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New Hampshire Fish and Game Department

HEADQUARTERS: 11 Hazen Drive, Concord, NH 03301-6500
(603) 271-3421
FAX (603) 271-1438

www.WildNH.com
e-mail: info@wildlife.nh.gov
TDD Access: Relay NH 1-800-735-2964

January 4, 2013

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

REQUESTED ACTION

Authorize the New Hampshire Fish and Game Department to enter into a memorandum of agreement with NatureServe (vendor code #170502) from the date of Governor and Council approval through April 1, 2014 to conduct work related to the status of bumble bee species in NH. This is a no-cost Memorandum of Agreement.

EXPLANATION

NatureServe will provide non-federal programmatic funds to the Fish and Game Department in support of this project. The goal of the project is to improve bumble bee distribution information, assess conservation status ranks in each state, and create global range maps for threatened bumble bee species. NatureServe will also hold a workshop to train state biologists in bumble bee identification and monitoring procedures. Bumblebees are important pollinators of wild plants and crops, and their distribution has declined range wide. Understanding the distribution and status of these insects is important to enhancing habitat for them.

Respectfully Submitted,

Glenn Normandeau
Executive Director

Kathy Ann LaBonte
Chief, Business Division

NatureServe

CONTRACT FOR SERVICES

THIS IS A CONTRACT ("CONTRACT") BETWEEN NATURESERVE, ACTING THROUGH ITS:

Division/Department: Conservation Science

Address: 4600 N. Fairfax Dr, 7th Floor
Arlington, VA 22203

Name and Title of Contact: Mary-Beth Young, Operations Manager

Telephone: 703-908-1871

NatureServe Project Name: Bumble Bees and Dragonflies of the Northeast

NatureServe Project Number: SCFOR002

Prime Contract Name: N/A

Prime Contract Number: N/A

(HEREAFTER "NatureServe") and:

Name of Contractor: NH Fish and Game Department

Address: 11 Hazen Dr., Concord, NH 03301

Name and Title of Legal Contact: Glenn Normandeau, Executive Director

Telephone: 603-271-3511

Email: glenn.normandeau@wildlife.nh.gov

Social Security or Taxpayer ID #: 026000618

ACTING AS AN INDEPENDENT CONTRACTOR (HEREAFTER "CONTRACTOR").

NatureServe and the Contractor agree as follows:

1. CONTRACTOR'S DUTIES:

The Contractor is qualified and willing to perform the services described below.

A. Objectives

The key objective of this project is support the conservation of bumble bees and dragonflies in the northeast through the State Wildlife Action Plans by improving the data that is available to conservation practitioners.

B. Outcomes

NatureServe will work with five northeastern states (Maine, New Hampshire, Vermont, Massachusetts and New York) to improve bumble bee distribution information, assess conservation status ranks in each state, and create global range maps for threatened dragonfly and bumble bee species. In the second year of the project, NatureServe will hold a workshop to train state biologists in bumble bee identification and monitoring procedures.

C. Activities and Tasks

Contractor will:

1. *Attend project meetings scheduled via teleconference and not to exceed an average of once per month.*
2. *Develop a state bumble bee list and determine state conservation status ranks for each species.* Drawing from information provided by expert entomologists and found in published and museum distribution records, contractor will determine the species occurring in their state and add them to their institutional biodiversity database. Using NatureServe's standards and tools for assessing conservation status, state biologists will assign state conservation ranks to their species. Ranking methods will include use of the NatureServe Rank Calculator.
3. *Review of draft range maps of threatened bumble bees and dragonflies.* NatureServe will create these range maps using standard GIS techniques. Contractor will review these drafts, in either GIS or map image format, for accuracy, with a special focus on the depiction of the range within their state.
4. *Attend the bumble bee identification and monitoring workshop.* NatureServe will sponsor a workshop on bumble bee identification and monitoring in the northeastern region during calendar year 2013. The contractor will designate at least one qualified representative to attend the workshop.

NatureServe will:

1. Schedule regular project meetings via teleconference.
2. Send the existing state list of bumble bees from the NatureServe databases to the Contractor.

3. Provide access to the most recent standard and tools for assessing conservation status; specifically, the most recent Element Rank Calculator (an excel file) and accompanying documentation.
4. Create draft range maps of threatened bumble bees and dragonflies for review.
5. Host the workshop on bumble bee identification and monitoring. Provide funding to cover travel expenses for one representative designated by the Contractor.

2. DELIVERABLES:

Deliverables and Anticipated Completion Dates

Deliverable	Anticipated Completion Date
State list of bumble bees	Year 1
Review of draft range maps	Year 2
Conservation status assessments for bumble bees	Year 2
Attend bumble bee workshop	Year 2

3. PAYMENTS:

A. Compensation

For all of the services described above and all goods and materials supplied by the Contractor, NatureServe shall pay the Contractor a total of **\$6,667.00 (Six thousand six hundred sixty seven dollars)** by submitting an invoice as specified in section 3.B herein. Said invoice may be submitted via email to [mary-beth_young@NatureServe.org] or via regular mail to:

Mary-Beth Young
NatureServe
4600 N. Fairfax Dr, 7th Floor
Arlington, VA 22203

Total expenses in excess of the amount stated above must be approved in advance and in writing by NatureServe. Any unused materials or supplies paid for by NatureServe remain the property of NatureServe and shall be returned to NatureServe at the end of this Contract.

Where NatureServe will compensate Contractor on a cost-reimbursable basis Contractor must comply with the provisions of the "Contract Cost Principles and Procedures" found at 48 C.F.R. Part 31 that are relevant to the Contractor's performance of work.

B. Payment Schedule and Terms:

A Dated invoice for all services (with detail and backup as requested) must be presented to NatureServe after Year 1 Deliverable has been completed before payments can be made to the Contractor. Contractor shall present its final invoice no later than thirty days after the

Expiration Date (see 4. below). Subject to payment to NatureServe by the Prime Agreement End User, NatureServe shall pay the Contractor thirty days after NatureServe receives an invoice and accepts the services performed under the Contract; the Contractor agrees that payment by the Prime Agreement End User to NatureServe shall be a condition precedent to any payment from NatureServe to the Contractor.

Funding for Year 2 activities (per Section 2) are dependent on anticipated future funding. In the event that Year 2 funds are not secured NatureServe shall pay 50% of contract amount contingent on the successful completion of Year 1 deliverables as defined in Section 2.

4. CONTRACT PERIOD:

This Contract shall begin on June 1, 2012 and shall remain in effect until March 31, 2014 or until NatureServe notifies the Contractor that its work is satisfactorily complete, whichever comes first (the "Expiration Date"). Any extension beyond the Expiration Date must be requested in writing and approved by signature of NatureServe prior to the expiration date. Except as set forth herein, no continuous or ongoing relationship between NatureServe and the Contractor is created by this Contract.

5. PERFORMANCE OF WORK:

The Contractor shall perform all work required under this Contract in accordance with the highest standards of the Contractor's profession or craft and to the satisfaction of NatureServe. The Contractor shall perform all work in accordance with all laws and regulations and shall obtain, at its sole expense, any permits or licenses required. Unless otherwise agreed to between NatureServe and the Contractor, the Contractor will provide all of the tools, materials and equipment needed to perform the Contract services at his/her own expense, including, but not limited to, computers, office supplies, telephone, facsimile, and internet connections. The Contractor shall not be paid for any work found by NatureServe to be unsatisfactory. If any of the services are to be performed on land that is owned neither by the Contractor nor NatureServe, the Contractor shall be responsible for obtaining the landowner's permission before entering upon such land.

6. INSURANCE:

The work to be performed under this contract shall be performed entirely at the Contractor's risk. The Contractor shall comply with workers' compensation laws concerning the Contractor and his/her employees.

7. TERMINATION AND REMEDIES:

NatureServe may cancel this Contract at any time upon two weeks' written notice. Should this occur, payment for work satisfactorily completed will be adjusted accordingly. In addition, if the Contractor defaults in performance of the Contractor's duties under this Contract, whether for circumstances within or beyond the control of the Contractor, NatureServe may immediately terminate this Contract by written notice to Contractor.

8. INDEPENDENT CONTRACTOR:

The parties intend that an independent contractor-NatureServe relationship will be created by this Contract, and the Contractor expressly represents and warrants to NatureServe that he/she is not and shall not be construed to be an employee of NatureServe. The means, methods, conduct and control of the work will lie solely within the purview of the Contractor, and NatureServe will not determine when, where and how the Contractor's work will be performed. The Contractor will not be, and should not hold him/herself out to be, an agent or employee of NatureServe for any purpose, and no joint venture or principal-agent relationship exists. The Contractor and employees of the Contractor are not entitled to any of the benefits that NatureServe provides for its employees. Neither NatureServe nor the Contractor shall have any right, power, or authority to create any obligation, express or implied on behalf of the other. NatureServe shall generally coordinate the performance of Services and shall facilitate the exchange of information among contractors retained by NatureServe.

9. ASSIGNMENT/SUBCONTRACT:

The Contractor may not assign or transfer this Contract, or subcontract for the work to be performed, without the prior written consent of NatureServe.

10. USE OF DOCUMENTS AND DATA:

Any reports, studies, photographs, computer programs, drawings, writings or other similar works or documents, along with supporting data and material, created, developed, or produced under this contract are the property of the initiating party. Both parties to this contract grant each other full rights for the use of all materials described above.

Data developed under this contract will be under joint copyright between NatureServe and the New Hampshire Fish and Game Department.

The contractor and NatureServe warrant to each other that they will not infringe on the intellectual property rights of others in the performance of this Contract.

11. NOTICES:

Any notice required by this Contract shall be sent via certified mail, return receipt requested, to the parties at the addresses set out above.

12. CERTIFICATION:

The Contractor certifies that it is an agency of the State of New Hampshire.

13. CONFIDENTIAL INFORMATION:

During the course of the performance of this Contract, Contractor may have access to materials, data, strategies, systems or other information relating to NatureServe and its programs which is intended for NatureServe's internal use only. Contractor shall use due diligence to safeguard and protect such information from unauthorized disclosure. Any such information acquired by the Contractor shall not be used, published or divulged by the Contractor to any person, firm or corporation or in any advertising or promotion regarding Contractor or Contractor's services, or in any manner or connection whatsoever without first obtaining the written permission of NatureServe, which permission NatureServe may withhold in its sole discretion.

14. BINDING EFFECT/AMENDMENTS:

This Contract shall become binding when signed by the parties. This Contract contains the entire agreement of the parties and no amendment shall be effective except in writing signed by both parties.

15. RECORD RETENTION:

Financial records, supporting documents, statistical records, and all other records pertaining to this Contract shall be retained by the Contractor for a period of three years from the expiration date of this Contract. If any litigation, claim, or audit is initiated, or notice of any such litigation, claim or audit is given, before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit involving the records have been concluded or resolved.

16. ACCESS TO RECORDS:

NatureServe or its authorized representatives shall have the right of timely and unrestricted access to any books, documents, papers, and other records of the Contractor that are pertinent to this agreement for the purpose of performing audits and examinations and making excerpts, copies, and transcriptions. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

17. NON-DISCRIMINATION:

The Contractor agrees to abide by all applicable U.S. laws with regard to non-discrimination of U.S. citizens or legal residents working under this Contract on the basis of race, color, religion, sex, national origin, handicap or age.

18. DEBARMENT AND SUSPENSION:

The Contractor certifies to the best of its knowledge and belief that it is not debarred, suspended, or proposed for debarment or declared ineligible for the award of subcontracts, by any U.S. Government agency, in accordance with federal regulations nor has it been so within three years preceding the effective date of this Contract. The Contractor agrees not to engage or contract for work under this Contract any such debarred or ineligible parties.

19. GOVERNMENT OFFICIALS AND EMPLOYEES:

The Contractor hereby certifies that no assistance, payments or anything of value (monetary or non-monetary) has been or shall be made, promised, offered to or accepted by any U.S. and/or foreign government employee or official: 1) in contravention of any U.S. or other applicable law (including, but not limited to the U.S. Foreign Corrupt Practices Act) or regulation; 2) without the express consent of the government for which the employee or official works; and 3) that is not reasonable, bona fide, and directly related to the activities funded under this Contract. It is the Contractor's responsibility to ensure compliance with this clause, and to maintain, and provide at NatureServe's request, documentation demonstrating such compliance. The Contractor hereby certifies that no payments or other form of assistance has been or shall be made to or accepted by any government employee or official: a) to influence any official government act or decision; b) to induce any government employee or official to do or omit to do any act in violation of his or her lawful duty; or c) to obtain or retain business for, or direct business to any individual or entity. If the Contractor is a government official or employee, the Contractor shall recuse himself or herself from any governmental act or decision affecting NatureServe and shall not influence any governmental act or decision affecting NatureServe. Under no circumstances shall any payments or anything of value be made, promised, or offered to any U.S. Federal, State or local employee or official by the Contractor.

20. CHOICE OF LAW/FORUM:

This agreement shall be interpreted, construed and governed by the laws of the State of New Hampshire.

21. SEVERABILITY

If any provision of this Contract is held invalid the other provisions shall not be affected thereby.

22. ENTIRETY OF AGREEMENT:

This Agreement embodies the entire agreement and understanding between the parties, their successors, and assigns hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby. If any part of this Agreement is found by a court of competent jurisdiction to be void or unenforceable, all other parts or provisions shall continue to be valid and binding. No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing and signed by both parties hereto.

Agreement includes this document and, by this reference, incorporates the following as if fully set forth herein:

As Attachments _____

23. WAIVER:

Any failure by NatureServe to require strict compliance with any provision of this Agreement shall not be construed as a waiver of such provision, and NatureServe may subsequently require strict compliance at any time, notwithstanding any prior failure to do so. No approval by the End User, NatureServe or any governmental authority shall act as a waiver nor shall it otherwise relieve the Contractor of its liability for any errors or omissions in performance of Services.

Acceptance by:

"NatureServe":


Signature

Name

Title

Date

FEB - 6 2013

"Contractor"


Signature of Independent Contractor

Name

Title

Date

Glenn Normandeau

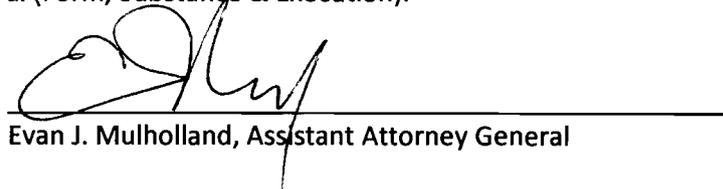
Ex. Director

2/13/13

Approval by the Attorney General (Form, Substance & Execution).

Date:

2-20-13


Evan J. Mulholland, Assistant Attorney General