



Subject:

N.H. Department of State - Hearings Officer - Contract for Services

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 N.H. Department of State | | 1.2 State Agency Address State House Room 204, Concord, N.H. 03301 | |
| 1.3 Contractor Name Donald E. Mitchell | | 1.4 Contractor Address [REDACTED] 03227 | |
| 1.5 Contractor Phone Number 603-271-3242 | 1.6 Account Number | 1.7 Completion Date November 30, 2011 | 1.8 Price Limitation \$30,000 |
| 1.9 Contracting Officer for State Agency William M. Gardner | | 1.10 State Agency Telephone Number 603-271-3242 | |
| 1.11 Contractor Signature <i>Donald E. Mitchell</i> | | 1.12 Name and Title of Contractor Signatory Donald E. Mitchell | |
| 1.13 Acknowledgement: State of <u>N.H.</u> , County of <u>Merrimack</u> On <u>6/22/11</u> , before the undersigned officer, personally appeared the person identified in block 1.11, and 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 <i>Paula Penney</i> [Seal] | | | |
| 1.13.2 Name and Title of Notary or Justice of the Peace PAULA PENNEY Notary Public 3-22-15 | | | |
| 1.14 State Agency Signature <i>William M. Gardner</i> | | 1.15 Name and Title of State Agency Signatory William M. Gardner, Secretary of State | |
| 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: _____ | | | |
| 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.

Contractor Initials _____
Date _____

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 _____
Date _____

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.

State of New Hampshire
Department of State

Exhibit A

Scope of Work ("Services")

The Contractor shall provide the following services under the direction of the Secretary of State:

- All statutory duties of a Hearings Officer in connection with an administrative hearing relative to the Local Government Center and related parties.

State of New Hampshire
Department of State

Exhibit B

The Contract Price, Method of Payment, and Terms of Payment

1. Contractor's compensation shall be equivalent to what he received immediately prior to retirement from State service.
2. The Contractor shall submit invoices to the Department of State on a semi-monthly basis for services rendered.
3. Contractor shall be reimbursed for mileage at the State's current rate.
4. Contractor shall be reimbursed for all necessary and reasonable expenses incurred during the hearings process.
5. This Exhibit constitutes the entire agreement and understanding between the parties with respect to compensation for services and supersedes all prior agreements and understandings.

State of New Hampshire
Department of State

Exhibit C

SPECIAL PROVISIONS

Modifications of Form Number P-37

The following provisions of the contract on Form P-37 have been modified, added to, deleted, or not completed:

1.17, 1.18 Approval by the Governor and Council, and Attorney General is not required. Hence the aforementioned provisions of the contract Form P-37 is not completed.

3.1 Provision 3.1 is hereby amended by deleting all the current text and replacing it with the following: " This agreement, and all obligations of the parties hereunder, shall become effective on the date this agreement is executed".

14. Provision 14 of the contract Form P-37 is not required and shall not apply to this agreement.

State of New Hampshire
Department of State

AMENDMENT

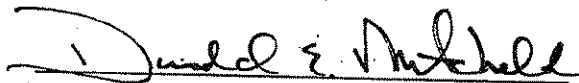
The Contract for Services entered by and between the State of New Hampshire, Department of State and Donald E. Mitchell on August 24, 2011 is hereby amended as follows:

Section 1.7 Completion Date:

The completion date of this contract is May 30, 2011

Section 1.8 Price Limitation:

The price limitation of this contract is \$90,000



Contractor Signature

Donald E. Mitchell, Esquire

Name and Title of Contractor Signatory

Nov 14, 2011

Date



State Agency Signature

William M. Gardner, Secretary of State

State Agency Signature

11-14-11

Date

Karen Ladd

From: Don Mitchell [REDACTED]@aol.com
Sent: Thursday, September 08, 2011 8:06 PM
To: Administrative Hearings; William Gardner
Cc: Don Mitchell, Attorney
Subject: Motion to Intervene - Firefighters

TO: All

FROM: DEM

Thankfully, I received a "hard copy" of A Motion to Intervene filed by the NH Firefighters in my personal mailbox in [REDACTED]. It appears that it was hand delivered to the SOS Office on Tuesday the 6th. As the system is presently working I did not learn of its existence by e-mail to [REDACTED]@aol.com or now administrativehearings@sos.nh.gov. Nor did I receive a call alerting me that it had been delivered. Nor despite me being physically in the SOS office on three separate occasions over the course of Wednesday, (the 7th) did I get the word. Nor from any source, other than my personal mailbox here in [REDACTED] at the end of the day.

Needless to say, as Patrick and Meagan know, and all others should now know, ALL filings in the so-called "LGC" matter are important and timely notice must be provided to the Presiding Officer, at a minimum, in some manner.

Needless to say we have a lot of points to address regarding the accurate and timely flow of information as this process may involve 15-21 respondents! I will travel to Concord on Monday, September 12 in hopes of discussing ways to tighten up the process.

Sincerely

Don

Donald E. Mitchell, Esq.

[REDACTED]@aol.com

603-[REDACTED]

Karen Ladd

From: Don Mitchell [REDACTED]@aol.com
Sent: Tuesday, September 06, 2011 3:15 PM
To: William Gardner
Cc: Michelle Bourgeois
Subject: Copy of Respondents' List

Dear Secretary Gardner:

If your staff compiled a contact list for each respondent providing the mail address to which their copy of the Notice of Hearing was sent, or indeed the e-mail address to which it was sent or they have provided, could you kindly arrange for a copy to be sent to me for future use. As I would anticipate having to communicate with all 21 respondents, unless other arrangements are made among the parties, it would prove very helpful if I had a copy of the initial so-called "service list". Certainly I would like to have it in electronic form if it already exists, preferably in Word rather than as a PDF, to facilitate use with labeling and e-mail software.

Thank you.

Don Mitchell

Donald E. Mitchell, Esq.

[REDACTED]@aol.com

603-[REDACTED]

Karen Ladd

From: Don Mitchell [REDACTED]@aol.com
Sent: Monday, September 05, 2011 2:48 PM
To: William Gardner
Cc: Michelle Bourgeois
Subject: Question

Dear Secretary Gardner:

Having now read the petition that you had instructed to be sent to me Friday afternoon, I note that the Notice of Order does not indicate the date of the hearing only "on October, 2011 at 10:00AM". Can I assume that the actual notice that was forwarded to the respondents contained the date October 4, 2011 as I had requested as the scheduled hearing date?

Would you kindly arrange to have the proper petition (or single hearing date page, or other such required form) with the complete notice of hearing date forwarded to me for my official file.

Thank you.

Don Mitchell

cc: Ms. M. Bourgeois

Donald E. Mitchell, Esq.
[REDACTED]@aol.com
603-[REDACTED]

Karen Ladd

From: Don Mitchell [redacted@aol.com]
Sent: Monday, August 29, 2011 11:24 AM
To: William Gardner
Subject: Mitchell request

Dear Secretary Gardner or Paula:

I hope that you and yours were not overly affected by Irene over the weekend.

In anticipation of a petition being filed for which the State has contracted with me to be responsible for and conduct hearings, I have listed below some logistical issues I respectfully ask that the SOS office address:

1. Please forward any filed pleading and accompanying transmittal letter or attachments, if possible, to my email address [redacted@aol.com]
2. Please Reserve Rm#425(smaller) between 8:00 AM and 5:00 PM for potential conference days Sept 2,8,13,18; and between 7:00AM and 6:00PM on the hearing days listed below in the next item
3. Please Reserve Rm#426(larger adjoining corner hearing room) between 8:00AM and 5:00 PM on Oct 4,5,6,7,10,11,12,13,14,17,18,19,20,21
4. Please consider designating an administrative support staff person to assist me on site during hearings, primarily to help maintain clerical flow and marking of exhibit submissions, immediate copying of documents and ad hoc facilities issues that may arise. If possible, this would not be someone from the Bureau with any prior contact with this matter, nor in a policy making position, nor a staff attorney. If this is impossible, would it be possible to arrange a temporary per diem agency exchange of contract for such a support staff person. If this also is impossible, let's discuss this further.
5. Please make some arrangement with the facilities personnel to assist in the physical setup of the reserved rooms on conference and hearing days, or establish a contact person that I can communicate on an ongoing basis once the matter progresses to conferences and hearings.
6. I would like to contact the UNH Law School to explore the possibility of using one of there 2nd or 3rd year students, through their so-called non-paid extern assignments. If you already know of some student intern or extern that has not been involved with this case to date so as to create a conflict or give the appearance of any conflict, please let me know or release me to talk with the law school.

These are requests that would contribute greatly to the due process, orderly, and dignified conduct of hearing process in this important matter.

Lastly, and this is of a more personal nature, could you explore obtaining a sturdy functional swivel chair that I may use throughout these proceedings. Perhaps you may have a contact in the LOB or elsewhere in an agency that would be able to cooperate.

Would you kindly respond regarding these requests at your earliest convenience or I can call in.

Thank you.

Don Mitchell

Donald E. Mitchell, Esq.

[REDACTED]@aol.com

603-[REDACTED]

[REDACTED]

Karen Ladd

From: Donald Mitchell ([REDACTED]@gmail.com]
Sent: Friday, August 26, 2011 1:03 PM
To: William Gardner
Subject: Addendum re-date

Secretary Gardner

I suggested that the date for hearing be shown as Oct. 4, 2011. As I anticipate that there will be more than a day of hearing it would be more accurate to indicate that the hearing will "begin on October 4, 2011 and continue day to day thereafter as determined by the Presiding Officer."

Don

Karen Ladd

From: Donald Mitchell [REDACTED]@gmail.com]
Sent: Friday, August 26, 2011 12:37 PM
To: William Gardner
Subject: Mitchell input

In the event that you issue a notice of hearing I submit the following input at this time.

For inclusion in Issuance of SOS Notice of Hearing

Date: Oct 4, 2011

Time: 9:00 AM

Location: State House Annex Room 426

“ This hearing will be conducted by Attorney Donald E. Mitchell, Presiding Officer”

Any electronic response, communication or filing should be directed to (*whatever e-mail address you have assigned to me*).

Any hard documents, response, appearance, or other filing not electronically forwarded shall be forwarded to:

Donald E. Mitchell, Presiding Officer
Department of State
State House – Room 204
107 N. Main Street
Concord, NH 03301-4989

Telephone calls should be directed to 603-271-3242. (*Just receive any calls with "I'll give him your message."*)

P.S Secretary Gardner/Paula,

Could you add the statements above to the formal Notice of Filing? I think that it will help route the initial flow of data and correspondence. Also, when the Notice of Hearing is sent, and any e-mails or correspondence is received, regarding this immanent case would you kindly email a copy or forward attachment to me at [REDACTED]@aol.com and also inform me of any phone messages that I may receive by e-mailing the essentials to me at that address as well. If for any reason there is need for an alternate address, please forward to [REDACTED]@gmail.com and lastly if there is a need to reach me by phone it is 603-[REDACTED].

Thank you.

Don Mitchell

Karen Ladd

From: Donald Mitchell [REDACTED]@gmail.com]
Sent: Wednesday, August 17, 2011 2:20 PM
To: William Gardner
Subject: Don Mitchell Info
Attachments: SEC of STATE RESUME.docx

Dear Secretary Gardner:

In preparation for our telephone discussion I have attached a copy of a general vita for your reference.

As you know, I have recently left state service having previously undertaken the responsibilities of hearing officer and chief administrative hearings official and general counsel for the PELRB. In the New Hampshire tradition of public service, these were all performed under the assigned title of "Executive Director". I would like to make you, and through you other necessary parties and individuals, aware of my availability to perform the role of a hearing officer as an unbiased official with the ability and temperament to conduct such proceedings.

In brief, my qualifications over thirty-one years of participation with our legal system are these: (1) experience with our state's administrative, trial and appellate law and rules; (2) experience acting as a chief hearings official in many and complex administrative proceedings resulting in many written decisions; (3) author of administrative decisions both procedural and substantive most frequently upheld by the Supreme Court if appealed by either party; (4) experience as an arbitrator and mediator and litigator; (5) knowledge of all levels of government and intergovernmental operations and, (6) sufficiently knowledgeable of administrative proceedings to have acted as guest lecturer at UNH Law School in administrative law, instructed state officials in the conduct of administrative hearings and specifically fact-finding, presented to several independent groups on the due process and procedural aspects of administrative hearings, and participated as a legal advocate before several administrative bodies.

In addition, I believe that I would be an adjudicator acceptable to all parties, if such consent were necessary, and not reasonably subject to recusal. I believe I am familiar to the parties as a person committed to due process and the fair, full, orderly and respectful conduct of evidentiary hearings. Also, with full appreciation for the opportunity to have served the state in the past, sensitivity of state budgetary constraints, and of the importance of this matter to all participants please know that I am prepared to reduce my per diem fee to the state plus necessary reasonable expenses if such discussion is still relevant at the end of our talk.

Very truly yours,
/s/ Donald E. Mitchell, Esq.

DONALD ELLSWORTH MITCHELL, Esquire

[REDACTED]
[REDACTED], New Hampshire 03227
(603) [REDACTED]; [REDACTED]@aol.com

PROFESSIONAL SUMMARY

Law: Attorney, arbitrator, mediator and fact-finder. Until last year performing as chief counsel, executive director and presiding hearing official of state agency governing labor relations primarily between public employers and their employees, mediating and resolving disputes and managing conflict. Familiar with governmental operations at district, municipal, county, state and federal levels. Previously involved in the general practice of law for twenty years.

POSITIONS

2000-2010

Executive Director and Presiding Officer, Public Employee Labor Relations Board Concord, New Hampshire. Responsibilities included chief operating executive of state agency with primary jurisdiction over all public sector labor relations, adjudication of all unfair labor complaints, certification of bargaining units for collective bargaining, and acting as chief counsel to nine member board and as presiding officer conducting adversarial hearings; writing all legal decisions as presiding officer and following board deliberations; also mediated disputes where possible. Prior to assuming agency head position, performed as a hearings officer with primary responsibility for unit representation and bargaining unit composition hearings.

1990-2005

Mediator for NH Superior Court System (Trial Courts) appointed to resolve pending civil cases; and 2008-2010 for NH Human Rights Commission appointed to resolve discrimination cases

1980 - 2000

Maintained a general litigation practice in the areas of business and commercial interests, civil rights, labor and employment claims and arbitration, construction, and personal injury law, as well as a transactional desk practice in business formation and operation, commercial compliance, collective bargaining negotiations, and proprietary college counsel. Presented cases at all levels of state courts and US District court, administrative agencies and private alternative dispute resolution forums.

PROFESSIONAL AFFILIATIONS
(Past and present)

New Hampshire Bar Association: Alternative Dispute Resolution, Labor & Employment sections and Finance Committee ; American Bar Association: Labor and Employment, ADR and Judiciary sections and American and NH Trial Lawyers Association (now Association for Justice)

**PROFESSIONAL
SERVICE**

New Hampshire Judicial Council, appointed member representing legal profession
Executive Director, New England Consortium of State Labor Relations Agencies
Editor and contributor, Limitations on Actions Desk Volume
Recipient, NHBA President's Award for Distinguished Service to the Legal Profession,
New Hampshire Bar Association
Contributor, "A Question of Law" Union Leader newspaper series
Lecturer, "Lawyer in Every School" service project
Participant, "Pro Bono" legal representation program
Coach, State Champion, sixth grade "Mock Trial Competition"

**COMMUNITY
SERVICE**

Governor's Blue Ribbon Commission on Public Transportation, brokered formation of
regional cooperative public transportation system
Wentworth-Douglas Hospital ownership transition project, chaired committee to
transition public health facility to not-for-profit facility and structure governance
Mayor, City of Dover, NH
District Director, 1st Congressional District, NH
Assistant Legal Counsel to Governor of New Hampshire
Sergeant, U.S. Army Infantry

TEACHING:

McIntosh College, faculty member (1989-93);
University of New Hampshire, adjunct instructor (1985-88);
Franklin Pierce Law Center, guest lecturer (2006-2009);
Golden Gate University, guest lecturer (1978)
Presenter at numerous seminars and meetings addressing topics of ethics, decision-
making and adjudication, mediation, and negotiation

EDUCATION:

Suffolk University Law School, Juris Doctor
University of Rhode Island, graduate study in public administration
Rhode Island College, B.A. Political Science/Public Administration
Attendance at continuing legal education institutes and seminars throughout career
in general areas of ADR, litigation, ethics, negotiation, mediation, judicial decision
making, employment and labor law and communication.

Karen Ladd

From: Karen Ladd
Sent: Monday, August 22, 2011 3:33 PM
To: [REDACTED]@aol.com
Subject: LGC Press Release
Attachments: LGC Press Release 082211.doc

Karen Ladd

From: Karen Ladd
Sent: Monday, August 22, 2011 3:34 PM
To: [REDACTED]@aol.com
Subject: LGC Press Release
Attachments: LGC Press Release 082211.doc

NEW HAMPSHIRE



Department of State

PRESS RELEASE

August 22, 2011

Contact: Secretary of State William Gardner -- 271-3242

Earlier this month the Bureau of Securities Regulation issued a report regarding its investigation of alleged violations of the pooled risk management programs statute and the uniform securities act by the Local Government Center, Inc. and its affiliates. Based on the finding of this report, I have appointed Don Mitchell of Sandwich to act as the Presiding Officer over the administrative enforcement proceedings in this matter. He is an attorney and experienced administrative hearings officer who recently retired from state service as Executive Director of the Public Employees Labor Relations Board.

Because of his recognized knowledge of administrative hearings he has acted as a guest lecturer at UNH Law School in administrative law, instructed state hearings officials in fact finding techniques during hearings, and presented at many state and regional seminars and conferences on ethics, due process and the procedural aspects of administrative hearings.

He has conducted many complex administrative proceedings and has earned a reputation as an individual of integrity, as an adjudicator committed to fair and orderly hearings, and as a professional who respects the hearing process and those participants who appear at his hearings.

Attorney Mitchell has not been attached or otherwise involved with this office, the Bureau of Securities Regulation, or the issues at hand today.

In appointing Attorney Mitchell to undertake the role of presiding administrative official I know that all parties involved can rely on his knowledge, temperament, and discipline to bring this administrative proceeding to a just and timely conclusion.

There will be a formal enforcement action filed against LGC and its affiliates soon. Thereafter, the matter will proceed in due course according to the statutory rules.

Karen Ladd

From: System Administrator
To: [REDACTED]@aol.com
Sent: Monday, August 22, 2011 3:33 PM
Subject: Undeliverable: LGC Press Release

Your message did not reach some or all of the intended recipients.

Subject: LGC Press Release
Sent: 8/22/2011 3:33 PM

The following recipient(s) cannot be reached:

[REDACTED]@aol.com on 8/22/2011 3:33 PM

The e-mail account does not exist at the organization this message was sent to. Check the e-mail address, or contact the recipient directly to find out the correct address.

<SOSANXEXC01.NHSEC_OF_STATE.INT #5.1.1 smtp;550 5.1.1 [REDACTED]@aol.com>:
Recipient address rejected: aol.com>

DONALD E. MITCHELL, Esq.

1077 07/6

[Redacted]
[Redacted] New Hampshire 03227
[Redacted]@aol.com

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: September 1, 2011

INVOICE # 2011-035-J

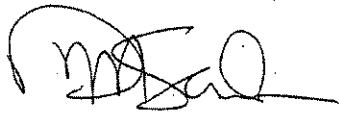
CONTACT: William M. Gardner, Secretary of State

ACT # _____

R # 223128

DESCRIPTION

personal services rendered under the terms of the above referenced contract for period August 19, 2011 through September 1, 2011



Amount: \$5000

DISES

| | | |
|------------------|--------------------------------|--------------------------|
| MILEAGE: 8/22/11 | Sandwich to Concord and return | 114 miles @ \$ 0.557/mi. |
| 8/24/11 | Sandwich to Concord and return | 114 miles @ \$ 0.557/mi. |
| 9/01/11 | Sandwich to Concord and return | 114 miles @ \$ 0.557/mi. |

Total: 342 miles Amount: \$ 189.81

SUBMITTED BY:

Donald E Mitchell

DATE: _____

032-NES-938349-

86679821

DONALD E. MITCHELL, Esq.

[REDACTED]
[REDACTED] New Hampshire 03227
[REDACTED]@aol.com

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: September 15, 2011

INVOICE # 2011-036-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

R # 223128

DESCRIPTION

personal services rendered under the terms of the above referenced contract for period September 1, 2011 through September 15, 2011

Amount: \$ 5,000.00

SERVICES

| | | |
|----------------|--------------------------------|--------------------------|
| LEASE: 9/07/11 | Sandwich to Concord and return | 114 miles @ \$ 0.55 /mi. |
| 9/09/11 | Sandwich to Concord and return | 114 miles @ \$ 0.55 /mi. |
| 9/12/11 | Sandwich to Concord and return | 114 miles @ \$ 0.55 /mi. |
| 9/14/11 | Sandwich to Concord and return | 114 miles @ \$ 0.55 /mi. |

Total: 456 miles Amount: \$ 250.80

032-NES-955372-
1303497

SUBMITTED BY: Donald E. Mitchell

DATE: 9/15/11

DONALD E. MITCHELL, Esq.

[REDACTED] - [REDACTED]
[REDACTED], New Hampshire 03227
[REDACTED]@aol.com

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: October 1, 2011

INVOICE # 2011-037-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

Item # 223128

1346687

032-NES-993939-

DESCRIPTION

Personal services rendered under the terms of the above referenced contract for period September 16, 2011 through October 1, 2011

Amount: \$ 5,000.00



DETAILS

TRIP: 9/19/11. Sandwich to Concord and return 114 miles @ \$ 0.55 /mi.

9/26/11 Sandwich to Concord and return 114 miles @ \$ 0.55 /mi.

Total: 228 miles Amount: \$ 125.40

SUBMITTED BY: Donald E Mitchell DATE: October 1, 2011

DONALD E. MITCHELL, Esq.

[REDACTED] - [REDACTED]
[REDACTED] New Hampshire 03227
[REDACTED]@aol.com

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: October 17, 2011
INVOICE # 2011-038-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

R # 223128

DESCRIPTION

for personal services rendered under the terms of the above referenced contract for
period October 1, 2011 through October 15, 2011

Amount: \$ 5,000.00



EXPENSES

MILEAGE: 10/04/11 Sandwich to Concord and return 114 miles @ \$ 0.55 /mi.

10/12/11 Sandwich to Concord and return 114 miles @ \$ 0.55 /mi.

Total: 228 miles Amount: \$ 125.40

SUBMITTED BY: Donald E. Mitchell DATE: October 17, 2011

032-NES-985733-

1332899

DONALD E. MITCHELL, Esq.

[Redacted]
[Redacted] New Hampshire 03227
[Redacted]@aol.com

10-31-11

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: October 30, 2011

INVOICE # 2011-039-J

CONTACT: William M. Gardner, Secretary of State

*Hi Paula,
I got in touch w/
Den - it was a typo
& no thanks you for
catching it the date*

CONTRACT # _____

VENDOR # 223128

*should read:
10/18/11, 10/24/11 &
10/30/11
thanks!
meagan*

DESCRIPTION

For personal services rendered under the terms of the above
the period October 16, 2011 through October 30, 2011

Amount: \$ 5,000.00

135 2893

SES

LEAGE: 10/18/11 Sandwich to Concord and return 114 miles @ \$ 0.55 /mi.
10/24/11 Sandwich to Concord and return 114 miles @ \$ 0.55 /mi.
10/24/11 Sandwich to Concord and return 114 miles @ \$ 0.55 /mi.

36 per Dan Mitchell

Total: 342 miles Amount: \$ 188.10

[Handwritten signature]

SUBMITTED BY: Donald E Mitchell

DATE: October 30, 2011

032-NES-1006235-

DONALD E. MITCHELL, Esq.

[REDACTED]
[REDACTED], New Hampshire 03227
[REDACTED]@aol.com

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: November 16, 2011

INVOICE # 2011-040-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

For personal services rendered under the terms of the above referenced contract for the period October 31, 2011 through November 15, 2011

Amount: \$ 5,000.00

032-NES-1026305-

1375767

ISES

LEAGE: 11/10/11 travel to Concord and return 114 miles @ \$ 0.55 /mi.

11/14/11 travel to Concord and return 114 miles @ \$ 0.55 /mi.

Total: 228 miles Amount: \$ 125.40

SUBMITTED BY: Donald E. Mitchell

DATE: November 15, 2011

DONALD E. MITCHELL, Esq.

[REDACTED] - [REDACTED]
[REDACTED], New Hampshire 03227
[REDACTED]@aol.com

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: November 31, 2011

INVOICE # 2011-041-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

For personal services rendered under the terms of the above referenced contract for the period November 16, 2011 through November 31, 2011

Amount: \$ 5,000.00

032-NES-1037511-

1384480

| | | | |
|-------|----------|------------------------------|--------------------------|
| ES | | | |
| DATE: | 11/21/11 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |
| | 11/29/11 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |

Total: 228 miles Amount: \$ 125.40

SUBMITTED BY: Donald E. Mitchell

DATE: November 30, 2011

DONALD E. MITCHELL, Esq.

[REDACTED]
[REDACTED] New Hampshire 03227
[REDACTED]@aol.com

1.77
3/14

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: December 15, 2011

INVOICE # 2011-042-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

For personal services rendered under the terms of the above referenced contract for the period December 1, 2011 through December 15, 2011

Amount: \$ 5,000.00

EXPENSES

| | | |
|-------------------|---|--------------------------|
| MILEAGE: 12/01/11 | travel to Tilton and return (document pick-up) | 78 miles @ \$ 0.55 /mi. |
| 12/05/11 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |
| 12/06/11 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |
| 12/14/11 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |

032-NES-1058645-
170 7338

Total: 420 miles Amount: \$ 231.00

PREPARED BY: Donald E. Mitchell DATE: December 15, 2011

DONALD E. MITCHELL, Esq.

[REDACTED]
[REDACTED] New Hampshire 03227
[REDACTED]@aol.com

1077-016

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: January 3, 2012

INVOICE # 2011-043-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

1427644

personal services rendered under the terms of the above referenced contract for period December 15, 2011 through December 31, 2011.

Amount: \$ 5,000.00

032-NES-1083105-

ES

| | | |
|----------------|------------------------------|--------------------------|
| EAGE: 12/19/11 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |
| 12/27/11 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |

Total: 228 miles

Amount: \$ 125.40

SUBMITTED BY:

Donald E. Mitchell

DATE: January 3, 2012

1677
076

DONALD E. MITCHELL, Esq.

[REDACTED]
[REDACTED] New Hampshire 03227
[REDACTED]@aol.com

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: January 15, 2012

INVOICE # 2012-044-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

For personal services rendered under the terms of the above referenced contract for the period January 1, 2012 through ~~December~~ 15, 2012

January Amount: \$ 5,000.00

032-NES-1083097-

142-7643

IES

| | | |
|---------------|---|--------------------------|
| DATE: 1/04/12 | travel to Tilton and return (document pick-up) | 78 miles @ \$ 0.55 /mi. |
| 1/11/12 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |

Total: 192 miles Amount: \$ 105.60

SUBMITTED BY: Donald E. Mitchell DATE: January 17, 2012

DONALD E. MITCHELL, Esq.

[REDACTED]
[REDACTED] New Hampshire 03227
[REDACTED]@aol.com

1677
246

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: January 31, 2012

INVOICE # 2012-045-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

For personal services rendered under the terms of the above referenced contract for the period January 16, 2012 through January 31, 2012

Amount: \$ 5,000.00

032-NES-1112781-

145-9005

DES

| | | | |
|---------|----------|------------------------------|--------------------------|
| PERIOD: | 01/19/12 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |
| | 01/23/12 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |
| | 01/31/12 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |

Total: 342 miles

Amount: \$ 188.10

SUBMITTED BY:

Donald E. Mitchell

DATE: January 31, 2012

DONALD E. MITCHELL, Esq.

[REDACTED]
[REDACTED] New Hampshire 03227
[REDACTED]@aol.com

1077-
of 6

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: February 15, 2012

INVOICE # 2012-046-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

For personal services rendered under the terms of the above referenced contract for period February 1, 2012 through February 15, 2012

Amount: \$ 5,000.00

032-NES-1119855-

1/460225

IES

| | | |
|----------------|-------------------------------|--------------------------|
| DATE: 02/01/12 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |
| 02/06/12 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |
| 02/09/12 | travel to Meredith and return | 28 miles @ \$ 0.55 /mi. |
| 02/13/12 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |

Total: 370 miles

Amount: \$ 203.50

SUBMITTED BY:

DATE: February 15, 2012

DONALD E. MITCHELL, Esq.

[REDACTED] - [REDACTED]
[REDACTED] New Hampshire 03227
[REDACTED]@aol.com

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: February 29, 2012

INVOICE # 2012-047-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

For personal services rendered under the terms of the above referenced contract for the period February 15, 2012 through February 29, 2012

Amount: \$ 5,000.00

EXPENSES

| | | |
|-------------------|-------------------------------|--------------------------|
| MILEAGE: 02/15/12 | travel to Meredith and return | 28 miles @ \$ 0.55 /mi. |
| 02/17/12 | travel to Meredith and return | 28 miles @ \$ 0.55 /mi. |
| 02/27/12 | travel to Concord and return | 114 miles @ \$ 0.55 /mi. |

1509975

032-NES-1169774-



Total: 170 miles

Amount: \$ 93.50

ATTED BY: /s/ Donald E. Mitchell Esq.

DATE: February 29, 2012

DONALD E. MITCHELL, Esq.

[Redacted]
[Redacted] New Hampshire 03227
[Redacted]@aol.com

1077

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: March 15, 2012
INVOICE # 2012-048-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

For personal services rendered under the terms of the above referenced contract for the period March 1, 2012 through March 15, 2012, 2012

Amount: \$ 5,000.00

032-NES-1142067-

1487247

| | | | |
|----------------|------------------------------|---------------------|------|
| ES | | | |
| EAGE: 03/05/12 | travel to Concord and return | 114 miles @ \$ 0.55 | /mi. |
| 03/15/12 | travel to Concord and return | 114 miles @ \$ 0.55 | /mi. |

Total: 228 miles Amount: \$125.40

SUBMITTED BY: Donald E. Mitchell DATE: March 15, 2012

DONALD E. MITCHELL, Esq.

1077
076

[REDACTED]
[REDACTED] New Hampshire 03227
[REDACTED]@aol.com

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: March 31, 2012
INVOICE # 2012-049-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

For personal services rendered under the terms of the above referenced contract for the period March 15, 2012 through March 31, 2012.

Amount: \$ 5,000.00

EXPENSES

TRAVEL: 03/19/12 travel to Concord and return 114 miles @ \$ 0.55 /mi.

03/26/12 travel to Concord and return 114 miles @ \$ 0.55 /mi.

Total: 228 miles Amount: \$125.40

032-NES-1160458-

1503077

SUBMITTED BY: Donald E. Mitchell DATE: March 31, 2012

DONALD E. MITCHELL, Esq.

1077 -

[REDACTED]
[REDACTED] New Hampshire 03227
[REDACTED]@aol.com

096

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: April 16, 2012

INVOICE # 2012-050-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

For personal services rendered under the terms of the above referenced contract for the period April 1, 2012 through April 15, 2012.

Amount: \$ 5,000.00

032-NES-1185755-

1526605

IES

MILEAGE: 04/02/12 travel to Concord and return 114 miles @ \$ 0.55 /mi.
04/09/12 travel to Concord and return 114 miles @ \$ 0.55 /mi.

Total: 228 miles

Amount: \$125.40

SUBMITTED BY: Donald E Mitchell DATE: April 16, 2012

DONALD E. MITCHELL, Esq.

1677

[REDACTED]
[REDACTED] New Hampshire 03227
[REDACTED]@aol.com

ACCOUNT: State of New Hampshire
Department of State
Office of the Secretary of State
State House Room 204
Concord, N.H. 03301

INVOICE DATE: May 1, 2012

INVOICE # 2012-051-J

CONTACT: William M. Gardner, Secretary of State

CONTRACT # _____

VENDOR # 223128

DESCRIPTION

For personal services rendered under the terms of the above referenced contract for the period April 16, 2012 through April 30, 2012.

Amount: \$ 5,000.00

032-NES-1197177-

ES

| | |
|--|--------------------------|
| MILEAGE: 04/16/12 travel to Concord and return | 114 miles @ \$ 0.55 /mi. |
| 04/23/12 travel to Concord and return | 114 miles @ \$ 0.55 /mi. |
| 04/27/12 travel to Concord and return | 114 miles @ \$ 0.55 /mi. |
| 04/30/12 travel to Concord and return | 114 miles @ \$ 0.55 /mi. |

Total: 456 miles Amount: \$250.80

SUBMITTED BY: Donald E. Mitchell **DATE:** May 1, 2012

Barry Glennon

From: Don Mitchell [redacted@aol.com]
Sent: Tuesday, August 23, 2011 11:13 AM
To: Barry Glennon
Subject: Re: Draft Contract

Barry:

Thank you for your administrative help yesterday. I will await your completion of the proposed contract. I have completed the "Vendor Application", Alternate W-9 Form" and the "ACH Enrollment Form for Direct Deposits Form" (Treasury). I will forward them later today or in hand, probably tomorrow as I am concerned about the banking information and the social security number.

With appreciation,

Don Mitchell

-----Original Message-----

From: Barry Glennon <BGlennon@SOS.STATE.NH.US>
To: mitchellaw <[redacted@aol.com]>
Sent: Mon, Aug 22, 2011 1:26 pm
Subject: Draft Contract

Don:

I need to spend a few minutes in the morning with Mr. Gardner to review Exhibits A, B & C of your contract. Will send a pdf of the documents to you after I get Bill's o.k. on the language....shouldn't be later than 10:00 a.m.

Very nice to meet you.

Barry Glennon

Barry J. Glennon
N.H. Department of State
Bureau of Securities Regulation

Barry Glennon

From: Barry Glennon
Sent: Tuesday, August 23, 2011 2:35 PM
To: [REDACTED]@aol.com
Subject: Contract
Attachments: Scan2301.pdf

Don:

Attached is a pdf file containing an unsigned (draft) copy of your contract. Two originals of this agreement await your signature at the Secretary of State's office. Paula Penny will notarize both copies and provide you with one fully executed copy for your records.

Should you have any questions whatsoever, I can be reached at 271-7002 or on my cell at 203-[REDACTED]

Thanks for your time this morning finalizing the language.

Barry Glennon
N.H. Dept of State

COPY

Print Form

Subject: N.H. Department of State - Hearings Officer - Contract for Services 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 N.H. Department of State | | 1.2 State Agency Address State House Room 204, Concord, N.H. 03301 | |
| 1.3 Contractor Name Donald E. Mitchell | | 1.4 Contractor Address [REDACTED] N.H. 03227 | |
| 1.5 Contractor Phone Number 603-271-3242 | 1.6 Account Number [REDACTED] | 1.7 Completion Date November 30, 2011 | 1.8 Price Limitation \$30,000 |
| 1.9 Contracting Officer for State Agency William M. Gardner | | 1.10 State Agency Telephone Number 603-271-3242 | |
| 1.11 Contractor Signature [REDACTED] | | 1.12 Name and Title of Contractor Signatory Donald E. Mitchell | |
| 1.13 Acknowledgement: State of <u>N.H.</u> , County of <u>Merrimack</u> On <u>[REDACTED]</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] | | | |
| 1.13.2 Name and Title of Notary or Justice of the Peace [REDACTED] | | | |
| 1.14 State Agency Signature | | 1.15 Name and Title of State Agency Signatory William M. Gardner, Secretary of State | |
| 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: _____ | | | |
| 1.18 Approval by the Governor and Executive Council By: _____ On: _____ | | | |

State of New Hampshire
Department of State

Exhibit A

Scope of Work ("Services")

The Contractor shall provide the following services under the direction of the Secretary of State:

- All statutory duties of a Hearings Officer in connection with an administrative hearing relative to the Local Government Center and related parties.

State of New Hampshire
Department of State

Exhibit B

The Contract Price, Method of Payment, and Terms of Payment

1. Contractor's compensation shall be equivalent to what he received immediately prior to retirement from State service.
2. The Contractor shall submit invoices to the Department of State on a semi-monthly basis for services rendered.
3. Contractor shall be reimbursed for mileage at the State's current rate.
4. Contractor shall be reimbursed for all necessary and reasonable expenses incurred during the hearings process.
5. This Exhibit constitutes the entire agreement and understanding between the parties with respect to compensation for services and supersedes all prior agreements and understandings.

State of New Hampshire
Department of State

Exhibit C

SPECIAL PROVISIONS

Modifications of Form Number P-37

The following provisions of the contract on Form P-37 have been modified, added to, deleted, or not completed:

1.17, 1.18 Approval by the Governor and Council, and Attorney General is not required. Hence the aforementioned provisions of the contract Form P-37 is not completed.

3.1 Provision 3.1 is hereby amended by deleting all the current text and replacing it with the following: " This agreement, and all obligations of the parties hereunder, shall become effective on the date this agreement is executed".

14. Provision 14 of the contract Form P-37 is not required and shall not apply to this agreement.

Eric Forcier

From: Michelle Bourgeois
Sent: Thursday, September 08, 2011 12:23 PM
To: Don Mitchell, Attorney
Cc: Earle Wingate; Eric Forcier
Subject: RE: Copy of Respondents' List
Attachments: LGC List to Receive Notice of Hearing.doc

Good afternoon Mr. Mitchell,

I'm sorry for my delay in responding to you. It has not been easy to locate contact information for many of the individuals needing to be served.

I have attached a list of addresses I have compiled by means of documents on file or by search on the web. I was not successful in finding any email addresses. I hope once things move along to better update the list as we hear from each person that has been served.

Have a great day,
Michelle

Michelle Bourgeois
Administrative Secretary
N.H. Bureau of Securities Regulation
107 North Main Street, Rm 204
Concord, NH 03301-4989
(603)271-1463, Fax: (603)271-7933

From: Don Mitchell [mailto:██████████@aol.com]
Sent: Tuesday, September 06, 2011 3:15 PM
To: William Gardner
Cc: Michelle Bourgeois
Subject: Copy of Respondents' List

Dear Secretary Gardner:

If your staff compiled a contact list for each respondent providing the mail address to which their copy of the Notice of Hearing was sent, or indeed the e-mail address to which it was sent or they have provided, could you kindly arrange for a copy to be sent to me for future use. As I would anticipate having to communicate with all 21 respondents, unless other arrangements are made among the parties, it would prove very helpful if I had a copy of the initial so-called "service list". Certainly I would like to have it in electronic form if it already exists, preferably in Word rather than as a PDF, to facilitate use with labeling and e-mail software.

Thank you.

Don Mitchell

Donald E. Mitchell, Esq.

██████████@aol.com

603 ██████████

Earle Wingate

From: Earle Wingate
Sent: Thursday, October 06, 2011 11:31 AM
To: 'Mark E. Howard'; Administrative Hearings; Meagan Rose
Cc: bquirk@preti.com; dfrydman@nhgic.org; glen@molanmilner.com; Joshua M. Pantesco; Meagan Rose; MRamsdell@orr-reno.com; peter@nphlegal.com; Whitney, William H.; wsaturley@preti.com; JRancourt@bclilaw.com
Subject: RE: Hearing Facilities

Dear Mr. Mitchell and Ms. Rose, and parties:

We, too have made inquiries concerning a more appropriate facility in which to conduct these proceedings. We understand that there may be a room available in the Legislative Office Building, more tailored to our needs.

One hesitation about accepting the generous offer of the Federal Court is that it would add a patina of formality to a process Administrative in nature. It is not as accessible to the public. And I noted the press's use of photography in reporting on the proceedings, which I believe would be compromised by the Federal venue.

We thus ask that a decision concerning venue be put off until we have the opportunity to secure the Legislative Office Building.

Most sincerely,

Earle F. Wingate, III, Esq.
Staff Attorney
Bureau of Securities Regulation
603-271-1463

From: Mark E. Howard [mailto:mhoward@howardruoff.com]
Sent: Tuesday, October 04, 2011 8:49 PM
To: Administrative Hearings; Meagan Rose
Cc: bquirk@preti.com; dfrydman@nhgic.org; Earle Wingate; glen@molanmilner.com; Joshua M. Pantesco; Meagan Rose; MRamsdell@orr-reno.com; peter@nphlegal.com; Whitney, William H.; wsaturley@preti.com; JRancourt@bclilaw.com
Subject: Hearing Facilities

Dear Hearing Officer Mitchell and Ms. Rose:

During today's status conference, Hearing Officer Mitchell aptly noted that the hearing room was likely inadequate to accommodate these proceedings. He invited the parties to make any suggestions for a more suitable hearing room. To that end, I met with the Deputy Clerk Dan Lynch of the federal court this afternoon and inquired whether one of the federal courtrooms might be available to conduct these proceedings. I explained the nature of the proceedings and indicated that we would need a room on several occasions over the next several months, and if the matter goes to a final hearing on the merits, we would likely need several consecutive days.

Mr. Lynch very graciously offered Courtroom A on the first floor of the courthouse, and seemed genuinely eager to help out the State. He asked only that we give the clerk's office advance notice of hearing dates so that he can inform court security when we will be in the building.

I am familiar with Courtroom A and took a tour of it today with Mr. Lynch. It has the following advantages:

1. An elevated judge's bench

2. A well in front of the bench for the stenographer and Ms. Rose
3. Multiple counsel tables with adequate seating (including for clients)
4. Podium
5. Witness stand
6. Several rows for public seating
7. Ante rooms, one with kitchen and bathroom facilities.
8. 2 conference rooms in the entrance foyer to the courtroom
9. A drop down screen for PowerPoint or other projection
10. There is plenty of room to move about the courtroom while questioning witnesses or managing documents

Courtroom A is not a hi-tech courtroom, so we would not have the bells and whistles of the jury courtrooms.

The only potential disadvantages or issues are:

- A. The courtroom is not available on most Wednesdays, so we would have to calendar events accordingly. Mr. Lynch explained that with enough notice he could make it available on some Wednesdays.
- B. The federal court building does not allow the press to bring still or video cameras into the building. I do not know if there is any flexibility in this policy.

Hearings Officer Mitchell noted today as well that the State House Annex does not offer any security. The federal courthouse has court security officers at the entrance and screens everyone who enters the building.

I have a copy of the "Facilities Use" policy and will explain it to everyone if we choose to take advantage of the federal court's enormous generosity.

I would suggest that we plan to hold the October 18th hearing at the federal court and test it out. I think you will find it more than acceptable.

Please let me know if you like this idea.

Sincerely,

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