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Beards



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



JEFF BRILLHART, P.E.
ACTING COMMISSIONER

January 8, 2015
Bureau of Traffic

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

REQUESTED ACTION

1. Authorize the Department of Transportation to enter into a **sole source** contract with Delcan Corporation, Atlanta, Georgia 30345, (Vendor #175477) in the amount of \$44,075 for the purpose of providing a System Maintenance Contract for the Advanced Transportation Management System for the period of Governor and Council approval through December 3, 2016. Project Funding is 100% Federal Funds.
2. Further authorize a one-time advanced payment of \$21,500 in FY 2015 to Delcan Corporation for the system maintenance contract, effective upon Governor and Council approval.

Funding is as follows:	<u>FY2015</u>
04-96-96-963515-3054	
Consolidated Federal Aid	\$21,500
038-500177 Software Licence/Maint	

3. Further authorize an increase in the contact amount for \$22,575 to be available as a contingency for latent or emergency conditions, which may appear during the period of the maintenance contract to be effective upon Governor and Council approval.

Funding is as follows:	<u>FY 2015</u>
04-96-96-963515-3054	
Consolidated Federal Aid	\$22,575
038-500177 Software License/Maint	

EXPLANATION

The original contract, which began in 2006, included the development and maintenance of a software system, the Advanced Transportation Management System (ATMS) utilized by the State's Transportation Management Center. Delcan was the vendor who developed this system under the original contract. Previous project funding covered system maintenance through June 30, 2014. This request is to continue to provide maintenance response for the current ATMS system for a maximum 24 month period. This is a **sole source** request due to the software design knowledge and quick response that Delcan Corporation is able to provide for system maintenance. The Delcan Corporation is currently the only vendor that can respond to all issues which allows the Transportation Management Center to continue functioning in a timely manner.

The Department has recently entered into a contract to develop a new ATMS system with another vendor. This request with Delcan is to ensure that there is maintenance coverage for the current existing system until the new system is accepted and in use by the Department. The schedule for completing the changeover to the new system is December 2015 which is within the 24 month window of this maintenance contract. The design schedule for the new vendor (Southwest Research, Inc. (SwRI), G&C approval given May 23, 2014) allows for the new ATMS system to be in place before the end of Delcan's contract, allowing Delcan's contract to be ended early.

This request seeks approval for 100 hours of support during the two year time period. This request seeks approval to prepay the contract amount of \$22,575 for 100 hours of support which will be available to draw down during the two year time period. In the initial contract, the yearly maintenance was set at \$65,000. This was a set fee regardless of the amount of support that was required. In this next contract and in order to better reflect the true maintenance costs of the system, a draw down system was negotiated with the Contractor for a maximum limit of 100 hours of support over the two year period. Historically, the Department has contracted for a set amount and this request is a change to existing process in order to cut costs.

This request also seeks approval to set aside an additional sum of money to be available for latent conditions or a system failure that would exhaust the contracted amount. The Transportation Management Center is a 24/7/365-day operation and the ATMS system is critical in its everyday functionality.

This project is 80% Federal Aid funds with a 20% State match. Turnpike Toll Credit is being utilized for match requirement, effectively using 100% Federal Funds. The Capital Budget Overview Committee, pursuant to the provisions of RSA 228:12-a, on September 16, 2014, approved the request of the Department of Transportation, Bureau of Transportation Systems Management and Operations, to use Turnpike Toll Credit, to meet funding match requirements for Statewide project Transportation Systems Management and Operations (TSMO) as specified in the request dated July 17, 2014.

The contract has been approved by the Attorney General as to form and execution and the Department has verified that the necessary funds are available. Copies of the fully executed contract are on file at the Secretary of State's office and the Department of Administrative Services office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this contract is respectfully requested.

Sincerely,



David J. Brillhart
Acting 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

Steven J. Kelleher
Acting Commissioner

December 9, 2014

William P. Janelle, PE
Director of Operations
State of New Hampshire
Department of Transportation
John O. Morton Bldg., 7 Hazen Drive
Concord, NH 03302-0483

Dear Director Janelle:

This letter represents formal notification that the Department of Information Technology (DoIT) has approved your agency's request to enter into a System Maintenance Contract with Delcan Corporation (Delcan), as described below and referenced as DoIT No. 2015-053.

The Department of Transportation has entered into a contract with Southwest Research to develop a new Advanced Transportation Management System. The scheduled completion date is December 2015. In the meanwhile the current Advanced Transportation Management System must be maintained. Delcan Corporation had the contract for the original system and is the only vendor who is able to respond to all issues which may arise with the current system in a timely manner. This contract provides for 100 hours of maintenance for the current system to be used when and if the need arises anytime within the 24 month period of the contract for a payment of \$21,500. The contract also allows the Department to reserve an additional \$22,575 to be used to purchase another 100 hours of maintenance should DOT require additional maintenance to address unacceptable latent conditions or system failures. The total value of this contract is \$44,075 upon Governor and Executive Council Approval through December 3, 2016.

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

Sincerely,

A handwritten signature in black ink that reads "Steven J. Kelleher".

Steven J. Kelleher

SJK/dcp
DOT 2015-053

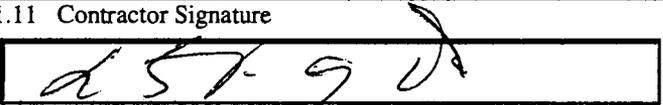
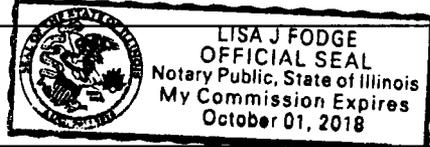
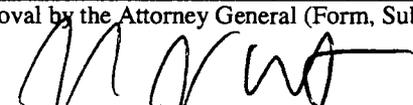
cc: Gail Hambleton
John Corcoran

Subject: SYSTEM MAINTENANCE CONTRACT 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 NHDOT, Bureau of Traffic		1.2 State Agency Address 110 Smokey Bear Blvd, Concord, NH 03302	
1.3 Contractor Name Delcan Corporation		1.4 Contractor Address 650 E. Algonquin Road, Suite 400, Schaumburg, IL	
1.5 Contractor Phone Number (847) 925-0120	1.6 Account Number 04-96-96-963515-3054	1.7 Completion Date 12-3-16	1.8 Price Limitation \$44,075
1.9 Contracting Officer for State Agency William P. Janelle, P.E.		1.10 State Agency Telephone Number 603-271-1697	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Lester Yoshida, President	
1.13 Acknowledgement: State of <u>Illinois</u> , County of <u>Cook</u> On <u>12/22/14</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 Lisa J. Fodge, Administrative Manager			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory William P. Janelle, P.E., Director of Operations, NHDOT	
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: 1/29/15			
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 LTJ
Date 12/22/14

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 *LTJ*
Date *12/22/14*

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 TRANSPORTATION
SYSTEM MAINTENANCE CONTRACT
CONTRACT EXHIBIT A
STATEMENT OF WORK**

1. INTRODUCTION

The State of New Hampshire, Department of Transportation (“State”) desires to contract with Delcan Corporation (“Delcan”), to provide a System Maintenance Contract.

2. TERMS AND DEFINITIONS

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

Contract	This Agreement between the State of New Hampshire and a Vendor, which creates binding obligations for each party to perform as specified in the Contract Documents.
Contract Documents	Documents that comprise this Contract (See Statement of Work Section 3.)
Contract Managers	The persons identified by the State and the Vendor who shall be responsible for all contractual authorization and administration of the Contract.
Cure Period	The thirty (30) day period following written notification of a default within which Delcan must cure the default identified.
Deliverables	Any written, software, or non-software deliverable (letter, report, manual, book, other), provided by Delcan Corporation to the State under the terms of the Contract.
DOT	Department of Transportation, an agency of the State of New Hampshire
Effective Date	The date on which the Contract takes effect is upon approval of Governor Council.
Notice of Default	A formal notice declaring that a failure to comply with the Contract has occurred.
Services	The work to be performed by Delcan Corporation and the State as described in the Contract.
State	State of New Hampshire, Department of Transportation
Term	The contract period of time.
TMC	Transportation Management Center

3. 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
- d. Exhibit C Special Provisions

4. TERM

4.1 Period of Performance

The non-exclusive Contract shall take effect after full execution by the parties.

The Contract will begin on the Effective Date and extend for two (2) years from the effective date.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
SYSTEM MAINTENANCE CONTRACT
CONTRACT EXHIBIT A
STATEMENT OF WORK**

4.2 Termination for Convenience

Notwithstanding the foregoing, the State may terminate this non-exclusive Contract, at its sole discretion, for any reason upon thirty (30) days written notice to Delcan Corporation.

5. SCOPE OF SERVICES

5.1 Delcan Corporation shall:

- a. As requested, Delcan shall provide up to 100 hours of support. Costs for the support will be drawn down at a rate of \$215/hour.
- b. All support calls will be paid at a minimum increment of 1 hour. After the first hour, time will be calculated and invoiced at 15 minute increments at a cost of \$53.75.
- c. The initial negotiated lump sum will be available to draw down for the two year time period. Any unused support time would be lost after the two-year period.
- d. Emergency services shall be billed separately to the Department after the original 100 hours have been depleted. This is not a draw down amount, but a contingency fund to be utilized to pay the Contractor if emergencies arise. Refer to Exhibit B.
- e. Under no circumstances will Delcan be required to provide support that is not fully funded through the drawdown budget.
- f. Under no circumstances will Delcan be required to provide support or work that is not approved in writing for full payment by the State in the case of an emergency.
- g. Delcan will respond via an email notification that they have received the service request and shall respond within 24 hours of a request for service under this agreement.

6. CONTRACT ADMINISTRATION

6.1 Delcan Corporation Contract Manager

Delcan shall designate a Contract Manager who shall be responsible for all contractual authorization and administration under the Contract.

This person is:

**Joseph Brahm
Delcan Corporation
650 E Algonquin Road
Suite 400
Schaumburg, IL 60173
Tel: (847) 925-0120 ext. 2254**

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
SYSTEM MAINTENANCE CONTRACT
CONTRACT EXHIBIT A
STATEMENT OF WORK**

Email: j.brahm@delcan.com

6.2 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:

**Denise Markow, PE
Transportation Management Center
Bureau of Traffic
110 Smokey Bear Boulevard
Concord, NH 03302
Tel: 603-271-6862
Fax: 603-271-8626
Email: dmarkow@dot.state.nh.us**

7. FORCE MAJEURE

Neither Delcan 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.

8. 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	Delcan Corporation	The State	Cumulative allotted time
First		Project Manager	5 Business days
Second		Contract Manager	10 Business days
Third		Commissioner	15 Business days

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
SYSTEM MAINTENANCE CONTRACT
CONTRACT EXHIBIT A
STATEMENT OF WORK**

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.

9. ASSIGNMENT, DELEGATION and SUBCONTRACTS

- 9.1 Delcan Corporation shall not assign, delegate or otherwise transfer any of its interest, rights, on 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.
- 9.2 Delcan Corporation 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 Delcan of any of its obligations under the Contract; not affect any remedies available to the State against Delcan that may arise from any event of default of the provisions of the Contract; and the State will consider Delcan to be the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

10. 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 thirty (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: Delcan Corporation's breach of or failure to perform any warranty or other obligation contained in the Contract; or Delcan Corporation ceasing to conduct Maintenance and Support Services.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
SYSTEM MAINTENANCE CONTRACT
CONTRACT EXHIBIT B
PAYMENT SCHEDULE**

1. PAYMENT SCHEDULE

1.1 The State will pay Delcan \$21,500 for system maintenance support. The contract will be effective upon Governor and Council approval and will extend for two years from the effective date. . Payment will be one single disbursement paid prior to the start of support.

1.2 All direct costs associated with the provided support, shall be billed at the actual costs and drawn down from the \$21,500.

1.3 NHDOT shall encumber \$22,575 equal to 100 additional hours to be billed to NHDOT at \$225/hour in the event of an emergency catastrophic failure that exhausts the contracted amount. Emergency services shall be billed separately to the Department after the original 100 hours have been depleted. This is not a draw down amount, but a contingency fund to be utilized to pay the Contractor if emergencies arise.

1.4 Outside of emergency catastrophic failure, within the 2 year contract period and at the Department's discretion, NHDOT can add support of one additional increment of \$22,575, once the initial \$21,500 is drawn down.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
SYSTEM MAINTENANCE CONTRACT
CONTRACT EXHIBIT C
SPECIAL PROVISIONS**

1. Special Provisions

1 a. Section 5.2 of the General Provisions Form P-37 relating to payment and reimbursement to the Contractor reads:

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.

is hereby amended to read:

The payment by the State of the contract price shall include all direct costs associated with the provided support, billed at the actual costs and drawn down from the \$21,500 incurred by the Contractor in the performance hereof, for the Contracted Services.

NHDOT shall encumber \$22,575 equal to 100 additional hours to be billed to NHDOT at \$225/hour in the event of an emergency catastrophic failure that exhausts the contracted amount. Emergency services shall be billed separately to the Department after the original 100 hours have been depleted. This is not a draw down amount, but a contingency fund to be utilized to pay the Contractor if emergencies arise.

Outside of emergency catastrophic failure, within the 2 year contract period and at the Department's discretion, NHDOT can add support of one additional increment of \$22,575, once the initial \$21,500 is drawn down.

1 b. Section 5.4 of the P-37 General Provisions Form P-37 relating to unexpected circumstances reads:

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.

is hereby amended to read:

NHDOT shall encumber \$22,575 equal to 100 additional hours to be billed to NHDOT at \$225/hour in the event of an emergency catastrophic failure that exhausts the contracted amount. Emergency services shall be billed separately to the Department after the original 100 hours have been depleted. This is not a draw down amount, but a contingency fund to be utilized to pay the Contractor if emergencies arise.

Outside of emergency catastrophic failure, within the 2 year contract period and at the Department's discretion, NHDOT can add support of one additional increment of \$22,575, once the initial \$21,500 is drawn down.

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 Delcan Corporation a(n) Illinois corporation, is authorized to transact business in New Hampshire and qualified on July 12, 2006. 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 3rd day of October, A.D. 2014

A handwritten signature in cursive script that reads "William M. Gardner".

William M. Gardner
Secretary of State

**CERTIFIED RESOLUTION OF
THE BOARD OF DIRECTORS OF
DELCAN CORPORATION**

RESOLVED:

THAT Delcan Corporation approve and authorize Mr. Joseph Brahm and Mr. Lester Yoshida to sign all related documents for and on behalf of the Delcan Corporation in connection with the State of New Hampshire Department of Transportation, System Maintenance Contract.

I hereby certify that the foregoing is a true and correct copy of a resolution duly passed by the Directors of Delcan Corporation on December 18, 2014 and that the said resolution is now in full force and effect.

Dated this 22nd day of December, 2014



J.N. Powers, Secretary

JNP:db

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/22/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LIC #CA 0C19812 1-816-960-9000
 Lockton Companies, LLC-1 Kansas City
 444 W. 47th Street, Suite 900
 Kansas City, MO 64112-1906

INSURED
 Delcan Corporation
 650 Algonquin Rd., Suite 400
 Schaumburg, IL 60173

CONTACT NAME:
 PHONE (A/C, No, Ext):
 E-MAIL:
 ADDRESS:

FAX (A/C, No):

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: NATIONAL UNION FIRE INS CO OF PITTS	19445
INSURER B: LEXINGTON INS CO	19437
INSURER C: INSURANCE CO OF THE STATE OF PA	19429
INSURER D: SWISS RE INTERNATIONAL SE	
INSURER E:	
INSURER F:	

COVERAGES CERTIFICATE NUMBER: 42460346 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X	GL17587105	01/01/15	01/01/16	EACH OCCURRENCE \$ 1,500,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ included MED EXP (Any one person) \$ included PERSONAL & ADV INJURY \$ included GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ included \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		CA6579207 CA6579208	01/01/15 01/01/15	01/01/16 01/01/16	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$	X	11665435	01/01/15	01/01/16	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	WC028328345 (FL) WC028328346 (CA) WC028328344 (AOS) WC028328347 (MA/WI)	01/01/15 01/01/15 01/01/15 01/01/15	01/01/16 01/01/16 01/01/16 01/01/16	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	UMBRELLA LIABILITY		FINPA1500001	01/01/15	01/01/16	Per Claim 500,000 Aggregate 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 RE: The New Hampshire Department of Transportation is named as Additional Insured with respect to the General Liability.
 See attached Special Clauses and Endorsements.

CERTIFICATE HOLDER	CANCELLATION
New Hampshire Department of Transportation Attn: Denise Markow P.O. Box 483 ncord, NH 03302 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

ENDORSEMENT

This endorsement, effective 12:01 A.M. 01/01/2015 forms a part of

Policy No. CA6579207 issued to PARSONS CORPORATION

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

ADDITIONAL INSURED

SCHEDULE

WHERE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT

Section II - Liability Coverage, A - Coverage, 1. - Who Is An Insured, is amended to add:

- d. Any person or organization, shown in the schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into, which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:
 1. The coverage and/ or limits of this policy, or
 2. The coverage and/ or limits required by said contract or agreement.

87950 (10/05)



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ENDORSEMENT

Insurance Primary as to Certain Additional Insureds

This endorsement, effective 12:01 A.M. 01/01/2015 forms a part of

Policy No. CA6579207 issued to: PARSONS CORPORATION

By: NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, B., General Conditions, 5., Other Insurance, c., is amended by the addition of the following sentence:

The insurance afforded under this policy to an additional insured will apply as primary insurance for such additional insured where so required under an agreement executed prior to the date of accident. We will not ask any insurer that has issued other insurance to such additional insured to contribute to the settlement of loss arising out of such accident.

All other terms and conditions remain unchanged.

SCHEDULE

Name of Person or Organization

WHERE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT

ENDORSEMENT

This endorsement, effective 12:01 A.M. 1/ 1/ 2015 forms a part of

Policy No. CA6579207 issued to PARSONS CORPORATION

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, A - Loss Conditions, 5. - Transfer of Rights of Recovery Against Others to Us, is amended to add:

However, we will waive any right of recover we have against any person or organization with whom you have entered into a contract or agreement because of payments we make under this Coverage Form arising out of an "accident" or "loss" if"

- (1) The "accident" or "loss" is due to operations undertaken in accordance with the contract existing between you and such person or organization; and
- (2) The contract or agreement was entered into prior to any "accident" or "loss".

No waiver of the right of recovery will directly or indirectly apply to your employees or employees of the person or organization, and we reserve our rights or lien to be reimbursed from any recovery funds obtained by any injured employee.

201412230143

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ENDORSEMENT #

This endorsement, effective 12:01 A.M. 01/01/2015 forms a part of Policy

No. WC028328344 issued to PARSONS CORP. by
WC028328346
WC028328345
WC028328347

(The above "attaching clause" need be completed only when this endorsement is issued subsequent to the preparation of the policy).

NOTICE OF CANCELLATION AND NONRENEWAL TO CERTIFICATE HOLDER

This endorsement modifies insurance provided under the following:

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

We shall provide written notice in accordance with state law in the event this policy is cancelled or nonrenewed, for any reason other than non payment of premium, to those entities set out in the schedule below.

Schedule

Notice will be mailed to: Certificate holders the First Named Insured has provided to us, either directly or through its broker of record

To the attention of: Certificate holder at the email address contact provided to us via an electronic spreadsheet that is acceptable to us

Contract, Permit or Job Number : Contracts under which the First Named Insured is under an existing contractual obligation to notify the certificate holder when this policy is cancelled.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ENDORSEMENT # 4

This endorsement, effective 12:01 A.M. 01/01/2015 forms a part of

Policy No: GL17587105 issued to: PARSONS CORPORATION

By: NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL
TO ENTITIES OTHER THAN THE FIRST NAMED INSURED

This policy is amended as follows:

In the event that the **Insurer** cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;
2. the **First Named Insured** is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the **Insurer**, either directly or through its broker of record, the email address of a contact at each such entity; and
3. the **Insurer** received this information after the **First Named Insured** receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the **Insurer**,

the **Insurer** will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within 30 days after the **First Named Insured** provides such information to the **Insurer**; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the **First Named Insured** provides such information to the **Insurer**.

Proof of the **Insurer** emailing the Advice, using the information provided by the **First Named Insured**, will serve as proof that the **Insurer** has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. **First Named Insured** means the Named Insured shown on the Declarations Page of this policy.
2. **Insurer** means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.

POLICY NUMBER: GL17587105

COMMERCIAL GENERAL LIABILITY
CG 20 37 07 04**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
New Hampshire Department of Transportation P.O. Box 483 Concord, NH 03302 USA	Where required by agreement or written contract.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
New Hampshire Department of Transportation	Where required by agreement or written contract.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

SUPPLEMENT TO CERTIFICATE OF INSURANCE

DATE
12/22/2014

NAME OF INSURED: Delcan Corporation

Special Clauses-

-

Additional Insured:-

-

Except as respects Workers Compensation and Professional Liability Coverage and solely as respects work performed by the named insured, the New Hampshire Department of Transportation is included as an additional insured but only to the extent of the named insureds negligence.-

-

Cancellation Notice: -

-

The named insured, Parsons Corporation or its Insurance Broker shall notify the certificate holder of any cancellation, or reduction in coverage or limits, of any insurance within thirty (30) days of receipt of insurers' notification to that effect.-

-

Excess Liability:-

-

Excess Liability follows form over the General Liability and Automobile Liability policies.

