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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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CONCORD, NEW HAMPSHIRE 03301-6397

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June 21, 2018

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

REQUESTED ACTION

Authorize the Department of Justice to enter into a subgrant with the New Hampshire Department of Safety, Concord NH (Vendor #177878-B001) in an amount not to exceed \$281,121 from the Bureau of Justice Statistics, Office of Justice Programs entitled National Criminal History Improvement Program (NCHIP) upon Governor and Executive Council approval through September 30, 2018. 100% Federal Funds.

Funding is available as follows:

02-20-20-201510-3426	-	<u>FY 2019</u>
NCHIP		
072-500576 Grants Federal		\$281,121

EXPLANATION

The Department of Justice (DOJ) is requesting authorization to subgrant funds from the National Criminal History Improvement Program (NCHIP) grant to the Department of Safety (DOS) to be used to purchase replacement fingerprinting machines. Many of the 42 fingerprinting devices currently in use throughout the State have exceeded the intended shelf life. This funding will be utilized to replace the 12 oldest machines, for which replacement parts are no longer manufactured. DOS will also use the funds to purchase one portable digital fingerprinting machine.

His Excellency, Governor Christopher T. Sununu
and the Honorable Council

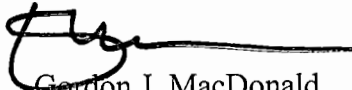
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In accordance with the Interstate Identification Index (III), the DOS, Division of State Police, Criminal Records Unit is the State's sole submitting agency of fingerprint images to the FBI. The fingerprinting devices enable New Hampshire law enforcement agencies to provide tenprint fingerprint data to State Police for submittal to the FBI.

In the event federal funds are no longer available, general funds will not be requested to support this program.

Please let me know if you have any questions. Your consideration of this request is greatly appreciated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gordon J. MacDonald', with a long horizontal flourish extending to the right.

Gordon J. MacDonald
Attorney General

State of New Hampshire

Interagency Memorandum of Understanding

Whereas, the New Hampshire Department of Justice (“Agency 1”) is a duly constituted agency of the State of New Hampshire;

Whereas, the New Hampshire Department of Safety (“Agency 2”) is a duly constituted agency of the State of New Hampshire;

Whereas, Agency 1 is responsible for administering funding through the National Criminal History Improvement Program (NCHIP) Cooperative Agreement to fund projects to enhance the collection and reporting of criminal history data;

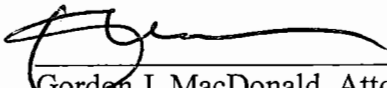
Whereas, Agency 1 desires to enter into a subgrant with Agency 2 for a term from Governor and Council approval through September 30, 2018 in an amount to not exceed \$281,121;

Whereas, Agency 2 desires to purchase twelve (12) Livescan fingerprinting machines with printers and one (1) portable Livescan machine, to replace existing Livescan machines that are beyond approved shelf life throughout the state.

NOW THEREFORE, the parties enter into this Memorandum of Understanding to their mutual benefit, the benefit of the State and in furtherance of constitutional or statutory authority and objectives.

1. Agency 1 agrees to pay Agency 2 the amount of \$281,121 for the services described in the attached MOU Exhibit A, which is hereby incorporated by reference. Payment shall be provided from 020-20-20-201510-3426072-500576
2. The method of payment and payment amount for the above-referenced services, if any is required, is described in the attached MOU Exhibit B, such exhibit being hereby incorporated by reference.
3. All obligations hereunder are contingent upon the availability and continued appropriation of funds. The agencies shall not be required to transfer funds from any other account in the event that funds are reduced or unavailable.
4. The Memorandum of Understanding is effective until September 30, 2018.
5. This memorandum of Understanding may be amended by an instrument in writing signed by both parties. Either party may terminate this agreement by providing written notice to the other party at least 30 days prior to termination.

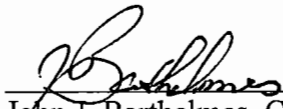
6. The parties agree that the obligations, agreements and promises made under this Memorandum of Understanding are not intended to be legally binding on the parties and are not legally enforceable.
7. Disputes arising under this Memorandum of Understanding which cannot be resolved between the agencies shall be referred to the Department of Justice, Civil Bureau, for review and resolution.
8. This agreement shall be construed in accordance with the laws of the State of New Hampshire.
9. The parties hereto do not intend to benefit any third parties and this Memorandum of Understanding shall not be construed to confer any such benefit.
10. In the event any of the provisions of this Memorandum of Understanding are held to be contrary to any state or federal law, the remaining provisions of this Memorandum of Understanding will remain in full force and effect.
11. This Memorandum of Understanding, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Memorandum of Understanding and understandings between the parties, and supersedes all prior Memoranda of Understanding and understandings related hereto.
12. Nothing herein shall be construed as a waiver of sovereign immunity, such immunity being hereby specifically preserved.
13. ***FOR AGENCY 1 Department of Justice:***



Gordon J. MacDonald, Attorney General

Date: 6/1/18

14. ***FOR AGENCY 2 Department of Safety***



John J. Barthelmes, Commissioner

Date: 6/5/18

Exhibit A

Statement of the Problem- Background and Identification of Needs

Fingerprinting of arrestees is a well-established method of positive identification, and has been used in the criminal justice system for upwards of 80 years. The Federal Bureau of Investigation has long used this method of identification and courts across the US accept it as a positive means of identification.

The State of New Hampshire, at present, utilizes an Automated Fingerprint Identification System (AFIS) that electronically receives arrest and applicant fingerprint impressions and demographic data from forty-two (42) Livescan stations located across the state.

In accordance to the 1983 Interstate Identification Index compliance granted by the Federal Bureau of Investigation, the New Hampshire State Police, specifically the Criminal Records Unit, is the sole submitting agency for all criminal ten-print impressions to the FBI. All ten-print impressions, submitted via inked or electronically, by the state, county, local law enforcement agencies, and every correctional facility, are forwarded to the state police Criminal Records Unit for processing and submission to the FBI. In addition, fingerprinting is also used as an identification technique for job applicants, particularly in those circumstances where identification is critical, and/or where a determination of criminal history (or more precisely, a lack of same) is needed.

The state of New Hampshire has benefitted from Livescan technology since 1997, with the then state-of-the-art Livescan capability put in use throughout the state in our correctional facilities and our larger municipal law enforcement agencies. In 2004, the original Livescan stations were incrementally replaced with newer version Livescans. Additional replacements occurred in 2005, 2007, 2009, and 2012. Twelve (12) Livescans predate 2005. The standard

industry “shelf life” for a Livescan machine is seven (7) years. Replacement parts for our oldest Livescans are no longer manufactured, and any available parts are cannibalized from replaced Livescans.

Project Design and Implementation

The New Hampshire Department of Justice (NH DOJ) is the State Administering Agency (SAA) for U.S DOJ grant funding, and currently manages nearly \$40 million in federal awards and approximately 100 sub-recipients.

The New Hampshire Department of Safety and NH DOJ have a long relationship collaborating on a multitude of grant funded projects. The New Hampshire Department of Safety, Division of State Police, Criminal Records Unit, is the state’s sole submitting agency of fingerprint images to the FBI, in accordance with, and compliance to, the Interstate Identification Index (III). Federal grant funding enables the state to provide our law enforcement agencies the tools and technology to better facilitate the exchange of tenprint data from those agencies to the FBI and respond back to the state police.

Capabilities and Competencies

In 2016, 47,385 criminal and applicant Livescan fingerprint images were processed by the state police Criminal Records Unit. The FBI requires electronic fingerprint submission, and the use of Livescans is critical in complying with the FBI’s directive. Below shows the location and usage for Livescan machines operated by the New Hampshire State Police for the last five

years:

		2012		2013		2014		2015		2016		Avg/Yr
Claremont	Livescan - LSS-R	Criminal - 583	Applicant - 238	Criminal - 509	Applicant - 255	Criminal - 538	Applicant - 184	Criminal - 529	Applicant - 215	Criminal - 432	Applicant - 233	840
Conway	Livescan - LSS-R	Criminal - 720	Applicant - 199	Criminal - 763	Applicant - 216	Criminal - 677	Applicant - 184	Criminal - 651	Applicant - 207	Criminal - 644	Applicant - 115	876
W Stewartstown	Livescan - LSS-R	Criminal - 237	Applicant - 6	Criminal - 166	Applicant - 138	Criminal - 215	Applicant - 4	Criminal - 220	Applicant - 9	Criminal - 122	Applicant - 4	224
Derry	Livescan - LSS-R	Criminal - 994	Applicant - 58	Criminal - 910	Applicant - 27	Criminal - 1036	Applicant - 52	Criminal - 725	Applicant - 30	Criminal - 863	Applicant - 57	950
North Haverhill	Livescan - LSS-R	Criminal - 622	Applicant - 52	Criminal - 467	Applicant - 115	Criminal - 623	Applicant - 82	Criminal - 327	Applicant - 60	Criminal - 191	Applicant - 73	522
Hudson	Livescan - LSS-R	Criminal - 816	Applicant - 102	Criminal - 714	Applicant - 75	Criminal - 816	Applicant - 59	Criminal - 640	Applicant - 69	Criminal - 676	Applicant - 149	823
Londonderry	Livescan - LSS-R	Criminal - 585	Applicant - 36	Criminal - 577	Applicant - 2	Criminal - 679	Applicant - 3	Criminal - 666	Applicant - 5	Criminal - 593	Applicant - 57	641
Merrimack	Livescan - LSS-R	Criminal - 512	Applicant - 214	Criminal - 504	Applicant - 195	Criminal - 412	Applicant - 208	Criminal - 418	Applicant - 202	Criminal - 377	Applicant - 241	657
Concord	Livescan - LSS-R	Criminal - 714	Applicant - 22	Criminal - 623	Applicant - 185	Criminal - 623	Applicant - 142	Criminal - 613	Applicant - 72	Criminal - 562	Applicant - 42	760
Goffstown	Livescan - LSS-R	Criminal - 153	Applicant - 12	Criminal - 114	Applicant - 31	Criminal - 185	Applicant - 102	Criminal - 162	Applicant - 112	Criminal - 170	Applicant - 73	223
Rochester	Livescan - LSS-R	Criminal - 963	Applicant - 138	Criminal - 1229	Applicant - 112	Criminal - 1406	Applicant - 120	Criminal - 1414	Applicant - 188	Criminal - 1372	Applicant - 122	1413
Seabrook	Livescan - LSS-R	Criminal - 307	Applicant - 32	Criminal - 272	Applicant - 31	Criminal - 308	Applicant - 80	Criminal - 229	Applicant - 71	Criminal - 276	Applicant - 130	347

In 2016 the Criminal Records Unit processed 19,221 Livescanned applicant fingerprint images for licensing and employment purposes. Timeliness of these submissions is critical to employing individuals in environments sensitive to the safety, health, and well-being to the vulnerable population in our state. At the present time, a scheduling backlog is up to six weeks for an applicant to be fingerprinted. To that reasoning, a portable Livescan machine, with printer, at a quoted cost of \$19,925, is valuable in providing a more convenient and timely fingerprinting process to our residents.

The quoted cost of a ruggedized Livescan station, with printer, is \$21,825. To replace our 12 outdated Livescans, the cost is \$261,900.00. The added cost of one portable Livescan machine at \$19,221 brings the total cost to: **\$281,121.**

Plan for Collecting Performance Measurement Data

The New Hampshire Department of Safety has a tabulating process in place to measure the amount of 10-point records submitted to the FBI's NGI, along with other performance measurements as required.

The New Hampshire Department of Justice is well versed in completing required PMT reports and does so consistently with multiple other U.S DOJ awards received by this office. The NH DOJ will work closely with the Department of Safety in order to ensure timely and accurate submission of all performance measurements as required by the grant.

EXHIBIT B

-SCHEDULE/TERMS OF PAYMENT-

1. The Subrecipient shall receive reimbursement in exchange for approved expenditure reports as described in EXHIBIT A.
2. The Subrecipient shall be reimbursed within thirty (30) days following the DOJ's approval of expenditures. Said payment shall be made to the Subrecipient's account receivables address per the Financial System of the State of New Hampshire.
3. The State's obligation to compensate the Subrecipient under this Agreement shall not exceed the price limitation set forth in the Interagency Memorandum of Understanding.