



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 4, 2013

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

Sole Source

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to enter into a **Sole Source** contract with Windsor Solutions Inc., Portland, OR [VC# 208030] for the amount of \$8,000 to provide technical support of the State and Local Emission Inventory System (SLEIS) air emissions inventory database, effective upon Governor and Council approval through July 1, 2014. 100% Air Permit Fee Funds.

Funding is available in the accounts as follows:

	<u>FY 2013</u>
03-44-044-443010-9103-102-500731 Department of Environmental Services, Title V Fee Permits, Contract for Program Services	\$ 4,000
03-44-044-443010-9101-102-500731 Department of Environmental Services, Permit Fee Program, Contract for Program Services	<u>\$ 4,000</u>
Total	\$ 8,000

EXPLANATION

This Contract is considered **sole source** because the technical support is being provided by Windsor Solutions, Inc., the developer of the SLEIS air emissions inventory database. Windsor Solutions developed the database to meet the specific air emissions inventory and emissions reporting needs of an eight-member consortium of state and local air pollution agencies, which includes DES's Air Resources Division. The development and implementation of the SLEIS air emissions database was funded by a grant from the US EPA.

The Air Resources Division receives air emissions data annually from permitted stationary sources in New Hampshire. The sources are required by rule to submit the data to the Division and to pay emissions-based fees for those emissions of pollutants. Each year, the Division reviews the emissions data for accuracy, inputs the data into its database for management of the data, and sends the data to the US EPA Emissions Inventory System (EIS) database. Due to significant changes in technology and upgrades to the EPA's data management systems, the Division's previous database became obsolete and could no longer meet the needs of the Division's reporting obligations to the EPA.



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In 2010, a consortium of eight air pollution agencies (five states, including New Hampshire, and three local air pollution agencies), along with the EPA, contracted with Windsor Solutions, Inc. to develop a new emissions inventory database. Funding for the development of the SLEIS database was provided for by a grant from the US EPA. The SLEIS database was developed to fill the current and future data management needs of the eight agencies for collecting emissions inventory data from regulated entities, managing and reviewing emissions inventory data, and submitting emissions inventory data to the EPA. The SLEIS database was implemented by the eight member agencies in 2012. In addition to meeting the needs of the SLEIS member agencies, the database will benefit the regulated community by allowing permitted stationary sources to submit emissions inventory data and other pertinent information directly to the respective agency via a Web-based reporting system

Since the implementation of the SLEIS database, and as part of the original contract, Windsor Solutions has made corrections and necessary improvements as issues have been raised by the consortium members. However, the original contract with Windsor Solutions does not include technical support for individual consortium members beyond warranty issues with the database. Windsor Solutions offers technical support packages priced from \$8,000 to \$25,000 for 50 hours up to 200 hours of support. Due to the importance of the SLEIS database to DES achieving its ongoing reporting obligations to the EPA, DES believes it should procure at least the minimum level of technical support. The DOIT approval letter for this agreement is attached.

This Contract has been approved as to form, substance, and execution by the Office of the Attorney General. In the event that the federal funds become no longer available, general funds will not be requested to support this program.

We respectfully request your approval.



Thomas S. Burack
Commissioner



STATE OF NEW HAMPSHIRE
DEPARTMENT OF INFORMATION TECHNOLOGY
27 Hazen Dr., Concord, NH 03301
Fax: 603-271-1516 TDD Access: 1-800-735-2964
www.nh.gov/doit

Peter C. Hastings
Acting Commissioner

March 28, 2013

Thomas S. Burack, Commissioner
State of New Hampshire
Department of Environmental Services
29 Hazen Drive
Concord, NH 03301

Dear Commissioner Burack:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a **SOLE SOURCE**, contract with Windsor Solutions, Inc. of Portland, Oregon (Vendor Code #208030) as described below and referenced as OIT No. 2013-111.

This is a request to enter into a contract to procure technical support services for the SLEIS (State and Local Emission Inventory System) air emissions inventory database which was implemented at the Department of Environmental Services (DES) in 2012. The contract will be effective from Governor and Council approval through July 1, 2014. The amount of the current contract is not to exceed \$8,000.

A copy of this letter should accompany the Department of Environmental Services' submission to the Governor and Executive Council for approval.

Sincerely,

Handwritten signature of Peter C. Hastings in black ink.
Peter C. Hastings

PCH/lm

DoIT #2013-111
cc: Chris Simmers, DoIT
Leslie Mason, DoIT

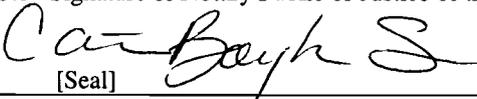
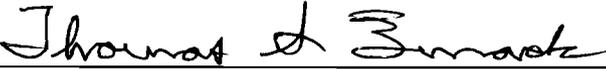
Subject: Contract with Windsor Solutions for tech. support of new SLEIS database FORM NUMBER P-37 (version 1/09)

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name <u>Department of Environmental Services</u>		1.2 State Agency Address <u>29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095</u>	
1.3 Contractor Name <u>Windsor Solutions, Inc.</u>		1.4 Contractor Address <u>4386 SW Macadam Avenue S101, Portland, OR 97239</u>	
1.5 Contractor Phone Number <u>503-675-7833</u>	1.6 Account Number <u>443010-9103-102/9101-102</u>	1.7 Completion Date <u>July 1, 2014</u>	1.8 Price Limitation <u>\$8,000.00</u>
1.9 Contracting Officer for State Agency <u>Thomas S. Burack, Commissioner</u>		1.10 State Agency Telephone Number <u>603-271-2958</u>	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory <u>Kevin Jeffery Vice President</u>	
1.13 Acknowledgement: State of <u>Oregon</u> , County of <u>Multnomah</u> On <u>2-26-2013</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]		OFFICIAL SEAL CATHERINE MARIE BOYKIN-SENA NOTARY PUBLIC - OREGON COMMISSION NO. 460673 MY COMMISSION EXPIRES SEPTEMBER 24, 2015	
1.13.2 Name and Title of Notary or Justice of the Peace <u>Catherine Marie Boykin-Sena Office Manager</u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory <u>Thomas S. Burack, Commissioner</u>	
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: <u>4-5-13</u>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT. Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.
6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.
7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

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 ENVIRONMENTAL SERVICES
Support and Maintenance for SLEIS
CONTRACT NUMBER 2013-111
MAINTENANCE/LICENSE CONTRACT EXHIBIT A
STATEMENT OF WORK**

1. INTRODUCTION

The State of New Hampshire ("State") desires to contract with Windsor Solutions, Inc., an independent entity, to procure up to fifty (50) hours of technical support services for the SLEIS software product.

The Contract price is **\$8,000.00**.

TERMS AND DEFINITIONS

Capitalized terms used in the Contract will have the meanings given below.

Bureau of Purchase and Property	The State of New Hampshire, Department of Administrative Services, Purchasing Division
Change Order	A document issued by the State of New Hampshire to alter a product request
Contract	A binding agreement between the State of New Hampshire and Windsor Solutions, Inc.,
Contract Administrator	The State employee responsible for Contract execution
Contract Documents	Documents that comprise this Contract (See Statement of Work Section 2.)
Cure Period	The time allowed whereby Windsor Solutions, Inc., may fix the cause of a default.
Deliverables	Any written, software, or non-software deliverable (letter, report, manual, book, other), provided by Windsor Solutions, Inc., to the State under the terms of the Contract.
DoIT	Department of Information Technology, an agency of the State of New Hampshire
Effective Date	The date the contract becomes effective is the date of Approval by "Governor and Executive Council".
Governor and Executive Council	The Governor for the State of New Hampshire and the Governor's Council. This body has the authority and responsibility over the administration of the affairs of the State as defined in the New Hampshire Constitution and the New Hampshire statutes.
Notice of Default	A formal notice declaring that a failure to comply with the Contract has occurred.
Ordered Product(s)	Software licenses and media, software license renewals, and software maintenance and technical support for personal computer and network software which Windsor Solutions, Inc., obtained for delivery to the State of New Hampshire.
Order(s)	The items listed in Exhibit B, <i>Payment Schedule-Fixed Price, Table 1: IT Services Deliverables and Payment Schedule</i> .
Product(s)	Commercial software licenses and media, software license renewals,

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	and software maintenance and technical support for personal computers and network software.
Purchasing Agency End User	Any State of New Hampshire agency that orders Products through the Department of Information Technology
Return Authorizations	Upon notifying Windsor Solutions, Inc., that the State no longer desires Ordered Products that have either not been used and/not received, then the State is NOT liable to pay for such products.
Services	The work to be performed by Windsor Solutions, Inc., and Subcontractors as described in the Contract.
SLEIS	An online point source emissions inventory reporting and database management system. The State and Local Emissions Inventory System (SLEIS) enables state and local governments to efficiently collect emissions inventory data from regulated entities, manage and review the reported emissions inventory data, and report emissions inventory data to the U.S. EPA. Developed by Windsor Solutions, Inc., with a consortium of state and local government agencies.
State	State of New Hampshire, Department of Information Technology (DoIT) and Purchasing Agency End User as applicable
Subcontractor	A person, partnership, or company contracted by Windsor Solutions, Inc., to perform under the Contract.
Term	The contract period of time.

2. CONTRACT DOCUMENTS

This Contract consists of the following documents (“Contract Documents”) in order of precedence:

- a. *State of New Hampshire Terms and Conditions, General Provisions Form P-37*
- b. Exhibit A Statement of Work
- c. Exhibit B Payment Schedule –Fixed Price
- d. Exhibit C Special Provisions

3. SCOPE OF SERVICES

Windsor Solutions, Inc., shall provide the State the Services and Deliverables required under this Contract, as set forth Exhibit B, *Payment Schedule-Fixed Price*.

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DEPARTMENT OF ENVIRONMENTAL SERVICES
Support and Maintenance for SLEIS
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4. TERM

4.1 Period of Performance

The Contract shall take effect after full execution by the parties, and the receipt of required governmental approvals, including, but not limited to, Governor and Executive Council approval.

The Contract will extend for a one (1) year period. The Term may be extended for additional three (3) periods of one (1) year each, ("Extended Term") at the sole option of the State, subject to the parties prior written agreement on applicable fees for each extended term.

4.2 Termination for Convenience

Notwithstanding the foregoing, the State may terminate this Contract, at its sole discretion, for any reason upon thirty (30) days written notice to Windsor Solutions, Inc. Upon termination for convenience, Windsor Solutions, Inc., shall refund any unused portion of the Contract to the State.

5. CONTRACT ADMINISTRATION

5.1 Windsor Solutions, Inc., CONTRACT MANAGER

Windsor Solutions, Inc., shall designate a Contract Manager who shall be responsible for all contractual authorization and administration under the Contract. This person is:

Kevin Jeffery
Windsor Solutions, Inc.
4386 SW Macadam Ave, Suite 101
Portland, OR 97239
(503) 675 7833
Email: kevin_jeffery@windsorsolutions.com

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5.2 STATE CONTRACT MANAGER

The State shall designate a Contract Manager who shall function as the State's representative with regard to Contract administration. This person is:

Mr. Newton Strickland
Department of Environmental Services
29 Hazen Drive
Concord NH 03301
Tel: 603-271-6283
Fax: 603-271-7053
Email: Sonny.Strickland@des.nh.gov

6. STATEMENT OF WORK/DELIVERABLES/WORK PLAN

Windsor Solutions, Inc., shall perform the Services and provide the Deliverables described in this Contract, *including but not limited to*, the Windsor Solutions, Inc., dated 1/21/2013.

1. Windsor Solutions, Inc., will provide up to fifty (50) hours of maintenance and support services for the State and Local Emissions Inventory System (SLEIS) system.
2. Support services will include software configuration, training, bug fixes, enhancements, and other activities as directed by the Client.
3. Access to complete new versions/full releases of the SLEIS software product are not included in the services to be provided.
4. Windsor shall establish and maintain a dedicated Web site on Windsor's servers to allow the Client to request Support Services. This Web site will be available at all times.
5. Windsor will respond to a support requests submitted using this Web site within one business day.
6. Any travel expenses incurred as a result of Windsor staff being required to be onsite to provide support will be charged to Client at cost.
7. Windsor will maintain concise records of the number of labor hours and any travel expenses required to respond to Support Services requests.
8. Windsor will provide a report to the State not less than monthly summarizing the requests received, the support hours expended, and the support hours remaining for the current support package.

7. ADDITIONAL TERMS AND CONDITIONS

7.1 INTELLECTUAL PROPERTY RIGHTS, AND CONFIDENTIALITY

- 7.1.1** Windsor Solutions, Inc., agrees to maintain the confidentiality of, and to protect from unauthorized use, disclosure, publication, and reproduction, all confidential information of the State that becomes available to Windsor Solutions, Inc., in

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DEPARTMENT OF ENVIRONMENTAL SERVICES
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connection with its performance under the Contract. Windsor Solutions, Inc., shall not use any information obtained from the State during the performance of the Contract, except as is directly connected to and necessary for Windsor Solutions, Inc.,'s performance under the Contract.

- 7.1.2** Any disclosure of the State's confidential information shall require prior written approval of the State. Information shall include, but not be limited to all data, record telecommunications content, studies, reports, written and software data files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, notes, letters, memoranda, papers, and documents, all whether finished or unfinished. The State's confidential information includes but is not limited to information of the State that is not predetermined to be subject to public disclosure under the laws of the State of New Hampshire.
- 7.1.3** Windsor Solutions, Inc., shall immediately notify the State if a subpoena or other legal process is served upon Windsor Solutions, Inc., regarding the State's confidential information, and Windsor Solutions, Inc., shall cooperate with the State in any effort it undertakes to contest the subpoena or other legal process. In the event of unauthorized use or disclosure of the State's confidential information, Windsor Solutions, Inc., shall immediately notify the State, and the State shall immediately be entitled to pursue any remedy at law or in equity, including, but not limited to injunctive relief.
- 7.1.4** Windsor Solutions, Inc., shall not disclose any information obtained from the State during the performance of the Contract, except as is directly connected to and necessary for Windsor Solutions, Inc., to perform under the Contract.
- 7.1.5** Insofar as Windsor Solutions, Inc., seeks to maintain the confidentiality of its confidential or proprietary information, Windsor Solutions, Inc., must clearly identify in writing the information it claims to be confidential or proprietary. Windsor Solutions, Inc., acknowledges that the State is subject to the Right to Know Law, RSA Chapter 91-A. The State shall maintain the confidentiality of the identified confidential or proprietary information insofar as it is consistent with applicable state and federal law, including but not limited to, RSA Chapter 91-A. In the event the State receives a request for the information identified by Windsor Solutions, Inc., as confidential or proprietary, the State shall notify Windsor Solutions, Inc., and specify the date the State will be releasing the requested information. Any effort to prohibit or enjoin the release of the information shall be responsibility of Windsor Solutions, Inc. and at Windsor Solutions, Inc., sole expense. If Windsor Solutions, Inc., fails to obtain a court order enjoining the disclosure, the State shall release the information on the date specified in the State's notice to Windsor Solutions, Inc., without liability to Windsor Solutions, Inc.,

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7.1.6 This section 7.1 shall survive the termination of the Contract.

8. FORCE MAJEURE

Neither Windsor Solutions, Inc., nor the State shall be responsible for delays or failures in performance resulting from events beyond the control of such party and without fault or negligence of such party. Such events shall include, but not be limited to, acts of God, strikes, block outs, riots, acts of War, epidemics, acts of Government, fire, power failures, nuclear accidents, earthquakes, and unusually severe weather.

9. Windsor Solutions, Inc., PARTICIPATION

Windsor Solutions, Inc., has read and agrees to all procedures as contained Contract Attachment 1 *Required Work Procedures*.

10. INTERNAL ESCALATION PROCEDURE FOR DISPUTES

Prior to the filing of any formal proceedings with respect to a dispute (other than an action seeking injunctive relief with respect to intellectual property rights), the party believing itself aggrieved (the "Invoking Party") shall call for progressive management involvement in the dispute negotiation by written notice to the other party. Such notice shall be without prejudice to the Invoking Party's right to any other remedy permitted by this Agreement.

The parties shall use all reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between negotiators for the parties at the following successive management levels, each of which shall have a period of allotted time as specified below in which to attempt to resolve the dispute:

Dispute Resolution Responsibility and Schedule Table

Level	<i>Windsor Solutions, Inc.,</i>	<u>The State</u>	<u>Cumulative allotted time</u>
First		Mr. Ray Walters, Administrator	5 Business Days
Second		Mr. Craig Wright, Acting Director	10 Business days
Third		Mr. Tom Burack, Commissioner	

The allotted time for the first level negotiations shall begin on the date the Invoking Party's notice is received by the other party. Subsequent allotted time is days from the date that the original Invoking Party's notice is received by the other party.

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11. ASSIGNMENT, DELEGATION and SUBCONTRACTS

- 11.1** Windsor Solutions, Inc., shall not assign, delegate or otherwise transfer any of its interest, rights, or duties under the Contract without the prior written consent of the other party. Such consent will not be unreasonably withheld. Any attempted transfer, assignment, delegation, or other transfer made without the State's prior written consent shall be null and void.
- 11.2** Windsor Solutions, Inc., shall remain wholly responsible for performance of the entire Contract regardless of whether assignees, delegates, Subcontractors or other transferees ("Successor") are used, unless otherwise agreed to in writing by the State and the Successor fully assumes in writing any and all obligations and liabilities under the Contract. In the absence of a written assumption of full obligations and liabilities of the Contract, any permitted assignment, delegation, subcontract or other transfer shall not relieve Windsor Solutions, Inc., of any of its obligations under the Contract; not affect any remedies available to the State against Windsor Solutions, Inc., that may arise from any event of default of the provisions of the Contract; and the State will consider Windsor Solutions, Inc., to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

12. THE CONTRACTOR'S RELATION TO THE STATE

In the performance of the Contract, Windsor Solutions, Inc., is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither Windsor Solutions, Inc., nor any of its officers, employees, agents, or members shall have authority to bind the State or receive any benefits, worker's compensation or other emoluments provided by the State to its employees.

13. WARRANTY

Windsor Solutions, Inc., warrants that the Services and Deliverables furnished under this Contract do not infringe any patent, copyright, trade secret or other intellectual property rights. Windsor Solutions, Inc., agrees to defend and indemnify and hold harmless the State in the event of any such infringement claim against the State.

Windsor Solutions, Inc., warrants that it shall maintain the SLEIS System, to perform in accordance with its specifications. Windsor Solutions, Inc., further warrants that the software Deliverables shall operate in accordance with its specifications. If the State finds any software Deliverable defective, in any way, for any reason, Windsor Solutions, Inc., shall repair or replace within forty eight (48) hours of receiving notice from the State, excluding Saturdays,

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Sundays and Holidays, at no additional expense to the State, the software Deliverable or any portion thereof that the State has identified as defective.

14. TERMINATION

Either party may terminate this Contract at any time if the other party is in default of its obligations under this Contract and such default remains unremedied for a period of 30 days from the date of receipt of notice of default by the non-defaulting party. Such right of termination shall be in addition to all other rights and remedies to which the parties are entitled. Events of default shall include, without limitation: Windsor Solutions, Inc.,'s breach of or failure to perform any warranty or other obligation contained in the Contract; or Windsor Solutions, Inc., ceasing to conduct Maintenance and Support Services.

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PAYMENT SCHEDULE- FIXED PRICE**

1. DELIVERABLE PAYMENT SCHEDULE.

All charges by Windsor Solutions, Inc., under this Contract shall be at a fixed price in accordance with the schedules set forth in Table 1 below.

2. FIXED PRICE PAYMENT SCHEDULE

Table 1: Payment Schedule:

Deliverables	Term	Payment Amount
Windsor will provide up to fifty (50) hours of labor support to the Client to support the Client's use of the SLEIS system ("Support Services"). Support services will include software configuration, training, bug fixes, enhancements, and other activities as directed by the Client. Version Upgrades of the SLEIS software is not included in the services to be provided.	One calendar year beginning on the Effective date.	\$8,000.00
	Total Maintenance Cost	\$8,000.00

Notwithstanding any other provision of this Contract, in no event shall the total payment made by the State exceed \$8,000.00.

3. PAYMENTS

The State shall pay Windsor Solutions, Inc., within thirty (30) calendar days of the State's receipt of a correct and undisputed invoice.

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SPECIAL PROVISIONS**

1. **There are no special provisions**



ATTACHMENT 1

1. IT Required Work Procedures

- 1.** All work done must conform to standards and procedures established by the Department of Information Technology and the State.
- 2.** All products developed (requirements, Specifications, Documentation, program code, other) are work for hire and ownership is in accordance with the New Hampshire Contract Terms and Conditions.
- 3.** Any technical education needed by Windsor Solutions, Inc., to successfully complete the assumed assignment will be at the sole expense of Windsor Solutions, Inc., and provided by Windsor Solutions, Inc.

2. Computer Access and Use Agreement

PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT THE DUTIES YOU MUST UNDERTAKE AND THE RULES YOU MUST ADHERE TO ONCE YOU ARE GRANTED ACCESS TO USE THE STATE OF NEW HAMPSHIRE'S COMPUTER FACILITIES.

2.1 Computer Use

In consideration for receiving access to and use of the computer facilities, network, licensed or developed software, software maintained or operated by any of the State entities, systems, equipment, Documentation, information, reports, or data of any kind (hereinafter "Information"), User understands and agrees to the following rules:

- That numerous security and privacy regulations, both State and federal apply to client and business information contained in all State of New Hampshire's information systems. Every Authorized User has the responsibility to assure the protection of Information from unauthorized access, misuse, theft, damage, destruction, modification, or disclosure.
- That any person or any use not specifically known by the User as being authorized to access or use Information shall be promptly reported to the appropriate supervisor.
- That information shall be used solely for conducting official State business, and all other use or access is strictly forbidden including, but not limited to, personal, or other private and non-State use.
- That at no time shall User access or attempt to access any information without having the express authority to do so.
- That at no time shall User access or attempt to access any information in a manner inconsistent with the approved policies, procedures, and /or agreements relating to system entry/access.
- That all software licensed, developed, or being evaluated by the State cannot be copied, shared, distributed, sub-licensed, modified, reverse engineered, rented, or sold, and that at all times User must use utmost care to protect and keep such software strictly confidential in accordance with the license or any other Agreement executed by the State.
- That only equipment or software owned, licensed, or being evaluated by the State, can be used by User. Personal software (including but not limited to palmtop sync software) shall not be installed on any equipment.

- That at no time shall User's confidential computer password(s) or premises access card be shared with or used by any other person.
- That at no time shall User share or use another person's confidential computer password(s) or premises access card.
- That at no time shall User leave a workstation without first ensuring that the workstation is properly secured from unauthorized access.
- That User must report any and all violations of this Agreement to the appropriate supervisor promptly upon learning of such violation.
- That if User is found to be in violation of any of the above-stated rules, the User may face removal from the State contract, and/or criminal or civil prosecution, if the act constitutes a violation of law.
- That from time to time circumstances may require that this Agreement be modified by the State to reflect any changes in procedure or policy. The User will be notified in writing of any changes and will be required to adhere to such changes.
- That the User acknowledges that he or she has read, fully understands, and agrees to abide by each of the above-stated rules as a condition of being granted access to use Information.

2.2 Email Use

Mail and other electronic communication messaging systems are State of New Hampshire property and are to be used for business purposes only. Email is defined as "internal Email systems" or "State-funded Email systems". The Authorized User understands and agrees that email shall not contain or be used for:

1. Any unlawful purpose.
2. Material that may be viewed as insulting. Demeaning, harassing or threatening (including sexual harassment).
3. Distribution of pornographic or obscene material.
4. Profane or abusive language.
5. Distribution of non-business materials including but not limited to jokes, chain letters, cartoons, sound files, amusement or entertainment purposes or executables not specifically business related.
6. Creating or transmitting statements, messages, languages, images, that might constitute hostile or offensive material likely to be disparaging of others based on race, national origin, sex, sexual orientation, age, disability, religious beliefs, or political beliefs.
7. Personal business or commercial business.
8. Invasion of the privacy of others.
9. Any use that compromises the integrity of the systems, network, other network users, or any interruption or disruption of services or equipment.

10. Any use that reflects poorly on a State entity or the State of New Hampshire.
11. Any lobbying contact or effort in support of such contacts, or causing others to make contact with members of the legislature or legislative committees including but not limited to: preparation and planning activities, research, and other background work that is intended at the time performed, to influence the approval, modification, or rejection of any legislation by the legislature of the State of New Hampshire or any committee thereof without the explicit consent of the Chief Information Officer (CIO) or its designee.
12. Misrepresentation of the Authorized User's identity, including using another's Authorized User ID and password.

Technical support personnel shall not review the content of an Authorized User's communications out of personal curiosity or at the behest of another without the required authorization. Authorized Users shall not intercept, disclose or assist in intercepting or disclosing any electronic communications, except as authorized by this policy.

Authorized Users shall move important information from email message files to shared folders and drives to ensure proper backup. Messages no longer needed shall be purged periodically from personal storage areas. Technical support personnel shall monitor storage usage and advise when limits are approaching storage limits or have been reached and purging is required.

2.3 Internet/Intranet Use

The Internet/Intranet is to be used for access to and distribution of Information in direct support of the business of the State of New Hampshire.

1. Authorized Users are given State provided access to Internet and Intranet resources to assist them in the performance of their jobs.
2. Internet/Intranet Authorized Users are responsible for all material accessed under their user ID.
3. Software for browsing is provided to Authorized Users for State related business use only.
4. The Authorized User understands and agrees that the Internet/Intranet shall not be used for:
 - a. Chat rooms, interactive games, and personal message boards
 - b. Downloading graphics, sound files, video clips or other files for personal use
 - c. Access to or the distribution of pornographic or obscene materials
 - d. Anything that interrupts or disrupts other network Authorized Users, services or equipment
 - e. Violations of the privacy of other Authorized Users or their data
 - f. Intentional copying of any software, program(s), or data without a prior, good faith determined that such copying is permissible. (Efforts to obtain permission shall be documented)

- g.** Intentional misrepresentation of yourself electronically as another, unless specifically authorized to do so by that Authorized User
- h.** Intentionally developing programs designed to harass users or to infiltrate a computer or computing system and/or damage or alter the software components of same
- i.** Fund raising or public relations activities not specifically related to State business
- j.** Any purpose not directly related to the mission or intent of the agency

State of New Hampshire Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Windsor Solutions, Inc. a(n) Oregon corporation, is authorized to transact business in New Hampshire and qualified on March 4, 2010. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 20th day of February, A.D. 2013

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

CERTIFICATE

(Corporation With Seal)

I, Guy Outred, President of Windsor Solutions, Inc., do hereby certify that:

- (1) I am the duly elected and acting President of Windsor Solutions, Inc., an Oregon corporation (the "Corporation");
- (2) I maintain and have custody of and am familiar with the Seal and minute books of the Corporation;
- (3) I am duly authorized to issue certificates;
- (4) the by-laws of the Corporation allow the Board of Directors to authorize any officer to enter into any contract or execute and deliver any instrument in the name and on behalf of the Corporation;
- (5) the Board of Directors resolved to authorize any officer to enter into any contract or execute and deliver any instrument in the name and on behalf of the Corporation;
- (6) the Board of Directors resolved that Kevin Jeffery is elected to the office of Vice President;
- (7) the foregoing resolutions have not been revoked, annulled or amended in any manner whatsoever, and remain in full force and effect as of the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand as the President of the Corporation and have affixed its corporate seal this 4th day of March, 2013.

Guy Outred
NAME

President
TITLE

(Seal)

The image shows a handwritten signature in black ink, which appears to be 'Guy Outred'. To the right of the signature is a faint, circular impression of a corporate seal, though the details are not clearly visible.

STATE OF Oregon

COUNTY OF Multnomah

On this the 4th day of March, 2013, before me, Guy Outred, the undersigned Officer, personally appeared and acknowledged her/himself to be the President, of Windsor Solutions, Inc., and that he, as such President being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Guy Outred.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Catherine Marie Boykin-Sena
Notary Public/Justice of the Peace

My Commission Expires: Sept. 24, 2015

