness concerning impaired driving, seat belt use, and speeding issues. Starting July of federal Fiscal Year 2010 states will conduct an attitude survey consisting of 12 questions focusing on impaired driving, safety belts, and speeding.

D. Scope of Work: Campus will again conduct the attached Attitude Survey (Exhibit C) in July 2018 as a component of The Granite State Poll which is conducted quarterly by the Campus as a means of gathering accurate public opinion data about New Hampshire. The poll is conducted in accordance with the highest levels of academic research utilizing strict data collection methodologies to ensure a randomly selected sample that is representative of the State of New Hampshire. Questions will be asked of a random sample of 500 adults across New Hampshire and include the following demographic information: age, sex, marital status, adults in household, children in household, household size, geographic region, political party identification, congressional district, education, political party registration, own/rent home, union membership, church attendance, political ideology, household income, education, and employment.

E. Deliverables Schedule:

The Campus will provide only the State with a report that includes an executive summary of the data results, explanatory charts, cross tabulation data tables and a copy of the questionnaire and codes used for analysis.

F. Budget and Invoicing Instructions: Campus will submit an invoice for \$6,500.00 to the State no later than 45 days after the project end date. The invoice will include the project title, project number and the reimbursement amount, along with any supporting documentation.

Question 1 - 12	\$6,500
Total	\$6,500

EXHIBIT B

This Project Agreement is funded under a Grant/Contract/Cooperative Agreement to State from the Federal sponsor specified in Project Agreement article F. All applicable requirements, regulations, provisions, terms and conditions of this Federal Grant/Contract/Cooperative Agreement are hereby adopted in full force and effect to the relationship between State and Campus, except that wherever such requirements, regulations, provisions and terms and conditions differ for INSTITUTIONS OF HIGHER EDUCATION, the appropriate requirements should be substituted (e.g., OMB Circulars A-21 and A-110, rather than OMB Circulars A-87 and A-102). References to Contractor or Recipient in the Federal language will be taken to mean Campus; references to the Government or Federal Awarding Agency will be taken to mean Government/Federal Awarding Agency or State or both, as appropriate.

Special Federal provisions are listed here: None or **Uniform Guidance issued by the Office of Management and Budget (OMB) in lieu of Circulars listed in paragraph above.**

EXHIBIT C

**Survey Question Recommendations from the NHTSA-GHSA Working Group
(copied from GHSA website)**

1: Are you a licensed driver? State: _____ (OHS)

Impaired driving

A-1: In the past 60 days*, how many times have you driven a motor vehicle within 2 hours after drinking alcoholic beverages? _____ (number of times)

A-2: In the past 30 days*, have you read, seen or heard anything about alcohol impaired driving (or drunk driving) enforcement by police? _____ Yes _____ No

**A-3: What do you think the chances are of someone getting arrested if they drive after drinking?
_____ Always _____ Most of the time _____ Half the time _____ Rarely _____ Never**

Seat belt use

**B-1: How often do you use seat belts when you drive or ride in a car, van, sport utility vehicle or pick up?
_____ Always _____ Most of the time _____ Half the time _____ Rarely _____ Never**

**B-2: In the past 60 days*, have you read, seen or heard anything about seat belt law enforcement by police?
_____ Yes _____ No**

**B-3: What do you think the chances are of getting a ticket if you don't wear your safety belt?
_____ Always _____ Most of the time _____ Half the time _____ Rarely _____ Never**

B-4: Currently, New Hampshire does not require adults to wear seat belts. Would you say you favor or oppose a law requiring everyone in a moving vehicle to wear a seatbelt? "Is that strongly or just somewhat?"

- | | | | |
|---|-------------------------------|------|--------------------------|
| 1 | _____ FAVOR – STRONGLY | 2 | _____ FAVOR -- SOMEWHAT |
| 3 | _____ NEUTRAL / NOT SURE / DK | 4 | _____ OPPOSE -- SOMEWHAT |
| 5 | _____ OPPOSE – STRONGLY | * 99 | _____ NA/REFUSED |

Speeding

S-1a. On a local road with a speed limit of 30 mph, how often do you drive faster than 35 mph?
_____ Always _____ Most of the time _____ Half the time _____ Rarely _____ Never**

S-1b. On a road with a speed limit of 65 mph, how often do you drive faster than 70 mph?
_____ Always _____ Most of the time _____ Half the time _____ Rarely _____ Never**

**S-2: DMV-S15. In the past 30 days*, have you read, seen or heard anything about speed enforcement by police?
_____ Yes _____ No**

**S-3: What do you think the chances are of getting a ticket if you drive over the speed limit?
_____ Always _____ Most of the time _____ Half the time _____ Rarely _____ Never**

Notes:

* Questions A-1, A-2, B-2, B4, and S-2 ask about behavior or media awareness over the recent past. States should choose the time period – 30 or 60 days – based on when the survey is conducted and when relevant enforcement and media campaigns have occurred.

** Questions S1a and S1b ask about speeding behavior on local or high-speed roads, respectively. States should use either or both based on their speeding reduction targets. States may also wish to change the details of these questions to reflect their priorities. For example, the most useful local road speed limit for S1a may be 25 or 35 mph rather than 30 mph. The most useful “faster than” amount on either S1a or S1b may be 10 mph above the speed limit rather than 5 mph.

SPECIAL PROVISIONS

Awarding Agency: Office of Highway Safety (OHS)

**Federal Awarding Agency: National Highway Traffic Safety Administration (NHTSA), US DOT
NHTSA Region 1 55 Broadway, RTV-8E Cambridge, MA 02142**

FAIN Number: 18X9204020NH17/69A37518300004020NH0

Project Title & Number: OHS UNH Attitude Survey 304-18S-004

Funding Source; PSP & Task #: 18-01 OP 06

Duns #: 111089470

Award Title: Fast Act NHTSA 402 Occupant Protection

Catalog of Federal Domestic Assistance (CFDA) Number: 20.600

Is This a Research and Development Project (Yes or No): No

In Kind Match: \$1,625.00

In Kind Match to support this project shall be met using related work.

U.S. Department of Transportation/NHTSA Grant Conditions:

As a result of participating in Federal highway safety grant programs administered by National Highway Traffic Safety Administration (NHTSA) and the US Department of Transportation (USDOT), highway safety subrecipients are required to comply with the following documents:

- **Subrecipients agree to comply with all applicable elements of NHTSA Highway Safety Grant Funding Guidance dated August, 2015 and found at the following Web link.: <https://www.nhtsa.gov/highway-safety-grants-program/resources-guide>. Subrecipients should pay particular attention to the sections on (1) allowable costs for equipment, travel, training, and consultant services; and (2) unallowable costs for equipment, facilities and construction, training and program administration.**
- **Subrecipients agree to comply with all applicable elements of 2 CFR 200 - the Uniform Administrative Requirement for Grants, Cost Principles, and Audit Requirements as promulgated by the U.S. Department of Transportation. This document is found at the following Web link <https://www.nhtsa.gov/highway-safety-grants-program/resources-guide>.**
- **Subrecipients agree to comply with all applicable Federal basic and incentive grant program requirements as outlined in the Highway Safety Grant Management Manual found at the following Web link: <https://www.nhtsa.gov/highway-safety-grants-program/resources-guide>. This document provides information on each of the grant programs.**

The following additional provisions apply to highway safety subrecipients as a result of certifications and assurances provided to NHTSA by State Highway Safety Offices in their Highway Safety Plan:

- **Federal Funding Accountability & Transparency Act (FFATA). Data Universal Numbering System (DUNS) Numbers Requirement. As the recipient of federal highway safety funds, the applicant agency must have a DUNS number. This is a unique nine-character number that identifies the applicant agency and is used by the federal government to track how federal funds are distributed. If the applicant agency is authorized to make sub-awards under this contract, it must: 1) notify potential sub-recipients that no entity may receive a sub-award unless that entity has provided the applicant agency with its DUNS number; and 2) the applicant agency may not make a sub-award to an entity unless the entity has provided its DUNS number to the applicant agency. (<https://fedgov.dnb.com/webform>)**

nation Authority; Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance; Insert in all contracts and funding agreements with other State or private entities the following clause: "During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

- a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;
- c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
- d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and
- e. To insert this clause, including paragraphs a through e, in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

POLITICAL ACTIVITY (HATCH ACT)
(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501–1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING
(applies to subrecipients as well as States)
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- 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 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.
- 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 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 its instructions.

- The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a 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 \$100,000 for each such failure.

RESTRICTION ON STATE LOBBYING

(applies to subrecipients as well as States)

- None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

(applies to subrecipients as well as States)

Instructions for Primary Certification (States)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below and agrees to comply with the requirements of 2CFR parts 180 and 1300.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and coverage sections of 2 CFR part 180. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1300.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

- 1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2CFR parts 180 and 1300.**
- 2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.**
- 3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.**
- 4. The terms covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definition and Coverage sections of 2 CFR part 180. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.**
- 5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.**
- 6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Instructions for Lower Tier Certification” including the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1300.7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.**

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

- 1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.**
- 2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.**

- o Costs incurred by advisory councils are allowable.
- o Audit costs are allowable.
- o Compensation costs are allowable so long as they are consistent with that paid for similar work in other activities of the local government.
- o Entertainment costs are unallowable.
- o Equipment costs are allowable with the prior approval of the HSO. Equipment having a useful life of more than one year or a current per-unit fair market value of \$5,000 or more must be tracked. When replacing equipment purchased with federal funds, the equipment to be replaced may be used as a trade-in or can be sold with the proceeds used to offset the cost of the replacement equipment. In addition, during the period of the contract with HSO, insurance on the equipment is allowable.
- o Travel costs are allowable if pre-approved by the HSO and so long as they are consistent with those normally allowed in like circumstances for non-federally funded activities.
- o Cost Principles for Federal Grants to Non-Profit Organizations and Institutions of Higher Education - These requirements apply to only the non-profit and higher education sub recipients. These document list and define general categories of costs that are allowable and unallowable. The links below provide the full text of these two basic federal grant requirements.
- o 2 CFR 200 subpart E

II. Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be

conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution

Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with

obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

I understand that failure to comply with applicable Federal statutes and regulations may subject State officials to civil or criminal penalties and/or place the State in a high risk grantee status in accordance with 2 CFR 200.

I sign these Certifications and Assurances based on personal knowledge, after appropriate inquiry, and I understand that the Government will rely on these representations in awarding grant funds.

Campus Authorized Official: 

Date: 11/3/18