

FINANCE COMMITTEE

AUGUST 3, 2016

7:00 PM

Aldermanic Chamber

ROLL CALL

PUBLIC COMMENT

COMMUNICATIONS

- From: Dan Kooken, Purchasing Manager
Re: Purchase Lawson Upgrade on In-House Hosting (Value: \$326,163)
Department: 122 Information Technology Fund: Escrow \$236,163 and IT Software Maintenance \$90,000
- From: Dan Kooken, Purchasing Manager
Re: Approve Purchase of a 50 KW Generator for Shakespeare Tower Site (Value: \$13,378)
Department: 157 Citywide Communications; Fund: Citywide Communications Capital Projects Account
- From: Dan Kooken, Purchasing Manager
Re: Contract Award for Climate and Health Adaptation Planning (Value: \$38,000)
Department: 171 Community Services; Fund: Climate and Health Adaptation Plan Grant
Accounting Classification: 55 Other Contracted Services
- From: Dan Kooken, Purchasing Manager
Re: Contract Award for City Hall Elevator Modernization (Value: \$184,000); Department: 126 Financial Services; Fund: Trust Fund; Accounting Classification: 81 Buildings and Improvements
- From: Dan Kooken, Purchasing Manager
Re: Esri Software License Renewal (Value: \$25,000); Department: 134 GIS; Fund: General Fund
Accounting Classification: 54 Property Services
- From: Dan Kooken, Purchasing Manager
Re: Contract Award for Roadside and Trail Mowing (Value: Not-to-Exceed \$26,000); Department: 177 Parks and Recreation; Funds: General and Trust Account Category: Professional Services \$22,000
Department; 169 Wastewater; Fund: Wastewater; Account Category: 55 Other Purchased Services \$4,000
- From: Dan Kooken, Purchasing Manager
Re: Approve Purchase of a Replacement Toro Groundmaster 3505-D Mower (Value: \$27,627)
Department: 177 Parks And Recreation; Fund: Trust Activity: CERF
- From: Dan Kooken, Purchasing Manager
Re: Approve Purchase of an Integration Carousel for Labine Park (Value: \$50,715); Department: 177 Parks and Recreation; Fund: General Activity: Labine Park
- From: Dan Kooken, Purchasing Manager
Re: Rail Trail Lighting (Value: \$87,288); Department: 177 Parks & Recreation; Fund: CIP
Activity: Rail Trail Lighting

From: Dan Kookan, Purchasing Manager
Re: DW Highway Vehicle Detection from Poisson Avenue to Graham Drive (Value: \$69,700)
Department: 160 Admin & Engineering; Fund: Trust; Activity: 55 – Other Services \$51,300
Department: 161 Street; Fund: General; Activity: Paving \$18,400

From: Dan Kookan, Purchasing Manager
Re: NWTF Air Handler Replacement Project (Value: \$67,093); Department: 169 Wastewater
Fund: Wastewater; Activity: Control Building HVAC Upgrades

From: Dan Kookan, Purchasing Manager
Re: Water Booster Station Upgrades – Study and Evaluation Phase (Value: \$17,500)
Department: 169 Wastewater; Fund: Wastewater; Activity: Water Booster Station Upgrades
Account Classification: 53 Professional and Technical Services

From: Dan Kookan, Purchasing Manager
Re: FY17 Engineering Services - Landfill (Value: Not-to-Exceed \$80,000)
Department: 168 Solid Waste; Fund: Solid Waste; Account Classification: 53 Professional
and Technical Services

UNFINISHED BUSINESS – None

NEW BUSINESS - None

TABLED IN COMMITTEE

From: Dan Kookan, Purchasing Manager
Re: CodeRED Contract (Value: \$22,000); Department: 156 Emergency Management
Fund: General; Accounting Category: 54 Property Services

- Tabled 7/6/16

From: Dan Kookan, Purchasing Manager
Re: Purchase of 2016 Ford Fusion SE Hybrid
Department: 173 Environmental Health
Account Description: 2016 CERF - Vehicles and 2017 CERF – Vehicles

- Replacement of the 2002 Chevy Malibu Tabled Pending Additional Information – 7/20/16

O-16-015

Endorsers: Alderman-at-Large Lori Wilshire
Alderman Richard A. Dowd
Alderman-at-Large Michael B. O'Brien, Sr.

PROVIDING FOR CONFIDENTIAL REDACTIONS ON THE RECORD OF EXPENDITURES

- Tabled – 7/20/16

DISCUSSION

RECORD OF EXPENDITURES

PUBLIC COMMENT

NON-PUBLIC SESSION

ADJOURNMENT



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 14, 2016
Memo #17-015

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: PURCHASE LAWSON UPGRADE IN IN-HOUSE HOSTING (VALUE: \$326,163)
DEPARTMENT: 122 INFORMATION TECHNOLOGY
FUND: ESCROW \$236,163 AND IT SOFTWARE MAINTENANCE \$90,000

Please see the attached communication from Bruce Codagnone, CIO/IT Division Director for information related to this purchase.

Pursuant to **§ 5-92 Information Technology Division participation in purchasing process**. For major purchases and contracts solicited in Accordance with § 5-78 which include computers or communications equipment or related software, including but not limited to workstations, servers, surveillance equipment and wired and wireless transmission equipment, the Information Technology Division shall participate in the purchasing process, providing advice, input and recommendations, which are so noted on the attached memo and spreadsheets from Bruce Codagnone.

The CIO/IT Division Director and the Purchasing Department recommend awarding this contract in an amount of **\$326,163 to TeamAbsolute of Roseville, MN.**

Respectfully,

Dan Kookan

Purchasing Manager

Cc: B. Codagnone J. Graziano



THE CITY OF NASHUA

Information Technology Division

"The Gate City"

Date: July 14, 2016

To: Dan Kooken, Purchasing Manager
From: Bruce Codagnone, CIO/IT Division Director

Re: Lawson Hosting and Upgrade Project

Mr. Kooken,

The City of Nashua's ERP application, Lawson, is hosted by an external vendor. This vendor, Affiliated Computer Services, Inc. (ACS), was recently acquired by Atos IT Outsourcing Services, LLC. During the budget process, I mentioned that we had heard that our vendor would not provide hosting services going forward. On July 7th, Atos officially notified us that they will no longer provide hosting services to the public sector and education verticals and that our hosting service will end when our contract naturally expires on November 30th of this year. In addition, we had been in discussion with Atos to upgrade the Lawson application to version 10. The upgrade and transition of moving the applications in-house, utilizing remote managed services, will take a minimum of 4 to 6 months. Consequently, we did not have time for the normal RFP process and a transition given the tight timeline. As a result, we reached out to the original bidders of the original hosting RFP and asked for updated quotes. The quotes requested were to upgrade the application and provide options for hosting in their respective data center or we host the application internally on our servers and they provide remote managed services.

Upon review of the quotes, we decided to go with TEAMabsolute. We will host the application on-site and TEAMabsolute will upgrade the application and provide remote managed services. This scenario will result in a \$120,000/year savings over our current arrangement starting in year two.

The request to the Finance Committee is to purchase the hardware and software necessary to host the application here at the City and to enter into a contract with TEAMabsolute to upgrade the application and provide remote managed services going forward.

Cost breakdown of this request is as follows:

Upgrade Lawson to Version 10	\$ 163,800
Hardware / Software to be purchased	\$ 72,363
Remote Managed Services (Per Year)	\$ 90,000

Regards,

Bruce R. Codagnone
CIO/IT Division Director

Infor Costs by Vendor

Vendor	Item	NRC	MRC by Year					Remarks
			1	2	3	4	5	
Atos (existing)	Hosting & Managed Services	\$ -	\$ 218,616	\$ 218,616	\$ 218,616			Projected for comparison only Contract ends in Oct 2016
	Infor SW Maintenance *	\$ -	\$ 196,573	\$ 208,367	\$ 220,869			
	Subtotal:	\$ -	\$ 415,189	\$ 426,983	\$ 439,485			
Team Absolute (1)	Hosting Services	\$ 17,000	\$ 55,800	\$ 57,474	\$ 59,198	\$ 60,974		They provide hardware and OS licenses NRC Waived if they perform upgrade
	Managed Services	\$ 15,000	\$ 90,000	\$ 92,700	\$ 95,481	\$ 98,345		
	Infor SW Maintenance *	\$ -	\$ 196,573	\$ 208,367	\$ 220,869	\$ 234,122		
Subtotal:	\$ 32,000	\$ 342,373	\$ 358,541	\$ 375,548	\$ 393,441			
Team Absolute (2)	In-house hosting	\$ 72,363	\$ 8,509	\$ 8,909	\$ 8,909	\$ 9,809		City provides hardware and OS licenses NRC Waived if they perform upgrade
	Managed Services	\$ 15,000	\$ 90,000	\$ 92,700	\$ 95,481	\$ 98,345		
	Infor SW Maintenance *	\$ -	\$ 196,573	\$ 208,367	\$ 220,869	\$ 234,122		
Subtotal:	\$ 87,363	\$ 295,082	\$ 309,976	\$ 325,259	\$ 342,276		Recommended Option	
Ciber	In-house hosting	\$ 72,363	\$ 8,509	\$ 8,909	\$ 8,909			City provides hardware and OS licenses
	Managed Services	\$ -	\$ 130,522	\$ 134,438	\$ 138,471			
	Infor SW Maintenance *	\$ -	\$ 196,573	\$ 208,367	\$ 220,869			
Subtotal:	\$ 72,363	\$ 335,604	\$ 351,714	\$ 368,249				
Infor Cloud	Hosting & MS	\$ -	\$ 988,586	\$ 988,586	\$ 988,586	\$ 1,047,901	\$ 1,110,775	Infor SW Maintenance Included
	Subtotal:	\$ -	\$ 988,586	\$ 988,586	\$ 988,586	\$ 1,047,901	\$ 1,110,775	

Infor Upgrade and Migration Costs

Vendor	Upgrade Cost	Remarks
RPI Consulting	\$ 205,300	
Team Absolute	\$ 150,360	
Ciber	\$ 136,305	Only two data conversions

* Adding Infor SW Maintenance cost as this is included in the Infor quote in order to compare total project costs by vendor.

Infor In-House Costs

Item	Classification	Quantity	Unit Cost	NRC	MRC by Year				Remarks
					1	2	3	4	
VM Host Server	Hardware	2	10189	\$ 20,378	\$ -	\$ -	\$ -	\$ 900	Dual CPU; 16 Core; 256 GB RAM
VMWare ESXi v6 Enterprise per CPU	Software	4	3135	\$ 12,540	\$ 2,788	\$ 2,788	\$ 2,788	\$ 2,788	
Windows 2012 R2 Datacenter - 2 CPU	Software	1	4143	\$ 4,143	\$ 1,047	\$ 1,047	\$ 1,047	\$ 1,047	Collapse Library VM server amd repurpose license
SQL 2016 Enterprise - 2 core	Software	2	9251	\$ 18,502	\$ 4,674	\$ 4,674	\$ 4,674	\$ 4,674	Standby Node does not require a license
Spotlight for SQL	Software	1	1800	\$ 1,800	\$ -	\$ 400	\$ 400	\$ 400	Monitors SQL Server
Microfocus - Cobol license required	Software	1		\$ 15,000					

SubTotals:

\$ 72,363	\$ 8,509	\$ 8,909	\$ 8,909	\$ 9,809
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TEAMabsolute

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2277 Highway 36 West, Suite 160
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Fax: 612-746-4071

M A S T E R S E R V I C E S A G R E E M E N T

Client # 40399-Managed Services

This Master Service Agreement ("**Agreement**") made this 5th day of August, 2016 ("**Effective Date**") by and between Business Information Systems Consulting, Inc., d/b/a **TeamAbsolute**, a Minnesota Corporation having its principal place of business at 2277 Highway 36 West, Suite 160, Roseville, MN 55113, and **City of Nashua** ("**Client**") having its principal place of business at **229 Main Street, Nashua, New Hampshire 03061**.

WHEREAS, TeamAbsolute is in the business of providing application and network information professional services, specializing in, but not limited to, Infor Lawson S3 and supporting softwares.

WHEREAS, Client desires to engage TeamAbsolute to perform those services outlined in **EXHIBIT A** of this agreement upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

1. DEFINITIONS.

For purposes of this agreement Section 1 shall define certain terminology used throughout this agreement and the definition of the terminology shall always have the meaning that is set forth in Section 1. Except as otherwise set forth herein, technical terms commonly used in the industry that appear in this Agreement shall be so construed.

1.1 "Activation Date" means the date upon which TeamAbsolute makes the applicable Service (as defined in Section 2) available for Client use.

1.2 "Authorized Representative" means an employee, agent, contractor or other person that Client designates in writing as having authority to act on Client's behalf. Client may replace an Authorized Representative upon written notice to TeamAbsolute.

1.3 "Statement of Work (SOW)", **EXHIBIT A**, means the valid TeamAbsolute document detailing the Services described herein, including the applicable rates, and/or monthly charges ordered by Client. The parties may amend **EXHIBIT A** in writing.

1.4 "Supported Systems" means the systems, databases and/or applications of Client, as set forth in the Statement of Work, **EXHIBIT A**.

1.5 "New Charges" means those new monthly recurring charges that are associated with changes or additions that Client wishes to make to any of its existing Services.

1.6 "Services Change Order (SCO) Form", **EXHIBIT B**, means a valid TeamAbsolute document that is submitted by Client which requests certain additions, changes and/or deletions to the Services as described herein.

1.7 "Hardware" means the mechanical, magnetic, electronic and electrical components making up a computer system. For this agreement, Hardware includes, but not limited to, networks, workstations, hand held devices and all software supporting the Hardware.

1.8 "Software" means any physical or electronic application software, software licenses, manuals and /or documentation provided by TeamAbsolute. For this agreement, Software includes, but is not limited to, Deltek, operating system and database, anti-virus, office productivity, and all additional software required to support this Agreement.

2. SERVICE.

2.1 **Services.** **EXHIBIT A** Statement of Work Document of this Agreement sets forth the description of TeamAbsolute services (referred to herein as the "Service" or "Services") and the fees charged for the Services, as provided pursuant to

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this Agreement. Except for any changes made to the Statement of Work pursuant to **Section 5.2** of this Agreement, all terms and conditions of this Agreement and the Statement of Work entered into between the parties shall prevail over any conditions in any other communication, **unless otherwise mutually agreed to in writing by the parties.**

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2.2 Ownership. The Client agrees that any Hardware or Software purchased as a result to fulfill the Services identified in this Agreement is the sole ownership of TeamAbsolute. TeamAbsolute shall retain an electronic listing of all equipment purchased and placed into service for this Agreement. In the event of the termination of this Agreement, Client shall comply with Section 4.4 of this Agreement.

2.3 Cooperation. The Client agrees to cooperate with TeamAbsolute in its rendering of the Services, including, without limitation, providing TeamAbsolute with reasonable access to appropriate equipment, systems, data, information and personnel of the Client, and maintaining operational telecommunications systems that allow constant communication between TeamAbsolute and Supported Systems.

The Client acknowledges that when its personnel are to work with TeamAbsolute personnel, the failure of the Client's personnel to cooperate with TeamAbsolute, or the Client's un-timeliness or failure to assign the appropriate Client personnel could adversely affect TeamAbsolute's ability to perform.

If TeamAbsolute provides Client with prior notice of the Client's failure to (i) maintain the Client's system (ii) cooperate, or (iii) assign such personnel and Client fails to timely cure such failure, as defined in TeamAbsolute's then current Standard Operating Procedures("SOP"), then if such un-timeliness or failure to perform its obligations interferes with TeamAbsolute's ability to perform, TeamAbsolute shall be relieved from its obligations to the extent caused by such failures.

The Client further acknowledges and agrees that TeamAbsolute may, in performing its obligations pursuant to this Agreement, be dependent upon and using systems, data, material, and other information furnished by the Client without any independent investigation or verification thereof, including, but not limited to, the identification of the Supported Systems, and that TeamAbsolute shall be entitled to rely upon the functionality of the systems and accuracy and completeness of such information in performing the Services.

3. PUBLICITY.

Either party may use the other's logo, trademark, trade name, or other designation ("Trademark") in any promotion or publication without the prior written consent of the other party, except as prohibited in Section 9.

4. TERM.

4.1 The term of this Agreement shall commence on the Effective Date and shall continue for four (4) years thereafter unless otherwise agreed to by both parties as part of a separate addendum to this Agreement. Ninety-days (90) prior to the fourth anniversary of the commencement of this Agreement, TeamAbsolute will notify Client of the pending anniversary. Client will have thirty-days (30) to respond to TeamAbsolute as to its intention to renew, cancel or modify the terms of this Agreement. In lieu of a notice of termination or renegotiation, this agreement will be deemed perpetual for an additional year.

4.2 This Agreement may only be terminated by either party (a) upon the breach by the other party of any material obligation hereunder, which breach has not been cured within thirty (30) days after the breaching party has received written notice thereof or (b) if all or a substantial portion of the assets of the other party are transferred to an assignee for the benefit of creditors, to a receiver or to a trustee in bankruptcy, or a proceeding is commenced by or against the other party for relief under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days, or the other party is judged bankrupt.

4.3 Upon the termination of this Agreement for any reason, all licenses granted herein shall immediately terminate, TeamAbsolute shall no longer have any obligation to provide the Services and each party shall return to the other all property (including any Confidential Information (as defined in Section 9)) of the other party in its possession or control. The rights and duties of the parties under Sections 7, 8, 9, 10 and 11 shall survive the termination or expiration of this Agreement.

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4.4 Upon the termination of the Agreement by the Client, without cause, or Client defaults prior to the completion of the current agreement term (see Section "4.1") the Client shall be responsible for payment to TeamAbsolute for the amount equal to the remaining unpaid balance of the current agreement term. If Hardware or Software resides at the Client site, said Hardware as identified in Exhibit A or subsequent Service Change Order Forms, must be returned to TeamAbsolute, at Client's expense, in working order at the time of termination or a charge will be issued to Client to cover replacement costs.

5. PRICING.

5.1 See EXHIBIT A Statement of Work.

5.2 **Changes to Service.** If Client wishes to make any "changes" (i.e., modifications and/or additions) to any of its existing Services, Client may contact TeamAbsolute to execute a new Services Change Order Document (SCO), EXHIBIT B. TeamAbsolute may reject all or any portion of the requested changes in its reasonable discretion. If accepted by TeamAbsolute, those new Services that were changed pursuant to the SCO may be subject to New Charges as detailed on the Statement of Work, EXHIBIT A. The effective date for the New Charges will be as of the date that TeamAbsolute makes the requested change (and/or addition, as the case may be) in the Services (or service components or additional features, as the case may be).

6. FEES, TAXES AND PAYMENT.

6.1 In consideration of the services provided by TeamAbsolute hereunder, Client shall pay TeamAbsolute the fees set forth in EXHIBIT A. All fees due hereunder shall be due and payable within thirty (30) days of the date of Client's receipt of TeamAbsolute's invoice. Monthly fees will be billed in advance of Service provided and will be due and paid prior to the Service commencing. All fees due hereunder are exclusive of, and Client shall be solely responsible for, all sales and VAT taxes and other federal, state, municipal or other governmental taxes now in force or enacted in the future.

6.2 Late payments by Client shall be subject to late penalty fees of 1.5 % per month from the due date until the amount is paid.

6.3 Client shall reimburse TeamAbsolute for the following expenses that are directly attributable to work performed under this Agreement. This expense policy shall override Client's internal expense policy.

- travel expenses other than normal commuting including airfares, rental vehicles, and per diem and highway mileage in company or personal vehicles at the current business standard mileage rate published by the IRS.
- other expenses resulting from the work performed under this Agreement.

These costs may include costs incurred due to delay or cancellation, requests on behalf of the Client to change or extend timeframes, or any other factor affecting travel. In general, client agrees to pay for travel costs from the consultant's home/office to the client site and return to the consultant's home/office. Consultant shall submit an itemized statement of Consultant's expenses. Client shall pay Consultant within 30 days from the date of each statement.

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6.4 TeamAbsolute shall pay all income taxes and FICA (Social Security and Medicare taxes) incurred while performing services under this Agreement. Client will not:

- withhold FICA from Consultant's payments or make FICA payments on Consultant's behalf
- make state or federal unemployment compensation contributions on Consultant's behalf, or
- withhold state or federal income tax from Consultant's payments.

If TeamAbsolute is required to pay any federal, state or local sales, use, property or value added taxes based on the services or equipment provided under this Agreement, the taxes shall be separately billed to Client. TeamAbsolute shall not pay any interest or penalties incurred due to late payment or nonpayment of any taxes by Client.

7. INDEMNIFICATION AND LIMITS OF LIABILITY.

7.1 TeamAbsolute agrees to indemnify, defend, protect, save and hold harmless Client and its affiliates, and its and their respective directors, officers, employees and agents, against any and all losses, liabilities, judgments, awards and costs (including legal fees and expenses) arising out of or related to any claim in whole or in part that the Services or Client's use or possession of any Software infringes, dilutes, or violates the copyright, trade secret, trade mark, trade dress, patent or any other proprietary right of any third party. This contractual obligation of indemnification shall apply even if the third party alleges or establishes that Client was partially negligent or otherwise at fault (e.g., that Client was negligent in retaining TeamAbsolute's services or licensing products from TeamAbsolute or accepting information, ideas, concepts, improvements, discoveries, inventions, or forms of expression of ideas from TeamAbsolute or that Client was negligent in failing to ascertain whether the information, ideas, concepts, improvements, discoveries, inventions, or forms of expression or ideas infringe the rights of third parties). TeamAbsolute shall defend and settle at its sole expense all suits or proceedings arising in whole or in part out of the foregoing, provided that Client gives TeamAbsolute reasonably prompt notice of any such claim of which it learns and reasonable assistance in resolving same.

This obligation of indemnification shall survive even if Client does not provide TeamAbsolute with reasonably prompt notice of any such claim of which it learns except to the extent such failure materially prejudices TeamAbsolute. "Software" for the purposes of this Agreement is defined as any software, not supplied to TeamAbsolute by Client, that is used by TeamAbsolute in the performance of its Services to Client. TeamAbsolute will have the exclusive right to defend any such action and make settlements thereof at its option, provided, however, that TeamAbsolute does not agree to any settlement that materially prejudices Client.

TeamAbsolute shall, at its expense, defend or settle any claim by any third party brought against Company alleging that the Software infringes any copyright or patent; provided, that Company gives prompt written notice to TeamAbsolute of any and all threats, claims and proceedings related thereto and that Company gives TeamAbsolute reasonable assistance and sole control over the defense and all negotiations for a settlement or compromise. Software for the purposes of this Agreement is defined as any non-Company software that is used by TeamAbsolute in the performance of its Services to Company. TeamAbsolute will have the exclusive right to defend any such action and make settlements thereof at its option, provided, however, that TeamAbsolute does not agree to any settlement that materially prejudices Company.

The foregoing obligation of TeamAbsolute does not apply with respect to Software or portions or components thereof: (i) not supplied by TeamAbsolute; (ii) that are modified other than by TeamAbsolute after delivery by TeamAbsolute; (iii) combined with other products or processes where the alleged infringement relates to such combinations, except where such products or processes are specified for combined use in the documentation provided by TeamAbsolute related to use of the Software; (iv) to the extent that Client continues allegedly infringing activity after being notified thereof or after being informed of

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modifications that would have avoided the alleged infringement; or (v) when Software is bundled with other applications, if the matter relates to the other applications and does not relate to the Software.

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7.2 Client agrees to indemnify, defend and hold TeamAbsolute harmless from and against any and all costs, liabilities, losses, damages and expenses by any third party (including, but not limited to, reasonable attorneys' fees) arising out of or related to (a) TeamAbsolute's use or possession of Client materials, software, data, or other intellectual property furnished by Client, or (b) any claims related to the Services performed by TeamAbsolute by Client's own customers or vendors to the extent not caused by TeamAbsolute.

7.3 **LIMITED REPRESENTATIONS AND WARRANTIES.** TEAMABSOLUTE REPRESENTS AND WARRANTS THAT: THE SERVICES SHALL:

- A. BE PERFORMED SUBSTANTIALLY IN ACCORDANCE WITH THE TERMS OF THE STATEMENT OF WORK ATTACHED AS EXHIBIT A AND THE SERVICES CHANGES ORDER DOCUMENT(S) THAT, FROM TIME TO TIME, MAY BE ATTACHED AS EXHIBIT B, AND
- B. BE PERFORMED IN A PROFESSIONAL MANNER BY QUALIFIED INDIVIDUALS. EXCEPT AS PROVIDED IN THIS SECTION 7.3, TEAMABSOLUTE DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

7.4 **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT OR OTHERWISE, NEITHER CLIENT NOR TEAMABSOLUTE WILL BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR LOST PROFITS, COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES, WHETHER SUCH LOSS OR DAMAGES ARE FORESEEABLE.

7.5 **CAP ON LIMITATION OF LIABILITY**

IN NO EVENT SHALL TEAMABSOLUTE BE LIABLE FOR ANY LOSS OF PROFIT OR REVENUE BY CLIENT, OR FOR ANY OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT OR ECONOMIC DAMAGES INCURRED OR SUFFERED BY CLIENT ARISING AS A RESULT OF OR RELATED TO TEAMABSOLUTES' WORK, WHETHER IN CONTRACT, TORT OR OTHERWISE, EVEN IF CLIENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. CLIENT FURTHER AGREES THAT THE TOTAL LIABILITY OF TEAMABSOLUTE FOR ALL CLAIMS OF ANY KIND ARISING AS A RESULT OF OR RELATED TO THIS AGREEMENT, OR TO ANY ACT OR OMISSION OF TEAMABSOLUTE, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED AN AMOUNT EQUAL TO THE AMOUNT ACTUALLY PAID BY CLIENT FOR TEAMABSOLUTE'S WORK DURING THE THREE-MONTH PERIOD PRECEDING THE DATE THE CLAIM ARISES.

IN NO EVENT SHALL THIS LIABILITY EXCEED A TOTAL AGGREGATE AMOUNT OF \$1,000,000. CLIENT SHALL INDEMNIFY AND HOLD TEAMABSOLUTE HARMLESS AGAINST ANY CLAIMS BY THIRD PARTIES, INCLUDING ALL COSTS, EXPENSES AND ATTORNEYS' FEES INCURRED BY TEAMABSOLUTE THEREIN, ARISING OUT OF OR IN CONJUNCTION WITH CLIENT'S PERFORMANCE UNDER OR BREACH OF THIS AGREEMENT.

7.6 **Insurance Coverage.** TeamAbsolute shall, at its sole cost and expense, procure and keep in full force and effect during the Term of this Agreement, at a minimum, the following kinds of insurance covering operations in the State in which the work is to be performed:

- A. Worker's Compensation and Employer's Liability (Worker's Compensation - Statutory Limits. Employer's Liability - \$500,000 per incident)
- B. Comprehensive General Liability including Contractual Liability (\$1,000,000 per occurrence; \$3,000,000 general aggregate)
- C. If providing services related to financial issues, Crime coverage / Dishonesty Insurance (\$3,000,000 per incident). If providing services related to the Client Products and Client data/databases, software programming and/or software development issues, Errors & Omission Insurance (\$3,000,000 per incident).

7.7 **Basis of the bargain; failure of essential purpose.** Client acknowledges that TeamAbsolute has set its prices and entered into this Agreement in reliance upon the limitations of liability and damages and the disclaimers of warranties set

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forth in this Agreement, and that the same form an essential basis of the bargain between the parties. The parties agree that such limitations and disclaimers will survive and apply even if this Agreement or any provisions hereof are found to have failed of their essential purpose.

M A S T E R S E R V I C E S A G R E E M E N T

7.8 **Force Majeure.** Except with respect to payment obligations, neither party shall be liable, nor shall any credit allowance or other remedy be extended for any failure of performance or equipment due to causes beyond such party's reasonable control, including, but not limited to, acts of God, fire, flood or other catastrophes; any law, order, regulation, direction, action, or request of any governmental entity or agency, or any civil or military authority; national emergencies, insurrections, riots, wars; unavailability of rights-of-way or materials; failure of suppliers, or strikes, lock-outs, work stoppages, or other labor difficulties. Each Party will use reasonable efforts to resolve promptly any type of excusable delay.

8. RESOLVING DISPUTES

If a dispute arises under this Agreement, the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator in Hennepin County, Minnesota. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties. If it proves impossible to arrive at a mutually satisfactory solution through mediation, the parties agree to submit the dispute to a mutually agreed-upon arbitrator in Hennepin County, Minnesota. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction to do so. Costs of arbitration, including attorney fees, will be allocated by the arbitrator.

9. CONFIDENTIAL INFORMATION.

Without express written approval of the disclosing party, during the term of this Agreement and thereafter, other than for the purposes of providing and receiving the benefits of the Services under this Agreement, neither party, its officers, personnel or agents will directly or indirectly divulge, disclose, communicate or use in any way,

- (i) the terms of this Agreement,
 - (ii) all information, source and object code and data, of whatsoever nature, relating to the other party and the other party's products and customers, including, but not limited to, the other party's operations, policies, procedures, techniques, accounts and personnel, or information used by the other party in carrying on their business, and
 - (iii) all information, source and object code, and data which is proprietary to a third party which carries obligations to treat as confidential that which is obtained or disclosed in connection with performance under this agreement and which the receiving party should reasonably know to be confidential information whether or not the receiving party is made aware of its confidential nature at the time of disclosure (collectively "**Confidential Information**").
- Both parties also agree to return any and all materials of the other party containing Confidential Information upon the request of the disclosing party.

Subject to the obligations with respect to the use of Confidential Information as set forth in this Section 9, nothing in this Agreement shall restrict or prevent either party from using any ideas, concepts, know-how, methodology or techniques relating to Supported Systems, monitoring or management, learned or developed without the incorporation of any of the other party's Confidential Information during or as a result of the Services provided pursuant to this Agreement.

Notwithstanding the foregoing, the party receiving the Confidential Information ("Recipient") has no obligation with respect to any information which the Recipient can demonstrate:

- (a) is already known to Recipient prior to disclosure;
- (b) is or becomes publicly known through no fault of Recipient;
- (c) is rightfully obtained by Recipient from a third party without similar restriction and without breach of this non-disclosure obligation; or
- (d) is independently developed by Recipient without use of the other party's Confidential Information as evidenced and verified by prior tangible evidence.

TEAMabsolute

TeamAbsolute
2277 Highway 36 West, Suite 160
Roseville, MN 55113
Main: 612-746-4070
Fax: 612-746-4071

M A S T E R S E R V I C E S A G R E E M E N T

Recipient may disclose Confidential Information of the other party pursuant to a valid order issued by a court of competent jurisdiction or as required by the applicable regulations of an agency of the United States Government, provided that the Recipient gives the other party reasonable prior written notice sufficient to allow the other party time to contest such disclosure or obtain a protective order and provides reasonable cooperation with the party contesting the disclosure. The Parties will have the right of injunctive relief to maintain compliance with this Section 9 and prevent unauthorized disclosure or use of the Client or TeamAbsolute products or other Confidential Information.

10. INTELLECTUAL PROPERTY.

10.1 Client acknowledges that TeamAbsolute, or its third party suppliers, own all patents, copyrights, trade secrets, and all other proprietary rights in and to the processes, software, utilities, and methods of operation TeamAbsolute will use to perform TeamAbsolute's services under this Agreement. Client agrees that processes, software, utilities, and methods of operation TeamAbsolute uses to perform TeamAbsolute's services are proprietary trade secrets and are protected under civil and criminal law, and the copyright laws of the United States. TeamAbsolute retains all ownership rights to all of these items. No part of these items may be reproduced or used in any form or by any means without the written permission of TeamAbsolute. Client shall not assign, delegate, distribute, or transfer any interest in the processes, software, utilities, and methods of operation, and information supplied by TeamAbsolute to any other party. Client shall take reasonable steps to safeguard the confidentiality of such information. Client agrees that only TeamAbsolute shall have the right to alter, maintain, enhance or otherwise modify the Software. Client shall not modify, disassemble, decompile or reverse engineer the Software in any manner whatsoever, or otherwise use the Software except as expressly permitted pursuant to this Agreement.

10.2 TeamAbsolute acknowledges that Client, or its third party suppliers, own all patents, copyrights, trade secrets, and all other proprietary rights in and to the processes, software, utilities, and methods of operation of Client Products and systems. For the purposes of this Agreement, Client Product will be defined as any software products that are loaded on the development, certification, and production servers at the Client. TeamAbsolute agrees that processes, software, utilities, and methods of operation are proprietary trade secrets and are protected under civil and criminal law, and the copyright laws of the United States. Client or its third party suppliers retain all ownership rights to all of these items. No part of these items may be reproduced or used in any form or by any means without the written permission of Client. TeamAbsolute shall take reasonable steps to safeguard the confidentiality of such information. TeamAbsolute agrees that only Client shall have the right to alter, maintain, enhance or otherwise modify the Client Products and systems. TeamAbsolute shall not modify, disassemble, decompile or reverse engineer the Client Products and systems in any manner whatsoever, or otherwise use the Client Products except as expressly permitted pursuant to this Agreement.

11. NON-SOLICITATION

Both Client and TeamAbsolute ("Parties") covenants and agrees that during the term of the Agreement and for a period of one (1) year after the last invoiced date of work, neither of the Parties shall, directly or indirectly, through an existing corporation, unincorporated business, affiliated party, successor employer, or otherwise, solicit, hire for employment or work with, on a part-time, consulting, advising or any other basis, other than on behalf of the Parties, any employee, any employee or independent contractor employed by either of the Parties.

12. INDEPENDENT CONTRACTOR STATUS

TeamAbsolute is an independent contractor, not Client's employee. TeamAbsolute's employees or subcontractors are not Client's employees. TeamAbsolute and Client agree to the following rights consistent with an independent contractor relationship.

- TeamAbsolute has the right to perform services for others during the term of this Agreement.
- TeamAbsolute has the sole right to control and direct the means, manner and method by which the services required by this Agreement will be performed.

TEAMabsolute

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M A S T E R S E R V I C E S A G R E E M E N T

- TeamAbsolute has the right to hire assistants as subcontractors, or to use employees to provide the services required by this Agreement.
- TeamAbsolute or TeamAbsolute's employees or subcontractors shall perform the services required by this Agreement; Client shall not hire, supervise or pay any assistants to help TeamAbsolute.
- Neither TeamAbsolute nor TeamAbsolute's employees or subcontractors shall receive any training from Client in the skills necessary to perform the services required by this Agreement.
- Client shall not require TeamAbsolute or TeamAbsolute's employees or subcontractors to devote full time to performing the services required by this Agreement.
- Neither TeamAbsolute nor TeamAbsolute's employees or subcontractors are eligible to participate in any employee pension, health, vacation pay, sick pay or other fringe benefit plan of Client.

13. SERVICE LEVEL AGREEMENTS.

TeamAbsolute shall abide by the service level responsibilities set forth in the current Standard Operating Procedures for TeamAbsolute. EXHIBIT C, the Service Level Agreement.

14. OTHER PROVISIONS.

14.1 **Governing Law.** This Agreement and all matters relating to this Agreement shall be construed and controlled by the laws of the State of Minnesota without regard to conflicts of law provisions.

14.2 **Independent contractors.** The parties will have the status of independent contractors, and nothing in this Agreement will be deemed to place the parties in any other relationship, including employer-employee, principal-agent, partners or joint ventures.

14.3 **Assignment.** Neither party may transfer or assign this Agreement and/or the use of Service, without the express prior written consent of the other party (which consent shall not be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in connection with a merger or a sale of all or substantially all of its assets or capital stock. Any transfer or assignment in violation hereof shall be null and void.

14.4 **Non-cumulative Remedies.** No remedy conferred by any of the specific provisions of this Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by a party shall not constitute a waiver of the right to pursue other available remedies.

14.5 **Authority.** Each party represents and warrants that it has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. EACH PARTY FURTHER ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY IT.

14.6 **Notices.** Any notices or other communications required or permitted to be given by this Agreement must be

- (a) given in writing and personally delivered or mailed by prepaid express, certified or registered mail or
- (b) made by facsimile delivered or transmitted to the party to whom such notice or communication is directed, addressed to the parties as set forth below:

To TeamAbsolute:
TeamAbsolute
Kent Jacobson
President & CEO
2277 Highway 36 West, Ste. 160

To Client:
Client Name
Client Contact
Client Contact Title
Address 1

TEAMabsolute

TeamAbsolute
2277 Highway 36 West, Suite 160
Roseville, MN 55113
Main: 612-746-4070
Fax: 612-746-4071

M A S T E R S E R V I C E S A G R E E M E N T

Roseville, MN 55113
Voice: (612) 746-4070
Fax: (612) 746-4071
Email: Kent.jacobson@TeamAbsolute.com

City, State, Zip
Voice:
Fax:
Email:

TEAMabsolute

TeamAbsolute
2277 Highway 36 West, Suite 160
Roseville, MN 55113
Main: 612-746-4070
Fax: 612-746-4071

M A S T E R S E R V I C E S A G R E E M E N T

Any such notice or other communication shall be deemed to have been given (whether actually received or not) on the date it is personally delivered as aforesaid or, if mailed, on the day it is delivered or on the fifth day after it is mailed, whichever day is earlier, or if transmitted by facsimile, on the date that such notice is transmitted as aforesaid. A party may change such party's address for purposes of this Agreement by giving notice of such change to the other party pursuant to this Section.

14.7 **Waivers.** All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

14.8 **Severability.** If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

14.9 **Counterparts.** This Agreement may be executed in counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.

14.10 **Sarbanes-Oxley Compliance.** In accordance with Exhibit A, pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, Client may be required to report on the effectiveness of its internal controls over financial reporting in the periodic reports that it files with the Securities and Exchange Commission, and Client's independent auditor may be required to issue an opinion regarding the effectiveness such internal controls. To assist Client in complying with such obligations, TeamAbsolute agrees to maintain an effective system of internal controls with respect to all services and products subject to this Agreement (collectively, "Internal Controls"). While TeamAbsolute shall comply with all reasonable requests from Client with respect to Internal Controls, TeamAbsolute is ultimately responsible for establishing and maintaining effective Internal Controls. TeamAbsolute's obligations hereunder shall include, without limitation, (i) ensuring that the products and Services are secure from unauthorized intrusion (both internal and external) or from any other threats, (ii) maintaining detailed documentation regarding the Internal Controls, (iii) periodically testing the Internal Controls, and (iv) otherwise maintaining a strong control environment. TeamAbsolute will fully cooperate with Client with respect to its efforts to maintain effective Internal Controls and comply with its obligations under federal laws. TeamAbsolute will provide such documentation reasonably requested by Client or its independent auditor to verify the effectiveness of the Internal Controls, which may include a certification from an officer of TeamAbsolute or from TeamAbsolute's independent auditor. TeamAbsolute will also provide Client and its representatives with reasonable access to the products and services for audit, testing and verification of TeamAbsolute's compliance with these requirements for Internal Controls.

14.11 **Time of the Essence.** Time is of the essence in the performance of the parties' obligations pursuant to this Agreement.

AGREED AND ACCEPTED AS OF THE DATE SET FORTH ABOVE:

TeamAbsolute

City of Nashua

Signature

Kimberly M. Jacobson

Name

CFO / Managing Partner

Title

Signature

Name

Title

TEAMabsolute

TeamAbsolute
2277 Highway 36 West, Suite 160
Roseville, MN 55113
Main: 612-746-4070
Fax: 612-746-4071

M A S T E R S E R V I C E S A G R E E M E N T

Date

Date

SOW

TEAMabsolute

TEAMabsolute, Inc.
2277 Highway 36 West, Suite 160
Roseville, MN 55113
612.746.4070 main
612.746.4071 fax

Statement of Work SOW 43099-101

Client:	City of Nashua	Issue Date:	07/21/2016
Project Contact:	Nick Miseirvitch	Expires, if not signed:	08/15/2016
E-Mail:	miseirvitchn@nashuanh.gov	Account Executive:	LaMar Lederman (SLD)
Phone:	603-589-3305		
Billing Contact:	Nick Miseirvitch	Billing Phone:	
Billing Address:	229 Main St	Billing Email:	
	Nashua NH, 03061	Billing Fax:	

Work Description: Provide Assistance with Upgrade to Infor v10

1. Purpose of This Agreement

The Client will engage TEAMabsolute to assist with the upgrade to Infor 10.x into 2 environments. This estimate assumes:

- Utilizing Financials, HR, and Procurement
- Lawson v9.0.1.13 environment and 9.0.1.5 applications, Unix
- Installing and upgrading Future Production environment, 1 product line; Installing and populating Future Test environment, 1 product line.
- The Client is responsible for timely Validation and User Acceptance.
- The Client is responsible for the installation of any client solutions (i.e. Microsoft Add-Ins, BSI client, etc.).
- The Client is responsible for licensing, keys, OS, Database, and Sharepoint and required accounts.
- Travel and related expenses are responsibility of the Client and not included in pricing.
- The Client is responsible for re-implementation of scripts and spreadsheets; assistance can be provided.
- Client will engage directly with MHC (and other 3rd parties) for integration into v10. TEAMabsolute will coordinate with Client during upgrade.
- TEAMabsolute builds-out and stabilizes Future Production environment first and then turns attention to the Future Test environment later in the project; typically 3-4 months in duration

2. Services Provided

a. Technical Assessment

Estimate: 12 Hours

The TEAMabsolute Lawson Technical resource will work in conjunction with the Client Technical team to validate remote connection to current and future Lawson environments. TEAMabsolute will evaluate the Lawson environments to confirm system **readiness and compatibility** as defined in the Infor Lawson support matrix for the future Lawson version. TEAMabsolute will also validate current Lawson programs in use, existing authentication protocols, existing Lawson security in place, GEN and LOGAN data, BSI levels, and any noted modifications and customizations.

Client is cautioned to understand compatibility and hardware/software requirements (such as Windows and SQL Server versions, architecture of servers, virtualization, etc.) before making purchases or requesting licensing. TEAMabsolute will assist Client during technical assessment to clarify issues, concerns.

The technical assessment may result in a Change Request for additional hours if needed or recommendations to mitigate risks or consider opportunities found during the technical assessment.

b. Installation of Infor Lawson 10x Environment (Future Production)

Estimate: 60 Hours

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Statement of Work SOW 43099-101

Installation of Future Production to include Websphere, 3rd Party Components, and LDAP Bind.

- Infor Lawson System Foundation 10
- Infor Lawson Licensed Application Suites: Infor Lawson S3
- Migrate IBM Directory Services
- BSI, EMSS, ISS/IFS/DSSO

In addition to testing and validation, configuration of software may entail Client set-up/definitions; will be discussed as part of project planning.

c. Install LRE/IPA (Future Production)

Estimate: 24 Hours

Installation of Future Production LRE/IPA with migration of Process Flows from V901.

- Infor Lawson Systems Foundation 10
- Oracle to SQL
- Two application Environments

Installation and Configuration of Ming.le (Future Production) Installation and configuration of Ming.le Foundation. Windows Server 2012 R2. Two application environments.

Estimate: 24 Hours

d. Installation LBI

- i. Future Test
- ii. Future Production

Estimate: 32

Estimate: 32

e. Install LSO (Future Production)

Estimate: 24 Hours

Installation and upgrade of LSO

f. GEN Migration (Future Production)

Estimate: 24 Hours

Create populated product line and migrate security and report definitions.

g. Upgrade from 9.0.1 to 10x w/TRANSFORM.S3 (Future Production)

Estimate: 100 Hours

Pass 1: 60 Hours

Pass 2: 20 Hours

Pass 3: 20 Hours

TEAMabsolute will assist Client with upgrade from v9.0.1+ to v10 in the future production system. Includes 3 passes of the data migration/upgrade process using TEAMabsolute's **Transform.S3**. The need for additional passes may result in a Change Request for additional hours if needed.

The Client project team is responsible for required setup, validation, and user acceptance; acceptance is required before performing "go live" upgrade.

h. Clean-up (Future Production)

Estimate: 4 Hours

TEAMabsolute will provide assistance with clean-up after successful upgrade.

i. Migrate Jobs & Print (Production)

Estimate: 16 Hours

j. Installation of Infor Lawson 10x Environment (Future Test)

Estimate: 68 Hours

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Statement of Work SOW 43099-101

Installation of Future Production to include Websphere, 3rd Party Components, and LDAP Bind.

- Infor Lawson System Foundation 10
- Infor Lawson Licensed Application Suites: Infor Lawson S3
- Migrate IBM Directory Services
- PL/Data Copy
- BSI, EMSS, ISS/IFS/DSSO

In addition to testing and validation, configuration of software may entail Client set-up/definitions; will be discussed as part of project planning.

- k. Install LRE/IPA (Future Test) Estimate: 24 Hours**
Installation of Future Test LRE/IPA with migration of Process Flows from V901.
- Infor Lawson Systems Foundation 10
 - Oracle to SQL
 - Two application Environments
- l. Installation and Configuration of Ming.le (Future Test) Estimate: 24 Hours**
Installation and configuration of Ming.le Foundation.
- m. Install LSO (Future Test) Estimate: 24 Hours**
Installation and upgrade of LSO
- n. GEN/LOGAN Migration and Product Line Copy (Test) Estimate: 16 Hours**
Create populated product line and migrate security and report definitions.
- o. Clean-up (Future Test) Estimate: 4 Hours**
TEAMabsolute will provide assistance with clean-up of test environment.
- p. Migrate Jobs and Print (Test) Estimate: 16 Hours**
- q. Project Management/Coordination/Quality Assurance Estimate: 164 Hours**
Plan, Effort and Schedule Coordination, Status Updates, Escalation, Billing and communication between all project team members. Estimate includes planning session at Client location.
- r. Issue Resolution/Go Live Support Estimate: 64 Hours**
TEAMabsolute will budget 64 hours of issue resolution and support as needed; including Go Live Support. The project coordinator will maintain and issue log and include the appropriate resources from our team to assist with issues as they arise. TEAMabsolute reserves the right to submit Change Request(s) for additional time and materials required to fulfill the objectives on this estimate.
- s. Provide Functional and Differences Mentoring Estimate: 24 Hours**
TEAMabsolute will budget 24 hours of basic functional and differences training/mentoring related to the application suites. This will be tailored to Client needs. The Project Coordinator will work with the project team to schedule the mentoring at the most appropriate milestone points during the project. If additional KT/Mentoring is necessary this may result in the need for a change request. Additional discovery may result in the need to submit a change request. Please note that our effort may include preparation time for the consultant to customize the curriculum and documentation to your specific business needs.

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In the event that new information is discovered that alters the basis for the estimate, TEAMabsolute reserves the right to submit Change Request(s) for additional time and materials required to fulfill the objectives on this estimate. Taxes will be charged for service in states in which TEAMabsolute is obligated to collect and report such sales.

Important:

Reference the Master Agreement for additional information regarding execution of this Statement of Work. Rates are based on the type of work being performed. There may be several rates used to complete this SOW. If changes in functionality or budget are required a Change Request must be approved.

3. Current Client Configuration

- a. Platform: UNIX
- b. Lawson Environment Version: 9.0.1.13
- c. Lawson Application Version: 9.0.1.5

4. Client Responsibilities

a. Client Project Team

Provide project management and planning, task assignment and coordination, quality assurance, review and approval for a successful completion. Provide business and technical contacts for project functions including project definition, system administration functions, database administration functions, business user input and testing as required to complete the work requested.

b. Client Lawson Environment Access

Provide User IDs and Passwords for all relevant instances of Lawson. Provide remote connection and access to relevant server(s). Provide User ID and Password to InforXtreme.com

c. Client Consultant Onsite Responsibilities

Provide workspace for onsite consultant with access to the network and the internet if onsite consulting is required.

5. Pricing and Payment Terms

a. Estimated Hours: 780 Hours at \$210 per hour

Estimated Cost: \$163,800

This is a time and materials estimate; *intended* to be used in a timely manner. Client will only be invoiced for hours used.

b. Travel Expenses

Travel expenses are not included in the hourly rates of service. If onsite assistance is required and travel expenses are incurred; those costs will be billed to the client. Travel expenses include, but are not limited to: airfare, parking, shuttle or taxi, car rental and fuel, lodging, internet access fees, mileage at current standard mileage rate published by the IRS, and \$60.00 per diem to cover food expenses.

c. Payment Terms

Payment terms on all TEAMabsolute invoices are net 30 days. Late payments by Client shall be subject to late penalty fees of 1.5 % per month from the due date until the amount is paid. Project may be halted until payment is made current.

6. Non-Solicitation

Both Client and Consultant ("Parties") covenants and agrees that during the term of the Agreement and for a period of one (1) year after the last invoiced date of work, neither of the Parties shall, directly or indirectly, through an existing corporation, unincorporated business, affiliated party, successor employer, or otherwise, solicit, hire for employment or work with, on a

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SOW

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Statement of Work SOW 43099-101

part-time, consulting, advising or any other basis, other than on behalf of the Parties, any employee, any employee or independent contractor employed by either of the Parties

AGREED AND ACCEPTED

City of Nashua

Signature Date

Print Name

Title

AGREED AND ACCEPTED

TEAMABSOLUTE

Signature Date

Print Name

Title

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THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 19, 2016
Memo #17-021

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: APPROVE PURCHASE OF A 50 KW GENERATOR FOR SHAKESPEARE TOWER
SITE (VALUE: \$13,378)
DEPARTMENT: 157 CITYWIDE COMMUNICATIONS; FUND: CITYWIDE
COMMUNICATIONS CAPITAL PROJECTS ACCOUNT

Please see the attached communication dated July 19, 2016 from William Mansfield, Radio Systems Manager for the information related to this purchase.

Pursuant to **§ 5-84 Special purchase procedures A. (3)** Purchases which can be procured through cooperative intergovernmental purchase agreements with other governmental jurisdictions.

This generator is being purchased under GSA Contract # GS-07F-019DA.

The Radio Systems Manager and the Purchasing Department recommend awarding this purchase in an amount of **\$13,378 to KOHLER Co./Kohler Power Systems of Kohler, WI.**

Respectfully,

Dan Kooker

Purchasing Manager

Cc: W Mansfield J Griffin



City of Nashua, NH

Wireless Communications Division

C/O William Mansfield

PO Box 785

Nashua NH 03061-0785

603-594-3521 Fax: 603-594-3615

July 19, 2016

Mr. Daniel Kooken
Purchasing Manager
City of Nashua
229 Main Street – PO Box 2019
Nashua, NH 03061-2019

Dear Mr. Kooken

The Communications Division is requesting to purchase a 50 Kilowatt generator at our Communications Site on Shakespeare Road. This generator will be utilized in case of a power failure and ensures that power is maintained at the site for emergency communications. The current generator has been in place for 17+ years. This generator has been inoperative for nearly 2 years due to the cost and inability to repair the unit. We have a mobile generator on site as a temporary solution. It is our intent to improve the longevity of the new generator by housing it within its own building. This will ensure that the unit will not be exposed to the elements and will improve its reliability of operation.

The Communications Division and the Radio Committee, recommend awarding the purchase to Kohler Co., Kohler Power Systems in the amount of \$13,377.83. GSA Contract # GS-07F-019DA. Quote Number 21222038. Funding is available in Citywide Communications Capital Projects accounts

57.5050 81300 2008.57.15.01 81300

Sincerely,

William Mansfield
Radio Systems Manager
City of Nashua

KOHLER POWER SYSTEMS			
GSA Quote Information			
Job Name:	City of Nashua - Wireless Communications - 50KW	Quote Submitted:	07/13/16
Job Type:	US Govt Projects - GSA quote	Valid Through:	9/31/2016
Primary Contact info:	William Mansfield, Tel: 603-594-3521		mansfieldw@nashuapd.com
KPS Quote Number:	21222038	Net Price FOB Origin:	\$ 12,949.71
GSA Contract No.:	GS-07F-019DA	Net Price with IFF:	\$ 13,046.83
Estimated Lead-time:	10 Weeks After Receipt of Order	Estimated Freight:	\$ 331.00
Shipping info:	Flatbed LTL Delivery Van to Nashua, NH 03062 (pre-paid allowed)	Net IFF Price w/Freight:	\$ 13,377.83

Material No	Description	Qty	Net Price	Ext. Price
GM50REZGB	50REZGB Generator System	1		\$ -
50REZGB-CP1	50REZGB Generator Set	1	\$ 12,743.81	\$ 12,743.81
PA-352663	Silencer, Critical, 3"NPT, SIEO	1	\$ 155.68	\$ 155.68
GM13956-KP1	Flexible Exhaust Conn, 3"NPT	1	\$ 50.22	\$ 50.22
GM79036-GA1	50REZGB, Nat/LP Gas	1		\$ -
222661	Nameplate Rating, Standby 130 Degree	1		\$ -
GM20747-KA4	Decal, UL2200/cUL Genset Listing	1		\$ -
333702	Voltage, 60Hz, 120/240V, 1Ph, 3W, 1.0PF	1		\$ -
GM77218-MA10	Alternator, & Mtg., 4P10X	1		\$ -
GM73886-MA1	Unit Mtd. Radiator Cooling	1		\$ -
GM71692-MA2	Skid & Mtg, 34"	1		\$ -
GM66788-MA1	Air Intake, Standard Duty	1		\$ -
GM77389-MA3	Controller, DEC3000, 400A, 3Ph	1		\$ -
358324	Fuel Code, LP Gas/LP Liquid	1		\$ -
GM77350-MA1	Control & Harness, DEC3000	1		\$ -
GM75749-KA5	Accessory Inner Panel	1		\$ -
GM75565-KA1	Block Heater, 120V, 1500W	1		\$ -
GM13896-KA1	Radiator Duct Flange, Unhoused	1		\$ -
GM78298-KA1	Batt Chgr, Float, 90-120V, 12V-6A	1		\$ -
GM75749-KA9	Run Relay, 12V	1		\$ -
GM88179-CA1	Breaker 1 Components	1		\$ -
GM79739-KA1	LCB, 225A, JDP, Therm Mag, 80%	1		\$ -
GM85734-KA3	Mtg, LCB J-Frame, 175-225A 3-Pole, 4P	1		\$ -
GM51870-KA16	Covers, 4P J-Box, H/J-Frame LCB	1		\$ -
GM51868-KA1	Neutral, 300A, 4P.	1		\$ -
GM86123-KA1	Decals, Bonding & Phasing	1		\$ -
GM70040-KA1	Additional Gas Solenoid Valve Nat/LP	1		\$ -
GM77356-KA1	Rodent Guards	1		\$ -
GM28625-KA26	Coolant in Genset 7 gals.	1		\$ -
326208	Air Cleaner Restrict. Indic.	1		\$ -
GM50088	Warranty, 1 Year Standby	1		\$ -
			Net Price FOB Origin:	\$ 12,949.71

*Notes

*Freight estimate includes transportation only. Customer is responsible for off-loading delivery van with forklift or crane.

*Start-up not included. Please contact local Kohler distributor for these services. *

Installation not included.

* Net 30 Day Terms apply with approved credit

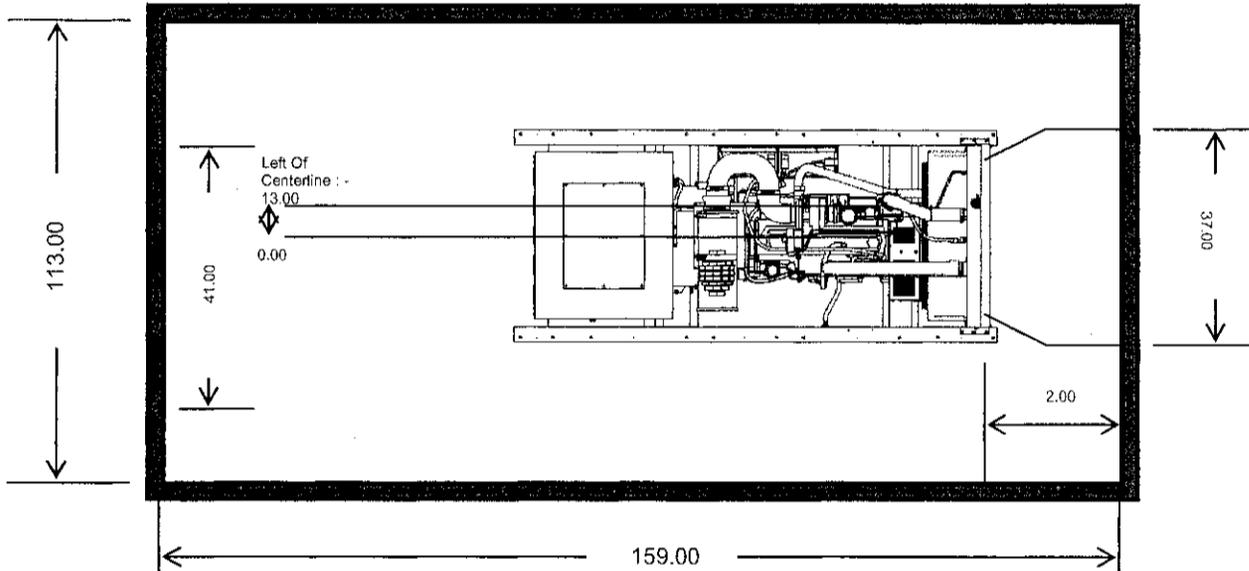
Place order with: Robert F. Hibscheiler
 Manager - Government Accounts, Integrated Systems
KOHLER Co. | Kohler Power Systems
 Office: 703.635.3062 | Mobile: 571.379.6419 | Fax: 703.738.9250
robert.hibscheiler@kohler.com

Quoted to you by: Robert F. Hibscheiler
 Manager - Government Accounts, Integrated Systems
KOHLER Co. | Kohler Power Systems
 Office: 703.635.3062 | Mobile: 571.379.6419 | Fax: 703.738.9250
robert.hibscheiler@kohler.com

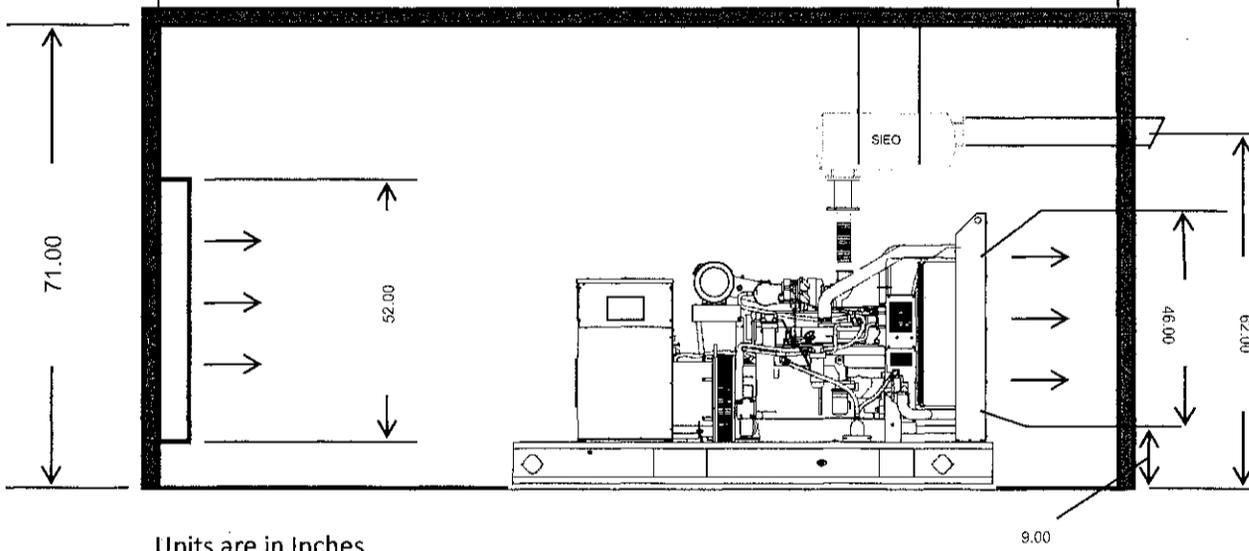
Project information

Project name:
Customer's name:
Customer contact:
Genset Model: 50REZGB

Top view

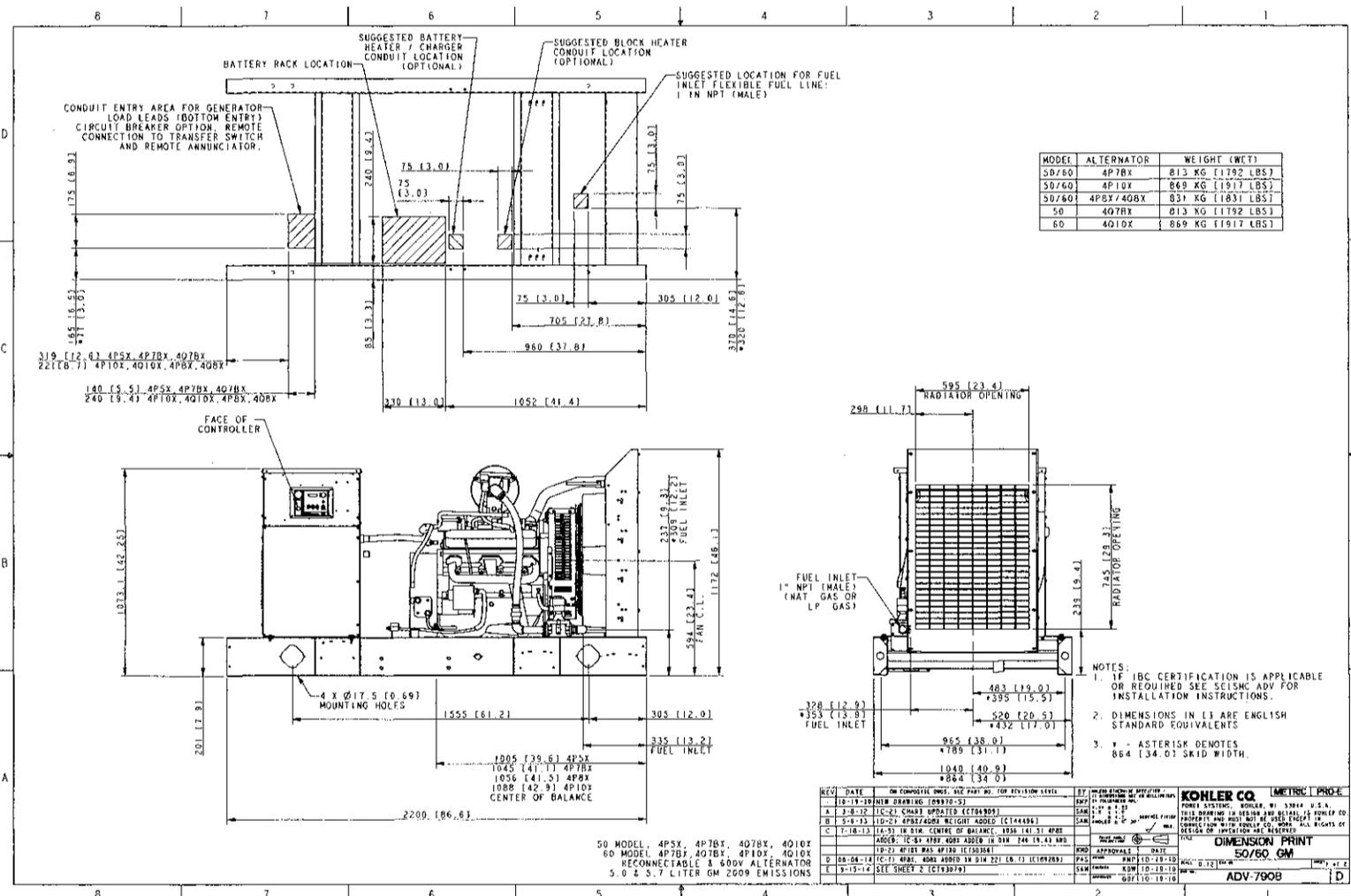


Side view



Units are in Inches

Report prepared by: Mike McKenna



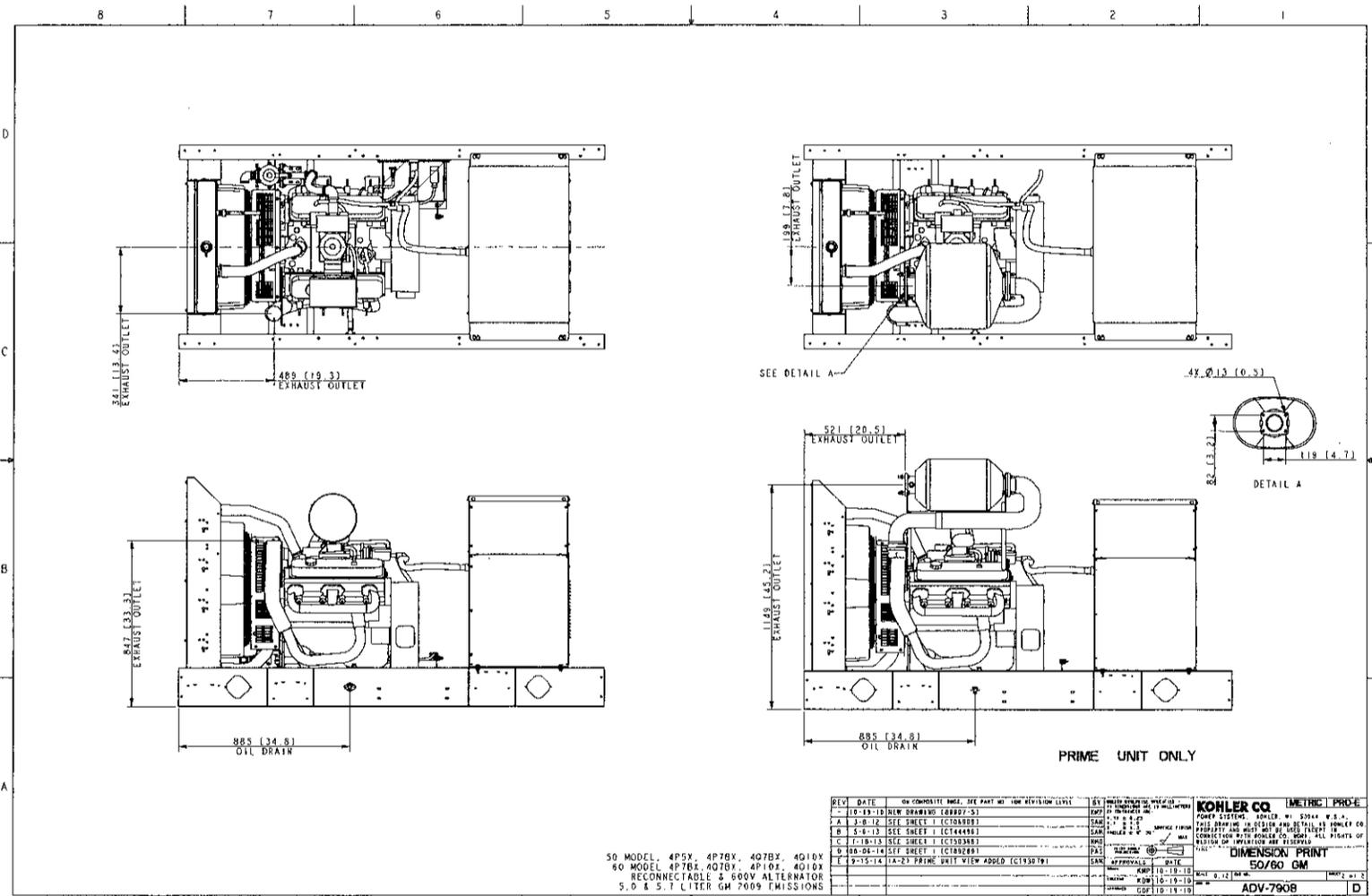
MODEL	ALTERNATOR	WEIGHT (WGT)
50/60	4P7BX	813 KG (1792 LBS)
50/60	4P10X	869 KG (1917 LBS)
50/60	4P8X/408X	831 KG (1831 LBS)
50	407BX	813 KG (1792 LBS)
60	4010X	869 KG (1917 LBS)

- NOTES:
- IF IBC CERTIFICATION IS APPLICABLE OR REQUIRED SEE SEISMIC ADV FOR INSTALLATION INSTRUCTIONS.
 - DIMENSIONS IN LI ARE ENGLISH STANDARD EQUIVALENTS
 - * - ASTERISK DENOTES 864 [34.0] SKID WIDTH.

REV	DATE	BY	DESCRIPTION	APPROVAL
1	10-19-10	NEW DRAWING (20912-5)		
A	3-8-12	10-21	CHANG UPDATED (C164909)	
B	5-9-13	10-21	4P8X/408X WEIGHT ADDED (C144109)	
C	7-18-13	11-15	TO THE CENTER OF BALANCE, 1056 [41.5] INCH	
			ADDED: 10-21 4P8X/408X ADDED IN DIM. 146 [5.4] INCH	
			10-21 4P10X WAS 4P10X (C150304)	
D	10-28-14	10-21	408X, 408X 408X IN DIM 221 [8.7] (C169289)	
E	9-13-14	10-21	SHEET 2 (C169279)	

50 MODEL, 4P5X, 4P7BX, 407BX, 4010X
 60 MODEL, 4P7BX, 407BX, 4P10X, 4010X
 RECONNECTABLE & 600V ALTERNATOR
 5.0 & 5.7 LITER GM 2009 EMISSIONS

KOHLER CO. METRIC PRINT
 50/60 GM
 ADV-790B



REV	DATE	BY	CHKD	APPV	DATE	DESCRIPTION
1	10-19-10	NEW DRAWING	EC888735			
A	3-8-12	SEE SHEET D	EC108009			
B	5-8-12	SEE SHEET D	EC104436			
C	7-18-13	SEE SHEET D	EC108385			
D	10-04-14	SEE SHEET D	EC108289			
E	9-15-14	1A-23 PRIME UNIT VIEW ADDED	EC133079			

APPROVALS:

DESIGNED BY: [Signature] DATE: 10-19-10
 DRAWN BY: [Signature] DATE: 10-19-10
 CHECKED BY: [Signature] DATE: 10-19-10
 APPROVED BY: [Signature] DATE: 10-19-10

COHLEH CO. METRIC PROJE
 POWER SYSTEMS, 3001 W. 5300th, W.S.A.
 P.O. BOX 100, OGDEN, UT 84401
 PROPERTY AND RIGHT NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF KOHLER CO.

DIMENSION PRINT
 50/60 GM
 ADV-7908 D



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 28, 2016
Memo #17-027

TO: MAYOR JIM DONCHESS
FINANCE COMMITTEE

SUBJECT: CONTRACT AWARD FOR CLIMATE AND HEALTH ADAPTATION PLANNING (VALUE:
\$38,000)
DEPARTMENT: 171 COMMUNITY SERVICES; FUND: CLIMATE AND HEALTH
ADAPTATION PLAN GRANT
ACCOUNTING CLASSIFICATION: 55 OTHER CONTRACTED SERVICES

Please see attached communication from Bobbie Bagley, Community Services Division Director dated July 27, 2016 for the information related to this contract award.

Pursuant to **§ 5-84 Special purchase procedures** A. (4) Sole-source procurements, where the proposed purchase is manufactured by only one company.

The Director of Division of Public Health & Community Services and the Purchasing Department recommend the award of this contract to **Nashua Regional Planning Commission of Merrimack, NH** in the amount of **\$38,000**.

Respectfully,

Dan Kooker
Purchasing Manager

Cc: B Bagley J Graziano



THE CITY OF NASHUA

*Division of Public Health and Community Services
Office of the Director*

"The Gate City"

TO: Daniel Kookan, Purchasing Manager
FROM: Bobbie D. Bagley, Director of Division of Public Health & Community Services
SUBJECT: Contract with Nashua Regional Planning Commission
DATE: July 27, 2016

The Nashua Division of Public Health and Community Services has received grant funds from the NH Division of Health and Human Services (NH DHHS) to provide the coordination of the Public Health Network Services Grant (PHNS) for the Greater Nashua Region since 2013. The purpose of the PHNS program is to create public health infrastructure by convening, coordinating and facilitating work with public health partners in the region. The Public Health Network Services program provides public health services to a geographic area known as the Greater Nashua Public Health Region. This 205,845 person region is composed of the City of Nashua and the twelve surrounding towns of Amherst, Brookline, Hollis, Hudson, Litchfield, Lyndeborough, Mason, Merrimack, Milford, Mont Vernon, Pelham and Wilton.

The purpose of the Building Resilience Against Climate Change grant is to identify regional health impacts/burdens related to weather/climate vulnerability, develop a Climate and Health Adaptation Plan for the Greater Nashua Public Health Region, and implement an evidenced-based intervention aimed at addressing one of the identified priorities. This subcontract will be expended with FY17 Building Resilience Against Climate Effects & Severe Weather Grant funds, accepted by Resolution R-16-007.

Eligibility criteria for submitting proposals for the Building Resilience Against Climate Change grant was limited to only vendors currently funded by NH DHHS to provide PHNS services in New Hampshire. The grant award to the city by NH DHHS was based on the submitted proposal, which included subcontracting with the Nashua Regional Planning Commission based upon their experience and expertise in the areas of environmental and regional planning.

Building Resilience Against Climate Effects and Severe Weather is a natural fit for an organization whose goal is developing and implementing innovative planning strategies that preserve and improve the quality of life in southern NH. This project is also consistent with NRPC's ongoing climate change and hazard mitigation work. NRPC has begun bridging the gap between hazard mitigation planning and adaptation and resiliency planning through its involvement in a number of innovative projects.

Pursuant to NRO § 5-84 A (4) Sole-source procurements, we would like to recommend approval of this contract with Nashua Regional Planning Commission, Merrimack, NH, in the amount of \$38,000.

Cc John Griffin Patty Crooker Janet Graziano

INDEPENDENT CONTRACTOR AGREEMENT

This agreement is made this ____ day of _____, 2016 between the City of Nashua, New Hampshire (hereinafter "City"), with a mailing address 229 Main Street, Nashua, NH 03060 and the **Nashua Regional Planning Commission** (hereinafter "Contractor"), with a mailing address of 9 Executive Park Drive, Suite 201, Merrimack, NH 03054. The City of Nashua, Division of Public Health and Community Services (DPHCS) and **Nashua Regional Planning Commission** (collectively referred to as the "Parties") hereby enter into this Independent Contractor Agreement (hereinafter "Agreement") under the terms and conditions set forth below.

PURPOSE OF AGREEMENT

The Nashua Division of Public Health and Community Services desires to enter into this agreement with the **Nashua Regional Planning Commission** to develop a Climate and Health Adaption Plan (CHAP) to assess and reduce the public health effects from severe weather events and the changing climate in New Hampshire. The CHAP shall address specific hazards, health impacts/burdens and intervention strategies that relate to severe weather and climate change. The goal of this project is to build collaborations, improve workforce capacity and better adapt to severe weather and changing climate.

SCOPE OF SERVICES

By November 30, 2016, the Contractor shall: (a draft or status update on these deliverables is due September 30, 2016)

1. Develop and submit a written Climate and Health Adaptation Plan (CHAP), to assess and reduce the public health effects from severe weather events and the changing climate in New Hampshire. CHAP shall address specific hazards, health impacts/burdens and intervention strategies that relate to severe weather and climate change. The goal of this project is to build collaborations, improve workforce capacity and better adapt to severe weather and changing climate. A CHAP template and guidance for the plan will be provided by the NH DHHS and shall include the following elements:
 - a. A descriptive list of weather or climate hazards found in existing vulnerability assessments (i.e. municipal Hazard Mitigation Plans, etc.) relevant to severe weather, climate and health.
 - b. A descriptive list of the priority climate and health impacts/burdens and vulnerable populations related to weather and climate, including a brief description of the process used to prioritize these health impacts in comparison to each other.
 - c. A description of current preparedness resources identified in local, regional and state plans. Include any known gaps in preparedness and response capabilities to address the identified hazards. Include a list of regional entities participating in the planning process.
 - d. Documentation of at least three (3) priority climate and health impacts/burdens from heat, air quality, weather, insects, etc., and the three (3) most vulnerable populations likely affected.

- e. Work with the Regional Public Health Advisory Council (PHAC) to select at least one climate and health impact/burden from the three impacts prioritized in subsection and propose at least one evidenced-based intervention to implement at the community level.
2. Organize, host and facilitate at least four (4) planning sessions to gather input for the development of a Climate and Health Adaptation Plan (CHAP) with the Regional Public Health Advisory Council (PHAC) or a subcommittee thereof, to reach agreement on a plan that addresses the known hazards and meets the needs of the region.
3. Participate in at least two (2) half-day trainings provided by the DHHS in Concord, on how to plan, assess climate-related vulnerabilities, measure climate-related preparedness, and implement the CDC's Building Resilience Against Climate Effects (BRACE) framework.

By June 30, 2017, the Contractor shall:

1. Participate in at least two (2) half-day trainings provided by the DHHS in Concord, on how to implement and evaluate the Building Resilience Against Climate Effects (BRACE) framework.
2. Implement at least one (1) evidence-based intervention designed to address the priority health impact/burden identified in the planning phase in order to improve public health at the population level. Examples of interventions include: 1) heat stress reduction via policy change, education/behavioral change, or cooling programs, 2) asthma reduction via home-based environmental controls, 3) tick-exposure reduction via behavior change, 4) improved preparedness leading to less evacuation, injury or death via changes in policy, behavior, or technology.
3. Collaborate with the DHHS on the development of the evidence-based intervention, tracking progress, and measuring change. The DHHS will provide examples of population-level interventions (i.e. evidence based or informed, promising practices).

CONTRACT MONITORING AND REPORTING

1. The Contractor shall submit a detailed budget and workplan for the scope of work under this contract prior to the contract's effective date.
2. Participate in monthly 1-hour meetings and/or conference calls with the Department of Health and Human Services, Division of Public Health Services Climate and Health staff to coordinate activities and update progress.
3. Participate in an annual or semi-annual site visit with staff from DPHCS and NH Department of Health and Human Services/Division of Public Health Services.
4. Submit monthly progress reports to DPHCS detailing progress on activities and deliverables described in the Contractor's workplan. Reports shall be submitted by the 15th of each month.
5. Produce a final report by 6/15/2017 detailing progress on activities and deliverables described in the Contractor's workplan. The format for the final report will be provided by DPHCS.

Reports shall be submitted to the Public Health Network Services Coordinator by electronically as well as in hard copy.

Public Health Network Services Coordinator

Patty Crooker
City of Nashua, DPHCS
18 Mulberry Street
Nashua, NH 03060
CrookerP@NashuaNH.gov

TIME PERIOD

This contract is in effect from the date signed by the Mayor of Nashua, through June 30, 2017.

PAYMENT FOR SERVICES

The City shall pay the contractor \$38,000 to complete the project.

Monthly invoices shall be submitted electronically by the 15th of each month for reimbursement of the previous month's expenses. Invoices may be submitted via e-mail or in hard copy to the Public Health Network Services Coordinator of the Division of Public Health and should be accompanied by the monthly progress report.

Public Health Network Services Coordinator

Patty Crooker
City of Nashua, DPHCS
18 Mulberry Street
Nashua, NH 03060
CrookerP@NashuaNH.gov

All invoices shall include a description of the work completed during the period of time covered by the invoice.

The Independent Contractor will be responsible to cover the costs of its personal travel, costs associated with interviews, printing materials required for interviews, completing and submitting the final report and any telephone or computer associated costs required to fulfill the Scope of Services of this agreement.

The Independent Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all work performed under this Agreement. Independent Contractor warrants that all work shall be performed with the degree of professional skill, care, diligence, and sound practices and judgment that are normally exercised by competent providers with respect to services of a similar nature. Independent Contractor shall at its own expense and without additional compensation re-perform work to correct or revise any deficiencies, omissions or errors in the work or the product of the work or which result in the Independent Contractor's failure to perform in accordance with this standard of care.

ASSIGNMENT AND SUBCONTRACTING OF WORK

The Independent Contractor shall not assign or subcontract any of the work to be done pursuant to this agreement without the prior written agreement of the City. The City may reject, at its sole discretion, any proposed assignee or subcontractor.

INDEPENDENT CONTRACTOR

The Independent Contractor agrees that she/he is completely independent from the City and is not an employee of the City. The Independent Contractor will be responsible for any taxes associated with this agreement. The Independent Contractor warrants that she/he may work for other individuals and/or entities. The City shall not supervise or directly control the work of the Independent Contractor. The City does reserve the right to inspect the work being performed and to determine whether it is being performed in an appropriate manner. The Independent Contractor shall have the ultimate authority to determine the hours of work, the length of workdays, the means and methods of performance of the work, and the City shall not interfere in this regard, except when necessary to carry out the efficient and effective work of the City.

INSURANCE REQUIREMENTS

Independent Contractor shall carry and maintain in effect during the performance of services under this contract:

- General Liability insurance in the amount of \$1,000,000 per occurrence; \$2,000,000 aggregate;
- \$1,000,000 Combined Single Limit Automobile Liability if company vehicles are being utilized;
- and Workers' Compensation Coverage in compliance with the State of New Hampshire statutes, \$100,000/\$500,000/\$100,000.

None of the requirements as to types and limits to be maintained by Independent Contractor are intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Independent Contractor under this contract.

Independent Contractor will provide the City of Nashua with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within ten calendar days after the City issues the notice of award. The City of Nashua requires thirty days written notice of cancellation or material change in coverage. The certificates and endorsements for each insurance policy must be signed by a person authorized by the insurer and who is licensed by the State of New Hampshire. General Liability, Employers' Liability and Auto Liability policies must name the City of Nashua as an additional insured and reflect on the certificate of insurance. Contractor is responsible for filing updated certificates of insurance with the City of Nashua's Risk Management Department during the life of the contract.

INDEMNIFICATION

Subcontractor agrees to indemnify and shall defend and hold harmless the City, its agents, and employees from and against any all suits, causes of action, legal or administrative proceedings, arbitrations, claims, demands, damages, liabilities, interest, attorney fees, costs and expenses of any kind or nature in any manner caused, occasioned or contributed to in whole or in part by reason of any negligent act, omission, or fault or willful misconduct, of Subcontractor. Subcontractor's indemnity, defense and hold harmless obligations, or portions thereof shall not apply to liability caused by the sole negligence or willful misconduct of the party indemnified or held harmless.

TERMINATION

Notwithstanding anything in this contract to the contrary, the City, or the Contractor, may terminate this agreement without cause upon thirty (30) days written notice to the other party. Upon termination of this agreement whether due to the completion of the scope of the work or upon notice as provided herein, any and all work completed by the independent contractor up to and including the date of termination shall be the sole property of the City. The independent contractor shall provide the City with all supporting documentation upon request.

CHOICE OF LAW AND VENUE

The laws of the State of New Hampshire shall govern this Agreement exclusively and any litigation relative to this Agreement shall be brought to a court located in the State of New Hampshire.

SIGNATURES:

The terms and conditions of this agreement are agreed to by the parties upon signature below.

For the City of Nashua:

Jim Donchess, Mayor
City of Nashua, NH

Date: _____

For Nashua Regional Planning Commission

Tim Roache, Executive Director
Nashua Regional Planning Commission

Date: _____

Finance Committee

August 3, 2016

Items

'015	Information Technology	Lawson Hosting and Upgrade
'021	Communications Division Shakespeare Tower Site	Purchase of a 50 KW Generator for
'027	Public Health Adaptation Planning	Contract Award for Climate and Health
'020	GIS	Esri Software License Renewal
'026	Financial Services	City Hall Elevator Modernization
'016	Parks & Recreation Mowing	Contract Award for Roadside and Trail
'017	Parks & Recreation Groundmaster 3505-D Mower	Purchase of a Replacement Toro
'018	Parks & Recreation Labine Park	Purchase of an Integration Carousel for
'025	Eng/Parks & Recreation	Rail Trail Lighting
'019	Engineering Poisson Ave to Graham Drive	DW Highway Vehicle Detection from
'022	Wastewater	Air Handler Upgrades
'023	Wastewater	Water Booster Station Upgrades
'024	Solid Waste	FY17 Engineering Services - Landfill



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 19, 2016
Memo #17-026

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: CONTRACT AWARD FOR CITY HALL ELEVATOR MODERNIZATION (VALUE:
\$184,000)
DEPARTMENT: 126 FINANCIAL SERVICES; FUND: TRUST FUND
ACCOUNTING CLASSIFICATION: 81 BUILDINGS AND IMPROVEMENTS

The Financial Services Division is seeking approval to modernize the City Hall elevator. Please see the attached communication from Jay Hunnewell, Building Manager, dated July 19, 2016 for the information related to this purchase.

Pursuant to **§ 5-84 Special purchase procedures A. (5)** Purchases from a soie manufacturer where it is determined to be more efficient and economical to reduce costs of maintenance of additional repair parts, supplies or services.

The Building Manager, Financial Services Division, Chief Financial Officer and the Purchasing Department recommend awarding the contract in the amount of \$184,000 to Stanley Elevator of Merrimack, NH.

Respectfully,

Dan Kookan
Purchasing Manager

Cc: J. Hunnewell J. Graziano



City of Nashua
City Hall Maintenance Department
229 Main Street - Nashua, NH 03060

Jay Hunnewell
Building Manager

603-589-3340
Fax 603 589-3359

July 19, 2016

To: Dan Kookan, Purchasing Manager
From: Jay Hunnewell
Subject: City Hall Elevator Modernization

The main elevator in the City Hall Rotunda is in need of extensive repairs. There have been malfunctions in recent weeks resulting in individuals being stuck in the elevator which required response from Nashua Fire Rescue and also Stanley elevator for emergency repairs. We have experienced lengthy out of service delays and an increase in entrapments over the last six months. Parts for existing controller and hoist equipment are obsolete, extending elevator down time for repairs. Stanley Elevator has recommended modernization as a solution.

Stanley Elevator is under contract with the City of Nashua to service and maintain all city owned elevators. Stanley Elevator has demonstrated the ability to modernize, service, and maintain City owned elevators and has extensive knowledge of existing equipment.

In accordance with **§ 5-84 Special purchase procedures A. (5)** Purchases from a sole manufacturer, where it is determined to be more efficient and economical to reduce costs of maintenance of additional repair parts, supplies or services, this office recommends that we award the modernization and repair of the main elevator to **Stanley Elevator of Merrimack, NH in the amount of \$184,000.**

Jay Hunnewell
Building Manager
Nashua City Hall

**TRACTION PASSENGER ELEVATOR
MODERNIZATION PROPOSAL**

City of Nashua

Nashua City Hall – Traction Elevator

**229 Main Street
Nashua, NH**

Proposal Number: 6021

Date: 6/22/2016

Prepared For:

**Jay Hunnewell
City of Nashua
Attn Risk Management
P O Box 2019
Nashua, NH 03061-2019**

Prepared By:

**Michael Sugrue
Cell: +1 6033651461
Stanley Elevator Company, Inc.
9 Henry Clay Drive, Merrimack, NH 03054
Email: msugrue@stanleyelevator.com
FOR SERVICE DIAL: 1-800-258-1016**





Stanley Elevator Company, Inc. is pleased to offer you our proposal to furnish all labor and material required to complete the modernization of ONE (1) passenger elevator located at Nashua City Hall, 229 Main Street, Nashua, NH. The modernization work will be based on the following detail of work:

SCHEDULE OF EXISTING EQUIPMENT:

	EXISTING	PROPOSED
A. ELEVATOR I.D #:	ID: NHE-69 CAR# 1	Retain Existing
B. ELEVATOR TYPE:	Traction	Retain Existing
C. CLASSIFICATION:	Passenger / Service	Retain Existing
D. OPERATION:	Simplex	Retain Existing
E. FUNCTION:	General Public Use	Retain Existing
F. SPEED:	250 FPM	Retain Existing
G. CAPACITY:	3000 LBS.	Retain Existing
H. PLATFORM :	5'-8" x 5'-8"	Retain Existing
I. TRAVEL:	38'-0"	Retain Existing
J. STOPS:	4	Retain Existing
K. OPENINGS:	Front 4/ Rear N/A	Retain Existing
L. LANDINGS SERVED:	B,1,2,3	Retain Existing
M. ENTRANCE TYPE:	Single Speed / Center Opening / Power	Retain Existing
N. ENTRANCE SIZE:	36" x 84"	Retain Existing
O. MAIN LINE Voltage:	208Volts – Phase – 60 cycle	Retain Existing
P. OEM:	Payne	
Q. YEAR INSTALLED:	1960's (2001 – Controller modernization)	



MAJOR TRACTION PASSENGER ELEVATOR COMPONENTS:

MACHINE ROOM EQUIPMENT:

1. Elevator Control: Remove Existing and Install New Non-proprietary, Microprocessor Controls
Manufactured by:
Motion Control Engineering (MCE), Model: Motion 4000 Control
2. Operation Mode: Simplex Selective Collective
3. Key Features:
 1. Fire Service Operation
 2. Independent Service Operation
 3. Inspection Operation
 4. Access Operation
 5. Nudging Feature
4. Motor Control: Variable Frequency AC Static Drive
5. Selector: Car-Top Reader Device with Stationary Hoistway Tape
6. Electrical Conduit: Remove Existing and Install New Conduit, Hoistway & Machine Room
7. Electrical Wiring: Remove Existing and Install New Copper Wiring in Machine Room, Hoistway, and Car.
8. Hoist Machine: Remove Existing and Install New Overhead Traction Machine Assembly
9. Hoist Motor: Remove Existing-Install New AC Motor w/Coupling/Encoder
10. Brake Assembly: Remove Existing and Install New Disc Type Brake Assembly
11. Rope Brake: Install New Ascending Over Speed Safety Device
12. Drive Sheave: Install New Drive Sheave with Full Guards
13. Deflector Sheave: Remove Existing/Install New Overhead Mount Deflector Sheave Ass'y

HOISTWAY EQUIPMENT:

14. Governor: Remove Existing and Install New Centrifugal Car Governor Assembly



15. Tension Sheave:	Remove Existing and Install New Governor Tension Sheave Assembly
16. Hoist Ropes:	Six (6)
Rope Type:	1/2" 1:1 Configured, Provide New
17. Governor Rope:	(1) 3/8" , Provide New
18. Compensation:	None Required
19. Shackles:	New Wedge Type Shackles with Dampening Hardware
20. Hitch Plates:	New Car and Counterweight Hitch Plates
21. Car Sling:	Retain Existing
22. Platform:	Retain Existing Platform Assembly
23. Platform Isolation:	Retain Existing Platform Isolation
24. Car Safeties:	Retain Existing Wedge Clamp, Winding Drum Style Car Safeties
25. Sub Floor:	Remove Existing and Install New 3/4" Marine Plywood Sub Floor
26. Toe Guard:	Retain Existing Toe Guard
27. Balance Weights:	None Required
28. Car Guide Shoes:	Remove Existing and Install New Adjustable Roller Type Guide Shoe Assemblies
29. Counterweight:	Retain Existing Frame Type Counterweight and Rebalance
30. Counterweight Safeties:	None Required
31. Cwt. Guide Shoes:	New Adjustable Roller Type Guide Shoe Assemblies
32. Main Guide Rails:	Retain Existing Guide Rails
33. Cwt. Guide Rails:	Retain Existing Guide Rails
34. Rail Brackets:	Retain Existing Rail Brackets, Tighten Mounting Hardware
35. Buffers:	Remove Existing and Install New Oil Type Car Buffers
36. Buffer Supports:	Remove Existing and Install New Buffer Support Channels



- | | |
|----------------------|--|
| 37. Limit Switches: | Remove Existing-Install New Top/Bottom Limit Switches & Mtg Hardware |
| 38. Limit Cams | Retain Existing Limit Cam Assembly |
| 39. Pit Stop Switch: | Provide New if Required |
| 40. Pit Ladder: | Retain Existing Pit Ladder |

LANDING ENTRANCES:

- | | |
|----------------------------|--|
| 41. Frames: | Retain Existing Entrance Frames |
| 42. Door Panels: | Retain Existing Door Panels |
| 43. Header & Struts: | Retain Existing Headers and Struts |
| 44. Sills: | Retain Existing Sills |
| 45. Gibs: | Replace Gib Assemblies With New, Two (2) Per Panel |
| 46. Fascia: | Retain Existing Fascia and Mounting Hardware |
| 47. Dust Covers: | Retain Existing Dust Covers |
| 48. Handicap Plates: | Replace Existing Braille Plates as required |
| 49. Landing Hangers/Track: | Remove Existing and Install New Formed Steel Landing Hanger and Tracks |
| 50. Interlocks: | Remove Existing and Install New Electromechanical Hoistway Door Interlocks |
| 51. Door Closers: | Remove Existing Closers and Install New Sill Mounted Spring Landing Door Closers |

CAR DOOR EQUIPMENT:

- | | |
|----------------------|---|
| 52. Door Operator: | Remove Existing and Install New GAL MOVFR Closed Loop Solid State Door Operator |
| 53. Door Protection: | Remove Existing and Install New Solid State Detector Screen System |



- 54. Car Hangers/Track: Remove Existing and Install New Formed Steel Car Hangers and Tracks
- 55. Clutch: Remove Existing and Install New Door Clutch Assembly

CAB ENCLOSURE EQUIPMENT:

- 56. Shell: Retain Existing Cab Shell
- 57. Car Doors: See allowance below
- 58. Car Front: Retain Existing Car Front, Modify for New Fixtures
- 59. Car Sill: Retain Existing Car Sill
- 60. Wall Panels: See allowance below
- 61. Panel Binders: See allowance below
- 62. Reveals: See allowance below
- 63. Cab Base: See allowance below
- 64. Cornice: See allowance below
- 65. Ceiling: See allowance below
- 66. Car Lighting: See allowance below
- 67. Handrails: See allowance below
- 68. Ventilation: Retain Existing Ventilation
- 69. Finished Floor: New Radial Rubber Tile
- 70. Car Top Safety Rail: New Car Top Safety Rail
- 71. Cab Enclosure Allowance:

Our base price includes an allowance of \$10,000.00 per cab. This allowance is carried to cover the cost of the cab material/finishes. This allowance is a cost allowance which means the actual cab vendor proposal will be negotiated together with you and final decisions will be based on your design and cost approval. Our final cab vendor invoice will be submitted for your review and verification of final cost. The allowance is to include the following:



1. Cab Steel shell walls and canopy (if necessary)
2. Cab front returns and transom
3. Interior cab walls
4. Interior cab lighting
5. Interior cab door panels
6. Interior cab handrails
7. Special fixture finishes and designs other than manufacturer's standard detailed herein and carried in the base price.
8. The cab allowance cost does not include labor cost to remove the existing or install the new cab, fixtures or flooring; nor does it include the base cost for specified cab fixture equipment. Cost for labor to install all cab and fixture equipment is included as a part of the base price quoted here-in. The schedule for this project is subject to adjustment based on the final cab design and lead times associated with design related materials.

CAR OPERATING FIXTURES:

72. Main Car Operating Panel: Replace With New
- a. Cover Plate Material: Stainless Steel
 - b. Cover Plate Finish: #4 Satin Finish
73. Fixture Button Style: Manufacturer's Standard, ADA Compliant
74. Auxiliary Car Operating Panel: None Required
75. Car Position Indicator: Replace With New
76. Car Direction Indicator: Replace With New
77. Phone: Remove Existing and Install New ADA Compliant Auto Dial Phone
78. Emergency Lighting: Remove Existing and Install New Battery Operated Emergency Lighting in Car Operating Station
79. Car Top Inspection Controls: Replace With New

LANDING OPERATING FIXTURES:

80. Hall Call Station: Replace With New
- a. Cover Plate Material: Stainless Steel
 - b. Cover Plate Finish: #4 Satin Finish



- 81. Fixture Style: Manufacturer's Standard with Flush Coverplate And Full Back Box, ADA Compliant
- 82. Digital Position Indicator: None
- 83. Direction Indicator Lanterns: None
- 84. Hoistway Access Stations: Replace With New
- 85. Phase I Firefighter's Svc Key Switch: Replace With New
- 86. Emergency Power Operation Switches: None
- 87. Emergency Medical Technician (EMT) Service: None
- 88. Hospital Emergency Svc Operation: None
- 89. Car To Lobby Call Key Switch: None
- 90. Lobby Panel: None

Miscellaneous:

- 91. Barricading: Standard Sectional Barricades at Active Location
- 92. Hoistway Protection: Not Required
- 93. Cleaning: Final Clean Down at Project Completion
- 94. Painting: Machine Room Floor

SCHEDULE:

- Booking Process: 2 Week(s)
- Survey Job Site: 2 Week(s)
- Release Orders: 2 Week(s)
- Submittal Preparation: 4 Week(s)
- Approval Process: 2 Week(s)
- Material Fabrication: 12 Week(s)
- Installation: 8 Week(s)
- Installation (Final Testing): 1 Week(s)
- Final System Test/Punch List: 1 Week(s)
- TOTAL:** 34 Week(s)



QUALIFICATIONS:

The following qualifications and clarifications apply to this proposal and the prices quoted herein:

1. Means to keep the machine room between 50 and 90 degrees F will be required for the new equipment. Costs to install a split unit or any HVAC required are by others.
2. Stanley has included costs for a crane to remove existing equipment and hoist the new equipment onto the roof. Access for the crane will be required at the side of the building during our crane picks.
3. We have included a TEN THOUSAND DOLLARS (\$10,000.00) material allowance for elevator cab interior upgrades. We have assumed the existing counterweight frame can be retained in its current condition. If the counterweight frame needs to be modified due to added cab weights, additional costs will apply.
4. No costs for card readers, CCTV, lockouts, etc. are included. Additional security features will result in added costs.
5. No costs for emergency power operation or battery lowering are included. Stanley can provide alternate pricing upon request.
6. Price will be held firm for Sixty (60) days from date of proposal.
7. Price does not include cost of performance / payments bond.
8. Price includes permit fees associated with elevator trades work.
9. Price includes required testing with local authorities for certification.
10. All passenger elevator installation work to be performed during normal hours.
11. All safety testing of elevators to be performed during normal hours of the trade.
12. Price is based on performing renovation work on one elevator at a time.
13. Price does not include cutting and patching of finished wall surfaces associated with our work. The owner is responsible for cutting of the walls and stone to provide new openings for the new elevator hallway fixtures.
14. All material associated with this project to be delivered to your loading dock facilities and distributed to storage space within the building during normal hours of the trade.
15. Stanley Elevator to have uninterrupted use of the elevator.
16. Stanley Elevator will not be responsible for removal or disposal of hazardous material.
17. Stanley Elevator will not agree to act in the capacity of a General Contractor.
18. Stanley Elevator will provide a twelve (12) month warranty on parts and workmanship. During the warranty period, we shall provide monthly maintenance visits.
19. Stanley Elevator Company, Inc. reserves the right to negotiate contract terms and conditions.
20. Costs for certification of elevator shop drawings by a registered professional engineer shall be by others.
21. Stanley Elevator will furnish and install standard OSHA barricades for hoistway protection. Costs for any full-height barricades, screening, and temporary protection of interior finishes in addition to standard barricades shall be by others.



WORK BY OTHER TRADES: Traction Elevator(s)

The following represents an outline of work by other trades that may be required and must be considered in support of this project:

Electrical:

1. Provide 208Volts – Phase – 60 cycle AC grounded power supply, for each elevator, through fused, lockable safety switches in the machine rooms. The service/disconnect switch to be sized based on the characteristics of new elevator hoist motors and variable frequency static drives. The disconnect switch must be located within 18" of the strike side of the machine room door. The existing line side feeds may be reused and extended if properly configured, sized and in suitable condition.
2. Provide 208Volts – Phase – 60 cycle AC grounded power supply through fused, lockable safety switch in the elevator machine room for power freight door equipment. The service and disconnect switch to be sized based on the characteristics of new equipment and located adjacent to new high voltage service disconnect(s).
3. Provide a dedicated, earth ground for high and low voltage elevator services.
4. Provide a 120vac 1ph 60cy 15amp branch circuit for each elevator with an enclosed externally operable fused, lockable disconnect for car lighting and accessories. Low voltage service switches to be located adjacent to the high voltage service switches. Provide feed wires in pipe from the load side of the high and low voltage service, disconnect switches to the new elevator controls using properly sized copper conductors. Final connection at elevator controllers are to be completed by Stanley Elevator, IUEC field employees.
5. Provide 120vac grounded service with means of disconnect for machine room power ventilation equipment as required.
6. Provide feed wires in pipe from the load side of an enclosed externally operable fused, lockable disconnect switch to the ventilation equipment using properly sized copper conductors.
7. Provide a 120vac 1ph 60cy 15amp AC grounded branch circuit with means of disconnect for elevator security cameras if are being installed. Note: Others are to provide all wire and conduit associated with this feature.
8. Provide sufficient machine room lighting (min. 10' candles at the floor) with switch located inside, on the strike side of the machine room door. Light fixtures to be permanently fastened to the ceiling or support surface with protective guards over bulbs.
9. Remove any temporary or permanent, non-elevator electrical services and associated equipment from the elevator machine rooms.
10. Perform a detailed evaluation of the existing emergency power system. Modify, relocate or replace the generator, associated transfer switch gear and feed wires if necessary. The system must provide standby power of the same characteristics as normal power to start and run one elevator at a time, in each building, at full contract speed. The system must be capable of absorbing regenerative power during an overhauling load condition.
11. Provide a normally open signal that indicates loss of normal power from the emergency power transfer switch to the elevator machine rooms to facilitate automatic emergency power sequence feature. Provide an additional 10-20 second "pre-transfer" signal that indicates return to normal power from emergency generated power. Signal feeds to be furnished, piped and pulled from the transfer switch to a junction box adjacent to the new elevator controllers. Final connection at elevator controllers to be completed by Stanley Elevator, IUEC field employees.



12. Install GFI type outlets in the elevator machine room and pit. Pit outlet should be mounted at least 24" off the pit floor and properly piped to avoid potential water damage.
13. Provide a telephone line to the elevator machine room for communication to the elevator cab enclosures.

Alarm:

1. Furnish and install smoke detector units in each lobby and in the elevator machine room as required by ANSI A17.1 2007 code.
2. Furnish and install a signal control module that automatically activates the machine room power vent in case of fire alarm condition if a mechanical vent system is installed.
3. Furnish and install Four (4) pair of signal feeds from the smoke detector panel or zone modules to the elevator machine room to facilitate fire service recall function.

HVAC:

1. The elevator machine room temperature must be maintained between 50 and 90 degrees F with maximum 80% relative humidity, non-condensing. A passive and / or powered means of climate control may be used for this purpose. Estimated BTU output for elevator equipment will be provided for your use.
2. Provide hoistway and machine room ventilation to allow removal of smoke and hot gases. Hoistway may be vented directly to outside air or indirectly, through the machine room slab. The area of hoistway and machine room vents shall be not less than 3 ½% of the area of the hoistway nor less than 3 sq. ft., whichever is greater. Venting may be either passive or mechanical. If a mechanical system is installed, a normally closed ampere actuated by a signal from the alarm panel will be required.

General Builders Work:

1. Provide machine room access door of pre-hung design, steel construction with 1.5 hour fire rating. Door must be self-closing, self-locking "store room" operation.
2. Provide 2-hour fire rated machine room. Patch voids or cover existing walls, ceiling and exposed wood as necessary to establish the required rating.
3. Identify, remove and dispose of any hazardous material in the machine room and hoistway prior to commencement of our work.
4. If equipment requires the use of a crane to hoist material into or from the machine room, roof/machine room hatches or doors sized adequately to allow proper access are to be furnished and installed by others.
5. Waterproof new pit as necessary.
6. Install pit access ladder.



PRICE: Stanley Elevator Co., Inc. will perform the work as detailed above for the sum of

BASE PRICE: One Hundred Eighty Four Thousand and 00/100 Dollars (\$184,000.00)

A returned copy of this proposal and/or your purchase order referencing this proposal properly signed and dated accompanied by your down payment will be our authorization to order appropriate materials.

This proposal and acceptance when signed by the Customer and approved by an authorized representative of the Company, including the terms and conditions set forth in detail on the last page hereof, which terms and conditions are incorporated herein and expressly made a part hereof, constitutes the entire agreement between the parties. There are no representations or agreements, written or verbal between the parties other than those contained herein. This Agreement is not binding upon Stanley Elevator Company, Inc. until approved by one of its authorized representatives.

City of Nashua

Stanley Elevator Company, Inc.

BY: _____
Authorized Customer Signature

Michael P. Sugrue
BY: _____
Michael Sugrue
New Sales
msugrue@stanleyelevator.com

Print Name Title

APPROVED for Stanley Elevator Company, Inc.:

BY: _____

Date: _____

Date: _____



TERMS AND CONDITIONS

Tax Payments: In addition to the amount set forth herein, the Customer agrees to pay any tax based upon the transfer, use, ownership or possession of the Elevator or accessory equipment, whether such tax is imposed by existing law or take effect during the terms of this proposal and acceptance.

Company Performance and Overtime: The Company will do all work on the Elevator in a good and workmanlike manner and will perform it during its regular working hours of regular working days unless otherwise agreed to in writing; In the absence of such an agreement, all work done at overtime at the Customer's request shall be billed to the Customer at the overtime rate then and there existing.

Exclusive Control: The Company shall not be responsible for any damage, malfunction, or failure of any of the component parts of the Elevator or accessory equipment as a result of the repair work done under this agreement unless such parts or service shall have been supplied exclusively by the Company.

Safe Place: It is understood that the workman of the Company shall be given a safe place in which to work. The Company reserves the right to discontinue all work in the building whenever, in its opinion, this provision is violated.

Title to Repair Part : The machinery, implements and apparatus furnished under this proposal and acceptance shall remain personal property, and the Company shall retain title thereto until final payment is made. The Company further retains the right to retake possession of the same or any part thereof at the cost of the customer if default is made in any of the payments, without regard to the manner of attachment to the realty, the acceptance of notes or the sale, mortgage or lease of the premises, It shall be the duty of the Customer to inform any party in interest of this provision.

Payments: The first 33.33% of the contract amount is to accompany a returned signed and dated copy of this proposal. No work will be scheduled or material ordered until the signed proposal and first payment are received. The second 33.33% of the contract amount is due upon materials delivery either to an agreed upon staging/storage facility or to the job site. The final 33.34% of the contract amount will be due upon job completion once the unit is inspected and approved for public use.

Should there be additional billing required during the jobs progress, we will invoice separately for this work at the time of occurrence. Payment for any of this extra work will be net 30 days, from date of invoice.

Salvage: All salvage material becomes the property of the Company on its removal from its existing place.

Accident Responsibility: The Company assumes no liability for injuries or damage to persons or property except those caused by its negligent acts or omissions. This proposal and acceptance shall not serve to relieve the Customer of his or its liability for any injuries or damages to persons or property in, on or about the Elevator. The Company shall not be liable for any loss, damage, or delay caused by strikes, lockouts, fire, explosion, theft, floods, riot, civil commotion, war, malicious mischief, act of God, or by any cause beyond its reasonable control, and in any event shall not be liable for consequential damages.

Acceptance: This proposal is submitted for acceptance within thirty days from date noted on page 1 and thereafter subject to change without notice.

Recovery: In the event Stanley retains a third party to enforce, construe or defend any of the terms and conditions of this Agreement or to collect monies due hereunder, either with or without litigation, the Customer agrees to pay all collection costs and/or attorney's fees incurred by Stanley Elevator Company, Inc.



**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR**

This agreement is made:

BETWEEN the OWNER: City of Nashua, New Hampshire
229 Main Street
Nashua, NH 03060-2019

And the CONTRACTOR: Stanley Elevator Co. Inc.
9 Henry Clay Dr.
Merrimack NH 03054
and its successors, transferees and assignees
(together "CONTRACTOR")

For the following Project:

City Hall Elevator Modernization
Proposal #6021 dated 6/22/16

ARTICLE 1 – THE CONTRACT DOCUMENTS

The **CONTRACTOR** shall complete the work described in the Contract Documents for this project. The documents consist of:

1. This Agreement signed by the **OWNER** and **CONTRACTOR**, including the General Terms and Conditions;
2. Scope of Work – Reference attached proposal #6021
3. Drawings and Specifications provided in the bid documents;
4. Payment and Performance Bonds (if applicable);
5. Insurance Certificate;
6. Written change orders for minor changes in the Work issued after execution of this Agreement; and
7. Fully Executed **OWNER** Purchase Order

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, proposals, representations or agreements, either written or oral. Any other documents which are not listed in this Article are not part of the Contract.

In the event of a conflict between the terms of the Proposals and the terms of this Agreement, a written change order and/or fully executed **OWNER** Purchase Order, the terms of this Agreement, the written change order or the fully executed **OWNER** Purchase Order shall control over the terms of the Proposals

ARTICLE 2 – PERIOD OF PERFORMANCE

CONTRACTOR shall perform and complete all work within the time periods set forth and may only be altered by the parties by a written agreement to extend the period of performance or by termination in accordance with the terms of the contract. **CONTRACTOR** shall begin performance upon receipt of an Executed Contract **and** a valid Purchase Order issued from the City of Nashua.

ARTICLE 3 – CONTRACT SUM

Subject to additions and deductions by Change Order, the **OWNER** shall pay **CONTRACTOR**, in accordance with the Contract Documents, the Contract Sum of:

One Hundred Eighty Four Thousand Dollars (\$184,000.00)

The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work.

ARTICLE 4 – INSURANCE AND INDEMNIFICATION

CONTRACTOR shall carry and maintain in effect during the performance of services under this contract:

- General liability insurance in the amount of \$1,000,000 per occurrence; \$2,000,000 aggregate;
- Motor Vehicle Liability: \$1,000,000 Combined Single Limit;
***Coverage must include all owned, non-owned and hired vehicles.**
- Workers' Compensation Coverage in compliance with the State of NH Statutes, \$100,000/\$500,000/\$100,000.

CONTRACTOR and subcontractors at every tier will fully comply with NH RSA Chapter 281-A, "Workers' Compensation".

The parties agree that **CONTRACTOR** shall have the status of and shall perform all work under this contract as an independent **CONTRACTOR**, maintaining control over all its consultants, sub consultants, or subcontractor's. The only contractual relationship created by this contract is between the **OWNER** and **CONTRACTOR**, and nothing in this contract shall create any contractual relationship between the **OWNER** and **CONTRACTOR**'s consultants, sub consultants, or subcontractor's. The parties also agree that **CONTRACTOR** is not an **OWNER** employee and that there shall be no:

1. Withholding of income taxes by the **OWNER**;
2. Industrial insurance coverage provided by the **OWNER**;
3. Participation in group insurance plans which may be available to employees of the **OWNER**;

4. Participation or contributions by either the independent **CONTRACTOR** or the **OWNER** to the public employee's retirement system;
5. Accumulation of vacation leave or sick leave provided by the **OWNER**;
6. Unemployment compensation coverage provided by the **OWNER**.

CONTRACTOR will provide the **OWNER** with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within ten calendar days after the **OWNER** issues the notice of award. The **OWNER** requires thirty days written notice of cancellation or material change in coverage. The certificates and endorsements for each insurance policy must be signed by a person authorized by the insurer and who is licensed by the State of New Hampshire. **General Liability and Auto Liability policies must name the OWNER as an additional insured** and reflect on the certificate of insurance. **CONTRACTOR** is responsible for filing updated certificates of insurance with the **OWNER's** Risk Management Department during the life of the contract.

- All deductibles and self-insured retentions shall be fully disclosed in the certificate(s) of insurance.
- If aggregate limits of less than \$2,000,000 are imposed on bodily injury and property damage, **CONTRACTOR** must maintain umbrella liability insurance of at least \$1,000,000. All aggregates must be fully disclosed on the required certificate of insurance.
- The specified insurance requirements do not relieve **CONTRACTOR** of its responsibilities or limit the amount of its liability to the **OWNER** or other persons, and **CONTRACTOR** is encouraged to purchase such additional insurance, as it deems necessary.
- The insurance provided herein is primary, and no insurance held or owned by the **OWNER** shall be called upon to contribute to a loss.
- **CONTRACTOR** is responsible for and required to remedy all damage or loss to any property, including property of the **OWNER**, caused in whole or part by **CONTRACTOR** or anyone employed, directed, or supervised by **CONTRACTOR**.

Regardless of any coverage provided by any insurance, **CONTRACTOR** agrees to indemnify and shall defend and hold harmless the **OWNER**, its agents, officials, employees and authorized representatives and their employees from and against any and all suits, causes of action, legal or administrative proceedings, arbitrations, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of any kind or nature in any manner caused, occasioned, or contributed to in whole or in part by reason of any negligent act, omission, or fault or willful misconduct, whether active or passive, of **CONTRACTOR** or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract. **CONTRACTOR's** indemnity, defense and hold harmless obligations, or portions thereof, shall not apply to liability caused by the sole negligence or willful misconduct of the party indemnified or held harmless.

General Terms and Conditions

ARTICLE 5 – GENERAL PROVISIONS

1. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification.
2. The term “Work” means the construction and services required by the Contract Documents, and include all other labor, materials, equipment and services provided by the **CONTRACTOR** to fulfill the **CONTRACTOR**’s obligations.
3. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the **CONTRACTOR**. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.
4. In the case of a discrepancy, calculated dimensions will govern over scaled dimensions, Contract Drawings will govern over Standard Specifications, and Technical Specifications will govern over both Contract Drawings and Standard Specifications. In the case of a discrepancy between the Agreement and other Contract Documents, the more specific or stringent obligation or requirement to the benefit of the **OWNER** shall take precedence.
5. The **CONTRACTOR** shall take no advantage of any apparent error or omission in the Contract Drawings or Technical Specifications, and the Engineer will be permitted to make such corrections and interpretations as may be deemed necessary to fulfill the intent of the Contract Documents.

ARTICLE 6 – OWNER

1. Except for permits and fees, which are the responsibility of the **CONTRACTOR** under the Contract Documents, the **OWNER** shall obtain and pay for other necessary approvals, easements, assessments and charges.
2. If the **CONTRACTOR** fails to correct Work that is not in accordance with the Contract Documents, the **OWNER** may direct the **CONTRACTOR** in writing to stop the Work until the correction is made.
3. If the **CONTRACTOR** defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the **OWNER** to correct such default or neglect with diligence and promptness, the **OWNER** may, without prejudice to other remedies, correct such deficiencies. In such case, a Change Order shall be issued deducting the cost of correction from payments due the **CONTRACTOR**.
4. The **OWNER** reserves the right to perform construction or operations related to the project with the **OWNER**’s own forces, and to award separate contracts in connection with other portions of the project.
5. The **CONTRACTOR** shall coordinate and cooperate with separate **CONTRACTORS** employed by the **OWNER**.
6. Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 7 – CONTRACTOR

1. Execution of the Contract by the **CONTRACTOR** is a representation that the **CONTRACTOR** has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.
2. The **CONTRACTOR** shall carefully study and compare the Contract Documents with each other and with information furnished by the **OWNER**. Before commencing activities, the **CONTRACTOR** shall: (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the **CONTRACTOR** with the Contract Documents; and (3) promptly report errors, inconsistencies or omissions discovered to the **OWNER**.
3. Within ten (10) days of notification of award, and prior to commencement of work, the **CONTRACTOR** shall obtain and forward to **OWNER** a Performance Bond and a Payment Bond representing 100% of the contract work
4. The **CONTRACTOR** shall supervise and direct the Work, using the **CONTRACTOR**'s best skill and attention. The **CONTRACTOR** shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.
5. The **CONTRACTOR**, as soon as practicable after award of the Contract, shall furnish in writing to the **OWNER** the names of subcontractors or suppliers for each portion of the Work. The **OWNER** will promptly reply to the **CONTRACTOR** in writing if, after due investigation, he has reasonable objection to the subcontractors or suppliers listed.
6. Unless otherwise provided in the Contract Documents, the **CONTRACTOR** shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the work.
7. The **CONTRACTOR** shall deliver, handle, store and install materials in accordance with manufacturers' instructions.
8. The **CONTRACTOR** warrants to the **OWNER** that (1) materials and equipment furnished under the contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents.
9. The **CONTRACTOR** shall pay sales, consumer, use and similar taxes that are legally required when the Contract is executed.
10. The **CONTRACTOR** shall obtain and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.
11. The **CONTRACTOR** shall comply with and give notices required by agencies having jurisdiction over the Work. If the **CONTRACTOR** performs Work knowing it to be contrary to laws, statutes, ordinances building codes, and rules and regulations without notice to the **OWNER**, the **CONTRACTOR** shall assume full responsibility for such Work and shall bear the attributable costs. The **CONTRACTOR** shall promptly notify the **OWNER** in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules and regulations.
12. The **CONTRACTOR** shall promptly review, approve in writing and submit Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

13. The **CONTRACTOR** shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents and the **OWNER**.
14. The **CONTRACTOR** shall be responsible for cutting, fitting or patching required completing the Work or to make its parts fit together properly.
15. The **CONTRACTOR** shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work.
16. **CONTRACTOR** warrants and guarantees to **OWNER**, for 1(one) year, upon completion of work, that all Work will be in accordance with the Contract Documents and will not be defective. **CONTRACTOR's** warranty and guarantee hereunder excludes defects or damage caused by:
 - Abuse, modification, or improper maintenance or operation by persons other than **CONTRACTOR**, subcontractors, suppliers, or any other individual or entity for whom **CONTRACTOR** is responsible; or
 - Normal wear and tear under normal usage.

ARTICLE 8 – CHANGES IN THE WORK

1. After execution of the Contract, changes in the Work may be accomplished by Change Order or by order for a minor change in the Work. The **OWNER**, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.
2. A Change Order shall be a written order to the **CONTRACTOR** signed by the **OWNER** to change the Work, Contract Sum or Contract Time.
3. Change Order requests must include material and equipment cost plus labor with a profit margin of no more than 10%. Change Orders may require approval by the Board of Public Works and the **OWNER's** Finance Committee vote prior to proceeding.
4. The **OWNER** will have authority to order minor changes in the Work not involving changes in the Contract Sum or the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be written orders and shall be binding on the **OWNER** and **CONTRACTOR**. The **CONTRACTOR** shall carry out such written orders promptly.
5. If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment following authorization of the **OWNER** to the charges.

ARTICLE 9 – TIME

1. Time limits stated in the Contract Documents are of the essence to the Contract.
2. If the **CONTRACTOR** is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the **CONTRACTOR's** control, the Contract Time shall be extended by Change Order for such reasonable time as may be determined.

ARTICLE 11 – PAYMENTS AND COMPLETION

1. The Contract Sum stated in the Agreement, including authorized adjustments, is the total amount payable by the **OWNER** to the **CONTRACTOR** for performance of the Work under the Contract Documents.

2. Once every thirty (30) days, the **CONTRACTOR** shall submit an itemized Application for Payment for operations completed in accordance with the values stated in the Agreement. Such application shall be supported by such data substantiating the **CONTRACTOR's** right to payment as the **OWNER** may reasonably require.
3. Application for Payment performed under this agreement shall be submitted directly to:

**City of Nashua
Accounts Payable
PO Box 2019
Nashua, NH 03061-2019
Attn: Jay Hunnewell**

To facilitate the proper and timely payment of applications, the **OWNER** requires that all applications contain a valid **PURCHASE ORDER NUMBER**.

4. The **CONTRACTOR** warrants that title to all Work covered by an Application for Payment will pass to the **OWNER** no later than the time of payment. The **CONTRACTOR** further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the **OWNER** shall, to the best of the **CONTRACTOR's** knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the **OWNER's** interests.
5. **OWNER** shall make payments, for work satisfactorily completed and accurately invoiced, on the basis of **CONTRACTORs** Application for Payment, within 30 days of approval by the **OWNER**.
6. The **CONTRACTOR** shall promptly pay each subcontractor and supplier out of the amount paid to the **CONTRACTOR** on account of such entities' portion of the Work.
7. The **OWNER** shall have no responsibility for the payment of money to a subcontractor or supplier.
8. An Application for Payment, a progress payment, or partial or entire use or occupancy of the project by the **OWNER** shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.
9. Substantial completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the **OWNER** can occupy or utilize the Work for its intended use.
10. When the Work or designated portion thereof is substantially complete, the **CONTRACTOR** and **OWNER** shall establish responsibilities for completion and shall fix the time within which the **CONTRACTOR** shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.
11. Upon receipt of a final Application for Payment, the **OWNER** will inspect the Work. When he finds the Work acceptable and the Contract fully performed, the **OWNER** will promptly issue a final Certificate for Payment.
12. Acceptance of final payment by the **CONTRACTOR**, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 11- RETAINAGE

1. The **OWNER** will retain a portion of the progress payment, each month, in accordance with the following procedures:
 - a. The **OWNER** will establish an escrow account in the bank of the **OWNER's** choosing. The account will be established such that interest on the principal will be paid to the **CONTRACTOR**. The principal will be the accumulated retainage paid into the account by the **OWNER**. The principal will be held by the bank, available only to the **OWNER**, until termination of the contract.
 - b. Until the work is 50% complete, as determined by the **OWNER**, retainage shall be 10% of the monthly payments claimed. The computed amount of retainage will be deposited in the escrow account established above.
 - c. After the work is 50% complete, and provided the **CONTRACTOR** has satisfied the **OWNER** in quality and timeliness of the work, and provided further that there is no specific cause for withholding additional retainage no further amount will be withheld. The escrow account will remain at the same balance throughout the remainder of the project.
2. Upon final completion and acceptance of the Work, **OWNER** shall hold 2% retainage during the **1 (one) year** warranty period and release it only after the project has been accepted.

ARTICLE 12- PROTECTION OF PERSONS AND PROPERTY

1. The **CONTRACTOR** shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The **CONTRACTOR** shall promptly remedy damage and loss to property caused in whole or in part by the **CONTRACTOR**, or by anyone for whose acts the **CONTRACTOR** may be liable.

ARTICLE 13 - CORRECTION OF WORK

1. The **CONTRACTOR** shall promptly correct Work rejected by the **OWNER** as failing to conform to the requirements of the Contract Documents. The **CONTRACTOR** shall bear the cost of correcting such rejected work
2. In addition to the **CONTRACTOR's** other obligations including warranties under the Contract, the **CONTRACTOR** shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.
3. If the **CONTRACTOR** fails to correct nonconforming Work within a reasonable time, the **OWNER** may correct it and the **CONTRACTOR** shall reimburse the **OWNER** for the cost of the correction.

ARTICLE 14 - PROHIBITED INTERESTS

CONTRACTOR shall not allow any officer or employee of the **OWNER** to have any indirect or direct interest in this contract or the proceeds of this contract. **CONTRACTOR** warrants that no officer or employee of the **OWNER** has any direct or indirect interest, whether contractual, non-contractual, financial or otherwise, in this contract or in the business of the **CONTRACTOR**. **CONTRACTOR** also warrants that it presently has no interest and that it will not acquire any

interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. **CONTRACTOR** further warrants that no person having such an interest shall be employed in the performance of this contract. If any such interest comes to the attention of **CONTRACTOR** at any time, a full and complete disclosure of the interest shall be immediately made in writing to the **OWNER**. If **OWNER** determines that a conflict exists and was not disclosed to the **OWNER**, it may terminate the contract at will or for cause.

ARTICLE 15 – TERMINATION OF THE CONTRACT

TERMINATION, ABANDONMENT, OR SUSPENSION AT WILL

The **OWNER**, in its sole discretion, shall have the right to terminate, abandon, or suspend all or part of the project and contract at will. If the **OWNER** chooses to terminate, abandon, or suspend all or part of the project, it shall provide **CONTRACTOR** 10 day's written notice of its intent to do so. If all or part of the project is suspended for more than 90 days, the suspension shall be treated as a termination at will of all or that part of the project and contract.

Upon receipt of notice of termination, abandonment, or suspension at will, **CONTRACTOR** shall:

- a. Immediately discontinue work on the date and to the extent specified in the notice.
- b. Provide the **OWNER** with a list of all unperformed services.
- c. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
- d. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the **OWNER** of all orders or sub contracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the **OWNER** any orders or sub contracts specified in the notice, and revoke agreements specified in the notice.
- e. Not resume work after the effective date of a notice of suspension until receipt of a written notice from the **OWNER** to resume performance.

In the event of a termination, abandonment, or suspension at will, **CONTRACTOR** shall receive all amounts due and not previously paid to **CONTRACTOR** for work satisfactorily completed in accordance with the contract prior to the date of the notice and compensation for work thereafter completed as specified in the notice. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work.

TERMINATION FOR CAUSE

This agreement may be terminated by the **OWNER** on 10 calendar day's written notice to **CONTRACTOR** in the event of a failure by **CONTRACTOR** to adhere to any or all the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the **OWNER**, to complete or make sufficient progress on the work in a timely and professional manner. **CONTRACTOR** shall be given an opportunity for consultation with the **OWNER** prior to the effective date of the termination. **CONTRACTOR** may terminate the contract on 10 calendar days written notice if, through no fault of **CONTRACTOR**, the **OWNER** fails to pay **CONTRACTOR** for 45 days after the date of approval by the **OWNER** of any Application for Payment.

Upon receipt of notice of termination for cause, **CONTRACTOR** shall:

1. Immediately discontinue work on the date and to the extent specified in the notice.
2. Provide the **OWNER** with a list of all unperformed services.
3. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
4. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the **OWNER** of all orders or sub contracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the **OWNER** any orders or sub contracts specified in the notice, and revoke agreements specified in the notice.
5. Not resume work after the effective date of a notice of termination unless and until receipt of a written notice from the **OWNER** to resume performance.

In the event of a termination for cause, **CONTRACTOR** shall receive all amounts due and not previously paid to **CONTRACTOR** for work satisfactorily completed in accordance with the contract prior to the date of the notice, less all previous payments. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work. Any such payment may be adjusted to the extent of any additional costs occasioned to the **OWNER** by reasons of **CONTRACTOR's** failure. **CONTRACTOR** shall not be relieved of liability to the **OWNER** for damages sustained from the failure, and the **OWNER** may withhold any payment to the **CONTRACTOR** until such time as the exact amount of damages due to the **OWNER** is determined. All claims for payment by the **CONTRACTOR** must be submitted to the **OWNER** within 30 days of the effective date of the notice of termination.

If after termination for the failure of **CONTRACTOR** to adhere to any of the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the **OWNER**, to complete or make sufficient progress on the work in a timely and professional manner, it is determined that **CONTRACTOR** had not so failed, the termination shall be deemed to have been a termination at will. In that event, the **OWNER** shall, if necessary, make an adjustment in the compensation paid to **CONTRACTOR** such that **CONTRACTOR** receives total compensation in the same amount as it would have received in the event of a termination-at-will.

GENERAL PROVISIONS FOR TERMINATION

Upon termination of the contract, the **OWNER** may take over the work and prosecute it to completion by agreement with another party or otherwise. Upon termination of the contract or in the event **CONTRACTOR** shall cease conducting business, the **OWNER** shall have the right to solicit applications for employment from any employee of the **CONTRACTOR** assigned to the performance of the contract. Neither party shall be considered in default of the performance of such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party. Delays arising from the actions or inactions of one or more of **CONTRACTOR's** principals, officers, employees, agents, subcontractors, sub consultants, vendors, or suppliers are expressly recognized to be within **CONTRACTOR's** control.

ARTICLE 16- DISPUTE RESOLUTION

The parties shall attempt to resolve any dispute related to this contract as follows. Either party shall provide to the other party, in writing and with full documentation to verify and substantiate its decision, its stated position concerning the dispute. No dispute shall be considered submitted and no dispute shall be valid under this provision unless and until the submitting party has delivered the written statement of its position and full documentation to the other party. The parties shall then attempt to resolve the dispute through good faith efforts and negotiation between the **OWNER** Representative and the **CONTRACTOR** Representative. At all times, **CONTRACTOR** shall carry on the work under this contract and maintain and complete work in accordance with the requirements of the contract or determination or direction of the **OWNER**. If the parties are unable to resolve their dispute as described above within 30 days, the parties may request that the dispute be submitted to the Board of Public Works for resolution. If the parties are dissatisfied with the decision of the Board of Public Works, the parties' reserve the right to pursue any available legal and/or equitable remedies for any breaches of this contract except as that right may be limited by the terms of this contract.

ARTICLE 17- CHOICE OF LAW AND VENUE

This contract shall be governed exclusively by the laws of the State of New Hampshire and any claim or action brought relating to this contract, the work performed or contracted to be performed thereunder, or referable in anyway thereto shall be brought in Hillsborough County (New Hampshire) Superior Court Southern Judicial District or in the New Hampshire 9th Circuit Court—Nashua and not elsewhere

ARTICLE 18- MISCELLANEOUS PROVISIONS

1. Neither party to the Contract shall assign the Contract as a whole without written consent of the other.
2. Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time.
3. If additional testing is required, the **CONTRACTOR** shall perform these tests.
4. The **OWNER** shall pay for tests except for testing Work found to be defective for which the **CONTRACTOR** shall pay.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby.

City of Nashua, NH (signature)

CONTRACTOR (signature)

James Donchess, Mayor
(Printed Name and Title)

(Printed Name and Title)

Date

Date



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 28, 2016
Memo #17-020

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: ESRI SOFTWARE LICENSE RENEWAL (VALUE: \$25,000)
DEPARTMENT: 134 GIS; FUND: GENERAL FUND
ACCOUNTING CLASSIFICATION: 54 PROPERTY SERVICES

Please see attached communication from Angelo Marino, GISP, GIS Manager dated July 20, 2016 for the information related to this contract award.

Pursuant to **§ 5-84 Special purchase procedures A. (4)** Sole-source procurements, where the proposed purchase is manufactured by only one company.

The GIS Manager and the Purchasing Department recommend the purchase of this 3 year contract software license renewal from **Esri of Redlands, CA** in the amount of **\$25,000 per year**.

Respectfully,

Dan Kooker
Purchasing Manager

Cc: A Marino J Graziano



City of Nashua
GIS Department
229 Main Street - Nashua, NH 03060

Angelo Marino
GIS Manager

603 589-3042

Memo

Date: 7/20/16

To: Daniel Kooken

From: A. Marino

Subj.: Esri license Finance Committee request

Since 2013 the City has had an Enterprise License Agreement with Esri for GIS software products. This license gives the city the ability to utilize the online products with the ability to share the GIS maps produced among groups within the City. The attached license agreement is a three year renewal of this license and provides subscription service as well as the ability to utilize any software product within the GIS suite of software.

Based on the size of the city the current Enterprise license costs \$50,000 and allows us to have a subscription service which is necessary to publish and share maps and data within Groups created for our organization. To purchase this license, Esri has again allowed us to partner with Pennichuck Corporation. The structure of our agreement with Pennichuck will divide all costs and services for the Enterprise license exactly in half, making the net cost to the City of \$25,000 per year.

The licensing of the software in this manner will enhance GIS services in the City and also allow us to share information with Pennichuck. Pennichuck has agreed to allow us to use the GIS being created of their infrastructure which will be shared with all DPW departments. Having this ability will provide additional information for DPW projects which currently does not exist.

In accordance with § 5-84 A(4) special purchase procedures for sole source procurements, we are requesting approval of this three-year contract renewal with **Esri of Redlands, CA in the amount of \$25,000 per year.**

Cc John Griffin Janet Graziano



June 23, 2016

Mr. Angelo Marino
City of Nashua
229 Main St
Nashua, NH 03061

Dear Angelo,

The Esri Small Municipal and County Government Enterprise License Agreement (ELA) is a three-year agreement that will grant your organization access to Esri® term license software on an unlimited basis including maintenance on all software offered through the ELA for the term of the agreement. The ELA will be effective on the date executed and will require a firm, three-year commitment.

Based on Esri's work with several organizations similar to yours, we know there is significant potential to apply geographic information system (GIS) technology in many operational and technical areas within your organization. For this reason, we believe that your organization will greatly benefit from an enterprise license agreement.

An ELA will provide your organization with numerous benefits including:

- A lower cost per unit for licensed software
- Substantially reduced administrative and procurement expenses
- Maintenance on all Esri software deployed under this agreement
- Complete flexibility to deploy software products when and where needed

The following business terms and conditions will apply:

- All current departments, employees, and in-house contractors of the organization will be eligible to use the software and services included in the ELA.
- If your organization wishes to acquire and/or maintain any Esri software during the term of the agreement that is not included in the ELA, it may do so separately at the Esri pricing that is generally available for your organization for software and maintenance.
- The organization will establish a single point of contact for orders and deliveries and will be responsible for redistribution to eligible users.
- The organization will establish a Tier 1 support center to field calls from internal users of Esri software. The organization may designate individuals as specified in the ELA who may directly contact Esri for Tier 2 technical support.
- The organization will provide an annual report of installed Esri software to Esri.

- Esri software and updates that the organization is licensed to use will be automatically available for downloading.
- The organization will act as an Esri reference site and will permit Esri to publicize its use of Esri software and services.
- The fee and benefits offered in this ELA proposal are contingent upon your acceptance of Esri's Small Municipal and County Government ELA terms and conditions.
- Licenses are valid for the term of the ELA.

This program offer is valid for 90 days. To complete the agreement within this time frame, please contact me within the next seven days to work through any questions or concerns you may have. To expedite your acceptance of this ELA offer:

1. Sign and return the whole agreement per the instructions in the terms and conditions.
2. On the first page of the ELA, identify the central point of contact/agreement administrator. The agreement administrator is the party that will be the contact for management of the software, administration issues, and general operations. Information should include name, title (if applicable), address, phone number, and e-mail address.
3. In the purchase order, identify the "Ship to" and "Bill to" information for your organization.
4. Send the purchase order and agreement to the address, email or fax noted below:

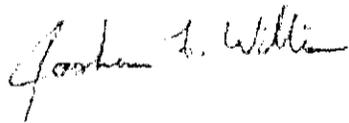
Esri
Attn: Customer Service SG-ELA
380 New York Street
Redlands, CA 92373-8100

e-mail: service@esri.com
fax documents to: 909-307-3083

I appreciate the opportunity to present you with this proposal, and I believe it will bring great benefits to your organization.

Thank you very much for your consideration.

Best Regards,



Joshua Williams



ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.
 35 Village Road Suite 501
 Middleton, MA 01949
 Phone: (978) 777-4543 Fax: (978) 777-8476
 DUNS Number: 06-313-4175 CAGE Code: 0AMS3

To expedite your order, please attach a copy of
 this quotation to your purchase order.
 Quote is valid from: 05/20/2016 To: 08/18/2016

Quotation # 20488179

Date: May 20, 2016

Customer # 152266 Contract #

City of Nashua
 Assessing Dept
 229 Main St
 Nashua, NH 03061

ATTENTION: Angelo Marino
 PHONE: (603) 589-3042
 FAX: 603-589-3079

Material	Qty	Description	Unit Price	Total
110037	1	YEAR 1 - Populations of 50,001 to 100,000 Small Government Term Enterprise License Agreement	50,000.00	50,000.00
110037	1	YEAR 2 - Populations of 50,001 to 100,000 Small Government Term Enterprise License Agreement	50,000.00	50,000.00
110037	1	YEAR 3 - Populations of 50,001 to 100,000 Small Government Term Enterprise License Agreement	50,000.00	50,000.00
			Item Total:	150,000.00
			Subtotal:	150,000.00
			Sales Tax:	0.00
			Estimated Shipping & Handling(2 Day Delivery) :	0.00
			Contract Pricing Adjust:	0.00
			Total:	\$150,000.00

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program

For questions contact: Joshua Williams **Email:** jwilliams@esri.com **Phone:** (978) 777-4543 x8425

The items on this quotation are subject to the terms set forth herein and the terms of your signed agreement with Esri, if any, or, where applicable, Esri's standard terms and conditions at www.esri.com/legal, which are incorporated by reference. Federal government entities and government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Acceptance is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's products and services.

If sending remittance, please address to: Esri, File No. 54630, Los Angeles, Ca 90074-4630

WILLIAMSJ

This offer is limited to the terms and conditions incorporated and attached herein.



Esri, 380 New York St., Redlands, CA 92373-8100 USA - TEL 909-793-2853 - FAX 909-793-5953

Esri Use Only:
 Cust. Name _____
 Cust. # _____
 PO # _____
 Esri Agreement # _____

SMALL ENTERPRISE LICENSE AGREEMENT
 COUNTY AND MUNICIPALITY
 (E214-5)

This Agreement is by and between the organization identified in the Quotation ("Licensee") and Environmental Systems Research Institute, Inc. ("Esri").

This Agreement sets forth the terms for Licensee's use of Products and incorporates by reference (i) the Quotation and (ii) the License Agreement. Should there be any conflict between the terms and conditions of the documents that comprise this Agreement, the order of precedence for the documents shall be as follows: (i) the Quotation, (ii) this Agreement, and (iii) the License Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state in which Licensee is located without reference to conflict of laws principles, and the USA federal law shall govern in matters of intellectual property. The modifications and additional rights granted in this Agreement apply only to the Products listed in Table A.

Table A
 List of Products

Uncapped Quantities

Desktop Software and Extensions

ArcGIS for Desktop Advanced
 ArcGIS for Desktop Standard
 ArcGIS for Desktop Basic
 ArcGIS for Desktop Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Publisher, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager for Desktop, ArcGIS Data Reviewer

Server Software and Extensions

ArcGIS for Server Workgroup and Enterprise (Advanced, Standard, and Basic)
 ArcGIS for Server Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager for Server, ArcGIS Image Extension for Server

Developer Tools

ArcGIS Engine
 ArcGIS Engine Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Engine Geodatabase Update, ArcGIS Network Analyst, ArcGIS Schematics
 ArcGIS Runtime Standard
 ArcGIS Runtime Standard Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Network Analyst

Limited Quantities

One (1) Annual Subscription to Esri Developer Network (EDN) Standard*
 One (1) Esri CityEngine Advanced Single Use License
 One (1) Esri CityEngine Advanced Concurrent Use License
 One (1) ArcGIS Online Subscription
 One (1) Portal for ArcGIS Subscription

OTHER BENEFITS

One (1) ArcGIS Online subscription with specified named users and credits as determined in the program description	Level 4
One (1) Portal for ArcGIS term subscription with specified named users as determined in the program description	Level 4
Number of Esri User Conference registrations provided annually	4
Number of Tier 1 Help Desk individuals authorized to call Esri	4
Maximum number of sets of backup media, if requested**	2
Virtual Campus Annual User License allowance	10,000
Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement (Discount does not apply to Small Enterprise Training Package.)	

* Maintenance is not provided for these items.

**Additional sets of backup media may be purchased for a fee.

Licensee may accept this Agreement by signing and returning the whole Agreement with a sales quotation, purchase order, or other document ("Ordering Document") that matches the Quotation and references this Agreement. **ADDITIONAL OR CONFLICTING TERMS IN LICENSEE'S ORDERING DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS AGREEMENT WILL GOVERN.** Unless otherwise mutually agreed to, this Agreement is effective as of the date of the last signature on the signature page ("Effective Date") or, if no date is provided with the signature, the date of Esri's receipt of Licensee's Ordering Document incorporating this Agreement by reference.

Term of Agreement: 3 years

This Agreement supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the licensing of the Products. Except as provided in Article 4—Product Updates, no modifications can be made to this Agreement.

Accepted and Agreed:

(Licensee)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____

LICENSEE CONTACT INFORMATION

Contact: _____

Telephone: _____

Address: _____

Fax: _____

City, State, Postal Code: _____

E-mail: _____

Country: _____

Quotation Number (if applicable): _____

1.0—ADDITIONAL DEFINITIONS

In addition to the definitions provided in the License Agreement, the following definitions apply to this Agreement:

"Deploy", "Deployed" and "Deployment" mean to redistribute and install the Products and related Authorization Codes within Licensee's organization(s).

"Fee" means the fee set forth in the Quotation.

"Incident" means a failure of the Software or Online Services to operate according to the Documentation where such failure substantially impacts operational or functional performance.

"License Agreement" means (i) the applicable license agreement incorporated by this reference that is found at <http://www.esri.com/legal/software-license>; composed of the General License Terms and Conditions (E204) and Exhibit 1, Scope of Use (E300); and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed license agreement between the parties that supersedes such electronically acknowledged license agreement.

"Maintenance" means Tier 2 Support, Product updates, and Product patches provided to Licensee during the term of this Agreement.

"Product(s)" means the products identified in Table A—List of Products and any updates to the list Esri provides in writing.

"Quotation" means the offer letter and quotation provided separately to Licensee.

"Technical Support" means the technical assistance for attempting resolution of a reported Incident through error correction, patches, hot fixes, workarounds, replacement deliveries, or any other type of Product corrections or modifications.

"Tier 1 Help Desk" means Licensee's point of contact(s) to provide all Tier 1 Support within Licensee's organization(s).

"Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk.

"Tier 2 Support" means the Technical Support provided to the Tier 1 Help Desk when an Incident cannot be resolved through Tier 1 Support. Licensee will receive Tier 2 Support from Esri.

2.0—ADDITIONAL GRANT OF LICENSE

2.1 Grant of License. Subject to the terms and conditions of this Agreement, Esri grants to Licensee a personal, nonexclusive, nontransferable license solely to use, copy, and Deploy quantities of the Products listed in Table A—List of Products for the term provided on the first page (i) for the applicable Fee and (ii) in accordance with the License Agreement.

2.2 Consultant Access. Esri grants Licensee the right to permit Licensee's consultants or contractors to use the Products exclusively for Licensee's benefit. Licensee will be solely responsible for compliance by consultants and contractors with this Agreement and will ensure that the consultant or contractor discontinues use of Products upon completion of work for Licensee. Access to or use of Products by consultants or contractors not exclusively for Licensee's benefit is prohibited. Licensee may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations, except for the purpose of hosting the Software or Data on Contractor Servers for the benefit of Licensee.

3.0—TERM, TERMINATION, AND EXPIRATION

3.1 Term. The term of this Agreement and all licenses hereunder will commence on the Effective Date and continue for the duration identified on the signature page, unless this Agreement is terminated earlier as provided herein. Licensee is only authorized to use Products during the term of this Agreement. For an Agreement with a limited term, Esri does not grant Licensee an indefinite or perpetual license to Products.

3.2 No Use upon Agreement Expiration or Termination. All Product licenses and all Maintenance, Esri Virtual Campus access, and Esri User Conference registrations terminate on expiration or termination of this Agreement.

3.3 Termination for a Material Breach. Either party may terminate this Agreement for a material breach by the other party. The breaching party will be given a period of thirty (30) days from the date of written notice to cure any material breach.

3.4 Termination for Lack of Funds. For an Agreement with government or government-owned entities, either party may terminate this Agreement before any subsequent year if Licensee is unable to secure

funding through the legislative or governing body's approval process.

4.0—PRODUCT UPDATES

4.1 **Future Updates.** Esri reserves the right to update the list of Products in Table A—List of Products by providing written notice to Licensee. Licensee may continue to use all Products that have been Deployed, but support and upgrades for deleted items may not be available. As new Products are incorporated into the standard program, they will be offered to Licensee via written notice for incorporation into the Products schedule at no additional charge. Licensee's use of new or updated Products requires Licensee to adhere to applicable additional or revised terms and conditions of the License Agreement.

4.2 **Product Life Cycle.** During the term of this Agreement, some Products may be retired or may no longer be available to Deploy in the identified quantities. Maintenance will be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at <http://support.esri.com/en/content/productlifecycles>. Updates for Products in the mature and retired phases may not be available. Licensee may continue to use Products already Deployed for the term of this Agreement, but Licensee will not be able to Deploy retired Products.

5.0—MAINTENANCE

The Fee includes standard maintenance benefits specified in the most current applicable Esri Standard Maintenance Program document (found at <http://www.esri.com/legal>). At Esri's sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other than the defined Products will receive Maintenance. Licensee may acquire maintenance for other Software outside this Agreement.

a. Tier 1 Support

1. Licensee will provide Tier 1 Support through the Tier 1 Help Desk to all Licensee's authorized users.
2. The Tier 1 Help Desk will be fully trained in the Products.
3. At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.

4. The Tier 1 Help Desk will be the initial points of contact for all questions and reporting of an incident. The Tier 1 Help Desk will obtain a full description of each reported Incident and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Incident. The Tier 1 Help Desk may also use any other information and databases that may be developed to satisfactorily resolve the Incident.
5. If the Tier 1 Help Desk cannot resolve the Incident, an authorized Tier 1 Help Desk individual may contact Tier 2 Support. The Tier 1 Help Desk will provide support in such a way as to minimize repeat calls and make solutions to problems available to Licensee.
6. Tier 1 Help Desk individuals are the only individuals authorized to contact Tier 2 Support. Licensee may change the Tier 1 Help Desk individuals by written notice to Esri.

b. Tier 2 Support

1. Tier 2 Support will log the calls received from Tier 1 Help Desk.
2. Tier 2 Support will review all information collected by and received from the Tier 1 Help Desk including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.
3. Tier 2 Support may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.
4. Tier 2 Support will attempt to resolve the Incident submitted by Tier 1 Help Desk.
5. When the Incident is resolved, Tier 2 Support will communicate the information to Tier 1 Help Desk, and Tier 1 Help Desk will disseminate the resolution to the user(s).

6.0—ENDORSEMENT AND PUBLICITY

This Agreement will not be construed or interpreted as an exclusive dealings agreement or Licensee's endorsement of Products. Either party may publicize the existence of this Agreement.

7.0—ADMINISTRATIVE REQUIREMENTS

- 7.1 **OEM Licenses.** Under Esri's OEM or Solution OEM programs, OEM partners are authorized to embed or bundle portions of Esri products and services with their application or service. OEM partners' business model, licensing terms and conditions, and pricing are independent of this Agreement. Licensee will not seek any discount from the OEM partner or Esri based on the availability of Products under this Agreement. Licensee will not decouple Esri products or services from the OEM partners' application or service.
- 7.2 **Annual Report of Deployments.** At each anniversary date and ninety (90) calendar days prior to the expiration date of this Agreement, Licensee will provide Esri with a written report detailing all Deployments. Upon request, Licensee will provide records sufficient to verify the accuracy of the annual report.

8.0—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

8.1 Orders, Delivery, and Deployment

- a. Licensee will issue an Ordering Document upon execution of this Agreement and annually thereafter in accordance with the Quotation. Payment will be due and payable within thirty (30) calendar days of the anniversary date of the Effective Date, with the initial payment due within thirty (30) calendar days of execution of this Agreement. Esri's federal ID number is 95-2775-732.
- b. Upon receipt of the initial Ordering Document from Licensee, Esri will authorize download of the Products to Licensee for Deployment. If requested, Esri will ship backup media to the ship-to address identified on the Ordering Document, FOB Destination, with shipping charges prepaid. For those entities that avoid sales tax by downloading deliverables, request for delivery or receipt of tangible media may cause the Fee to be subject to taxes. Licensee acknowledges that should such taxes become due, Esri has a right to invoice and Licensee will pay any such sales or use tax associated with its receipt of tangible media.
- c. Esri will provide Authorization Codes to activate the nondestructive copy protection program that enables the Products to operate.

8.2 Order Requirements

- a. All orders pertaining to this Agreement will be processed through Licensee's centralized point of contact.
- b. The following information will be included in each Ordering Document:
 - (1) Licensee name; Esri customer number, if known; and bill-to and ship-to addresses
 - (2) Order number
 - (3) Applicable annual payment due

9.0—MERGERS, ACQUISITIONS, OR DIVESTITURES

If Licensee is a commercial entity, Licensee will notify Esri in writing in the event of (i) a consolidation, merger, or reorganization of Licensee with or into another corporation or entity; (ii) Licensee's acquisition of another entity; or (iii) a transfer or sale of all or part of Licensee's organization (subsections i, ii, and iii, collectively referred to as "Ownership Change"). There will be no decrease in Fee as a result of any Ownership Change.

- 9.1 If an Ownership Change increases the cumulative program count beyond the maximum level for this Agreement, Esri reserves the right to increase the Fee or terminate this Agreement and the parties will negotiate a new agreement.
- 9.2 If an Ownership Change results in transfer or sale of a portion of Licensee's organization, that portion of Licensee's organization will uninstall, remove, and destroy or transfer the Products to Licensee.
- 9.3 This Agreement may not be assigned to a successor entity as a result of an Ownership Change unless approved by Esri in writing in advance. If the assignment to the new entity is not approved, Licensee will require any successor entity to uninstall, remove, and destroy the Products, and this Agreement will terminate upon such Ownership Change.



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 28, 2016
Memo #17-016

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: CONTRACT AWARD FOR ROADSIDE AND TRAIL MOWING (VALUE: NOT TO EXCEED \$26,000)
DEPARTMENT: 177 PARKS AND RECREATION; FUNDS: GENERAL AND TRUST
ACCOUNT CATEGORY: PROFESSIONAL SERVICES \$22,000
DEPARTMENT: 169 WASTEWATER; FUND: WASTEWATER;
ACCOUNT CATEGORY: 55 OTHER PURCHASED SERVICES \$4,000

Please see the attached communication dated July 28, 2016 from Nicholas Caggiano, Superintendent Parks and Recreation for the information related to this purchase.

Pursuant to **§ 5-78 Major purchases (greater than \$10,000)** A. All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000 shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting bids.

The Superintendent of the Parks and Recreation Department, Board of Public Works (6/26/2016 Meeting) and the Purchasing Department recommend awarding this contract in an amount not to exceed **\$26,000** to **Kohl Farms of Chelmsford, MA.**

Respectfully,

Dan Kooker

Purchasing Manager

Cc: N Caggiano L Fautex

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: July 28 2016
From: Nicholas Caggiano - Superintendent
Parks and Recreation Department
Re: Roadside and trail mowing.

B. Motion: To approve the purchase of roadside and trail mowing services from the low bidder Kohl Farms of Chelmsford, MA. for an amount not to exceed \$26,000. Funding for this purchase will be from Department: 177 Parks and Recreation; Funds General and Trust; Account Category: Professional Services \$22,000; Department; 169 Wastewater; Fund: Wastewater; Account Category: 55 Other Purchased Services \$4,000.

Attachments: Bid results.

Discussion: The roadside and trail mowing was put out for bid. Six 8 vendors were sent the information. Only one bid was received for this work Kohl Farms was the low bidder at a rate of \$65 per hour. Kohl Farms has agreed to continue to hold their 2013 price of \$65 per hour for 2016. This work will include roadside mowing of overgrowth areas, intersection sight distance mowing as well as sidewalk, trail and bike path mowing. There will also be maintenance mowing of the Mine Falls Park Canal and the levy system along the Merrimack River. This work will begin in Mid-September and will run through late October.



THE CITY OF NASHUA
Parks and Recreation Department

"The Gate City"

June 8, 2016

Request for Proposals

**ROADSIDE AND TRAIL MOWING
 RFP0580-063016**

The Nashua Parks and Recreation Department is taking proposals to do roadside and trail mowing in the City of Nashua. Work will be performed along roadsides, sidewalks, and trails throughout the city. There is approximately 3-4 weeks of work that will need to be done. Equipment may be stored at the Park and Recreation Department. This work is scheduled to start at the end of September.

INSTRUCTIONS:

Inquiries must be submitted in writing to:

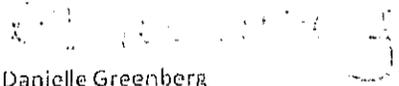
Nick Caggiano Parks and Recreation Superintendent caggiano@nashuanh.gov	Matthew Eiserman Foreman eisermanm@nashuanh.gov
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Proposals must be submitted on the attached Bid Form no later than 3:00 PM EST on Thursday, June 30th, 2016, c/o Central Purchasing Office, First Floor, Room 128, City Hall, 229 Main Street, Nashua NH, 03060. The City of Nashua may reject any or all of the proposals on any basis and without disclosure of a reason.

REQUIREMENTS:

Selected firm must provide proof of insurance to the City. Certificates of General Public and Automobile Liability insurance and Workers Compensation insurance countersigned by a New Hampshire resident agent must be furnished to the City Purchasing Department prior to commencement of activities on City property. The limits of General Liability must be \$1,000,000. Per occurrence, \$2,000,000 aggregate, City of Nashua additional insured. Motor Vehicle Liability, when applicable, is \$1,000,000 combined single limit, City of Nashua additional insured. Workers' Compensation according to State Statute. The City of Nashua requires thirty (30) days written notice of cancellation or material change in coverage. Equipment used must have current certifications and inspections.

Thank you,


 Danielle Greenberg
 Purchasing Agent II – City of Nashua
 greenbergd@nashuanh.gov

AUG 3RD for
BPW 7/28

BID FORM

Firm Glen Kohl Farming and Contracting COOP
Address 26 Wildwood St Chelmsford MA 01824
Contact Glenn Phone 978 265 8012 Email KohlCoop@gmail.com
Equipment Description 2014 John Deere 6330 / 2015 McCormick Road Side Mower
Hourly Rate 65 Daily Rate based on a 8 hr day 520⁰⁰
Equipment Description _____
Hourly Rate _____ Daily Rate based on a 8 hr day _____
Equipment Description _____
Hourly Rate _____ Daily Rate based on a 8 hr day _____





THE CITY OF NASHUA

Financial Services
Purchasing Department

"The Gate City"

July 28, 2016
Memo #17-017

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: APPROVE PURCHASE OF A REPLACEMENT TORO GROUNDMASTER 3505-D
MOWER (VALUE: \$27,627)
DEPARTMENT: 177 PARKS AND RECREATION; FUND: TRUST
ACTIVITY: CERF

Please see the attached communication dated July 28, 2016 from Nicholas Caggiano, Superintendent Parks and Recreation for the information related to this purchase.

Pursuant to **§ 5-84 Special purchase procedures A. (3)** Purchases which can be procured through cooperative intergovernmental purchase agreements with other governmental jurisdictions.

This mower is being purchased from TPC under the MA State Contract #FAC71.

The Superintendent of the Parks and Recreation Department, the Fleet Manager, Board of Public Works (6/26/2016 Meeting) and the Purchasing Department recommend awarding this purchase in an amount of **\$27,627 to Turf Products Corp (TPC) of Enfield, CT.**

Respectfully,

Dan Kooker

Purchasing Manager

Cc: N Caggiano L Fautex

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: July 28, 2016
From: Nick Caggiano, Superintendent
Parks and Recreation Department
Re: Purchase of a Toro Groundmaster 3505-D Mower.

A. Motion: To approve the purchase of a 2016 Toro Groundmaster 3505-D mower from Turf Products Corporation of Enfield, CT for the price of \$27,626.76 pursuant to the Massachusetts State Contract #FAC71. Funding will be through Department: 177 Parks and Recreation; Fund: Trust; Activity: CERF

Attachments: Quote from TPC

Discussion: This scheduled purchase will replace the current Holman Stadium mower a, 2002 Toro 2300D reel mower. This mower was purchased used in 2004 and has serviced the stadium well. The mower has reached a point where the machine will not operate properly giving the field the proper cut it requires. The current mower will need a complete replacement of the cutting reels, bed knives, and hydraulic pump. This mower will be turned in as a trade in. The new mower will be a rotary mower with a 72 inch cut and will have a full roller assembly for stripping. The rotary style mower will allow the mower to be used at other venues for special events such as the Columbus Day Soccer Tournament.

This request is consistent with the City Capitol Equipment Reserve Fund (CERF) detailed schedule. The planned CERF request for FY17 was approved by the Board of Alderman on June 24, 2015 by R-15-142.

The Mower comes with a 2 year 1,500 hours warranty. The Superintendent and Fleet Manager both recommend this purchase.



turf products

157 Moody Rd, P.O.Box 1200 Enfield, Connecticut 06083
1-800-243-4355

For: City Of Nashua
Parks & Recreation Department
100 Concord Street
Nashua 03064



Quote ID	Terms
	Net 10 Prox.
June 16, 2016	

Page of

Nick Caggiano

Price are based Massachusetts Statewide Contracts #FAC71

Qty	Model #	Description	Unit	Extended
1	30849	Groundsmaster 3505-D 2/WD Kubota 3 cylinder liquid cooled diesel 24.8 hp Width of cut 72" w/ 3 Contour plus 27" decks rear discharge and fuller roller for stripping.		\$27,530.71
1	30841	Work Light Kit		\$220.41
1	131-6691	SEAT COVER, LARGE		\$31.72
1	108-1462	BLADE SERVICE PACK, 27 IN		\$114.91
1	30058	MVP FILTER KIT-GM35XXD		\$78.84
1	30552	Universal Sunshade (Red)		\$650.17
				\$28,626.76
1		Trade In - Toro 2300D		(\$1,000.00)
				\$27,626.76



NOTE: Pricing is effective for 15 days unless indicated otherwise. Labor or applicable tax is not included unless noted otherwise. This quote is for the listed items only. Invoices from Turf Products are due and payable upon receipt and invoices will be subject to a finance charge if unpaid for 30 days, unless prior arrangements have been made.

Jeffrey A. Brooks SCPS
Cell 603-860-6839 or Fax 603-673-2939

Comments:



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 28, 2016
Memo #17-018

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: APPROVE PURCHASE OF AN INTEGRATION CAROUSEL FOR LABINE PARK
(VALUE: \$50,715)
DEPARTMENT: 177 PARKS AND RECREATION; FUND: GENERAL
ACTIVITY: LABINE PARK

Please see the attached communication dated July 28, 2016 from Nicholas Caggiano, Superintendent Parks and Recreation for the information related to this purchase.

Pursuant to **§ 5-84 Special purchase procedures A. (4)** Sole-source procurements, where the proposed purchase is manufactured by only one company.

The Superintendent of the Parks and Recreation Department, Board of Public Works (6/26/2016 Meeting) and the Purchasing Department recommend awarding this purchase in an amount of **\$50,715** to **Goric Marketing Group of Belmont, MA.**

Respectfully,

Dan Kooker

Purchasing Manager

Cc: N Caggiano L Fautex

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: July 28, 2016
From: Nicholas Caggiano - Superintendent
Parks and Recreation Department
Re: Purchase of an Integration Carousel for Labine Park.

C. Motion: To approve the purchase of Integration Carousel for the Legacy Playground at Labine Park from the sole source vendor Goric Marketing Group USA of Belmont, Massachusetts in the amount of \$50,715. Funding will be \$50,715 through Department 177 Parks and Recreation; Fund: General; Activity: Labine Park.

Attachments: Quotation

Discussion: The structure being purchased is based on the input from the Legacy Playground Group. The carousel was recommended by Jennifer Brooke of the Institute for Human Centered Design, as well as The Chamber of Commerce Chamber Leadership Group. The carousel will be the focal point of the new Legacy Playground and will be a first in NH. The purchased structure has a 16-20 week lead time which will require that the base be installed ahead of time. The playground construction has started and is scheduled for completion in early September. Goric is the sole distributor for the carousel. The pricing for the structure includes a 10 % municipal discount.

Based on the recommendations of the Design Group, and the Leadership Group it is the recommendation of the Park & Recreation Department to award this purchase to the **Goric Marketing Group of Belmont, MA. in the amount of \$50,715.**



THE CITY OF NASHUA

Division of Public Works

Parks & Recreation Department

"The Gate City"

July 12, 2016

To; Daniel Kooken Purchasing Manager

From; Nicholas Caggiano Superintendent Parks and Recreation

Subject; Integration Carousel Sole Source Purchase

The justification for the sole source purchase of the carousel is based on the input from the Legacy Playground Group. The selected carousel was also recommended by Jennifer Brooke of the Institute for Human Centered Design, as well as The Chamber of Commerce Chamber Leadership Group. The carousel will be the focal point of the new Legacy Playground and will be a first in NH.

Goric Marketing Group USA, Inc. is the sole distributor for the carousel. The pricing for the structure includes a 10 % municipal discount. The purchased structure has a 16-20 week lead time which will require that the base be installed ahead of time. The playground construction has started and is scheduled for completion in early September.

I would request that the City consider Goric Marketing Group USA, Inc. of Belmont, MA as a sole source vendor for this item.



Quote

Goric Marketing Group USA, Inc.
 464 Common St #148
 Belmont, MA 02478
 P: 617-744-0772
 F: 617-744-1037
<http://www.goric.com/>

Date : 07/05/2016
 Quote #: G07166
 Valid until : 12/31/2016

Sales Representative : Sarah
 Carrier
 Phone : 617-744-0772
 Email : sarah@goric.com

BILL TO : 100 Concord Street Nashua NH 03064 USA	SHIP TO :
Project : Legacy Playground at Labine Park Client : Nashua Parks and Recreation	Delivery Time : See note on last page Term : 50% deposit, balance upon delivery

Product Details	Qty	List Price	Total
Integration Carousel E5640030	1	\$ 47,115.00	\$ 47,115.00
Regular Price \$52,350. Discounted price includes 10% (\$5,235) discount.			
Freight - shipping and handling	1	\$ 3,600.00	\$ 3,600.00
Sub Total			\$ 50,715.00
Taxes Additional If Applicable			\$ 0.00
Total Amount			\$ 50,715.00

Integration Carousel

...

To Order: Please send deposit payment, signed copy of this quote and purchase order (if applicable). Include billing and shipping address, contact names and phone numbers.

Customer name, print and sign

Terms and Conditions

Delivery Time: Commences from receipt of deposit payment and approved submittals.

Shipping and Handling: Unloading of materials at delivery is the responsibility of the customer. An accurate inventory should be taken at delivery and any missing or damaged pieces should be noted on the BOL and given to driver and reported to Goric. The truck driver will not unload equipment. Please contact fatima@goric.com if you need a quote for any special unloading requirements.

Payments: Make checks payable to Goric and mail to 464 Common St #148, Belmont, MA 02478. To wire payment or to send by express courier, contact fatima@goric.com for instructions.



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 26, 2016
Memo #17-025

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: RAIL TRAIL LIGHTING (VALUE: \$87,288)
DEPARTMENT: 177 PARKS & RECREATION; FUND: CIP
ACTIVITY: RAIL TRAIL LIGHTING

Please see the attached communication from Stephen Dookran, P.E., City Engineer dated July 26, 2016 for the information related to this purchase.

Pursuant to **§ 5-78 Major purchases (greater than \$10,000)** A. All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000 shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting bids.

The City Engineer, Board of Public Works (7/26/2016 Meeting) and the Purchasing Department recommend awarding this contract in an amount of **\$87,288** to **Consolidated Electrical Distributors (CED) of Manchester, NH.**

Respectfully,

Dan Kookan
Purchasing Manager

Cc: S Dookran L Fauteux

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: July 26, 2016

From: Stephen Dookran, P.E., City Engineer
Engineering Department

Re: Rail Trail Lighting

F. Motion: To approve the vendor contract for the purchase of lights and poles for the Nashua Heritage Rail Trail to Consolidated Electrical Distributors Inc. of Manchester, NH for the amount of \$87,288.00. Funding will be through Department 177 Parks & Rec; Fund: CIP; Activity: Rail Trail Lighting.

Discussion: Approximately three years ago, the City of Nashua installed 32 solar-powered lights approximately 13 ft high along Nashua Heritage Rail Trail between Main St and Eaton St. Many of these lights and poles have been severely vandalized and it has been determined that the lighting levels produced by these systems may not have been adequate or reliable at certain times. The City proposes to replace the existing lights with more durable and reliable system consists of pole-mounted LED luminaries wired overhead. This new lighting system will completely replace the existing solar lighting along the trail between Main St. and Eaton St.

The LED luminaries will be the same luminaries, King Luminaire LED Pendant 60 Watt, used on the recent Main Street Sidewalk Improvements project. The King Luminaires are aesthetically pleasing and have performed well. The light poles will be pre-stressed concrete poles. The concrete poles will be painted black and are aesthetically pleasing. They are easy to install and have a long service life as they are resistant to freeze-thaw effects and corrosion. The lighting system will be powered with electricity provided by the public utility, Eversource.

A Request for Proposals (RFP) was emailed to four vendors and posted on the City's website on July 8, 2016 for the supply of lighting assemblies including LED luminaires, concrete poles and appropriate mast arms for the project. Two proposals were received on July 22, 2016, from the following vendors:

Rockingham Electrical Supply Co Inc. of Newington, NH	\$86,448.98
Consolidated Electrical Distributors Inc. (CED) of Manchester, NH	\$87,288.00

Neither vendor prepared their proposal in full accordance with the RFP, in particular, the photometric plan for this project to demonstrate adequate pedestrian illumination and spill control. When communicating with the vendors, CED was more responsive to all the City's questions and requirements and agreed to provide the photometric plan at no additional cost. Whereas, according to Rockingham Electrical Engineering, there will be an additional fee to prepare the photometric plan. At this point Rockingham Electrical has not provided the fee but Engineering estimates it at about \$1,200.00. Therefore, Engineering is

requesting approval to award the project to CED of Manchester, NH. CED's bid of \$87,288.00 is 1% over the \$86,448.98 lowest bid.

The need to contract with the vendor soon is due to an ordering time expected to be approximately eight weeks. A separate contract for the installation and wiring will be developed and issued to start work when the lighting assemblies are delivered.



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 28, 2016
Memo #17-019

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: DW HIGHWAY VEHICLE DETECTION FROM POISSON AVE TO GRAHAM DRIVE
(VALUE: \$69,700)
DEPARTMENT: 160 ADMIN & ENGINEERING; FUND: TRUST
ACTIVITY: 55 – OTHER SERVICES \$51,300
DEPARTMENT: 161 STREET; FUND: GENERAL
ACTIVITY: PAVING OF \$18,400

Please see the attached communication from Wayne R. Husband, P.E., Senior Traffic Engineer dated July 28, 2016 for the information related to this purchase.

Pursuant to **§ 5-78 Major purchases (greater than \$10,000)** A. All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000 shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting bids.

The Senior Traffic Engineer, Board of Public Works (6/26/2016 Meeting) and the Purchasing Department recommend the award of this contract in an amount of **\$69,700** to **Electric Light Company of Cape Neddick, ME**.

Respectfully,

Dan Kooker
Purchasing Manager

Cc: W Husband L Fauteux

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: July 26, 2016
From: ^{WRE} Wayne R. Husband, P.E., Senior Traffic Engineer
Public Works Division Administration
Re: DW Highway Vehicle Detection from Poisson Ave to Graham Drive

D. Motion: To approve the use of the DW Hwy/Spitbrook Road Transportation Improvement funds for a contract with Electric Light Company from Cape Neddick Maine to install new vehicle detection (mostly video detection). Funding through the DW Hwy/Spitbrook Road Transportation Improvement funds: Department: 160 Admin & Engineering; Fund: Trust; Activity: 55 Other Services in the amount of \$51,300 and through Department 161 Street; Fund: General; Activity: Paving of \$18,400, for a total contract award of \$69,700.

Discussion: The existing underground vehicle detection loops along DW Highway between Poisson Ave and Graham Drive will be damaged during the milling operations prior to the completion of the Paving program work that is schedule for late summer and early fall of this year. The vehicle detection will need to be replaced with new detection. The plan is to install new above ground video detection on the mast arms at each of the signal locations in this project area. Above ground detection avoids many of the impacts associated with construction activity, utility work, pot holes and routine maintenance activities in the roadway.

The project was advertised on June 16, 2016. Three traffic signal contractors submitted bids on July 11, 2016. The bids were as follows,

Company	Amount Bid
Electric Light Company Cape Neddick Maine	\$69,700.00
Pine Ridge Technologies Wakefield, Mass	\$103,717.00
East Coast Signals, Inc. Deerfield, NH	\$134,900.00

The bids were reviewed, and it was recommended the contract be awarded to Electric Light Company from Cape Neddick, Maine as the qualified low bidder. They have done reputable work over the last several years for the City of Nashua on several similar traffic signal improvement projects.



CONTRACT FOR SERVICE PROVIDER

2016 DW HIGHWAY VEHICLE DETECTION PROJECT IFB0970-071116

A CONTRACT BETWEEN

THE CITY OF NASHUA, 229 MAIN STREET, NASHUA, NH 03061-2019
AND

ELECTRIC LIGHT COMPANY, INC
and its successors, transferees and assignees (together "Service Provider")

NAME AND TITLE OF SERVICE PROVIDER

ONE MORGAN WAY
CAPE NEDDICK, ME 03902

ADDRESS OF SERVICE PROVIDER

WHEREAS, the City of Nashua, a political subdivision of the State of New Hampshire, from time to time requires the services of a Service Provider; and

WHEREAS, it is deemed that the services of a Service Provider herein specified are both necessary and desirable and in the best interests of the City of Nashua; and

WHEREAS, Service Provider represents they are duly qualified, equipped, staffed, ready, willing and able to perform and render the services hereinafter described;

NOW, THEREFORE, in consideration of the agreements herein made, the parties mutually agree as follows:

1. DOCUMENTS INCORPORATED. The Service Provider shall complete the work described in the Contract Documents. The following are by reference incorporated herein and are made part of this contract:

1. This Agreement signed by the City of Nashua and Service Provider, including the General Terms and Conditions.
2. Bid Schedule – **dtd July 11, 2016;**
3. Scope of Service – **dtd January 28, 2016;**
4. Payment/Performance Bond;
5. Insurance Certificate;
6. Written change orders or orders for minor changes in the Work issued after execution of this Agreement; and
7. Fully Executed City of Nashua Purchase Order

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, proposals, representations or agreements, either written or oral. Any other documents which are not listed in this Article are not part of the Contract.

In the event of a conflict between the terms of the Proposal and the terms of this Agreement, a written change order and/or fully executed City of Nashua Purchase Order, the terms of this Agreement, the written change order or the fully executed City of Nashua Purchase Order shall control over the terms of the Proposal.

2. WORK TO BE PERFORMED. Except as otherwise provided in this contract, Service Provider shall furnish all services, equipment, and materials and shall perform all operations necessary and required to carry out and perform the work as described in and in accordance with the specifications in the City of Nashua's request for proposals and the terms and conditions of the contract.

3. PERIOD OF PERFORMANCE. Service Provider shall perform and complete all work within the time periods set forth. The time periods may only be altered by the parties by a written agreement to extend the period of performance or by termination in accordance with the terms of the contract. Service Provider shall begin performance upon receipt of an Executed Contract **and** a valid Purchase Order issued from the City.

4. COMPENSATION. Service Provider agrees to perform the work for a total cost not to exceed

Sixty-Nine Thousand Seven Hundred and 00/100 Dollars (\$69,700.00)

The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work.

Unless Service Provider has received a written exemption from the City of Nashua, Service Provider shall submit an itemized Application for Payment for operations completed in accordance with the values stated in the Agreement. Such applications shall be supported by such data substantiating the Service Provider's right to payment as the City of Nashua may reasonably require. Service Provider shall submit monthly requests for payment for services performed under this agreement directly to:

**City of Nashua
Accounts Payable
PO Box 2019
Nashua, NH 03061-2019
Attn: Wayne Husband**

To facilitate the proper and timely payment of applications, the City of Nashua requires that all invoices contain a valid **PURCHASE ORDER NUMBER**.

Applications for Payment shall be submitted no later than fifteen (15) days after the end of each month. The City of Nashua will pay for work satisfactorily completed by Service Provider within thirty (30) days from the time of **final approval** by the City of Nashua of the submitted Application for Payment.

5. EFFECTIVE DATE OF CONTRACT. This contract shall not become effective until and unless approved by the City of Nashua.

6. NOTICES. All notices, requests, or approvals required or permitted to be given under this contract shall be in writing, shall be sent by hand delivery, overnight carrier, or by United States mail, postage prepaid, and registered or certified, and shall be addressed to:

CITY OF NASHUA REPRESENTATIVE:

Wayne R. Husband, P.E.
Senior Traffic Engineer
City of Nashua -Public Works Division
9 Riverside Street
Nashua, NH 03062

SERVICE PROVIDER REPRESENTATIVE:

Ken Miller
Electric Light Company Inc.
One Morgan Way
Cape Neddick, ME 03902

Any notice required or permitted under this contract, if sent by United States mail, shall be deemed to be given to and received by the addressee thereof on the third business day after being deposited in the mail. The City of Nashua or Service Provider may change the address or representative by giving written notice to the other party.

General Terms and Conditions

1. DEFINITIONS. Unless otherwise required by the context, "Service Provider" and its successors, transferees and assignees (together "Service Provider") includes any of the Service Provider's consultants, sub consultants, contractors, and sub-contractors

2. SERVICE PROVIDER STATUS AND PROVISION OF WORKERS' COMPENSATION COVERAGE. The parties agree that Service Provider shall have the status of and shall perform all work under this contract as an independent contractor, maintaining control over all its consultants, sub- consultants, contractors, or sub-contractors. The only contractual relationship created by this contract is between the City of Nashua and Service Provider, and nothing in this contract shall create any contractual relationship between the City of Nashua and Service Provider's consultants, sub consultants, contractors, or sub-contractors. The parties also agree that Service Provider is not a City of Nashua employee and that there shall be no:

1. Withholding of income taxes by the City of Nashua;
2. Industrial insurance coverage provided by the City of Nashua;
3. Participation in group insurance plans which may be available to employees of the City of Nashua;
4. Participation or contributions by either the Service Provider or the City of Nashua to the public employee's retirement system;
5. Accumulation of vacation leave or sick leave provided by the City of Nashua;
6. Unemployment compensation coverage provided by the City of Nashua.

3. STANDARD OF CARE. Service Provider shall be responsible for the quality, accuracy, timely completion, and coordination of all work performed under this contract. Service Provider warrants that all work shall be performed with the degree of skill, care, diligence, and sound practices and judgment that are normally exercised by recognized firms with respect to services of a similar nature. It shall be the duty of Service Provider to assure at its own expense that all work is technically sound and in conformance with all applicable federal, state, and local laws, statutes, regulations, ordinances, orders, or other requirements. In addition to all other rights which the City of Nashua may have, Service Provider shall, at its own expense and without additional compensation, re-perform work to correct or revise any deficiencies, omissions, or errors in the work or the product of the work or which result from Service Provider's failure to perform in accordance with this standard of care. Any approval by the City of Nashua of any services furnished or used by Service Provider shall not in any way relieve Service Provider of the responsibility for professional and technical accuracy and adequacy of its work. City of Nashua review, approval, or acceptance of, or payment for any of Service Provider's work under this contract shall not operate as a waiver of any of the City of Nashua's rights or causes of action under this contract, and Service Provider shall be and remain liable in accordance with the terms of the contract and applicable law. Service Provider shall furnish competent and skilled personnel to perform the work under this contract.

4. CHANGES TO SCOPE OF WORK. The City of Nashua may, at any time, by written order, make changes to the general scope, character, or cost of this contract and in the services or work to be performed, either increasing or decreasing the scope, character, or cost of Service Provider's performance under the contract. Service Provider shall provide to the City of Nashua within 10 calendar days, a written proposal for accomplishing the change. The proposal for a change shall provide enough detail, including personnel hours for each sub-task and cost breakdowns of tasks, for the City of Nashua to be able to adequately analyze the proposal. The City of Nashua will then determine in writing if Service Provider should proceed with any or all of the proposed change. If the change causes an increase or a decrease in Service Provider's cost or time required for performance of the contract as a whole, an equitable adjustment shall be made and the contract accordingly modified in writing. Any claim of Service Provider for adjustment under this clause shall be asserted in writing within 30 days of the date the City notified Service Provider of the change.

5. DISCOVERY OF CONFLICTS, ERRORS, OMISSIONS, AMBIGUITIES, OR DISCREPANCIES.

Service Provider warrants that it has examined all contract documents, has brought all conflicts, errors, discrepancies, and ambiguities to the attention of the City of Nashua in writing, and has concluded that the City of Nashua's resolution of each matter is satisfactory to Service Provider. All future questions Service Provider may have concerning interpretation or clarification of this contract shall be submitted in writing to the City of Nashua within 10 calendar days of their arising. The writing shall state clearly and in full detail the basis for Service Provider's question or position.

The City of Nashua's representative shall render a decision within 15 calendar days. The City of Nashua's decision on the matter is final. Any work affected by a conflict, error, omission, or discrepancy which has been performed by Service Provider prior to having received the City of Nashua's resolution shall be at Service Provider's risk and expense. At all times, Service Provider shall carry on the work under this contract and maintain and complete work in accordance with the requirements of the contract or determination of the City of Nashua. Service Provider is responsible for requesting clarification or interpretation and is solely liable for any cost or expense arising from its failure to do so.

6. TERMINATION OF CONTRACT.

A. TERMINATION, ABANDONMENT, OR SUSPENSION AT WILL. The City of Nashua, in its sole discretion, shall have the right to terminate, abandon, or suspend all or part of the project and contract at will. If the City of Nashua chooses to terminate, abandon, or suspend all or part of the project, it shall provide Service Provider 10 day's written notice of its intent to do so.

If all or part of the project is suspended for more than 90 days, the suspension shall be treated as a termination at will of all or that part of the project and contract.

Upon receipt of notice of termination, abandonment, or suspension at will, Service Provider shall:

1. Immediately discontinue work on the date and to the extent specified in the notice.
2. Provide the City of Nashua with a list of all unperformed services.
3. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
4. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the City of Nashua of all orders or sub contracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the City of Nashua any orders or sub contracts specified in the notice, and revoke agreements specified in the notice.
5. Not resume work after the effective date of a notice of suspension until receipt of a written notice from the City of Nashua to resume performance.

In the event of a termination, abandonment, or suspension at will, Service Provider shall receive all amounts due and not previously paid to Service Provider for work satisfactorily completed in accordance with the contract prior to the date of the notice and compensation for work thereafter completed as specified in the notice. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work.

B. TERMINATION FOR CAUSE. This agreement may be terminated by the City of Nashua on 10 calendar day's written notice to Service Provider in the event of a failure by Service Provider to adhere to any or all the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the City of Nashua, to complete or make sufficient progress on the work in a timely and professional manner. Service Provider shall be given an opportunity for consultation with the City of Nashua prior to the effective date of the termination. Service Provider may terminate the contract on 10 calendar days written notice if, through no fault of Service Provider, the City of Nashua fails to pay Service Provider for 45 days after the date of approval by the City of Nashua of any Application for Payment.

Upon receipt of notice of termination for cause, Service Provider shall:

1. Immediately discontinue work on the date and to the extent specified in the notice.
2. Provide the City of Nashua with a list of all unperformed services.
3. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
4. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the City of Nashua of all orders or sub contracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the City of Nashua any orders or sub contracts specified in the notice, and revoke agreements specified in the notice.
5. Not resume work after the effective date of a notice of termination unless and until receipt of a written notice from the City of Nashua to resume performance.

In the event of a termination for cause, Service Provider shall receive all amounts due and not previously paid to Service Provider for work satisfactorily completed in accordance with the contract prior to the date of the notice, less all previous payments. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work. Any such payment may be adjusted to the extent of any additional costs occasioned to the City of Nashua by reasons of Service Provider's failure. Service Provider shall not be relieved of liability to the City of Nashua for damages sustained from the failure, and the City of Nashua may withhold any payment to the Service Provider until such time as the exact amount of damages due to the City of Nashua is determined. All claims for payment by the Service Provider must be submitted to the City of Nashua within 30 days of the effective date of the notice of termination.

If after termination for the failure of Service Provider to adhere to any of the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the City of Nashua, to complete or make sufficient progress on the work in a timely and professional manner, it is determined that Service Provider had not so failed, the termination shall be deemed to have been a termination at will. In that event, the City of Nashua shall, if necessary, make an adjustment in the compensation paid to Service Provider such that Service Provider receives total compensation in the same amount as it would have received in the event of a termination-at-will.

C. GENERAL PROVISIONS FOR TERMINATION. Upon termination of the contract, the City of Nashua may take over the work and prosecute it to completion by agreement with another party or otherwise. Upon termination of the contract or in the event Service Provider shall cease conducting business, the City of Nashua shall have the right to solicit applications for employment from any employee of the Service Provider assigned to the performance of the contract.

Neither party shall be considered in default of the performance of its obligations hereunder to the extent that performance of such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party. Delays arising from the actions or inactions of one or more of Service Provider's principals, officers, employees, agents, sub-contractors, sub consultants, vendors, or suppliers are expressly recognized to be within Service Provider's control.

7. DISPUTE RESOLUTION. The parties shall attempt to resolve any dispute related to this contract as follows. Either party shall provide to the other party, in writing and with full documentation to verify and substantiate its decision, its stated position concerning the dispute. No dispute shall be considered submitted and no dispute shall be valid under this provision unless and until the submitting party has delivered the written statement of its position and full documentation to the other party. The parties shall then attempt to resolve the dispute through good faith efforts and negotiation between the City of Nashua Representative and a Service Provider Representative. At all times, Service Provider shall carry on the work under this contract and maintain and complete work in accordance with the requirements of the contract or determination or direction of the City of Nashua. If the parties are unable to resolve their dispute as described above within 30 days, the parties may request that the dispute be submitted to the Board of Public Works for resolution. If the parties are dissatisfied with the decision of the Board of Public Works, the parties' reserve the right to pursue any available legal and/or equitable remedies for any breaches of this contract except as that right may be limited by the terms of this contract.

8. NO DAMAGES FOR DELAY. Apart from a written extension of time, no payment, compensation, or adjustment of any kind shall be made to Service Provider for damages because of hindrances or delays in the

progress of the work from any cause, and Service Provider agrees to accept in full satisfaction of such hindrances and delays any extension of time that the City of Nashua may provide.

9. INSURANCE. Service Provider shall carry and maintain in effect during the performance of services under this contract:

- General liability insurance in the amount of \$1,000,000 per occurrence; \$2,000,000 aggregate;
- Motor Vehicle Liability: \$1,000,000 Combined Single Limit;
***Coverage must include all owned, non-owned and hired vehicles.**
- Workers' Compensation Coverage in compliance with the State of NH Statutes, \$100,000/\$500,000/\$100,000.

Service Provider shall maintain in effect at all times during the performance under this contract all specified insurance coverage with insurers. None of the requirements as to types and limits to be maintained by Service Provider are intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Service Provider under the contract. The City of Nashua shall not maintain any insurance on behalf of Service Provider. Subcontractors are subject to the same insurance requirements as the Service Provider and it shall be the Service Provider's responsibility to ensure compliance of this requirement. Service Provider will provide the City of Nashua with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within ten (10) calendar days after the City of Nashua issues the notice of award. The City of Nashua requires thirty (30) days written notice of cancellation or material change in coverage. The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer and who is licensed by the State of New Hampshire. Certificates must name the **City of Nashua as an additional insured on General Liability, and Auto Liability policies.** Service Provider is responsible for filing updated Certificates of Insurance with the City of Nashua's Risk Management Department during the life of the contract. The certificate should be mailed to:

Risk Management
City of Nashua
229 Main Street
Nashua, NH 03060-2019

- All deductibles and self-insured retentions shall be fully disclosed in the certificate(s) of insurance.
- If aggregate limits of less than \$2,000,000 are imposed on bodily injury and property damage, Service Provider must maintain umbrella liability insurance of at least \$1,000,000. All aggregates must be fully disclosed on the required certificate of insurance
- The specified insurance requirements do not relieve Service Provider of its responsibilities or limit the amount of its liability to the City of Nashua or other persons, and Service Provider is encouraged to purchase such additional insurance, as it deems necessary.
- The insurance provided herein is primary, and no insurance held or owned by the City of Nashua shall be called upon to contribute to a loss.
- Service Provider is responsible for and required to remedy all damage or loss to any property, including property of the City of Nashua, caused in whole or part by Service Provider or anyone employed, directed, or supervised by Service Provider.

10. INDEMNIFICATION. Regardless of the coverage provided by any insurance, Service Provider agrees to indemnify and shall defend and hold harmless the City of Nashua, its agents, officials, employees and authorized representatives and their employees from and against any and all suits, causes of action, legal or administrative proceedings, arbitrations, claims, demands, damages, liabilities, interest, attorneys' fees, costs and expenses of any kind or nature to the extent caused, occasioned, or contributed to in whole or in part by reason of any negligent act, omission, or fault or willful misconduct, whether active or passive, of Service Provider or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract. Service Provider's indemnity, defense and hold harmless obligations, or portions thereof, shall not apply to liability caused by the sole negligence or willful misconduct of the party indemnified or held harmless.

11. FISCAL CONTINGENCY. All payments under this contract are contingent upon the availability to the City of Nashua of the necessary funds. This contract shall terminate and the City of Nashua's obligations under it shall be extinguished at the end of any fiscal year in which the City of Nashua fails to appropriate monies for the ensuing fiscal year sufficient for the performance of this contract.

Nothing in this contract shall be construed to provide Service Provider with a right of payment over any other entity. Any funds obligated by the City of Nashua under this contract that are not paid to Service Provider shall automatically revert to the City of Nashua's discretionary control upon the completion, termination, or cancellation of the agreement. The City of Nashua shall not have any obligation to re-award or to provide, in any manner, the unexpended funds to Service Provider. Service Provider shall have no claim of any sort to the unexpended funds.

12. COMPLIANCE WITH APPLICABLE LAWS. Service Provider, at all times, shall fully and completely comply with all applicable local, state and federal laws, statutes, regulations, ordinances, orders, or requirements of any sort in carrying out the obligations of this contract, including, but not limited to, all federal, state, and local accounting procedures and requirements, all immigration and naturalization laws, and the Americans With Disabilities Act. Service Provider shall, throughout the period services are to be performed under this contract, monitor for any changes to the applicable laws, statutes, regulations, ordinances, orders, or requirements, shall promptly notify the City of Nashua in writing of any changes to the same relating to or affecting this contract, and shall submit detailed documentation of any effect of the change in terms of both time and cost of performing the contract.

13. NONDISCRIMINATION. In connection with the performance of work under this contract, Service Provider agrees not to discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, age, or sexual orientation. This agreement includes, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

14. SERVICE PROVIDER ENDORSEMENT. Service Provider shall sign, seal, and/or stamp as appropriate any necessary documents as required under the laws of the State of New Hampshire.

15. ASSIGNMENT, TRANSFER, DELEGATION, OR SUBCONTRACTING. Service Provider shall not assign, transfer, delegate, or subcontract any rights, obligations, or duties under this contract without the prior written consent of the City of Nashua. Any such assignment, transfer, delegation, or subcontracting without the prior written consent of the City of Nashua is void. Any consent of the City of Nashua to any assignment, transfer, delegation, or subcontracting shall only apply to the incidents expressed and provided for in the written consent and shall not be deemed to be a consent to any subsequent assignment, transfer, delegation, or subcontracting. Any such assignment, transfer, delegation, or subcontract shall require compliance with or shall incorporate all terms and conditions set forth in this agreement, including all incorporated Exhibits and written amendments or modifications. Subject to the foregoing provisions, the contract inures to the benefit of, and is binding upon, the successors and assigns of the parties.

16. CITY OF NASHUA INSPECTION OF CONTRACT MATERIALS. The books, records, documents and accounting procedures and practices of Service Provider related to this contract shall be subject to inspection, examination and audit by the City of Nashua.

17. TAXES. Service Provider shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work performed under the contract and make any and all payroll deductions required by law. The contract sum and agreed variations to it shall include all taxes imposed by law. Service Provider hereby indemnifies and holds harmless the City of Nashua from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

18. NON-WAIVER OF TERMS AND CONDITIONS. None of the terms and conditions of this contract shall be considered waived by the City of Nashua. There shall be no waiver of any past or future default, breach, or modification of any of the terms and conditions of the contract unless expressly stipulated to by the City of Nashua in a written waiver.

19. RIGHTS AND REMEDIES. The duties and obligations imposed by the contract and the rights and remedies available under the contract shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. Said rights and remedies to be had or exercised in accordance with section 25, hereof.

20. PROHIBITED INTERESTS. Service Provider shall not allow any officer or employee of the City of Nashua to have any indirect or direct interest in this contract or the proceeds of this contract. Service Provider warrants that no officer or employee of the City of Nashua has any direct or indirect interest, whether contractual, noncontractual, financial or otherwise, in this contract or in the business of Service Provider. If any such interest comes to the attention of Service Provider at any time, a full and complete disclosure of the interest shall be immediately made in writing to the City of Nashua. Service Provider warrants that no gratuities (including, but not limited to, entertainment or gifts) were offered or given by Service Provider to any officer or employee of the City of Nashua with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this contract.

21. THIRD PARTY INTERESTS AND LIABILITIES. The City of Nashua and Service Provider, including any of their respective agents or employees, shall not be liable to third parties for any act or omission of the other party. This contract is not intended to create any rights, powers, or interest in any third party and this agreement is entered into for the exclusive benefit of the City of Nashua and Service Provider.

22. SURVIVAL OF RIGHTS AND OBLIGATIONS. The rights and obligations of the parties that by their nature survive termination or completion of this contract shall remain in full force and effect.

23. SEVERABILITY. In the event that any provision of this contract is rendered invalid or unenforceable by any valid act of Congress or of the New Hampshire legislature or any court of competent jurisdiction, or is found to be in violation of state statutes or regulations, the invalidity or unenforceability of any particular provision of this contract shall not affect any other provision, the contract shall be construed as if such invalid or unenforceable provisions were omitted, and the parties may renegotiate the invalid or unenforceable provisions for sole purpose of rectifying the invalidity or unenforceability.

24. MODIFICATION OF CONTRACT AND ENTIRE AGREEMENT. This contract constitutes the entire contract between the City of Nashua and Service Provider. The parties shall not be bound by or be liable for any statement, representation, promise, inducement, or understanding of any kind or nature not set forth in this contract. No changes, amendments, or modifications of any terms or conditions of the contract shall be valid unless reduced to writing and signed by both parties.

25. CHOICE OF LAW AND VENUE. This contract shall be governed exclusively by the laws of the State of New Hampshire and any claim or action brought relating to this contract, the work performed or contracted to be performed thereunder, or referable in anyway thereto shall be brought in Hillsborough County (New Hampshire) Superior Court Southern Judicial District or in the New Hampshire 9th Circuit Court—Nashua and not elsewhere.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby.

City of Nashua, NH (signature)

Electric Light Company (signature)

James Donchess, Mayor
(Printed Name and Title)

(Printed Name and Title)

Date

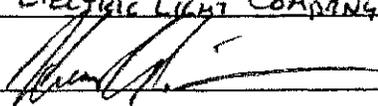
Date

BID SCHEDULE
2016 DW Highway Vehicle Detection
IFB0970-071116

Item No.	Item Description	Estimated		Unit	Total
		Quantity	Units	Bid Price	Bid Price
A	DW Highway at Graham Drive- VIDEO DETECTION at 2 approaches, 2 cameras, processor card(s), harnesses, surge protection, mounting hardware, video cable, and other associated equipment and hardware.	1	LS	7,500 ⁰⁰	7,500 ⁰⁰
B	DW Highway at Veterans - VIDEO DETECTION at 4 approaches, 4 cameras, processor card(s), harnesses, surge protection, mounting hardware, video cable, and other associated equipment and hardware	1	LS	14,800 ⁰⁰	14,800 ⁰⁰
C	DW Highway at Circumferential Highway - VIDEO DETECTION at 4 approaches, 4 cameras, processor card(s), harnesses, surge protection, mounting hardware, video cable, and other associated equipment and hardware.	1	LS	14,800 ⁰⁰	14,800 ⁰⁰
D	DW Highway at SB off Ramp (S ramp) - UNDERGROUND LOOP DETECTION at sb off ramp approach. Install 6 ft by 50 ft quadruple loops	1	LS	3,000 ⁰⁰	3,000 ⁰⁰
E	DW Highway at Autumn Leaf - VIDEO DETECTION at 4 approaches, 4 cameras, processor card(s), harnesses, surge protection, mounting hardware, video cable, and other associated equipment and hardware.	1	LS	14,800 ⁰⁰	14,800 ⁰⁰
F	DW Highway at Polsson/Royal Ridge - VIDEO DETECTION at 4 approaches, processor card(s), harnesses, surge protection, mounting hardware, video cable, and other associated equipment and hardware.	1	LS	14,800 ⁰⁰	14,800 ⁰⁰
<i>Total of Bid Items (numbers)</i>					69,700 ⁰⁰

TOTAL OF BID ITEMS (words): Sixty Nine Thousand Seven Hundred Dollars + No Cents

CONTRACTOR: ELECTRIC LIGHT COMPANY, INC

AUTHORIZED SIGNATURE:  DATE: 7-11-16

ADDRESS: ONE MORGAN WAY, CAPE NEDDICK ME 03902

PHONE: 207-361-1234 FAX: 207-361-2017

EMAIL ADDRESS: KEN@ELECTRICLIGHTCOINC.COM

Scope of Services

2016 DW Highway Vehicle Detection

Project Site: DW Highway between Poisson northerly to Graham Drive
Nashua, New Hampshire 03060

The City of Nashua is hiring a traffic signal contractor to restore vehicle detection areas along DW Highway where damage has been done by the paving program and where the pavement condition is bad and loops are not working.

Scope of Services:

The City of Nashua is requesting bids to install vehicle detection at the following locations along the DW Highway:

- A. DW Highway at Graham Drive
There is already video detection at this intersection for the DW Highway northbound and southbound approaches. This contract would add video detection at the Graham Drive approach and the Auto Dealer Drive approach. This contract would add the necessary hardware and software such as camera processor card(s), harnesses, surge protection, cameras, mounting hardware and video cable.
- B. DW Highway at Veterans Drive
There are a total of six (6) underground loops that will be damaged by the City paving project. There are two (2) underground loops on Veterans drive that have failed due to poor pavement condition. There are also two underground loops at Shaw's driveway that need to be addressed. This contract will add 4 Iteris video cameras and associated equipment (or equal to Iteris brand).
- C. DW Highway at Circumferential "K/L ramps"
There are 7 underground loops that will be cut by the paving project work. This contract will install video detection equipment and cameras to cover all four intersection approaches. The cameras and associated equipment shall be Iteris brand (or equal).
- D. DW Highway at Southbound "S" off ramp
There are 3 underground loops on the DW Highway southbound off ramp "S ramp" That will be damaged by the paving project. These 3 underground loops shall be replaced with 3 new underground loops to restore vehicle detection at the completion of the paving project.
- E. DW Highway at Autumn Leaf
There are six underground loops along DW Highway that will be damaged by the paving project. Iteris brand video detection (or equal) and associated hardware and equipment shall be installed to cover all four intersection approaches.
- F. DW Highway at Poisson Ave/Royal Ridge
There are 7 underground loops that will be damaged by the paving project. Iteris brand (or equal) video detection and associated equipment shall be installed to cover all four intersection approaches.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/26/2016

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		CONTACT NAME: Susan Gilman	
THE ROWLEY AGENCY INC.		PHONE (A/C, No, Ext): (603) 224-2562	FAX (A/C, No): (603) 224-8012
45 Constitution Avenue		E-MAIL ADDRESS: sgilman@rowleyagency.com	
P.O. Box 511			
Concord NH 03302-0511			
INSURED		INSURER(S) AFFORDING COVERAGE	
Electric Light Company, Inc.		INSURER A: Travelers Prop Cas Co of Amer	NAIC # 25674
Coastal Traffic, Inc.		INSURER B: Charter Oak Fire Ins Co	25615
One Morgan Way		INSURER C: Travelers Indemnity Co of CT	25666
Cape Neddick ME 03902		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 15-16 all lines **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 WVR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CG0001 (10/2001) GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:		CO6G271688TIL15	12/31/2015	12/31/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Employee Benefits \$ 1,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		B106G271756COF15	12/31/2015	12/31/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Medical payments \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		CUP6G881269TIL15	12/31/2015	12/31/2016	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
C	<input checked="" type="checkbox"/> 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 <input checked="" type="checkbox"/> N/A		UB6G271812TCT15 3A States: CT MA ME NH VT	12/31/2015	12/31/2016	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	<input checked="" type="checkbox"/> Leased/Rented Equipment Installation Floater		CO6G271688TIL15	12/31/2015	12/31/2016	Limit of Liability 100,000 Limit of Liability 200,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Covering electrical contracting operations of the insured. City of Nashua is an additional insured on general liability, auto liability and umbrella when required by written contract with named insured.

CERTIFICATE HOLDER	CANCELLATION
City of Nashua 229 Main Street Nashua, NH 03060	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 Susan Gilman/SJG <i>Susan Gilman</i>

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THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 28, 2016
Memo #17-022

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: NWTf AIR HANDLER REPLACEMENT PROJECT (VALUE: \$67,093)
DEPARTMENT: 169 WASTEWATER; FUND: WASTEWATER
ACTIVITY: CONTROL BUILDING HVAC UPGRADES

Please see the attached communication from David Simmons, Wastewater Department Superintendent dated July 26, 2016 for the information related to this purchase.

Pursuant to **§ 5-78 Major purchases (greater than \$10,000)** A. All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000 shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting bids.

The Wastewater Department Superintendent, Board of Public Works (July 26, 2016 meeting) and the Purchasing Department recommend the award of this contract in an amount of **\$67,093 to Wright Pierce of Topsham, ME.**

Respectfully,

Dan Kookan
Purchasing Manager

Cc: D Simmons L Fauteux

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: July 26, 2016
From: David A. Simmons, Superintendent
Wastewater Department
Re: NWTF Air Handler Replace Project

D. Motion: To approve the design phase services for the Air Handler Upgrades project to Wright Pierce of Topsham, ME in the amount not to exceed \$67,093. Funding will be through: Department: 169 Wastewater; Activity: Control Building HVAC Upgrades.

Attachments: Wright Pierce Scope of Work and Fee.

Discussion: The Wastewater Treatment Facility (WWTF) has air handling units designed to bring fresh air in from outside and either heat the air (during winter) or cool it (during warm conditions) depending on location. Most of these units were installed during the 1972 or 1988 plant upgrades. Although maintenance and repairs have occurred over the years, some units have failed beyond repair. This project proposes to replace 4 units, 2 in the control building that provide both heating and cooling and one in each of the sludge processing and grit buildings. In addition, the design will include a new air conditioning unit for the 1st floor office in the control building that houses the computer server. Currently an inside portable AC unit is being used to cool that office until a permanent installation is made.

A request for qualifications (RFQ) was sent to 6 consultants. Two of the consultants expressed an interest in the project and were interviewed. A committee picked Wright Pierce as the consultant for this project, based on their better experience and familiarity with the NWTF.

The project will have various phases during the design beginning with a preliminary design report (PDR), which will be completed within 30 days of a signed contract. Next is the 65% design completion which will be completed within 25 of the PDR. Next is the 90% design which will be completed within 25 days from the 65% design. Construction documents will be ready in seven days following acceptance of the 90% design. Overall, Wright Pierce should have construction documents ready in about 3 months following a signed contract.

Wright Pierce is ready to begin this project and has developed an accelerated schedule for having bid documents completed in a timely manner. They have completed numerous HVAC projects in many wastewater plants including some at the NWTF during past upgrades and are well qualified for this work.



CONTRACT FOR PROFESSIONAL SERVICES

AIR HANDLING UNIT UPGRADES PROJECT

RFQ0265-052416

A CONTRACT BETWEEN

THE CITY OF NASHUA, 229 MAIN STREET, NASHUA, NH 03061-2019
AND

WRIGHT-PIERCE

and its successors, transferees and assignees (together "Professional Engineer")

NAME AND TITLE OF PROFESSIONAL ENGINEER

230 COMMERCE WAY, PORTSMOUTH, NH 03801

ADDRESS OF PROFESSIONAL ENGINEER

WHEREAS, the City of Nashua, a political subdivision of the State of New Hampshire, from time to time requires the services of a Professional Engineer ; and

WHEREAS, it is deemed that the services of a Professional Engineer herein specified are both necessary and desirable and in the best interests of the City of Nashua; and

WHEREAS, Professional Engineer represents they are duly qualified, equipped, staffed, ready, willing and able to perform and render the services hereinafter described;

NOW, THEREFORE, in consideration of the agreements herein made, the parties mutually agree as follows:

1. DOCUMENTS INCORPORATED. The following exhibits are by this reference incorporated herein and are made part of this contract:

- Exhibit A--General Conditions for Contracts
- Exhibit B--Scope of Services
- Exhibit C-- Fee Schedule

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, proposals, representations or agreements, either written or oral. Any other documents which are not listed in this Article are not part of the Contract.

In the event of a conflict between the terms of the Proposal and the terms of this Agreement, a written change order and/or fully executed City of Nashua Purchase Order, the terms of this Agreement, the written change order or the fully executed City of Nashua Purchase Order shall control over the terms of the Proposal.

2. WORK TO BE PERFORMED Except as otherwise provided in this contract, Professional Engineer shall furnish all services, equipment, and materials and shall perform all operations necessary and required to carry out and perform in accordance with the terms and conditions of the contract the work described.

3. PERIOD OF PERFORMANCE. Professional Engineer shall perform and complete all work within the time periods set forth and may only be altered by the parties by a written agreement to extend the period of performance or by termination in accordance with the terms of the contract. Professional Engineer shall begin performance upon receipt of an Executed Contract **and** a valid Purchase Order issued from the City of Nashua.

4. COMPENSATION. Professional Engineer agrees to perform the work for a total cost not to exceed
Sixty-Seven Thousand Ninety-Three and 00/100 Dollars **(\$ 67,093.00)**

which, unless otherwise provided in this contract, shall be paid in accordance with the provisions of Exhibit B or unless Professional Engineer has received a written exemption from the City of Nashua. Professional Engineer shall submit monthly requests for payment for services performed under this agreement directly to

**City of Nashua
Attn: Accounts Payable
PO Box 2019
Nashua, NH 03061-2019
Atten: William Keating, P.E.**

To facilitate the proper and timely payment of applications, the City of Nashua requires that all invoices contain a valid **PURCHASE ORDER NUMBER**.

Requests for payment shall be submitted no later than fifteen (15) days after the end of each month and must include a detailed summary of the expenditures reported in a form that supports the approved budget. Specifically, Professional Engineer agrees to provide the following with each request for payment:

1. Appropriate invoice forms. The forms shall include the project purchase order number, a listing of personnel hours and billing rates, and other expenditures for which payment is sought.
2. A progress report. The report shall include, for each monthly reporting period, a description of the work accomplished, problems experienced, upcoming work, any extra work carried out, and a schedule showing actual expenditures billed for the period, cumulative total expenditures billed and paid to date under the contract, and a comparison of cumulative total expenditures billed and paid to the approved budget.

The City of Nashua will pay for work satisfactorily completed by Professional Engineer. The City of Nashua will pay Professional Engineer within **30** days of approval by the City of Nashua of the submitted invoice forms and progress reports. The City of Nashua will make no payments until the invoice forms and progress reports have been submitted and approved.

5. EFFECTIVE DATE OF CONTRACT. This contract shall not become effective until and unless approved by the City of Nashua.

6. **NOTICES.** All notices, requests, or approvals required or permitted to be given under this contract shall be in writing, shall be sent by hand delivery, overnight carrier, or by United States mail, postage prepaid, and registered or certified, and shall be addressed to:

CITY OF NASHUA REPRESENTATIVE:

William Keating, P.E.
Wastewater Treatment Facility
2 Sawmill Road
Nashua, NH 03060

REPRESENTATIVE:

Jeffrey R. Pinnette, P.E.
Wright-Pierce
230 Commerce Way, Suite 302
Portsmouth, NH 03801

Any notice required or permitted under this contract, if sent by United States mail, shall be deemed to be given to and received by the addressee thereof on the third business day after being deposited in the mail. The City of Nashua or Professional Engineer may change the address or representative by giving written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby.

City of Nashua, NH (signature)

James Donchess, Mayor
(Printed Name and Title)

Date

Wright-Pierce (signature)

(Printed Name and Title)

Date

EXHIBIT A
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General Terms and Conditions

1. **DEFINITIONS** Unless otherwise required by the context, "Professional Engineer", and its successors, transferees and assignees (together "Professional Engineer") includes any of the Professional Engineer's consultants, sub consultants, contractors, and subcontractors

2. **PROFESSIONAL ENGINEER STATUS** The parties agree that Professional Engineer shall have the status of and shall perform all work under this contract as a Professional Engineer, maintaining control over all its consultants, sub consultants, contractors, or subcontractors. The only contractual relationship created by this contract is between the City of Nashua and Professional Engineer, and nothing in this contract shall create any contractual relationship between the City of Nashua and Professional Engineer's consultants, sub consultants, contractors, or subcontractors. The parties also agree that Professional Engineer is not a City of Nashua employee and that there shall be no:
 - (1) Withholding of income taxes by the City of Nashua;
 - (2) Industrial insurance coverage provided by the City of Nashua;
 - (3) Participation in group insurance plans which may be available to employees of the City of Nashua;
 - (4) Participation or contributions by either the Professional Engineer or the City of Nashua to the public employee's retirement system;
 - (5) Accumulation of vacation leave or sick leave provided by the City of Nashua;
 - (6) Unemployment compensation coverage provided by the City of Nashua.

3. **STANDARD OF CARE** Professional Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all work performed under this contract. Professional Engineer warrants that all work shall be performed with the degree of professional skill, care, diligence, and sound practices and judgment that are normally exercised by recognized professional firms with respect to services of a similar nature. It shall be the duty of Professional Engineer to assure at its own expense that all work is technically sound and in conformance with all applicable federal, state, and local laws, statutes, regulations, ordinances, orders, or other requirements. In addition to all other rights which the City of Nashua may have, Professional Engineer shall, at its own expense and without additional compensation, re-perform work to correct or revise any deficiencies, omissions, or errors in the work or the product of the work or which result from Professional Engineer's failure to perform in accordance with this standard of care. Any approval by the City of Nashua of any products or services furnished or used by Professional Engineer shall not in any way relieve Professional Engineer of the responsibility for professional and technical accuracy and adequacy of its work. City of Nashua review, approval, or acceptance of, or payment for any of Professional Engineer's work under this contract shall not operate as a waiver of any of the City of Nashua's rights or causes of action under this contract, and Professional Engineer shall be and remain liable in accordance with the terms of the contract and applicable law.

Professional Engineer shall furnish competent and skilled personnel to perform the work under this contract. The City of Nashua reserves the right to approve key personnel assigned by Professional Engineer to perform work under this contract. Approved key personnel shall not be taken off of the project by Professional Engineer without the prior written approval of the City of Nashua, except in the event of termination of employment. Professional Engineer shall, if requested to do so by the City of Nashua, remove from the job any personnel whom the City of Nashua determines to be incompetent, dishonest, or uncooperative.

4. **CITY OF NASHUA REPRESENTATIVE** The City of Nashua may designate a City of Nashua representative for this contract. If designated, all notices, project materials, requests by Professional Engineer, and any other communication about the contract shall be addressed or be delivered to the City of Nashua Representative.
5. **CHANGES TO SCOPE OF WORK** The City of Nashua may, at any time, by written order, make changes to the general scope, character, or cost of this contract and in the services or work to be performed, either increasing or decreasing the scope, character, or cost of Professional Engineer's performance under the contract. Professional Engineer shall provide to the City of Nashua within 10 calendar days, a written proposal for accomplishing the change. The proposal for a change shall provide enough detail, including personnel hours for each sub-task and cost breakdowns of tasks, for the City of Nashua to be able to adequately analyze the proposal. The City of Nashua will then determine in writing if Professional Engineer should proceed with any or all of the proposed change. If the change causes an increase or a decrease in Professional Engineer's cost or time required for performance of the contract as a whole, an equitable adjustment shall be made and the contract accordingly modified in writing. Any claim of Professional Engineer for adjustment under this clause shall be asserted in writing within 30 days of the date the City of Nashua notified Professional Engineer of the change.

When Professional Engineer seeks changes, Professional Engineer shall, before any work commences, estimate their effect on the cost of the contract and on its schedule and notify the City of Nashua in writing of the estimate. The proposal for a change shall provide enough detail, including personnel hours for each sub-task and cost breakdowns of tasks, for the City of Nashua to be able to adequately analyze the proposal. The City of Nashua will then determine in writing if Professional Engineer should proceed with any or all of the proposed change.

Except as provided in this paragraph, Professional Engineer shall implement no change unless the City of Nashua in writing approves the change. Unless otherwise agreed to in writing, the provisions of this contract shall apply to all changes. The City of Nashua may provide verbal approval of a change when the City of Nashua, in its sole discretion, determines that time is critical or public health and safety are of concern. Any verbal approval shall be confirmed in writing as soon as practicable. Any change undertaken without prior City of Nashua approval shall not be compensated and is, at the City of Nashua's election, sufficient reason for contract termination.

6. **CITY OF NASHUA COOPERATION** The City of Nashua agrees that its personnel will cooperate with Professional Engineer in the performance of its work under this contract and that such personnel will be available to Professional Engineer for consultation at reasonable times and after being given sufficient advance notice that will prevent conflict with their other responsibilities. The City of Nashua also agrees to provide Professional Engineer with access to City of Nashua records in a reasonable time and manner and to schedule items that require action by the Board of Public Works and Finance Committee in a timely manner. The City of Nashua and Professional Engineer also agree to attend all meetings called by the City of Nashua or Professional Engineer to discuss the work under the Contract, and that Professional Engineer may elect to conduct and record such meetings and shall later distribute prepared minutes of the meeting to the City of Nashua.
7. **DISCOVERY OF CONFLICTS, ERRORS, OMISSIONS, AMBIGUITIES, OR DISCREPANCIES** Professional Engineer warrants that it has examined all contract documents, has brought all conflicts, errors, discrepancies, and ambiguities to the attention of the City of Nashua in writing, and has concluded that the City of Nashua's resolution of each matter is satisfactory to Professional Engineer. All future questions Professional Engineer may have concerning interpretation or clarification of this contract shall be submitted in writing to the City of Nashua within 10 calendar days of their arising. The writing shall state clearly and in full detail the basis for Professional Engineer's question or position. The City of Nashua representative shall render a

decision within 15 calendar days. The City of Nashua's decision on the matter is final. Any work affected by a conflict, error, omission, or discrepancy which has been performed by Professional Engineer prior to having received the City of Nashua's resolution shall be at Professional Engineer's risk and expense. At all times, Professional Engineer shall carry on the work under this contract and maintain and complete work in accordance with the requirements of the contract or determination of the City of Nashua. Professional Engineer is responsible for requesting clarification or interpretation and is solely liable for any cost or expense arising from its failure to do so.

8. TERMINATION OF CONTRACT

A. TERMINATION, ABANDONMENT, OR SUSPENSION AT WILL. The City of Nashua, in its sole discretion, shall have the right to terminate, abandon, or suspend all or part of the project and contract at will. If the City of Nashua chooses to terminate, abandon, or suspend all or part of the project, it shall provide Professional Engineer 10 day's written notice of its intent to do so.

If all or part of the project is suspended for more than 90 days, the suspension shall be treated as a termination at will of all or part of the project and contract.

Upon receipt of notice of termination, abandonment, or suspension at will, Professional Engineer shall:

1. Immediately discontinue work on the date and to the extent specified in the notice.
2. Place no further orders or subcontracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
3. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the City of Nashua of all orders or subcontracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the City of Nashua any orders or subcontracts specified in the notice, and revoke agreements specified in the notice.
4. Not resume work after the effective date of a notice of suspension until receipt of a written notice from the City of Nashua to resume performance.

In the event of a termination, abandonment, or suspension at will, Professional Engineer shall receive all amounts due and not previously paid to Professional Engineer for work satisfactorily completed in accordance with the contract prior to the date of the notice and compensation for work thereafter completed as specified in the notice. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work.

B. TERMINATION FOR CAUSE This agreement may be terminated by the City of Nashua on 10 calendar day's written notice to Professional Engineer in the event of a failure by Professional Engineer to adhere to any or all the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the City of Nashua, to complete or make sufficient progress on the work in a timely and professional manner. Professional Engineer shall be given an opportunity for consultation with the City of Nashua prior to the effective date of the termination. Professional Engineer may terminate the contract on 10 calendar days written notice if, through no fault of Professional Engineer, the City of Nashua fails to pay Professional Engineer for 45 days after the date of approval by the City of Nashua of any Application for Payment.

Upon receipt of notice of termination for cause, Professional Engineer shall:

1. Immediately discontinue work on the date and to the extent specified in the notice.
2. Provide the City of Nashua with a list of all unperformed services.

3. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
4. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the City of Nashua of all orders or sub contracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the City of Nashua any orders or sub contracts specified in the notice, and revoke agreements specified in the notice.
5. Not resume work after the effective date of a notice of termination unless and until receipt of a written notice from the City of Nashua to resume performance.

In the event of a termination for cause, Professional Engineer shall receive all amounts due and not previously paid to Professional Engineer for work satisfactorily completed in accordance with the contract prior to the date of the notice, less all previous payments. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work. Any such payment may be adjusted to the extent of any additional costs occasioned to the City of Nashua by reasons of Professional Engineer's failure. Professional Engineer shall not be relieved of liability to the City of Nashua for damages sustained from the failure, and the City of Nashua may withhold any payment to the Professional Engineer until such time as the exact amount of damages due to the City of Nashua is determined. All claims for payment by the Professional Engineer must be submitted to the City of Nashua within 30 days of the effective date of the notice of termination.

If after termination for the failure of Professional Engineer to adhere to any of the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the City of Nashua, to complete or make sufficient progress on the work in a timely and professional manner, it is determined that Professional Engineer had not so failed, the termination shall be deemed to have been a termination at will. In that event, the City of Nashua shall, if necessary, make an adjustment in the compensation paid to Professional Engineer such that Professional Engineer receives total compensation in the same amount as it would have received in the event of a termination-at-will.

C. GENERAL PROVISIONS FOR TERMINATION Upon termination of the contract, the City of Nashua may take over the work and prosecute it to completion by agreement with another party or otherwise. In the event Professional Engineer shall cease conducting business, the City of Nashua shall have the right to solicit applications for employment from any employee of the Professional Engineer assigned to the performance of the contract.

Neither party shall be considered in default of the performance of its obligations hereunder to the extent that performance of such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party. Delays arising from the actions or inactions of one or more of Professional Engineer's principals, officers, employees, agents, subcontractors, consultants, vendors, or suppliers are expressly recognized to be within Professional Engineer's control.

9. **DISPUTE RESOLUTION** The parties shall attempt to resolve any dispute related to this contract as follows. Either party shall provide to the other party, in writing and with full documentation to verify and substantiate its decision, its stated position concerning the dispute. No dispute shall be considered submitted and no dispute shall be valid under this provision unless and until the submitting party has delivered the written statement of its position and full documentation to the other party. The parties shall then attempt to resolve the dispute through good faith efforts and negotiation between the City of Nashua Representative and a Professional Engineer Representative. At all times, Professional Engineer shall carry on the work under this contract and maintain and complete work in accordance with the requirements of the contract or determination or direction of the City of Nashua. If the parties are unable to resolve their dispute

as described above within 30 days, the parties may request that the dispute be submitted to the Board of Public Works for resolution. If the parties are dissatisfied with the decision of the Board of Public Works, the parties' reserve the right to pursue any available legal and/or equitable remedies for any breaches of this contract except as that right may be limited by the terms of this contract.

10. **NO DAMAGES FOR DELAY** Apart from a written extension of time, no payment, compensation, or adjustment of any kind shall be made to Professional Engineer for damages because of hindrances or delays in the progress of the work from any cause, and Professional Engineer agrees to accept in full satisfaction of such hindrances and delays any extension of time that the City of Nashua may provide.
11. **INSURANCE** Professional Engineer shall carry and maintain in effect during the performance of services under this contract:
 - General Liability insurance in the amount of \$1,000,000 per occurrence; \$2,000,000 aggregate;
 - \$1,000,000 Combined Single Limit Automobile Liability;
***Coverage must include all owned, non-owned and hired vehicles.**
 - \$1,000,000 Profession Liability;
 - and Workers' Compensation Coverage in compliance with the State of New Hampshire statutes, \$100,000/\$500,000/\$100,000.

Professional Engineer shall maintain in effect at all times during the performance under this contract all specified insurance coverage with insurers. None of the requirements as to types and limits to be maintained by Professional Engineer are intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Professional Engineer under this contract. The City of Nashua shall not maintain any insurance on behalf of Professional Engineer. Subcontractors are subject to the same insurance requirements as Professional Engineer and it shall be the Professional Engineer's responsibility to ensure compliance of this requirement.

Professional Engineer will provide the City of Nashua with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within ten calendar days after the City of Nashua issues the notice of award. The City of Nashua requires thirty days written notice of cancellation or material change in coverage. The certificates and endorsements for each insurance policy must be signed by a person authorized by the insurer and who is licensed by the State of New Hampshire. **General Liability and Auto Liability policies must name the City of Nashua as an additional insured** and reflect on the certificate of insurance. Professional Engineer is responsible for filing updated certificates of insurance with the City of Nashua's Risk Management Department during the life of the contract.

- All deductibles and self-insured retentions shall be fully disclosed in the certificate(s) of insurance.
- If aggregate limits of less than \$2,000,000 are imposed on bodily injury and property damage, Professional Engineer must maintain umbrella liability insurance of at least \$1,000,000. All aggregates must be fully disclosed on the required certificate of insurance.
- The specified insurance requirements do not relieve Professional Engineer of its responsibilities or limit the amount of its liability to the City of Nashua or other persons, and Professional Engineer is encouraged to purchase such additional insurance, as it deems necessary.

- The insurance provided herein is primary, and no insurance held or owned by the City of Nashua shall be called upon to contribute to a loss.
- Professional Engineer is responsible for and required to remedy all damage or loss to any property, including property of the City of Nashua, caused in whole or part by Professional Engineer or anyone employed, directed, or supervised by Professional Engineer.

12. **INDEMNIFICATION** Regardless of any coverage provided by any insurance, Professional Engineer agrees to indemnify ~~and shall defend~~ and hold harmless the City of Nashua, its agents, officials, employees and authorized representatives and their employees from and against any and all suits, causes of action, legal or administrative proceedings, arbitrations, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of any kind or nature in any manner caused, occasioned, or contributed to in whole or in part by reason of any negligent act, omission, or fault or willful misconduct, whether active or passive, of Professional Engineer or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract. Professional Engineer's indemnity, defense and hold harmless obligations, or portions thereof, shall not apply to liability caused by the sole negligence or willful misconduct of the party indemnified or held harmless.

13. **FISCAL CONTINGENCY** All payments under this contract are contingent upon the availability to the City of Nashua of the necessary funds. This contract shall terminate and the City of Nashua's obligations under it shall be extinguished at the end of any fiscal year in which the City of Nashua fails to appropriate monies for the ensuing fiscal year sufficient for the performance of this contract.

Nothing in this contract shall be construed to provide Professional Engineer with a right of payment over any other entity. Any funds obligated by the City of Nashua under this contract that are not paid to Professional Engineer shall automatically revert to the City of Nashua's discretionary control upon the completion, termination, or cancellation of the agreement. The City of Nashua shall not have any obligation to re-award or to provide, in any manner, the unexpended funds to Professional Engineer. Professional Engineer shall have no claim of any sort to the unexpended funds.

14. **COMPENSATION** Review by the City of Nashua of Professional Engineer's submitted monthly invoice forms and progress reports for payment will be promptly accomplished by the City of Nashua. If there is insufficient information, the City of Nashua may require Professional Engineer to submit additional information. Unless the City of Nashua, in its sole discretion, decides otherwise, the City of Nashua shall pay Professional Engineer in full within **30 days of approval** of the submitted monthly invoice forms and progress reports.

15. **COMPLIANCE WITH APPLICABLE LAWS** Professional Engineer, at all times, shall fully and completely comply with all applicable local, state and federal laws, statutes, regulations, ordinances, orders, or requirements of any sort in carrying out the obligations of this contract, including, but not limited to, all federal, state, and local accounting procedures and requirements, all immigration and naturalization laws, and the Americans With Disabilities Act. Professional Engineer shall, throughout the period services are to be performed under this contract, monitor for any changes to the applicable laws, statutes, regulations, ordinances, orders, or requirements, shall promptly notify the City of Nashua in writing of any changes to the same relating to or affecting this contract, and shall submit detailed documentation of any effect of the change in terms of both time and cost of performing the contract.

16. **NONDISCRIMINATION** If applicable or required under any federal or state law, statute, regulation, order, or other requirement, Professional Engineer agrees to the following terms. Professional Engineer will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Professional Engineer agrees to take affirmative action to employ, advance in employment, or to otherwise treat qualified, handicapped individuals without discrimination based upon physical or mental handicap in all employment practices, including but not limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship.

Without limitation of the foregoing, Professional Engineer's attention is directed to 41 C.F.R. § 60-1.4, and the clause entitled "Equal Opportunity Clause" which, by reference, is incorporated into this contract, to 41 C.F.R. § 60-250 et seq. and the clause entitled "Affirmative Action Obligations of Professional Engineers and Subcontractor for Disabled Veterans and Veterans of the Vietnam Era," which, by reference, is incorporated in this contract, and to 41 C.F.R. § 60-471 and the clause entitled "Affirmative Action Obligations of Professional Engineers and Subcontractors for Handicapped Workers," which, by this reference, is incorporated in this contract.

Professional Engineer agrees to assist disadvantaged business enterprises in obtaining business opportunities by identifying and encouraging disadvantaged suppliers, consultants, and sub consultants to participate to the extent possible, consistent with their qualification, quality of work, and obligation of Professional Engineer under this contract.

In connection with the performance of work under this contract, Professional Engineer agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, or sexual orientation. This agreement includes, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Professional Engineer agrees, if applicable, to insert these provisions in all subcontracts, except for subcontracts for standard commercial supplies or raw materials. Any violation of any applicable provision by Professional Engineer shall constitute a material breach of the contract.

- ~~17. **FEDERAL SUBCONTRACTING REQUIREMENTS** If Professional Engineer awards a subcontract under this contract, Professional Engineer, if applicable, shall use the following alternative steps:~~

- ~~A. Using the services of the Small Business Administration and the Minority Business Development Agency of the United States Department of Commerce, as appropriate; and~~
- ~~B. Requiring the subcontractor, if it awards subcontracts, to take the affirmative steps set forth in paragraph A.~~

- ~~C. If applicable, Professional Engineer agrees to complete and submit to the City of Nashua a Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Report (Standard Form 334) within 30 days after the end of each fiscal quarter until the end of the contract.~~

18. **ENDORSEMENT** Professional Engineer shall seal and/or stamp and sign professional documents including drawings, plans, maps, reports, specifications, and other instruments of service prepared by Professional Engineer or under its direction as required under the laws of the State of New Hampshire.

19. **ASSIGNMENT, TRANSFER, DELEGATION, OR SUBCONTRACTING** Professional Engineer shall not assign, transfer, delegate, or subcontract any rights, obligations, or duties under this contract without the prior written consent of the City of Nashua. Any such assignment, transfer, delegation, or subcontracting without the prior written consent of the City of Nashua is void. Any consent of the City of Nashua to any assignment, transfer, delegation, or subcontracting shall only apply to the incidents expressed and provided for in the written consent and shall not be deemed to be a consent to any subsequent assignment, transfer, delegation, or subcontracting. Any such assignment, transfer, delegation, or subcontract shall require compliance with or shall incorporate all terms and conditions set forth in this agreement, including all incorporated Exhibits and written amendments or modifications. Subject to the foregoing provisions, the contract inures to the benefit of, and is binding upon, the successors and assigns of the parties.
20. **CITY INSPECTION OF CONTRACT MATERIALS** The books, records, documents and accounting procedures and practices of Professional Engineer related to this contract shall be subject to inspection, examination and audit by the City of Nashua, including, but not limited to, the contracting agency, the Board of Public Works, Corporation Counsel, and, if applicable, the Comptroller General of the United States, or any authorized representative of those entities.
21. **DISPOSITION OF CONTRACT MATERIALS** Any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials, including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by or supplied to Professional Engineer in the performance of its obligations under this contract shall be the exclusive property of the City of Nashua and all such materials shall be remitted and delivered, at Professional Engineer's expense, by Professional Engineer to the City of Nashua upon completion, termination, or cancellation of this contract. Alternatively, if the City of Nashua provides its written approval to Professional Engineer, any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by or supplied to Professional Engineer in the performance of its obligations under this contract must be retained by Professional Engineer for a minimum of four years after final payment is made and all other pending matters are closed. If, at any time during the retention period, the City of Nashua, in writing, requests any or all of the materials, then Professional Engineer shall promptly remit and deliver the materials, at Professional Engineer's expense, to the City of Nashua. Professional Engineer shall not use, willingly allow or cause to have such materials used for any purpose other than the performance of Professional Engineer's obligations under this contract without the prior written consent of the City of Nashua.
22. **PUBLIC RECORDS LAW, COPYRIGHTS, AND PATENTS** Professional Engineer expressly agrees that all documents ever submitted, filed, or deposited with the City of Nashua by Professional Engineer (including those remitted to the City of Nashua by Professional Engineer pursuant to paragraph 21), unless designated as confidential by a specific statute of the State of New Hampshire, shall be treated as public records and shall be available for inspection and copying by any person, or any governmental entity.

No books, reports, studies, photographs, negatives or other documents, data, drawings or other materials including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by or supplied to Professional Engineer in the performance of its obligations under this contract shall be the subject of any application for a copyright or patent by or on behalf of Professional Engineer. The City of Nashua shall have the right to reproduce any such materials.

Professional Engineer expressly and indefinitely waives all of its rights to bring, including but not limited to, by way of complaint, interpleader, intervention, or any third party practice, any claims,

demands, suits, actions, judgments, or executions, for damages or any other relief, in any administrative or judicial forum, against the City of Nashua or any of its officers or employees, in either their official or individual capacity of the City of Nashua, for violations of or infringement of the copyright or patent laws of the United States or of any other nation. Professional Engineer agrees to indemnify, to defend, and to hold harmless the City of Nashua, its representatives, and employees from any claim or action seeking to impose liability, costs, and attorney fees incurred as a result of or in connection with any claim, whether rightful or otherwise, that any material prepared by or supplied to Professional Engineer infringes any copyright or that any equipment, material, or process (or any part thereof) specified by Professional Engineer infringes any patent.

Professional Engineer shall have the right, in order to avoid such claims or actions, to substitute at its expense non-infringing materials, concepts, products, or processes, or to modify such infringing materials, concepts, products, or processes so they become non-infringing, or to obtain the necessary licenses to use the infringing materials, concepts, products, or processes, provided that such substituted or modified materials, concepts, products, or processes shall meet all the requirements and be subject to all the terms and conditions of this contract.

23. **FINAL ACCEPTANCE** Upon completion of all work under the contract, Professional Engineer shall notify the City of Nashua in writing of the date of the completion of the work and request confirmation of the completion from the City of Nashua. Upon receipt of the notice, the City of Nashua shall confirm to Professional Engineer in writing that the whole of the work was completed on the date indicated in the notice or provide Professional Engineer with a written list of work not completed. With respect to work listed by the City of Nashua as incomplete, Professional Engineer shall promptly complete the work and the final acceptance procedure shall be repeated. The date of final acceptance of a project by the City of Nashua shall be the date upon which the Board of Public Works or other designated official accepts and approves the notice of completion.
24. **TAXES** Professional Engineer shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work performed under the contract and make any and all payroll deductions required by law. The contract sum and agreed variations to it shall include all taxes imposed by law. Professional Engineer hereby indemnifies and holds harmless the City of Nashua from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.
25. **NON-WAIVER OF TERMS AND CONDITIONS** None of the terms and conditions of this contract shall be considered waived by the City of Nashua. There shall be no waiver of any past or future default, breach, or modification of any of the terms and conditions of the contract unless expressly stipulated to by the City of Nashua in a written waiver.
26. **RIGHTS AND REMEDIES** The duties and obligations imposed by the contract and the rights and remedies available under the contract shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.
27. **PROHIBITED INTERESTS** Professional Engineer shall not allow any officer or employee of the City of Nashua to have any indirect or direct interest in this contract or the proceeds of this contract. Professional Engineer warrants that no officer or employee of the City of Nashua has any direct or indirect interest, whether contractual, noncontractual, financial or otherwise, in this contract or in the business of Professional Engineer. If any such interest comes to the attention of Professional Engineer at any time, a full and complete disclosure of the interest shall be immediately made in writing to the City of Nashua. Professional Engineer also warrants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. Professional Engineer further warrants that no person having such an interest shall

be employed in the performance of this contract. If City of Nashua determines that a conflict exists and was not disclosed to the City of Nashua, it may terminate the contract at will or for cause in accordance with paragraph 8.

In the event Professional Engineer (or any of its officers, partners, principals, or employees acting with its authority) is convicted of a crime involving a public official arising out or in connection with the procurement of work to be done or payments to be made under this contract, City of Nashua may terminate the contract at will or for cause in accordance with paragraph 8. Upon termination, Professional Engineer shall refund to the City of Nashua any profits realized under this contract, and Professional Engineer shall be liable to the City of Nashua for any costs incurred by the City of Nashua in completing the work described in this contract. At the discretion of the City of Nashua, these sanctions shall also be applicable to any such conviction obtained after the expiration or completion of the contract.

Professional Engineer warrants that no gratuities (including, but not limited to, entertainment or gifts) were offered or given by Professional Engineer to any officer or employee of the City of Nashua with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this contract. If City of Nashua determines that such gratuities were or offered or given, it may terminate the contract at will or for cause in accordance with paragraph 8.

The rights and remedies of this section shall in no way be considered for be construed as a waiver of any other rights or remedies available to the City of Nashua under this contract or at law.

28. **THIRD PARTY INTERESTS AND LIABILITIES** The City of Nashua and Professional Engineer, including any of their respective agents or employees, shall not be liable to third parties for any act or omission of the other party. This contract is not intended to create any rights, powers, or interest in any third party and this agreement is entered into for the exclusive benefit of the City of Nashua and Professional Engineer.
29. **SURVIVAL OF RIGHTS AND OBLIGATIONS** The rights and obligations of the parties that by their nature survive termination or completion of this contract shall remain in full force and effect.
30. **SEVERABILITY** In the event that any provision of this contract is rendered invalid or unenforceable by any valid act of Congress or of the New Hampshire legislature or any court of competent jurisdiction, or is found to be in violation of state statutes or regulations, the invalidity or unenforceability of any particular provision of this contract shall not affect any other provision, the contract shall be construed as if such invalid or unenforceable provisions were omitted, and the parties may renegotiate the invalid or unenforceable provisions for sole purpose of rectifying the invalidity or unenforceability.
31. **MODIFICATION OF CONTRACT AND ENTIRE AGREEMENT** This contract constitutes the entire contract between the City of Nashua and Professional Engineer. The parties shall not be bound by or be liable for any statement, representation, promise, inducement, or understanding of any kind or nature not set forth in this contract. No changes, amendments, or modifications of any terms or conditions of the contract shall be valid unless reduced to writing and signed by both parties.
32. **CHOICE OF LAW AND VENUE** This contract shall be governed exclusively by the laws of the State of New Hampshire and any claim or action brought relating to this contract, the work performed or contracted to be performed thereunder, or referable in anyway thereto shall be brought in Hillsborough County (New Hampshire) Superior Court Southern Judicial District or in the New Hampshire 9th Circuit Court—Nashua and not elsewhere

Scope of Work

A. Prepare Preliminary Design Report for Air Handling Units Upgrade

- 1. Preliminary workshop.** ENGINEER shall attend a preliminary workshop with OWNER to review the work plan for the air handling units upgrade project, and solicit input on a wide range of issues including high efficiency air handling technologies, HVAC control alternatives, and ancillary improvements. Brainstorm on options, and identify the preferred alternatives for detailed evaluation.
- 2. Develop base plans.** Engineer shall develop base plans for construction documents using existing drawing information supplemented by detailed field measurements. This will include confirming the dimensions of the existing air handling units and ductwork to address conflicts on several of the existing drawings.
- 3. Prepare Preliminary Plans/Report**
 - a. ENGINEER will review existing documentation, observe existing conditions and establish mechanical system performance requirements. Ventilation, heating and air conditioning requirements throughout the building will be developed, taking into account details pertaining to the building envelope, especially roof insulation. The suitability of reusing existing HVAC equipment based on building envelope improvements, equipment condition and compatibility with proposed HVAC designs will be evaluated further.
 - b. Prepare Preliminary Design documents consisting of final design criteria, preliminary drawings and outline specifications for the selected HVAC equipment (air handling units and compressors), as well as other recommended improvements. Provide summary of all building design and support system improvements.
 - c. Advise OWNER if additional reports, data or other information or services are necessary and assist OWNER in obtaining such reports, data or other information and services.
 - d. Based on the information contained in the Preliminary Design documents, submit to OWNER a Preliminary Construction Cost Estimate.
 - e. Furnish a draft of the Preliminary Design document and review with OWNER.
 - f. Receive OWNER comments and provide written response to all comments to satisfaction of OWNER. Submit final Preliminary Design documents to OWNER for review.
 - g. The final Preliminary Design Report shall be submitted to the OWNER within 30 days of the OWNER's approval to proceed.

B. Final Design for Air Handling Units Upgrade

1. 65% Completion Plans, Contract Documents and Cost Estimates

Based on an agreed upon preliminary design documents for the air handling units upgrade project and appurtenances, ENGINEER shall proceed to develop 65% design plans, specifications, and bidding document. Provide a progress printing with five (5) copies of the preliminary plans and specifications submitted to the OWNER for review and comment. Hold a review meeting to discuss issues requiring OWNER input. The 65% documents shall be submitted to the OWNER for review within 25 days of the OWNER's approval of the final Preliminary Design Report.

2. 90% Completion Plans, Contract Documents and Cost Estimates

Following the review meeting, ENGINEER shall proceed with the 90% design plans, specifications, and bidding documents as well as to prepare an updated estimate of construction cost. Five (5) copies of these plans shall be submitted for review and comment. Five (5) Draft Contract Documents Manuals including all bidding requirements, contract forms, general conditions, Federal Provisions rules, regulations and forms, and specifications will also be submitted to the OWNER. Advise OWNER of any adjustments to the Construction Cost Estimate as a result of changes in scope of the Project.

- a. Meet with OWNER to discuss comments on 90% documents and provide written response to all comments received to the satisfaction of the OWNER.
- b. The 90% documents shall be submitted to the OWNER for review within 25 days after receiving the OWNER's 65% comments.

3. Final Plans, Contract Documents and Cost Estimates

Upon the OWNER's acceptance of the 90% plans and contract documents as adequately completed, the ENGINEER shall proceed with the final, bid-ready design plans, specifications and estimates for construction costs, revised to address the comments from the draft reviews. The submittal shall be ready to be advertised for construction bidding and shall include a schedule for the bidding and construction process within 7 days after receiving the OWNER's final comments.

C. Bidding Phase Services for Air Handling Units Upgrade

1. Assistance in securing construction bids, conducting bid opening, tabulation and analysis of bids, and recommendation regarding award of contract. A copy of the bid analysis will be furnished to the OWNER.
 - a. Make such revisions to the construction Contract Documents as may be necessary to comply with Federal, State or OWNER requirements.
 - b. Assume OWNER to be responsible for advertising for bids for the construction contract in appropriate newspapers and with the usual construction industry bidding information

services.

- c. Print and provide bidding documents to the OWNER for distribution. Assume twenty (20) copies of the Contract Documents and the plans shall be provided. An electronic version of all text, figures and drawings shall also be submitted to OWNER.
- d. Respond to bidders' questions.
- e. Prepare for and attend one pre-bid conference. Notify bidders of the conference.
- f. Prepare any required addenda to the bid documents. Assume 2 addenda.
- g. Attend one bid opening for the construction contract.
- h. Review all bids and prepare bid tabulation.
- i. Review the qualifications of the apparent low bidder(s) and compliance with other contract requirements. Report on the results of the reviews and issue a Recommendation for Award.
- j. The length of the Bidding Phase is assumed to be 28 days.

EXHIBIT C
FEE SCHEDULE

TABLE 1
SUMMARY OF ESTIMATED STAFF EFFORT (HOURS) AND COSTS
NASHUA WASTEWATER TREATMENT FACILITY
AIR HANDLING UNIT UPGRADES DESIGN ENGINEERING SERVICES

Date: 2016 June 28

TASK DESCRIPTIONS Typical Salary Rate	Principal-in-Charge \$85.00	Project Manager \$53.00	Technical Advisor \$50.00	Ld. Project Engineer \$34.00	Project Engineer \$29.00	Sr. Civil Engineer \$43.00	Sr. Architect \$52.60	Sr. Structural Engineer \$53.00	Sr. Mechanical Engineer \$44.50	Mechanical Engineer \$36.08	Sr. Instrument Engineer \$45.00	Sr. Electrical Engineer \$55.12	Sr. Engineering Technician \$28.00	Engineering Technician \$24.00	Admin. Assistant \$19.50	TOTAL HOURS	NON-LABOR	SUBS	DIRECT LABOR COST	TOTAL
A Preliminary Design Report																				
1 Preliminary Workshop				6						8						16	\$200		\$961	\$1,552.77
2 Develop base Plans							16					16	36			68			\$2,730	\$8,047.80
3 Prepare Preliminary Design Report		4		20					16						8	48	\$200		\$1,760	\$5,388.48
B Final Design																0				
1 65% Completion Plans		4		16			16			32		16	40			124	\$200		\$4,752	\$14,210.31
2 90% Completion Plans		2		12			16		12	40		16	40			138	\$200		\$5,333	\$15,922.64
3 Final Plans, CDs and Cost Estimate		2		12			8		12	80		8	48		16	186	\$247		\$6,451	\$19,286.03
C Bidding Phase																				
1 Assistance with Bidding Phase				24												24			\$816	\$2,406.57
TOTAL HOURS	0	12	0	92	0	0	58	0	40	160	0	56	164	0	24	634	\$1,047	\$0	\$22,404	\$67,093.00

TASK 7	Direct Labor	\$22,404
	Indirect Labor	\$37,638
	Non-Labor	\$1,047
	Subcontractor	\$0
	Sub Markup	\$0
	Fixed Fee	\$6,004
	Total Fee	\$67,093.00



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 26, 2016
Memo #17-023

TO: MAYOR DONCHESS
FINANCE COMMITTEE

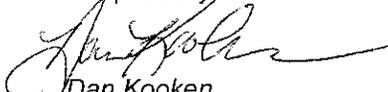
SUBJECT: WATER BOOSTER STATION UPGRADES – STUDY AND EVALUATION PHASE
(VALUE: \$17,500)
DEPARTMENT: 169 WASTEWATER; FUND: WASTEWATER
ACTIVITY: WATER BOOSTER STATION UPGRADES
ACCOUNT CLASSIFICATION: 53 PROFESSIONAL AND TECHNICAL SERVICES

Please see the attached communication from David Simmons, Wastewater Department Superintendent dated July 26, 2016 for the information related to this purchase.

Pursuant to **§ 5-78 Major purchases (greater than \$10,000)** A. All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$10,000 shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting bids.

The Wastewater Department Superintendent, Board of Public Works (July 26, 2016 meeting) and the Purchasing Department recommend the award of this contract in an amount of **\$17,500 to Woodard and Curran of Andover, MA.**

Respectfully,



Dan Kooker
Purchasing Manager

Cc: D Simmons L Fauteux

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: July 26, 2016
From: David A. Simmons, Superintendent
Wastewater Department
Re: Water Booster Station Upgrades – Study and Evaluation Phase

C. Motion: To approve the contract to Woodard & Curran for professional services for a preliminary study and report on needed upgrades to the NWTF potable water booster station in the amount of \$17,500. Funding will be through: Department: 169 - Wastewater; Fund: Wastewater; Activity: Water Booster Station Upgrades, Account Classification 53: Professional and Technical Services.

Attachments: Woodard Curran Scope of Work and Fee.

Discussion: The purpose of the potable water booster station is to increase the pressure and flow rate of potable water entering the plant. It was originally installed in 1988 as part of the secondary upgrades project and consists of 2 underground vaults, one for the water meter and backflow preventer valves and the other consisting of pumps on skid. The water system vaults are at a low point in the water distribution system and are subject to grit accumulation which has caused issues with the back flow preventer valves closing properly.

A request for qualifications (RFQ) was sent to 6 consultants. Two of the consultants expressed an interest in the project and were interviewed. A committee picked Woodard and Curran as the consultant for this project, based on their better experience and familiarity with the NWTF.

The design project will have various phases beginning with the request to fund a preliminary evaluation and study of the booster station. Following the study and evaluation phase the consultant will have determined the optimal method for upgrading the water booster system and will have a better estimate on costs going forward. A separate contract for design phase services will be developed following the study-evaluation phase.

Woodard and Curran has an accelerated schedule for completing the study-evaluation phase in one month. They have completed numerous water upgrades projects at wastewater treatment plants and are well qualified for this work.

**ENGINEERING REPORT PHASE
CONTRACT FOR PROFESSIONAL SERVICES
FOR
TREATMENT WORKS**

CITY OF NASHUA, NEW HAMPSHIRE

This AGREEMENT made and entered into at Hillsborough County, New Hampshire, this _____ of _____ 20____, by and between City of Nashua hereinafter called the OWNER, and Woodard & Curran hereinafter called the ENGINEER.

WITNESSETH:

WHEREAS, the OWNER intends to examine the need, alternatives and cost of constructing Treatment Works including potable water booster station described within the Request for Qualifications titled "Water Booster Station Upgrades Project at NWTF (RFQ0265-060316)" dated May 13, 2016 consist of performing a site study of the potable water needs of the plant to develop an upgrade option for the existing underground valve and pump vault. This includes the potential elimination, relocation or reconfiguration as well as upgrading for integration into the OWNER's Supervisory Control and Data Acquisition (SCADA) system. A preliminary design will be provided based on the site study results. Final design and bid copies will be provided for the upgrade to the potable water booster station generally known as the: Water Booster Station Upgrades Project hereinafter called the PROJECT, and

WHEREAS, professional sanitary engineering services are required to prepare an engineering report, and

WHEREAS, such services are of a distinct professional nature and hence not subject to the bidding process,

NOW THEREFORE, in consideration of these premises and of the mutual covenants herein set forth, the OWNER hereby retains the ENGINEER to furnish the following engineering services in connection with the proposed PROJECT; and it is agreed by and between the OWNER and the ENGINEER as follows:

I. Services to be performed by the ENGINEER

A. The ENGINEER agrees to produce a complete and definitive Engineering Report to meet current division requirements and to perform any and all engineering incidental thereto. The detailed scope of the work is as outlined in the attached Hydraulic Needs Assessment and Evaluation of the Nashua Wastewater Treatment Facility.

~~B. Furnish to the OWNER two (2) copies of information needed for the acquisition of easements, site options for treatment plant and pump stations and route options for interceptor sewers within ___ calendar days after the Engineering Report has been approved by the New Hampshire Department of Environmental Services, Water Division, hereinafter called the DIVISION.~~

C. Furnish two (2) copies of the Engineering Report to the OWNER and two (2) copies to the DIVISION. Additional copies to be available at cost.

D. Prepare applications with supporting and associated documents for Federal, State and other grant or loan programs.

1. Assists the OWNER in securing grants or loans by State, Federal and other grant or loan agencies.

E. Provide the DIVISION with one copy of design calculations, work sheets, field notes, estimates and other data generated in preparing the Engineering Report in a form satisfactory to the DIVISION.

II. The OWNER'S Responsibilities

A. Assist the ENGINEER by placing at his disposal all available information pertinent to the PROJECT, including previous reports and other data relative to the reports.

B. Make provisions for the ENGINEER to enter upon public and private lands, municipal facilities and industrial establishments as required to perform work under this AGREEMENT.

III. Time of Completion

A. The ENGINEER agrees that he will submit to the DIVISION and the OWNER for approval after modification or revision as recommended by the DIVISION and agreed to by the ENGINEER the completed report within 30 consecutive calendar days following the

acceptance of the contract by the OWNER, and deliver same to the OWNER within 30 calendar days following the date of final approval by the DIVISION.

B. It is agreed by the parties to this contract that failure by the ENGINEER to complete the work within the time stipulated under III, A, above may be considered sufficient basis for the debarment of the ENGINEER from the DIVISION'S Roster of Prequalified Engineers as provided for under New Hampshire Code of Administrative Rules Env-Wq 603.08, or the Assessment of liquidated damages as provided for under RSA 485-A: 4, XII.

IV. Compensation to be Paid the ENGINEER

A. Method of Payment - Amount of Fee

1. Payment to the ENGINEER, for services rendered, shall be according to the following schedule:

Monthly billing based on hours and rates by labor category with mark-up and incidental expenses in accordance with the attached fee schedule.

2. The OWNER agrees to pay and the ENGINEER agrees to accept for all services under this AGREEMENT, a fee not to exceed

Site Study

Seventeen Thousand,

Dollars (\$ 17,500),

and the ENGINEER agrees that the work proposed is sufficient to satisfactorily complete the study and that the monies to be paid are adequate. The attached fee schedule with labor category, hours, hourly rate, markup, incidental expenses, and fees for special services, shall be the basis for billing for engineering services.

The ENGINEER agrees that prior to submitting the report to the DIVISION for formal approval he shall make revisions in the report as recommended by the DIVISION and agreed to by the ENGINEER without additional compensation. After formal approval if it becomes necessary to update the report for reasons beyond the control of the ENGINEER, payment for such revision or revisions shall be made to the ENGINEER on a basis to be negotiated with the DIVISION.

V. Additional Covenants

A. The ENGINEER agrees to assign in active charge of this PROJECT for the life of the contract a Project Engineer who is a permanent employee of the ENGINEER and who a "qualified sanitary engineer" is as defined under the DIVISION'S "Rules and Regulations for the Prequalification of Consulting Engineers." The Project Engineer shall be*

Woodard & Curran 41 Hutchins Drive, Portland, ME

* See appended resume describing the candidate's qualifications for the assignment.

Any proposed change in identity of the Project Engineer on the PROJECT shall first be approved by the DIVISION before transfer of responsibility is made. Failure of the ENGINEER to abide by the above covenant is agreed to be sufficient basis for debarment of the ENGINEER from the DIVISION'S Roster of Pre-qualified Consulting Engineers as provided for under New Hampshire Code of Administrative Rules Env-Wq 603.08.

B. The ENGINEER agrees to be solely responsible for all bills or claims for payment for services rendered by others and for all services and materials employed in his work, and to indemnify and save harmless the OWNER, and all of the OWNER'S officers, agents and employees against all suits, claims or liability of every name and nature arising out of or in consequence of the negligent acts or failures to act of the ENGINEER or others employed by him in the performance of the work covered by this AGREEMENT.

C. The ENGINEER further agrees to procure and maintain at his expense such workmen's compensation insurance as is required by the statutes and public liability insurance in amounts adequate to provide reasonable protection from claims for bodily injury, death or property damage which may result from his performance and the performance of his employees under this AGREEMENT.

D. All documents, including original drawings, design calculations, work sheets, field notes, estimates, and other data shall remain the property of the OWNER and shall be transmitted to the OWNER in clean and orderly condition on demand; however, these may be left in the possession of the ENGINEER at the OWNER'S discretion.

E. The ENGINEER shall not sublet, assign or transfer any part of the ENGINEER'S services or obligations

under this AGREEMENT without the prior approval and written consent of the OWNER and the DIVISION, and the contract shall be binding upon and inure to the benefit of the parties, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have affixed their hand and seals at _____ County, New Hampshire, the day, month, and year first above written.

ENGINEER:

By: _____
(Authorized Representative*)

Date: _____

OWNER:

By: _____
(Authorized Representative*)

Date: _____

APPROVED: **

DEPARTMENT OF ENVIRONMENTAL SERVICES
Water Division

By: _____
(Authorized Representative)

Date: _____

* Signatures should be supported by appropriate document.
** It is agreed that as an act in furtherance of its statutory authority to approve engineering agreements for treatment works, the DIVISION'S approval does not impose any contractual obligation or liability on the State of New Hampshire, the Department of Environmental Services or the Division.

COST OR PRICE SUMMARY FORMAT FOR SUBAGREEMENTS UNDER NH SAG & SRF	Form Approved DES 02/06
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PART I - GENERAL	
1. GRANTEE / LOANEE City of Nashua, New Hampshire	2. GRANT/LOAN NO.
3. NAME OF CONTRACTOR OR SUBCONTRACTOR Woodard & Curran, Inc	4. DATE OF PROPOSAL June 28, 2016
5. ADDRESS OF CONTRACTOR OR SUBCONTRACTOR (Include ZIP) 41 Hutchins Drive, Portland, ME 04102	6. TYPE OF SERVICE TO BE FURNISHED Engineering Study

PART II - COST SUMMARY

7. DIRECT LABOR (Specify labor categories)	HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
Project Manager	25	\$57.14	\$1,428.50	
Project Engineer	50	\$36.43	\$1,821.50	
Staff Engineer	40	\$27.00	\$1,080.00	
Resident Inspector				
Draftsman				
Technician				
Clerical	8	\$28.23	\$225.84	
DIRECT LABOR TOTAL:				\$4,555.84
8. INDIRECT COSTS (Specify indirect cost pools)	RATE	X BASE =	ESTIMATED COST	
	2.02	\$4,555.84	\$9,202.77	
INDIRECT COSTS TOTAL:				\$9,202.77
9. OTHER DIRECT COSTS				
a. TRAVEL			ESTIMATED COST	
(1) TRANSPORTATION			\$916.75	
(2) PER DIEM				
TRAVEL COSTS TOTAL:			\$916.75	
b. EQUIPMENT, MATERIALS, SUPPLIES <i>(Specify categories)</i>		QTY	COST	ESTIMATED COST
EQUIPMENT SUBTOTAL:				
c. SUBCONTRACTS			ESTIMATED COST	
SUBCONTRACTS SUBTOTAL:				
d. OTHER <i>(Specify categories)</i>			ESTIMATED COST	
OTHER SUBTOTAL:				
e. OTHER DIRECT COSTS TOTAL:				\$916.75

Via Electronic Mail

June 28, 2016



Mr. William Keating
Project Engineer
Nashua Wastewater Treatment Facility
2 Sawmill Drive
Nashua, NH 03061

Re: Hydraulic Needs Assessment and Evaluation of the Nashua Wastewater Treatment Facility
RFQ0265-060316

Dear Mr. Keating:

Woodard & Curran is pleased to offer the following scope of work to provide the City of Nashua (Client) a Hydraulic Needs Assessment and Evaluation at the Nashua Wastewater Treatment Facility. The Standard Terms and Conditions previously approved by the Client shall become part of this letter Agreement.

Background

The Nashua Wastewater Treatment Facility's potable water booster system is in need of upgrades. The original intent was to demolish the existing infrastructure and design an above ground station. The modifications would ensure the proper operation of back flow preventers, eliminate enclosed space entry requirements and maintain redundancy to the plant's process water system. After discussion with the staff on Monday, June 26th, it appears that critical elements of this project may be achieved with alternative solutions. One option is to provide an interconnection between the potable water and the process water systems and relocate the pumps and back flow preventers into the Control Building if space is available. Further investigation is needed but Woodard & Curran believes this effort will result in a better, long term solution. This Hydraulic Needs Assessment and Evaluation will focus on the plant's potable and process water needs, historical flows, plant piping and footprint availability, which will ultimately better define the design project. By executing this evaluation with Woodard & Curran, the Wastewater Treatment Facility staff will have a current, comprehensive understanding of the needs and the best solutions for this project. All the information collected and hydraulic engineering performed will be incorporated into the next phase.

Scope of Services

Woodard & Curran shall perform the following tasks as part of this project.

1. Hold a Project Kickoff Meeting and perform a site walkthrough with the City to gain a comprehensive understanding of the hydraulic needs and existing conditions of the potable water supply to the plant. Discuss parameters such as:
 - a. Existing condition of potable feed water main and valving.
 - b. Current potable water uses throughout the plant.
 - c. Backup use of the potable water line for plant processing.
 - d. Potable water flow data and fire protection needs.
2. Collect and review water data and background information for the project including but not limited to:



- a. Potable water booster pumping station data including average and maximum daily demands.
 - b. Potable water pressure and flow requirements including fire demands.
 - c. Potable water piping configuration.
 - d. Potable water backflow requirements.
 - e. Available pressure and grade line delivered by the City's potable water system upstream of the existing booster pump station.
 - f. WWTP process flow requirements.
3. Coordinate with the City to perform one day of hydrant flow testing. Perform research on needed fire flow for the facility.
 4. Based on the information collected and reviewed under Tasks 1, 2 and 3, Woodard & Curran will evaluate the potable water system for the WWTF and identify critical needs. Recommended improvements will be presented and discussed with the City.
 5. A summary of our evaluation, as well as findings and recommendations will be presented in a Draft Technical Memorandum and submitted to the City for review and comment. We will meet to discuss any comments and incorporate revisions into the final version.

Assumptions:

The City will provide existing information required to perform a hydraulic needs assessment and evaluation.

COMPENSATION

The Scope of Services will be completed for a total price of \$17,500 billed as a lump sum amount. This budget will not be exceeded without prior written authorization by the Client.

SCHEDULE

Woodard & Curran will complete the work within 4 weeks of a notice to proceed.

**Nashua Wastewater Treatment Facility - Water Booster Station Upgrades Project- Site Study
Woodard & Curran**

Phase	DES Phase Description	Principal in Charge	Client Manager	Project Manager	Lead Project Engineer	Project Engineer	St. Technical Advisor	St. Area Manager	Senior Engineer S-CADA	Staff Engineer SCADA	Senior Engineer Electrical	Staff Engineer Electrical	Staff Engineer Process	Senior Engineer Structural	Staff Engineer Structural	St. Cost Estimator	Designer	Senior Planner	Technical Specialist	Project Assistant	Total Hours per Phase	Total Cost per Phase	Expense	Subs	
001	Project Management	0	0	20	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	8	28	\$1,143	\$0	\$0
002	Project Kick off and Site Visits	0	0	0	0	10	0	0	0	0	0	0	8	0	0	0	0	0	0	0	0	18	\$942	\$917	\$0
003	Collect and Review Data	0	0	0	0	10	0	0	0	0	0	0	8	0	0	0	0	0	0	0	0	18	\$942	\$0	\$0
004	Evaluation of Data from Site Visits	0	0	0	0	10	0	0	0	0	0	0	8	0	0	0	0	0	0	0	0	18	\$942	\$0	\$0
005	Technical Advisory Team Review	0	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	\$286	\$0	\$0
006	Presentation of Findings	0	0	0	0	10	0	0	0	0	0	0	8	0	0	0	0	0	0	0	0	18	\$942	\$0	\$0
007	Delivery of Draft Report	0	0	0	0	10	0	0	0	0	0	0	8	0	0	0	0	0	0	0	0	18	\$942	\$0	\$0
Total Hours per Category		0	0	25	0	50	0	0	0	0	0	0	40	0	0	0	0	0	0	0	8	123			
Rates		\$65	\$57	\$57	\$47	\$36	\$62	\$59	\$50	\$32	\$57	\$41	\$27	\$57	\$41	\$42	\$35	\$47	\$45	\$28					
Total Cost per Category		\$0	\$0	\$1,429	\$0	\$1,822	\$0	\$0	\$0	\$0	\$0	\$0	\$1,080	\$0	\$0	\$0	\$0	\$0	\$0	\$224		\$4,554	\$917	\$0	

Direct Labor Total	\$4,554
Indirect Costs @ 2.02	\$9,203
Subtotal Labor + Indirect	\$13,757
Profit	\$2,825
Total Labor and Profit	\$16,581

Subconsultants	\$0
Expenses	
Travel	\$917
Shipping	\$0
Supplies	\$0
Reproduction	\$0
Total Expenses and Subconsultants	\$917

Total Contract Price	\$17,500
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RACHEL GILBERT, PE

PROJECT MANAGER

Professional Profile

Rachel is a Project Manager and Professional Engineer with over 15 years of experience in water, environmental and civil engineering. She has worked on a wide range of projects for both municipalities and private clients, including water treatment, water distribution, water supply, water planning, wastewater planning, stormwater management, and site design.

Related Experience

City of Lawrence, MA – Water Infrastructure Improvements. Project Manager for the design and construction administration of improvements at the Lawrence Water Treatment Facility. The work includes security and SCADA upgrades, a partial enclosure for the clarifiers, a redundant compressor and blower system, new raw and finished water pumps, roofing, a mixing system in the 10 MG Low Service Reservoir and upgrades at remote sites throughout the City. Project is funded through the SRF Program. Responsibilities include managing project tasks for multiple engineering disciplines and overseeing the scope, schedule, and budget.

City of Lawrence, MA – Raw Water Pumping Station Evaluation. Project involves evaluating four raw water pumps to determine needed repairs and upgrades. Responsibilities include coordinating onsite inspections, meetings and preparing a report with costs for the City.

City of Marlborough, MA – Millham Water Treatment Plant Upgrades. Project Manager for the design and construction of upgrades at the Millham Water Treatment Plant to comply with EPA Long Term 2 regulations. Improvements include a new UV disinfection system, changes in the chemical feed systems, filter media replacement, new sump pumps, as well as upgrades to the filter, spent backwash system, finish water pumps, clarifier blowers, HVAC system, instrumentation and SCADA, electrical system and security. Responsibilities include managing all aspects of design and construction.

Town of North Andover, MA – Demolition of the North Pump Station. Project Manager for the design, bid and construction oversight to demolish an abandoned pump station. Responsibilities include managing all aspects of design and construction.

Lowell Regional Water Utility, MA – Finish Water Pump Replacement. Project involved a continued effort in repairing one of the finish water pumps and VFD after the initial startup and warranty period. Responsibilities include managing the general contractor and subcontractors and coordinating with the client.

Lowell Regional Water Utility, MA – Raw Water Intake Stratification Study. Project involves performing quarterly sampling for one year at the Raw Water Intake to determine optimal intake location based on water quality in the Merrimack River at varying levels. Responsibilities include developing a standard operating procedure for sampling, managing the field efforts for one year and preparing and presenting the final report and recommendations.

Education

Bachelors, Civil Engineering,
Merrimack College

Registrations

Professional Engineer - MA, 46263

Professional Associations

American Water Works Association
New England Water Works Association



Lowell Regional Water Utility, MA – Replacement of Tenth Street Storage Tank Contract. Project involves performing a tank siting study to determine potential water storage tank sites in the City of Lowell, designing a replacement storage tank for the Tenth Street Standpipe and providing bidding and construction phase engineering services. Project is funded through the SRF and ARRA programs. Responsibilities include performing a Tank Siting Study summary report, preparing plans and specifications for bidding, administering bidding and award process, overseeing construction, and managing scope, schedule and budget.

Lowell Regional Water Utility, MA – Water System Improvements Contract. Project involves chemical feed system upgrades, security system improvements, SCADA additions, installation of clearwell baffles, installation of new roof and drain- age system, various site improvements and a new booster pumping station. Clear well remained online when the baffles were installed by divers. Responsibilities include preparing plans and specifications for bidding; construction administration and oversight and client and contractor correspondence and coordination.

Lowell Regional Water Utility, MA – Water Treatment Facility Residuals Lagoons Cleanout. Project involves designing and construction administration of a residuals removal contract. Responsibilities include preparing plans and specifications for bidding; construction administration and oversight and client and contractor correspondence and coordination.

Lowell Regional Water Utility, MA – Electrical Evaluation. Project involves evaluating the power distribution at the water treatment facility and installing power monitors to monitor incoming power from the utility company. Responsibilities include managing the scope, schedule and budget as well as client correspondence and coordination.

City of Marlborough, MA – Millham Water Treatment Facility Long Term 2 Compliance. Project involves evaluating options for LT2 compliance at the Millham Water Treatment Facility including monitoring combined filter effluent, installing additional filtration systems, installing a UV disinfection system and installing a chlorine dioxide system. Responsibilities include preliminary design of a chlorine dioxide system with schematic plans and construction cost estimates with a summary report.

Town of Westford, MA – Perchlorate Removal System Media Replacement. Project involves developing technical specifications to replace resin from two of the plant's four perchlorate removal vessels. Responsibilities include evaluating the existing piping configuration and original O&M information, communicating with resin manufacturers, preparing specifications for bidding; construction administration and oversight and client and contractor correspondence and coordination.

Town of Millis, MA – Rehabilitation of Farm Street Standpipe. Project includes design, bid and construction oversight to rehabilitate a 940,000-gallon steel tank. Work involved abrasive blasting, interior and exterior coating, vent modifications and installation of a hydrodynamic mixing system. Responsibilities include managing all aspects of design and construction.

Town of Ashland, MA – Cedar Street Standpipe Mixing System. Project involves installing a hydrodynamic mixing system in an existing 2.5-million-gallon standpipe storage tank. Responsibilities include preparing plans and specifications for bidding; construction administration and oversight and client and contractor correspondence and coordination.

City of Lawrence, MA– Water Treatment Facility Security System. Project involves the design and construction administration of a new security system at the Water Treatment Facility with video surveillance and software. Project is funded through the SRF Program. Responsibilities include managing project tasks and overseeing the scope, schedule, and budget.

City of Lawrence, MA– Water Treatment Plant Photovoltaic System Installation. Project involves the design and construction administration of a 300kW photovoltaic system at the Water Treatment Facility. Project is funded through the SRF Program. Responsibilities include managing project tasks and overseeing the scope, schedule, and budget.

City of Lawrence, MA– Residential Water Meter Replacement Program. Project involves the design and construction administration of an 8,000 water meter replacement program throughout the City. The contract is the final phase to replace all City water meters and connect to the new Fixed Network Meter Reading System. Project is funded through the SRF Program. Responsibilities include managing project tasks and overseeing the scope, schedule, and budget.

City of Lowell, MA– Residential Water Meter Replacement Program. Project involves the design and construction administration of a 26,000 small diameter water meter replacement program through- out the City. The contract is the final phase to replace all City water meters and connect to the new Fixed Network Meter Reading System. Project is funded through the SRF Program. Responsibilities include managing project tasks and overseeing the scope, schedule, and budget.

**ENGINEERING REPORT PHASE
CONTRACT FOR PROFESSIONAL SERVICES
FOR
TREATMENT WORKS**

CITY OF NASHUA, NEW HAMPSHIRE

This AGREEMENT made and entered into at Hillsborough County, New Hampshire, this _____ day of _____

WITNESSETH:

WHEREAS, the OWNER intends to examine the need, alternatives and cost of constructing Treatment Works including potable water booster station described within the Request for Qualifications titled "Water Booster Station Upgrades Project at NWTf (RFQ0265-060316) dated May 13, 2016 consist of performing a site study of the potable water needs of the plant to develop an upgrade option for the existing underground valve and pump vault. This includes the potential elimination, relocation or reconfiguration as well as upgrading for integration into the OWNER's Supervisory Control and Data Acquisition (SCADA) system. A preliminary design will be provided based on the site study results. Final design and bid copies will be provided for the upgrade to the potable water booster station generally known as the: Water Booster Station Upgrades Project hereinafter called the PROJECT, and

WHEREAS, professional sanitary engineering services are required to prepare an engineering report, and

WHEREAS, such services are of a distinct professional nature and hence not subject to the bidding process,

NOW THEREFORE, in consideration of these premises and of the mutual covenants herein set forth, the OWNER hereby retains the ENGINEER to furnish the following engineering services in connection with the proposed PROJECT; and it is agreed by and between the OWNER and the ENGINEER as follows:

I. Services to be performed by the ENGINEER

A. The ENGINEER agrees to produce a complete and definitive Engineering Report to meet current division requirements and to perform any and all engineering incidental thereto. The detailed scope of the work is as outlined in the attached Hydraulic Needs Assessment and Evaluation of the Nashua Wastewater Treatment Facility.

~~B. Furnish to the OWNER two (2) copies of information needed for the acquisition of easements, site options for treatment plant and pump stations and route options for interceptor sewers within _____ calendar days after the Engineering Report has been approved by the New Hampshire Department of Environmental Services, Water Division, hereinafter called the DIVISION.~~

C. Furnish two (2) copies of the Engineering Report to the OWNER and two (2) copies to the DIVISION. Additional copies to be available at cost.

D. Prepare applications with supporting and associated documents for Federal, State and other grant or loan programs.

1. Assists the OWNER in securing grants or loans by State, Federal and other grant or loan agencies.

E. Provide the DIVISION with one copy of design calculations, work sheets, field notes, estimates and other data generated in preparing the Engineering Report in a form satisfactory to the DIVISION.

II. The OWNER'S Responsibilities

A. Assist the ENGINEER by placing at his disposal all available information pertinent to the PROJECT, including previous reports and other data relative to the reports.

B. Make provisions for the ENGINEER to enter upon public and private lands, municipal facilities and industrial establishments as required to perform work under this AGREEMENT.

III. Time of Completion

A. The ENGINEER agrees that he will submit to the DIVISION and the OWNER for approval after modification or revision as recommended by the DIVISION and agreed to by the ENGINEER the completed report within 30 consecutive calendar days following the acceptance of the contract by the OWNER, and deliver same to the OWNER within 30

calendar days following the date of final approval by the DIVISION.

B. It is agreed by the parties to this contract that failure by the ENGINEER to complete the work within the time stipulated under III, A, above may be considered sufficient basis for the debarment of the ENGINEER from the DIVISION'S Roster of Pre-qualified Engineers as provided for under New Hampshire Code of Administrative Rules Env-Wq 603.08, or the Assessment of liquidated damages as provided for under RSA 485-A: 4, XII.

IV. Compensation to be Paid the ENGINEER

A. Method of Payment - Amount of Fee

1. Payment to the ENGINEER, for services rendered, shall be according to the following schedule:

Monthly billing based on hours and rates by labor category with mark-up and incidental expenses in accordance with the attached fee schedule.

2. The OWNER agrees to pay and the ENGINEER agrees to accept for all services under this AGREEMENT, a fee not to exceed

Site Study

Seventeen Thousand, Five Hundred

Dollars (\$ 17,500),

and the ENGINEER agrees that the work proposed is sufficient to satisfactorily complete the study and that the monies to be paid are adequate. The attached fee schedule with labor category, hours, hourly rate, markup, incidental expenses, and fees for special services, shall be the basis for billing for engineering services.

The ENGINEER agrees that prior to submitting the report to the DIVISION for formal approval he shall make revisions in the report as recommended by the DIVISION and agreed to by the ENGINEER without additional compensation. After formal approval if it becomes necessary to update the report for reasons beyond the control of the ENGINEER, payment for such revision or revisions shall be made to the ENGINEER on a basis to be negotiated with the DIVISION.

V. Additional Covenants

- A. The ENGINEER agrees to assign in active charge of this PROJECT for the life of the contract a Project Engineer who is a permanent employee of the ENGINEER and who a "qualified sanitary engineer" is as defined under the DIVISION'S "Rules and Regulations for the Prequalification of Consulting Engineers." The Project Engineer shall be*

Woodard & Curran 41 Hutchins Drive, Portland, ME

* *See appended resume describing the candidate's qualifications for the assignment.*

Any proposed change in identity of the Project Engineer on the PROJECT shall first be approved by the DIVISION before transfer of responsibility is made. Failure of the ENGINEER to abide by the above covenant is agreed to be sufficient basis for debarment of the ENGINEER from the DIVISION'S Roster of Prequalified Consulting Engineers as provided for under New Hampshire Code of Administrative Rules Env-Wq 603.08.

B. The ENGINEER agrees to be solely responsible for all bills or claims for payment for services rendered by others and for all services and materials employed in his work, and to indemnify and save harmless the OWNER, and all of the OWNER'S officers, agents and employees against all suits, claims or liability of every name and nature arising out of or in consequence of the negligent acts or failures to act of the ENGINEER or others employed by him in the performance of the work covered by this AGREEMENT.

C. The ENGINEER further agrees to procure and maintain at his expense such workmen's compensation insurance as is required by the statutes and public liability insurance in amounts adequate to provide reasonable protection from claims for bodily injury, death or property damage which may result from his performance and the performance of his employees under this AGREEMENT.

D. All documents, including original drawings, design calculations, work sheets, field notes, estimates, and other data shall remain the property of the OWNER and shall be transmitted to the OWNER in clean and orderly condition on demand; however, these may be left in the possession of the ENGINEER at the OWNER'S discretion.

E. The ENGINEER shall not sublet, assign or transfer any part of the ENGINEER'S services or obligations under this AGREEMENT without the prior approval and written consent of the OWNER and the DIVISION, and the contract shall be binding upon and inure to the benefit of the parties, their successors and assigns.

F. This AGREEMENT shall be governed exclusively by the laws of the State of New Hampshire and any claim or action brought relating to this contract, the work performed or contracted to be performed thereunder, or referable in anyway thereto shall be brought in Hillsborough County (New Hampshire) Superior Court Southern Judicial District or in the New Hampshire 9th Circuit Court—Nashua and not elsewhere.

V. Insurance

A. ENGINEER shall carry and maintain in effect during the performance of services under this contract: Professional Liability in the amount of \$1,000,000; General Liability insurance in the amount of \$1,000,000 per occurrence; \$2,000,000 aggregate; Combined Single Limit Automobile Liability in the amount of \$1,000,000 (Coverage must include all owned, non-owned and hired vehicles.) and Workers' Compensation Coverage in compliance with the State of New Hampshire Statutes \$100,000/\$500,000/\$100,000. ENGINEER shall maintain in effect at all times during the performance under this contract all specified insurance coverage with insurers. None of the requirements as to types and limits to be maintained by ENGINEER are intended to and shall not in any manner limit or qualify the liabilities and obligation assumed by ENGINEER under this AGREEMENT. The OWNER shall not maintain any insurance on behalf of ENGINEER. Subcontractors are subject to the same insurance requirements as ENGINEER and it shall be the ENGINEER responsibility to ensure compliance of this requirement.

B. ENGINEER will provide the OWNER with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within ten calendar days after the OWNER issues the notice of award. The certificates and endorsements for each insurance policy must be signed by a person authorized by the insurer and who is licensed by the State of New Hampshire. General Liability and Auto Liability policies must name the OWNER as an additional insured and reflect on the certificate of insurance.

C. ENGINEER is responsible for filing updated certificates of insurance with the City of Nashua's Risk Management Department during the life of the contract. The OWNER requires thirty days written notice of cancellation or material change in coverage

- All deductibles and self-insured retentions shall be fully disclosed in the certificate(s) of insurance;
- If aggregate limits of less than \$2,000,000 are imposed on bodily injury and property damage, ENGINEER must maintain umbrella liability insurance of at least \$1,000,000. All aggregates must be fully disclosed on the required certificate of insurance;
- The specified insurance requirements do not relieve ENGINEER of its responsibilities or limit the amount of its liability to the OWNER or other persons, and ENGINEER is encouraged to purchase such additional insurance, as it deems necessary;
- The insurance provided herein is primary, and no insurance held or owned by the OWNER shall be called upon to contribute to a loss;
- ENGINEER is responsible for and required to remedy all damage or loss to any property, including property of the OWNER, caused in whole or part by ENGINEER or anyone employed, directed, or supervised by ENGINEER.

A. Regardless of any coverage provided by any insurance, ENGINEER agrees to indemnify and hold harmless the OWNER, its agents, officials, employees and authorized representatives and their employees from and against any and all suits, causes of action, legal or administrative proceedings, arbitrations, claims, demands, damages, liabilities, interest, attorney's fees, costs and expenses of any kind or nature in any manner caused, occasioned, or contributed to in whole or in part by reason of any negligent act, omission, or fault or willful misconduct, whether active or passive, of ENGINEER or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract. ENGINEER's indemnity and hold harmless obligations, or portions thereof, shall not apply to liability caused by the sole negligence or willful misconduct of the party indemnified or held harmless.

IN WITNESS WHEREOF, the parties hereto have affixed their hand and seals at _____ County, New Hampshire, the day, month, and year first above written.

ENGINEER:

 By: _____
 (Authorized Representative*)
 Date: _____

OWNER:

 By: _____
 (Authorized Representative*)
 Date: _____

APPROVED: **

DEPARTMENT OF ENVIRONMENTAL SERVICES
 Water Division
 By: _____
 (Authorized Representative)
 Date: _____

* Signatures should be supported by appropriate document.
 ** It is agreed that as an act in furtherance of its statutory authority to approve engineering agreements for treatment works, the DIVISION's approval does not impose any contractual obligation or liability on the State of New Hampshire, the Department of Environmental Services or the Division.

COST OR PRICE SUMMARY FORMAT FOR SUBAGREEMENTS UNDER NH SAG & SRF	Form Approved DES 02/06
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PART I - GENERAL	
1. GRANTEE / LOANEE City of Nashua, New Hampshire	2. GRANT/LOAN NO.
3. NAME OF CONTRACTOR OR SUBCONTRACTOR Woodard & Curran, Inc	4. DATE OF PROPOSAL June 28, 2016
5. ADDRESS OF CONTRACTOR OR SUBCONTRACTOR (Include ZIP) 41 Hutchins Drive, Portland, ME 04102	6. TYPE OF SERVICE TO BE FURNISHED Engineering Study

PART II - COST SUMMARY

7. DIRECT LABOR (Specify labor categories)	HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
Project Manager	25	\$57.14	\$1,428.50	
Project Engineer	50	\$36.43	\$1,821.50	
Staff Engineer	40	\$27.00	\$1,080.00	
Resident Inspector				
Draftsman				
Technician				
Clerical	8	\$28.23	\$225.84	
DIRECT LABOR TOTAL:				\$4,555.84
8. INDIRECT COSTS (Specify indirect cost pools)	RATE	X BASE =	ESTIMATED COST	
	2.02	\$4,555.84	\$9,202.77	
INDIRECT COSTS TOTAL:				\$9,202.77
9. OTHER DIRECT COSTS				
a. TRAVEL			ESTIMATED COST	
(1) TRANSPORTATION			\$916.75	
(2) PER DIEM				
TRAVEL COSTS TOTAL:			\$916.75	
b. EQUIPMENT, MATERIALS, SUPPLIES <i>(Specify categories)</i>			ESTIMATED COST	
	QTY	COST		
EQUIPMENT SUBTOTAL:				
c. SUBCONTRACTS			ESTIMATED COST	
SUBCONTRACTS SUBTOTAL:				
d. OTHER <i>(Specify categories)</i>			ESTIMATED COST	
OTHER SUBTOTAL:				
e. OTHER DIRECT COSTS TOTAL:				\$916.75
10. TOTAL ESTIMATED COST				\$14,675.36



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 26, 2016
Memo #17-024

TO: MAYOR DONCHESS
FINANCE COMMITTEE

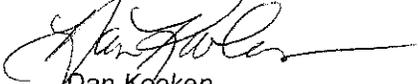
SUBJECT: FY17 ENGINEERING SERVICES - LANDFILL (VALUE: NOT TO EXCEED \$80,000)
DEPARTMENT: 168 SOLID WASTE; FUND: SOLID WASTE
ACCOUNT CLASSIFICATION: 53 PROFESSIONAL AND TECHNICAL SERVICES

Please see the attached communication from Jeff Lafleur, Solid Waste Department Superintendent dated July 26, 2016 for the information related to this purchase.

Pursuant to **§ 5-84 Special purchase procedures A. (5)** Purchases from a sole manufacturer where it is determined to be more efficient and economical to reduce costs of maintenance of additional repair parts, supplies or services.

The Solid Waste Department Superintendent, Environmental Engineer, Board of Public Works (July 26, 2016 meeting) and the Purchasing Department recommend the award of this contract in an amount not to exceed **\$80,000 to Sanborn Head and Associates of Concord, NH.**

Respectfully,



Dan Kookan
Purchasing Manager

Cc: J Lafleur L Fauteux

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: July 26, 2016

From: Jeff Lafleur, Superintendent
Solid Waste Department

Re: Landfill Engineering Services

A. Motion: To approve Sanborn Head and Associates of Concord, NH to perform engineering services at the City's landfills for FY17 not to exceed \$80,000. Funding will be through: Department: 168 Solid Waste; Fund: Solid Waste; Account Classification: 53 Professional and Technical Services.

Attachments: Sanborn Head and Associates proposed scope of services

Discussion: Sanborn Head and Associates (SHA) is the City's primary engineering consultant for landfill and solid waste related issues, including landfill gas management, design and construction; groundwater, air and solid waste permitting; capacity analyses; regulatory representation; and general landfill operations. They review and prepare documents required by the City's Title V air emission permit. They also prepare the annual Greenhouse Gas Emissions report that is required by the USEPA.

The City also utilizes SHAs Landfill Gas Management Suite (LFGMS) software program to assist us with monitoring, managing, operating the landfill gas collection and control system at the Four Hills Landfill. The data collected in LFGMS is included in tri-annual monitoring reports submitted to NHDES and is required by the Standard Operating Procedures/Enhanced Monitoring Procedures Plan approved by NHDES.

As such, they have a thorough understanding of the issues and requirements of the Four Hills facility and other closed City landfills, and provide consistent, high quality engineering and consulting services to the department in a timely manner. They have demonstrated superior abilities relative to regulatory reporting, permitting, design and construction oversight. Therefore, they are considered a sole source for these services.

Sanborn Head has provided the required certificate of insurance to accomplish these services.

The Solid Waste Superintendent and the Environmental Engineer recommend awarding Sanborn Head and Associates of Concord, NH the contract for these services.



Mr. Jeff Lafleur
Superintendent
Nashua Division of Public Works, Solid Waste Department
840 West Hollis Street
Nashua, NH 03062

July 15, 2016
File No. 3066.06
Sent via email

Re: Scope of Engineering Services – Fiscal Year 2017
City of Nashua Four Hills Landfill
Nashua, New Hampshire

Dear Jeff:

Sanborn, Head & Associates, Inc. (Sanborn Head) appreciates the opportunity to provide this scope of engineering services to the City of Nashua (City) relative to the active Four Hills Landfill during fiscal year (FY) 2017. The scope of services presented herein is based on communication with the City regarding services needed during FY 2017 as well as typical services provided by Sanborn Head over the past few years.

SCOPE OF ENGINEERING SERVICES

Task 1 Air Permit/Emissions Reporting and Related Services

During fiscal year 2017, Sanborn Head will provide the City with the following air-related services for the Four Hills Landfill:

- Review the semi-annual and annual air permit compliance reports prepared by the City or EPP Renewable Energy, LLC, if requested by the City;
- Provide support for compliance with the City's EMP/SOP;
- Provide support for compliance with the City's Title V Operating Permit;
- Prepare the annual Non-Methane Organic Compound report;
- Prepare the annual emissions inventory for landfill fugitives and the emergency generator;
- Prepare the federal greenhouse gas report; and
- Provide regulatory compliance support.

Task 2 Groundwater Reporting

We anticipate that Sanborn Head will assist the City with the following groundwater reporting services in FY 2017 for the Four Hills Landfill.

- Review the field groundwater sampling and laboratory analytical data collected and analyzed by others for the Four Hills Landfill (April and November 2016) and updating corresponding analytical tables;

- Address comments from the NHDES related to the 2015 Annual Report for the Four Hills Landfill; and
- Prepare the 2016 Annual Report for the Four Hills Landfill to be submitted to the NHDES in January 2017, as required in the June 15, 2016 Groundwater Management Permit (GWP-198403099-N-005).

Task 3 Annual Waste Capacity Evaluation

Landfills are dynamic and should be surveyed on a regular basis. An annual topographic survey can be used to calculate the in-place density of the waste mass and identify areas of the landfill that are not being filled as intended. The survey also provides documentation of significant changes to the overall site and can be used to evaluate waste settlement over time.

For this task, Sanborn Head will perform a waste capacity comparison for Phases I and II of the Landfill during FY 2017. We understand that the City will retain a licensed surveyor to prepare a topographic survey the Phases I and II. Our evaluation will include the following:

- Developing engineering drawings that compare the existing landfill topography (as provided to us in a recent topographic survey) to the currently permitted final landfill grades;
- Estimating the remaining disposal capacity (airspace) in terms of cubic yards; and
- Calculating the remaining life of the permitted landfill capacity based on the City's waste projections.

To accomplish the above, Sanborn Head assumes that the City will provide AutoCAD formatted drawings of the site topography, and that the City will provide recent waste receipts for Phases I and II.

Sanborn Head will transmit the results of our evaluation in a letter addressed to the City.

Task 4 Annual Financial Assurance Update

The NHDES Rules require landfill owners to submit financial assurance updates to NHDES every third calendar year in order to demonstrate that financial assurance for closure and long term monitoring and maintenance (LTMM) is provided for the Landfill (Env-Sw 1400). During the years in which a submittal to NHDES is not required, an updated closure cost estimate is required to be prepared and kept for the facility's records. We understand that the City last submitted an update to NHDES in May 2015, therefore the next submittal to NHDES will be required in May 2018. The update during FY 2017, to be prepared in May 2017, will be solely for the City's records.

This financial assurance demonstration includes preparation of opinions of closure and post-closure cost for the currently permitted areas (Phases I and II) and calculations to demonstrate that the City is setting aside sufficient funds for future closure and post-closure needs.

Sanborn Head will prepare the required opinions of cost using the required NHDES forms based on the permitted closure plan, currently available average unit costs for similar projects, current costs for monitoring services, published construction cost estimating guides, and our engineering judgment. We will estimate the remaining life of Phases I and II based on the latest survey update, and prepare sinking fund calculations using account balances provided to us, actual waste tonnage received at the Landfill, and the projected waste tonnage for the remaining estimated life of Phases I and II. The calculations will demonstrate that the balances for the closure and LTMM accounts are consistent with what was projected or provide amounts per ton that should be set aside going forward to provide sufficient funds at the expected date of closure.

Sanborn Head will prepare a letter addressed to the City that documents our evaluation, which will include NHDES Cost Estimate Forms for landfill closure and post-closure care, and sinking fund calculations.

Task 5 GCCS Related Services

Sanborn Head submitted a proposal to the City on April 21, 2016 for "Additional GCCS Related Services" as requested by the City. Subsequently, a purchase order was issued by the City for this work on July 13, 2016 (P.O. #127711). The scope of work under that agreement included the following:

- Preparation of an assessment of the Phases I and II Gas Collection & Control System (GCCS);
- Preparation of a conceptual design for a vertical landfill gas (LFG) well dewatering system;
- Preparation of construction documents for the next GCCS expansion in Phase II, Stage II; and
- Providing bid and construction phase services for the GCCS expansion in Phase II, Stage II.

As stated above, these services will be provided under a separate purchase order (P.O. #127711). Notwithstanding the separate GCCS project, this time and expense task will allow Sanborn Head to assist the City with GCCS related matters in FY 2017.

Task 6 General Engineering Services

Sanborn Head's services under this task will be performed at the City's request and involve routine matters of limited scope, such as attending meetings with regulators and providing design, operation, or air consultation relative the Landfill.

BUDGET ESTIMATE AND BASIS OF BILLINGS

The total estimated budget for this proposal is \$80,000 as itemized below:

Task	Task Description	Estimated Budget
1	Air Permit/Emissions Reporting and Related Services	\$27,000
2	Groundwater Reporting	\$13,500
3	Annual Waste Capacity Evaluation	\$4,500
4	Annual Financial Assurance Update	\$6,500
5	GCCS Related Services	\$10,500
6	General Engineering Services	\$18,000

We will invoice for our services based on actual accrued time and expenses in accordance with the enclosed Schedule of Fees. We will not perform services beyond those defined herein without first receiving written authorization from the City.

SCHEDULE

Sanborn Head is available to begin working on this project following written authorization to proceed from the City.

TERMS OF ENGAGEMENT

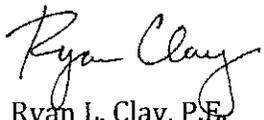
The terms of engagement are described in our Agreement with the City of Nashua, New Hampshire dated July 21, 2011.

ACCEPTANCE

We understand that acceptance of this proposal will be provided in a City issued Purchase Order to Sanborn Head for these services.

Thank you for the opportunity to submit this scope of services. We look forward to working with you during FY 2017. Please contact us should you require additional information.

Very truly yours,
SANBORN, HEAD & ASSOCIATES, INC.


Ryan L. Clay, P.E.
Senior Project Engineer


Eric S. Steinhauser, P.E., CPESC, CPSWQ
Senior Project Director

RLC/HHL/ESS:rlc

Enclosed: Schedule of Fees

**SANBORN, HEAD & ASSOCIATES, INC.
2016 Schedule of Fees
City of Nashua, New Hampshire**

Senior Vice President	\$198
Vice President	\$188
Project Director	\$177
Senior Project Manager	\$151
Project Manager	\$141
Senior Engineer/Geologist	\$123
Project Engineer/Geologist	\$115
Engineer/Geologist	\$105
Supervising Technician	\$94
Senior Engineering Technician	\$85
Engineering Technician	\$79
Support Staff	\$68
Subcontractors and Outside Services	Cost plus 10%
Other Direct Expenses	Cost plus 10%

Hourly rates will be charged for time worked on the project and for the time required for travel between the office and the meeting or project site. Local travel will be at IRS allowed rates.

Overtime hours will be charged using the hourly rates listed above.

Hourly rates for expert witness testimony, including preparation time, and other special services such as corporate acquisition due diligence studies that generally require a dedicated commitment of senior staff, will be provided upon request.

Sanborn, Head & Associates, Inc. reserves the right to revise this Schedule of Fees annually.



CONTRACT FOR PROFESSIONAL SERVICES

**FY17 ENGINEERING SERVICES
FOR
FOUR HILLS LANDFILL**

A CONTRACT BETWEEN

THE CITY OF NASHUA, 229 MAIN STREET, NASHUA, NH 03061-2019

AND

**SANBORN HEAD, HEAD & ASSOCIATES
and its successors, transferees and assignees (together "Professional Engineer")**

NAME AND TITLE OF PROFESSIONAL ENGINEER

**20 FOUNDRY STREET
CONCORD, NH 03301**

ADDRESS OF PROFESSIONAL ENGINEER

WHEREAS, the City of Nashua, a political subdivision of the State of New Hampshire, from time to time requires the services of a Professional Engineer ; and

WHEREAS, it is deemed that the services of a Professional Engineer herein specified are both necessary and desirable and in the best interests of the City of Nashua; and

WHEREAS, Professional Engineer represents they are duly qualified, equipped, staffed, ready, willing and able to perform and render the services hereinafter described;

NOW, THEREFORE, in consideration of the agreements herein made, the parties mutually agree as follows:

1. DOCUMENTS INCORPORATED. The following exhibits are by this reference incorporated herein and are made part of this contract:

- Exhibit A--General Conditions for Contracts
- Exhibit B--Scope of Services
- Exhibit C--Fee Schedule

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, proposals, representations or agreements, either written or oral. Any other documents which are not listed in this Article are not part of the Contract.

In the event of a conflict between the terms of the Proposal and the terms of this Agreement, a written change order and/or fully executed City of Nashua Purchase Order, the terms of this Agreement, the written change order or the fully executed City of Nashua Purchase Order shall control over the terms of the Proposal.

2. WORK TO BE PERFORMED Except as otherwise provided in this contract, Professional Engineer shall furnish all services, equipment, and materials and shall perform all operations necessary and required to carry out and perform in accordance with the terms and conditions of the contract the work described.

3. PERIOD OF PERFORMANCE. Professional Engineer shall perform and complete all work within the time periods set forth and may only be altered by the parties by a written agreement to extend the period of performance or by termination in accordance with the terms of the contract. Professional Engineer shall begin performance upon receipt of an Executed Contract **and** a valid Purchase Order issued from the City of Nashua.

4. COMPENSATION. Professional Engineer agrees to perform the work for a total cost not to exceed

Eighty Thousand Dollars

(\$ 80,000.00)

which, unless otherwise provided in this contract, shall be paid in accordance with the provisions of Exhibit C or unless Professional Engineer has received a written exemption from the City of Nashua. Professional Engineer shall submit monthly requests for payment for services performed under this agreement directly to

City of Nashua

Attn: Accounts Payable

PO Box 2019

Nashua, NH 03061-2019

Atten: Jeff Lafleur, Superintendent - Solid Waste Department

To facilitate the proper and timely payment of applications, the City of Nashua requires that all invoices contain a valid **PURCHASE ORDER NUMBER**.

Requests for payment shall be submitted no later than fifteen (15) days after the end of each month and must include a detailed summary of the expenditures reported in a form that supports the approved budget. Specifically, Professional Engineer agrees to provide the following with each request for payment:

1. Appropriate invoice forms. The forms shall include the project purchase order number, a listing of personnel hours and billing rates, and other expenditures for which payment is sought.

2. A progress report. The report shall include, for each monthly reporting period, a description of the work accomplished, problems experienced, upcoming work, any extra work carried out, and a schedule showing actual expenditures billed for the period, cumulative total expenditures billed and paid to date under the contract, and a comparison of cumulative total expenditures billed and paid to the approved budget.

The City of Nashua will pay for work satisfactorily completed by Professional Engineer. The City of Nashua will pay Professional Engineer within **30** days of approval by the City of Nashua of the submitted invoice forms and progress reports. The City of Nashua will make no payments until the invoice forms and progress reports have been submitted and approved.

5. EFFECTIVE DATE OF CONTRACT. This contract shall not become effective until and unless approved by the City of Nashua.

6. NOTICES. All notices, requests, or approvals required or permitted to be given under this contract shall be in writing, shall be sent by hand delivery, overnight carrier, or by United States mail, postage prepaid, and registered or certified, and shall be addressed to:

CITY OF NASHUA REPRESENTATIVE:

**Jeff Lafleur, Superintendent
City of Nashua, Solid Waste Department
840 West Hollis Street
Nashua, NH 03062**

REPRESENTATIVE:

**Eric S. Steinhauser, P.E., CPESC, CPSWQ
Sanborn, Head & Associates
20 Foundry Street
Concord, NH 03301**

Any notice required or permitted under this contract, if sent by United States mail, shall be deemed to be given to and received by the addressee thereof on the third business day after being deposited in the mail. The City of Nashua or Professional Engineer may change the address or representative by giving written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be signed and intend to be legally bound thereby.

City of Nashua, NH (signature)

Sanborn, Head & Associates (signature)

*James Donchess, Mayor
(Printed Name and Title)*

(Printed Name and Title)

Date

Date

EXHIBIT A
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GENERAL CONDITIONS

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General Terms and Conditions

1. **DEFINITIONS.** Unless otherwise required by the context, "Professional Engineer", and its successors, transferees and assignees (together "Professional Engineer") includes any of the Professional Engineer's consultants, sub consultants, contractors, and subcontractors

2. **PROFESSIONAL ENGINEER.** The parties agree that Professional Engineer shall have the status of and shall perform all work under this contract as a Professional Engineer, maintaining control over all its consultants, sub consultants, contractors, or subcontractors. The only contractual relationship created by this contract is between the City of Nashua and Professional Engineer, and nothing in this contract shall create any contractual relationship between the City of Nashua and Professional Engineer's consultants, sub consultants, contractors, or subcontractors. The parties also agree that Professional Engineer is not a City of Nashua employee and that there shall be no:

- (1) Withholding of income taxes by the City of Nashua;
- (2) Industrial insurance coverage provided by the City of Nashua;
- (3) Participation in group insurance plans which may be available to employees of the City of Nashua;
- (4) Participation or contributions by either the Professional Engineer or the City of Nashua to the public employee's retirement system;
- (5) Accumulation of vacation leave or sick leave provided by the City of Nashua;
- (6) Unemployment compensation coverage provided by the City of Nashua.

3. **STANDARD OF CARE.** Professional Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all work performed under this contract. The standard of care of the Professional Engineer's services is the degree of professional skill, care, diligence, and sound practices and judgment that are normally exercised by recognized professional firms with respect to services of a similar nature. It shall be the duty of Professional Engineer to assure at its own expense that all work is technically sound and in conformance with all applicable federal, state, and local laws, statutes, regulations, ordinances, orders, or other requirements. In addition to all other rights which the City of Nashua may have, Professional Engineer shall, at its own expense and without additional compensation, re-perform work to correct or revise any deficiencies, omissions, or errors in the work or the product of the work or which result from Professional Engineer's failure to perform in accordance with this standard of care. Any approval by the City of Nashua of any products or services furnished or used by Professional Engineer shall not in any way relieve Professional Engineer of the responsibility for professional and technical accuracy and adequacy of its work. City of Nashua review, approval, or acceptance of, or payment for any of Professional Engineer's work under this contract shall not operate as a waiver of any of the City of Nashua's rights or causes of action under this contract, and Professional Engineer shall be and remain liable in accordance with the terms of the contract and applicable law.

Professional Engineer shall furnish competent and skilled personnel to perform the work under this contract. The City of Nashua reserves the right to approve key personnel assigned by Professional Engineer to perform work under this contract. Approved key personnel shall not be taken off of the project by Professional Engineer without the prior written approval of the City of Nashua, except in the event of termination of employment. Professional Engineer shall, if requested to do so by the City of Nashua, remove from the job any personnel whom the City of Nashua determines to be incompetent, dishonest, or uncooperative.

4. **CITY OF NASHUA REPRESENTATIVE.** The City of Nashua may designate a City of Nashua representative for this contract. If designated, all notices, project materials, requests by Professional Engineer, and any other communication about the contract shall be addressed or be delivered to the City of Nashua Representative.

5. **CHANGES TO SCOPE OF WORK.** The City of Nashua may, at any time, by written order, make changes to the general scope, character, or cost of this contract and in the services or work to be performed, either increasing or decreasing the scope, character, or cost of Professional Engineer's performance under the contract. Professional Engineer shall provide to the City of Nashua within 10 calendar days, a written proposal for accomplishing the change. The proposal for a change shall provide enough detail, including personnel hours for each sub-task and cost breakdowns of tasks, for the City of Nashua to be able to adequately analyze the proposal. The City of Nashua will then determine in writing if Professional Engineer should proceed with any or all of the proposed change. If the change causes an increase or a decrease in Professional Engineer's cost or time required for performance of the contract as a whole, an equitable adjustment shall be made and the contract accordingly modified in writing. Any claim of Professional Engineer for adjustment under this clause shall be asserted in writing within 30 days of the date the City of Nashua notified Professional Engineer of the change.

When Professional Engineer seeks changes, Professional Engineer shall, before any work commences, estimate their effect on the cost of the contract and on its schedule and notify the City of Nashua in writing of the estimate. The proposal for a change shall provide enough detail, including personnel hours for each sub-task and cost breakdowns of tasks, for the City of Nashua to be able to adequately analyze the proposal. The City of Nashua will then determine in writing if Professional Engineer should proceed with any or all of the proposed change.

Except as provided in this paragraph, Professional Engineer shall implement no change unless the City of Nashua in writing approves the change. Unless otherwise agreed to in writing, the provisions of this contract shall apply to all changes. The City of Nashua may provide verbal approval of a change when the City of Nashua, in its sole discretion, determines that time is critical or public health and safety are of concern. Any verbal approval shall be confirmed in writing as soon as practicable. Any change undertaken without prior City of Nashua approval shall not be compensated and is, at the City of Nashua's election, sufficient reason for contract termination.

6. **CITY OF NASHUA COOPERATION.** The City of Nashua agrees that its personnel will cooperate with Professional Engineer in the performance of its work under this contract and that such personnel will be available to Professional Engineer for consultation at reasonable times and after being given sufficient advance notice that will prevent conflict with their other responsibilities. The City of Nashua also agrees to provide Professional Engineer with access to City of Nashua records in a reasonable time and manner and to schedule items that require action by the Board of Public Works and Finance Committee in a timely manner. The City of Nashua and Professional Engineer also agree to attend all meetings called by the City of Nashua or Professional Engineer to discuss the work under the Contract, and that Professional Engineer may elect to conduct and record such meetings and shall later distribute prepared minutes of the meeting to the City of Nashua.

7. **DISCOVERY OF CONFLICTS, ERRORS, OMISSIONS, AMBIGUITIES, OR DISCREPANCIES.** Professional Engineer represents that it has examined all contract documents, has brought all conflicts, errors, discrepancies, and ambiguities to the attention of the City of Nashua in writing, and has concluded that the City of Nashua's resolution of each matter is satisfactory to Professional Engineer. All future questions Professional Engineer may have concerning interpretation or clarification of this contract shall be submitted in writing to the City of Nashua within 10 calendar days of their arising. The writing shall state clearly and in full detail the basis for Professional Engineer's question or position. The City of Nashua representative shall render a decision within 15 calendar days. The City of Nashua's decision on the matter is final. Any work affected by a conflict, error, omission, or discrepancy which has been performed by Professional Engineer prior to having received the City of Nashua's resolution shall be at

Professional Engineer's risk and expense. At all times, Professional Engineer shall carry on the work under this contract and maintain and complete work in accordance with the requirements of the contract or determination of the City of Nashua. Professional Engineer is responsible for requesting clarification or interpretation and is solely liable for any cost or expense arising from its failure to do so.

8. TERMINATION OF CONTRACT

A. TERMINATION, ABANDONMENT, OR SUSPENSION AT WILL. The City of Nashua, in its sole discretion, shall have the right to terminate, abandon, or suspend all or part of the project and contract at will. If the City of Nashua chooses to terminate, abandon, or suspend all or part of the project, it shall provide Professional Engineer 10 day's written notice of its intent to do so.

If all or part of the project is suspended for more than 90 days, the suspension shall be treated as a termination at will of all or part of the project and contract.

Upon receipt of notice of termination, abandonment, or suspension at will, Professional Engineer shall:

1. Immediately discontinue work on the date and to the extent specified in the notice.
2. Place no further orders or subcontracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
3. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the City of Nashua of all orders or subcontracts to the extent they relate to the performance of work terminated, abandoned, or suspended under the notice, assign to the City of Nashua any orders or subcontracts specified in the notice, and revoke agreements specified in the notice.
4. Not resume work after the effective date of a notice of suspension until receipt of a written notice from the City of Nashua to resume performance.

In the event of a termination, abandonment, or suspension at will, Professional Engineer shall receive all amounts due and not previously paid to Professional Engineer for work satisfactorily completed in accordance with the contract prior to the date of the notice and compensation for work thereafter completed as specified in the notice. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work.

B. TERMINATION FOR CAUSE

This agreement may be terminated by the City of Nashua on 10 calendar day's written notice to Professional Engineer in the event of a failure by Professional Engineer to adhere to any or all the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the City of Nashua, to complete or make sufficient progress on the work in a timely and professional manner. Professional Engineer shall be given an opportunity for consultation with the City of Nashua prior to the effective date of the termination. Professional Engineer may terminate the contract on 10 calendar days written notice if, through no fault of Professional Engineer, the City of Nashua fails to pay Professional Engineer for 45 days after the date of approval by the City of Nashua of any Application for Payment.

Upon receipt of notice of termination for cause, Professional Engineer shall:

1. Immediately discontinue work on the date and to the extent specified in the notice.
2. Provide the City of Nashua with a list of all unperformed services.
3. Place no further orders or sub-contracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the contract that is not terminated.
4. Immediately make every reasonable effort to obtain cancellation upon terms satisfactory to the City of Nashua of all orders or sub contracts to the extent they relate to the

performance of work terminated, abandoned, or suspended under the notice, assign to the City of Nashua any orders or sub contracts specified in the notice, and revoke agreements specified in the notice.

5. Not resume work after the effective date of a notice of termination unless and until receipt of a written notice from the City of Nashua to resume performance.

In the event of a termination for cause, Professional Engineer shall receive all amounts due and not previously paid to Professional Engineer for work satisfactorily completed in accordance with the contract prior to the date of the notice, less all previous payments. No amount shall be allowed or paid for anticipated profit on unperformed services or other unperformed work. Any such payment may be adjusted to the extent of any additional costs occasioned to the City of Nashua by reasons of Professional Engineer's failure. Professional Engineer shall not be relieved of liability to the City of Nashua for damages sustained from the failure, and the City of Nashua may withhold any payment to the Professional Engineer until such time as the exact amount of damages due to the City of Nashua is determined. All claims for payment by the Professional Engineer must be submitted to the City of Nashua within 30 days of the effective date of the notice of termination.

If after termination for the failure of Professional Engineer to adhere to any of the terms and conditions of the contract or for failure to satisfactorily, in the sole opinion of the City of Nashua, to complete or make sufficient progress on the work in a timely and professional manner, it is determined that Professional Engineer had not so failed, the termination shall be deemed to have been a termination at will. In that event, the City of Nashua shall, if necessary, make an adjustment in the compensation paid to Professional Engineer such that Professional Engineer receives total compensation in the same amount as it would have received in the event of a termination-at-will.

C. GENERAL PROVISIONS FOR TERMINATION. Upon termination of the contract, the City of Nashua may take over the work and prosecute it to completion by agreement with another party or otherwise. In the event Professional Engineer shall cease conducting business, the City of Nashua shall have the right to solicit applications for employment from any employee of the Professional Engineer assigned to the performance of the contract.

Neither party shall be considered in default of the performance of its obligations hereunder to the extent that performance of such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party. Delays arising from the actions or inactions of one or more of Professional Engineer's principals, officers, employees, agents, subcontractors, consultants, vendors, or suppliers are expressly recognized to be within Professional Engineer's control.

9. DISPUTE RESOLUTION. The parties shall attempt to resolve any dispute related to this contract as follows. Either party shall provide to the other party, in writing and with full documentation to verify and substantiate its decision, its stated position concerning the dispute. No dispute shall be considered submitted and no dispute shall be valid under this provision unless and until the submitting party has delivered the written statement of its position and full documentation to the other party. The parties shall then attempt to resolve the dispute through good faith efforts and negotiation between the City of Nashua Representative and a Professional Engineer Representative. At all times, Professional Engineer shall carry on the work under this contract and maintain and complete work in accordance with the requirements of the contract or determination or direction of the City of Nashua. If the parties are unable to resolve their dispute as described above within 30 days, the parties may request that the dispute be submitted to the Board of Public Works for resolution. If the parties are dissatisfied with the decision of the Board of Public Works, the parties' reserve the right to pursue any available legal and/or equitable remedies for any breaches of this contract except as that right may be limited by the terms of this contract.

10. NO DAMAGES FOR DELAY. Apart from a written extension of time, no payment, compensation, or adjustment of any kind shall be made to Professional Engineer for damages because of hindrances or delays in the progress of the work from any cause, and Professional Engineer agrees to accept in full satisfaction of such hindrances and delays any extension of time that the City of Nashua may provide.

11. INSURANCE. Professional Engineer shall carry and maintain in effect during the performance of services under this contract:

- General Liability insurance in the amount of \$1,000,000 per occurrence; \$2,000,000 aggregate;
- \$1,000,000 Combined Single Limit Automobile Liability;
***Coverage must include all owned, non-owned and hired vehicles.**
- \$1,000,000 Profession Liability;
- and Workers' Compensation Coverage in compliance with the State of New Hampshire statutes, \$100,000/\$500,000/\$100,000.

Professional Engineer shall maintain in effect at all times during the performance under this contract all specified insurance coverage with insurers. None of the requirements as to types and limits to be maintained by Professional Engineer are intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Professional Engineer under this contract. The City of Nashua shall not maintain any insurance on behalf of Professional Engineer. Subcontractors are subject to the same insurance requirements as Professional Engineer and it shall be the Professional Engineer's responsibility to ensure compliance of this requirement.

Professional Engineer will provide the City of Nashua with certificates of insurance for coverage as listed below and endorsements affecting coverage required by the contract within ten calendar days after the City of Nashua issues the notice of award. The City of Nashua requires thirty days written notice of cancellation or material change in coverage. The certificates and endorsements for each insurance policy must be signed by a person authorized by the insurer and who is licensed by the State of New Hampshire. **General Liability, and Auto Liability policies must name the City of Nashua as an additional insured** and reflect on the certificate of insurance. Professional Engineer is responsible for filing updated certificates of insurance with the City of Nashua's Risk Management Department during the life of the contract.

- All deductibles and self-insured retentions shall be fully disclosed in the certificate(s) of insurance.
- If aggregate limits of less than \$2,000,000 are imposed on bodily injury and property damage, Professional Engineer must maintain umbrella liability insurance of at least \$1,000,000. All aggregates must be fully disclosed on the required certificate of insurance.
- The specified insurance requirements do not relieve Professional Engineer of its responsibilities or limit the amount of its liability to the City of Nashua or other persons, and Professional Engineer is encouraged to purchase such additional insurance, as it deems necessary.
- The insurance provided herein is primary, and no insurance held or owned by the City of Nashua shall be called upon to contribute to a loss.
- Professional Engineer is responsible for and required to remedy all damage or loss to any property, including property of the City of Nashua, caused in whole or part by Professional Engineer or anyone employed, directed, or supervised by Professional Engineer.

12. INDEMNIFICATION Regardless of any coverage provided by any insurance, Professional Engineer agrees to indemnify and hold harmless the City of Nashua, its agents, officials, employees and authorized representatives and their employees from and against any damage, liability, or cost (including reasonable attorney's fees and cost of defense) (Claimed Damages) to the extent caused, occasioned, or contributed to by reason of negligent act, error or omission, or willful misconduct, whether active or passive, of Professional Engineer or of anyone acting under its direction or control or on its behalf in connection with or incidental to the performance of this contract. Professional Engineer's indemnity, defense and hold

harmless obligations, or portions thereof, shall not apply to liability caused by the negligence or willful misconduct of the party indemnified or held harmless.

13. FISCAL CONTINGENCY. All payments under this contract are contingent upon the availability to the City of Nashua of the necessary funds. This contract shall terminate and the City of Nashua's obligations under it shall be extinguished at the end of any fiscal year in which the City of Nashua fails to appropriate monies for the ensuing fiscal year sufficient for the performance of this contract.

Nothing in this contract shall be construed to provide Professional Engineer with a right of payment over any other entity. Any funds obligated by the City of Nashua under this contract that are not paid to Professional Engineer shall automatically revert to the City of Nashua's discretionary control upon the completion, termination, or cancellation of the agreement. The City of Nashua shall not have any obligation to re-award or to provide, in any manner, the unexpended funds to Professional Engineer. Professional Engineer shall have no claim of any sort to the unexpended funds.

14. COMPENSATION. Review by the City of Nashua of Professional Engineer's submitted monthly invoice forms and progress reports for payment will be promptly accomplished by the City of Nashua. If there is insufficient information, the City of Nashua may require Professional Engineer to submit additional information. Unless the City of Nashua, in its sole discretion, decides otherwise, the City of Nashua shall pay Professional Engineer in full within **30 days of approval** of the submitted monthly invoice forms and progress reports.

15. COMPLIANCE WITH APPLICABLE LAWS. Professional Engineer, at all times, shall fully and completely comply with all applicable local, state and federal laws, statutes, regulations, ordinances, orders, or requirements of any sort in carrying out the obligations of this contract, including, but not limited to, all federal, state, and local accounting procedures and requirements, all immigration and naturalization laws, and the Americans With Disabilities Act. Professional Engineer shall, throughout the period services are to be performed under this contract, monitor for any changes to the applicable laws, statutes, regulations, ordinances, orders, or requirements, shall promptly notify the City of Nashua in writing of any changes to the same relating to or affecting this contract, and shall submit detailed documentation of any effect of the change in terms of both time and cost of performing the contract.

16. NONDISCRIMINATION. If applicable or required under any federal or state law, statute, regulation, order, or other requirement, Professional Engineer agrees to the following terms. Professional Engineer will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Professional Engineer agrees to take affirmative action to employ, advance in employment, or to otherwise treat qualified, handicapped individuals without discrimination based upon physical or mental handicap in all employment practices, including but not limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship.

Without limitation of the foregoing, Professional Engineer's attention is directed to 41 C.F.R. § 60-1.4, and the clause entitled "Equal Opportunity Clause," which, by reference, is incorporated into this contract, to 41 C.F.R. § 60-250 et seq. and the clause entitled "Affirmative Action Obligations of Professional Engineers and Subcontractor for Disabled Veterans and Veterans of the Vietnam Era," which, by reference, is incorporated in this contract, and to 41 C.F.R. § 60-471 and the clause entitled "Affirmative Action Obligations of Professional Engineers and Subcontractors for Handicapped Workers," which, by this reference, is incorporated in this contract.

Professional Engineer agrees to assist disadvantaged business enterprises in obtaining business opportunities by identifying and encouraging disadvantaged suppliers, consultants, and sub consultants to participate to the extent possible, consistent with their qualification, quality of work, and obligation of Professional Engineer under this contract.

In connection with the performance of work under this contract, Professional Engineer agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, or sexual orientation. This agreement includes, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Professional Engineer agrees, if applicable, to insert these provisions in all subcontracts, except for subcontracts for standard commercial supplies or raw materials. Any violation of any applicable provision by Professional Engineer shall constitute a material breach of the contract.

~~17. FEDERAL SUBCONTRACTING REQUIREMENTS. If Professional Engineer awards a subcontract under this contract, Professional Engineer, if applicable, shall use the following alternative steps:~~

- ~~A. Using the services of the Small Business Administration and the Minority Business Development Agency of the United States Department of Commerce, as appropriate; and~~
- ~~B. Requiring the subcontractor, if it awards subcontracts, to take the affirmative steps set forth in paragraph A.~~

~~If applicable, Professional Engineer agrees to complete and submit to the City of Nashua a Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Report (Standard Form 334) within 30 days after the end of each fiscal quarter until the end of the contract.~~

18. ENDORSEMENT. Professional Engineer shall seal and/or stamp and sign professional documents including drawings, plans, maps, reports, specifications, and other instruments of service prepared by Professional Engineer or under its direction as required under the laws of the State of New Hampshire.

19. ASSIGNMENT, TRANSFER, DELEGATION, OR SUBCONTRACTING. Professional Engineer shall not assign, transfer, delegate, or subcontract any rights, obligations, or duties under this contract without the prior written consent of the City of Nashua. Any such assignment, transfer, delegation, or subcontracting without the prior written consent of the City of Nashua is void. Any consent of the City of Nashua to any assignment, transfer, delegation, or subcontracting shall only apply to the incidents expressed and provided for in the written consent and shall not be deemed to be a consent to any subsequent assignment, transfer, delegation, or subcontracting. Any such assignment, transfer, delegation, or subcontract shall require compliance with or shall incorporate all terms and conditions set forth in this agreement, including all incorporated Exhibits and written amendments or modifications. Subject to the foregoing provisions, the contract inures to the benefit of, and is binding upon, the successors and assigns of the parties.

20. CITY INSPECTION OF CONTRACT MATERIALS. The books, records, documents and accounting procedures and practices of Professional Engineer related to this contract shall be subject to inspection, examination and audit by the City of Nashua, including, but not limited to, the contracting agency, the Board of Public Works, Corporation Counsel, and, if applicable, the Comptroller General of the United States, or any authorized representative of those entities.

21. DISPOSITION OF CONTRACT MATERIALS. Any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials, including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by or supplied to Professional Engineer in the performance of its obligations under this contract are Instruments of Service. Ordinarily, ownership of Instruments of Service is maintained by the Professional Engineer; however, in this instance the Professional Engineer shall transfer ownership to the City of Nashua upon receipt of final payment for the services and all such materials shall be remitted and delivered, at Professional Engineer's expense, by

Professional Engineer to the City of Nashua upon completion, termination, or cancellation of this contract. Alternatively, if the City of Nashua provides its written approval to Professional Engineer, any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by or supplied to Professional Engineer in the performance of its obligations under this contract must be retained by Professional Engineer for a minimum of four years after final payment is made and all other pending matters are closed. If, at any time during the retention period, the City of Nashua, in writing, requests any or all of the materials, then Professional Engineer shall promptly remit and deliver the materials, at Professional Engineer's expense, to the City of Nashua. Professional Engineer shall not use, willingly allow or cause to have such materials used for any purpose other than the performance of Professional Engineer's obligations under this contract without the prior written consent of the City of Nashua.

The City of Nashua acknowledges that the Professional Engineer's Instruments of Service are not represented to be suitable for use of reuse for any other applications or site without written verification from the Professional Engineer and any such use or reuse without written verification from the Professional Engineer will be at the City of Nashua's sole risk and without liability to the Professional Engineer.

22. PUBLIC RECORDS LAW, COPYRIGHTS, AND PATENTS. Professional Engineer expressly agrees that all documents ever submitted, filed, or deposited with the City of Nashua by Professional Engineer (including those remitted to the City of Nashua by Professional Engineer pursuant to paragraph 21), unless designated as confidential by a specific statute of the State of New Hampshire, shall be treated as public records and shall be available for inspection and copying by any person, or any governmental entity.

No books, reports, studies, photographs, negatives or other documents, data, drawings or other materials including but not limited to those contained in media of any sort (e.g., electronic, magnetic, digital) prepared by or supplied to Professional Engineer in the performance of its obligations under this contract shall be the subject of any application for a copyright or patent by or on behalf of Professional Engineer. The City of Nashua shall have the right to reproduce any such materials.

Professional Engineer expressly and indefinitely waives all of its rights to bring, including but not limited to, by way of complaint, interpleader, intervention, or any third party practice, any claims, demands, suits, actions, judgments, or executions, for damages or any other relief, in any administrative or judicial forum, against the City of Nashua or any of its officers or employees, in either their official or individual capacity of the City of Nashua, for violations of or infringement of the copyright or patent laws of the United States or of any other nation. Professional Engineer agrees to indemnify, to defend, and to hold harmless the City of Nashua, its representatives, and employees from any claim or action seeking to impose liability, costs, and attorney fees incurred as a result of or in connection with any claim, whether rightful or otherwise, that any material prepared by or supplied to Professional Engineer infringes any copyright or that any equipment, material, or process (or any part thereof) specified by Professional Engineer infringes any patent.

Professional Engineer shall have the right, in order to avoid such claims or actions, to substitute at its expense non-infringing materials, concepts, products, or processes, or to modify such infringing materials, concepts, products, or processes so they become non-infringing, or to obtain the necessary licenses to use the infringing materials, concepts, products, or processes, provided that such substituted or modified materials, concepts, products, or processes shall meet all the requirements and be subject to all the terms and conditions of this contract.

23. FINAL ACCEPTANCE. Upon completion of all work under the contract, Professional Engineer shall notify the City of Nashua in writing of the date of the completion of the work and request confirmation of the completion from the City of Nashua. Upon receipt of the notice, the City of Nashua

shall confirm to Professional Engineer in writing that the whole of the work was completed on the date indicated in the notice or provide Professional Engineer with a written list of work not completed. With respect to work listed by the City of Nashua as incomplete, Professional Engineer shall promptly complete the work and the final acceptance procedure shall be repeated. The date of final acceptance of a project by the City of Nashua shall be the date upon which the Board of Public Works or other designated official accepts and approves the notice of completion.

24. TAXES. Professional Engineer shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work performed under the contract and make any and all payroll deductions required by law. The contract sum and agreed variations to it shall include all taxes imposed by law. Professional Engineer hereby indemnifies and holds harmless the City of Nashua from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

25. NON-WAIVER OF TERMS AND CONDITIONS. None of the terms and conditions of this contract shall be considered waived by the City of Nashua. There shall be no waiver of any past or future default, breach, or modification of any of the terms and conditions of the contract unless expressly stipulated to by the City of Nashua in a written waiver.

26. RIGHTS AND REMEDIES. The duties and obligations imposed by the contract and the rights and remedies available under the contract shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

27. PROHIBITED INTERESTS. Professional Engineer shall not allow any officer or employee of the City of Nashua to have any indirect or direct interest in this contract or the proceeds of this contract. Professional Engineer represents that no officer or employee of the City of Nashua has any direct or indirect interest, whether contractual, noncontractual, financial or otherwise, in this contract or in the business of Professional Engineer. If any such interest comes to the attention of Professional Engineer at any time, a full and complete disclosure of the interest shall be immediately made in writing to the City of Nashua. Professional Engineer also represents that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this contract. Professional Engineer further represents that no person having such an interest shall be employed in the performance of this contract. If City of Nashua determines that a conflict exists and was not disclosed to the City of Nashua, it may terminate the contract at will or for cause in accordance with paragraph 8.

In the event Professional Engineer (or any of its officers, partners, principals, or employees acting with its authority) is convicted of a crime involving a public official arising out or in connection with the procurement of work to be done or payments to be made under this contract, City of Nashua may terminate the contract at will or for cause in accordance with paragraph 8. Upon termination, Professional Engineer shall refund to the City of Nashua any profits realized under this contract, and Professional Engineer shall be liable to the City of Nashua for any costs incurred by the City of Nashua in completing the work described in this contract. At the discretion of the City of Nashua, these sanctions shall also be applicable to any such conviction obtained after the expiration or completion of the contract.

Professional Engineer represents that no gratuities (including, but not limited to, entertainment or gifts) were offered or given by Professional Engineer to any officer or employee of the City of Nashua with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this contract. If City of Nashua determines that such gratuities were or offered or given, it may terminate the contract at will or for cause in accordance with paragraph 8.

The rights and remedies of this section shall in no way be considered for be construed as a waiver of any other rights or remedies available to the City of Nashua under this contract or at law.

28. THIRD PARTY INTERESTS AND LIABILITIES. The City of Nashua and Professional Engineer, including any of their respective agents or employees, shall not be liable to third parties for any act or omission of the other party. This contract is not intended to create any rights, powers, or interest in any third party and this agreement is entered into for the exclusive benefit of the City of Nashua and Professional Engineer.

29. SURVIVAL OF RIGHTS AND OBLIGATIONS. The rights and obligations of the parties that by their nature survive termination or completion of this contract shall remain in full force and effect.

30. SEVERABILITY. In the event that any provision of this contract is rendered invalid or unenforceable by any valid act of Congress or of the New Hampshire legislature or any court of competent jurisdiction, or is found to be in violation of state statutes or regulations, the invalidity or unenforceability of any particular provision of this contract shall not affect any other provision, the contract shall be construed as if such invalid or unenforceable provisions were omitted, and the parties may renegotiate the invalid or unenforceable provisions for sole purpose of rectifying the invalidity or unenforceability.

31. MODIFICATION OF CONTRACT AND ENTIRE AGREEMENT. This contract constitutes the entire contract between the City of Nashua and Professional Engineer. The parties shall not be bound by or be liable for any statement, representation, promise, inducement, or understanding of any kind or nature not set forth in this contract. No changes, amendments, or modifications of any terms or conditions of the contract shall be valid unless reduced to writing and signed by both parties.

32. CHOICE OF LAW AND VENUE. This contract shall be governed exclusively by the laws of the State of New Hampshire and any claim or action brought relating to this contract, the work performed or contracted to be performed thereunder, or referable in anyway thereto shall be brought in Hillsborough County (New Hampshire) Superior Court Southern Judicial District or in the New Hampshire 9th Circuit Court—Nashua and not elsewhere

Mr. Jeff Lafleur
Superintendent
Nashua Division of Public Works, Solid Waste Department
840 West Hollis Street
Nashua, NH 03062

July 15, 2016
File No. 3066.06
Sent via email

Re: Scope of Engineering Services – Fiscal Year 2017
City of Nashua Four Hills Landfill
Nashua, New Hampshire

Dear Jeff:

Sanborn, Head & Associates, Inc. (Sanborn Head) appreciates the opportunity to provide this scope of engineering services to the City of Nashua (City) relative to the active Four Hills Landfill during fiscal year (FY) 2017. The scope of services presented herein is based on communication with the City regarding services needed during FY 2017 as well as typical services provided by Sanborn Head over the past few years.

SCOPE OF ENGINEERING SERVICES

Task 1 Air Permit/Emissions Reporting and Related Services

During fiscal year 2017, Sanborn Head will provide the City with the following air-related services for the Four Hills Landfill:

- Review the semi-annual and annual air permit compliance reports prepared by the City or EPP Renewable Energy, LLC, if requested by the City;
- Provide support for compliance with the City's EMP/SOP;
- Provide support for compliance with the City's Title V Operating Permit;
- Prepare the annual Non-Methane Organic Compound report;
- Prepare the annual emissions inventory for landfill fugitives and the emergency generator;
- Prepare the federal greenhouse gas report; and
- Provide regulatory compliance support.

Task 2 Groundwater Reporting

We anticipate that Sanborn Head will assist the City with the following groundwater reporting services in FY 2017 for the Four Hills Landfill.

- Review the field groundwater sampling and laboratory analytical data collected and analyzed by others for the Four Hills Landfill (April and November 2016) and updating corresponding analytical tables;

- Address comments from the NHDES related to the 2015 Annual Report for the Four Hills Landfill; and
- Prepare the 2016 Annual Report for the Four Hills Landfill to be submitted to the NHDES in January 2017, as required in the June 15, 2016 Groundwater Management Permit (GWP-198403099-N-005).

Task 3 Annual Waste Capacity Evaluation

Landfills are dynamic and should be surveyed on a regular basis. An annual topographic survey can be used to calculate the in-place density of the waste mass and identify areas of the landfill that are not being filled as intended. The survey also provides documentation of significant changes to the overall site and can be used to evaluate waste settlement over time.

For this task, Sanborn Head will perform a waste capacity comparison for Phases I and II of the Landfill during FY 2017. We understand that the City will retain a licensed surveyor to prepare a topographic survey the Phases I and II. Our evaluation will include the following:

- Developing engineering drawings that compare the existing landfill topography (as provided to us in a recent topographic survey) to the currently permitted final landfill grades;
- Estimating the remaining disposal capacity (airspace) in terms of cubic yards; and
- Calculating the remaining life of the permitted landfill capacity based on the City's waste projections.

To accomplish the above, Sanborn Head assumes that the City will provide AutoCAD formatted drawings of the site topography, and that the City will provide recent waste receipts for Phases I and II.

Sanborn Head will transmit the results of our evaluation in a letter addressed to the City.

Task 4 Annual Financial Assurance Update

The NHDES Rules require landfill owners to submit financial assurance updates to NHDES every third calendar year in order to demonstrate that financial assurance for closure and long term monitoring and maintenance (LTMM) is provided for the Landfill (Env-Sw 1400). During the years in which a submittal to NHDES is not required, an updated closure cost estimate is required to be prepared and kept for the facility's records. We understand that the City last submitted an update to NHDES in May 2015, therefore the next submittal to NHDES will be required in May 2018. The update during FY 2017, to be prepared in May 2017, will be solely for the City's records.

This financial assurance demonstration includes preparation of opinions of closure and post-closure cost for the currently permitted areas (Phases I and II) and calculations to demonstrate that the City is setting aside sufficient funds for future closure and post-closure needs.

Sanborn Head will prepare the required opinions of cost using the required NHDES forms based on the permitted closure plan, currently available average unit costs for similar projects, current costs for monitoring services, published construction cost estimating guides, and our engineering judgment. We will estimate the remaining life of Phases I and II based on the latest survey update, and prepare sinking fund calculations using account balances provided to us, actual waste tonnage received at the Landfill, and the projected waste tonnage for the remaining estimated life of Phases I and II. The calculations will demonstrate that the balances for the closure and LTMM accounts are consistent with what was projected or provide amounts per ton that should be set aside going forward to provide sufficient funds at the expected date of closure.

Sanborn Head will prepare a letter addressed to the City that documents our evaluation, which will include NHDES Cost Estimate Forms for landfill closure and post-closure care, and sinking fund calculations.

Task 5 GCCS Related Services

Sanborn Head submitted a proposal to the City on April 21, 2016 for "Additional GCCS Related Services" as requested by the City. Subsequently, a purchase order was issued by the City for this work on July 13, 2016 (P.O. #127711). The scope of work under that agreement included the following:

- Preparation of an assessment of the Phases I and II Gas Collection & Control System (GCCS);
- Preparation of a conceptual design for a vertical landfill gas (LFG) well dewatering system;
- Preparation of construction documents for the next GCCS expansion in Phase II, Stage II; and
- Providing bid and construction phase services for the GCCS expansion in Phase II, Stage II.

As stated above, these services will be provided under a separate purchase order (P.O. #127711). Notwithstanding the separate GCCS project, this time and expense task will allow Sanborn Head to assist the City with GCCS related matters in FY 2017.

Task 6 General Engineering Services

Sanborn Head's services under this task will be performed at the City's request and involve routine matters of limited scope, such as attending meetings with regulators and providing design, operation, or air consultation relative the Landfill.

BUDGET ESTIMATE AND BASIS OF BILLINGS

The total estimated budget for this proposal is \$80,000 as itemized below:

Task	Task Description	Estimated Budget
1	Air Permit/Emissions Reporting and Related Services	\$27,000
2	Groundwater Reporting	\$13,500
3	Annual Waste Capacity Evaluation	\$4,500
4	Annual Financial Assurance Update	\$6,500
5	GCCS Related Services	\$10,500
6	General Engineering Services	\$18,000

We will invoice for our services based on actual accrued time and expenses in accordance with the enclosed Schedule of Fees. We will not perform services beyond those defined herein without first receiving written authorization from the City.

SCHEDULE

Sanborn Head is available to begin working on this project following written authorization to proceed from the City.

TERMS OF ENGAGEMENT

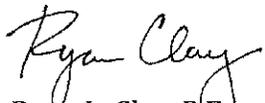
The terms of engagement are described in our Agreement with the City of Nashua, New Hampshire dated July 21, 2011.

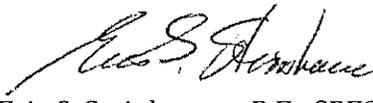
ACCEPTANCE

We understand that acceptance of this proposal will be provided in a City issued Purchase Order to Sanborn Head for these services.

Thank you for the opportunity to submit this scope of services. We look forward to working with you during FY 2017. Please contact us should you require additional information.

Very truly yours,
SANBORN, HEAD & ASSOCIATES, INC.


Ryan L. Clay, P.E.
Senior Project Engineer


Eric S. Steinhauser, P.E., CPESC, CPSWQ
Senior Project Director

RLC/HHL/ESS:rlc

Enclosed: Schedule of Fees

SANBORN, HEAD & ASSOCIATES, INC.
2016 Schedule of Fees
City of Nashua, New Hampshire

Senior Vice President	\$198
Vice President	\$188
Project Director	\$177
Senior Project Manager	\$151
Project Manager	\$141
Senior Engineer/Geologist	\$123
Project Engineer/Geologist	\$115
Engineer/Geologist	\$105
Supervising Technician	\$94
Senior Engineering Technician	\$85
Engineering Technician	\$79
Support Staff	\$68
Subcontractors and Outside Services	Cost plus 10%
Other Direct Expenses	Cost plus 10%

Hourly rates will be charged for time worked on the project and for the time required for travel between the office and the meeting or project site. Local travel will be at IRS allowed rates.

Overtime hours will be charged using the hourly rates listed above.

Hourly rates for expert witness testimony, including preparation time, and other special services such as corporate acquisition due diligence studies that generally require a dedicated commitment of senior staff, will be provided upon request.

Sanborn, Head & Associates, Inc. reserves the right to revise this Schedule of Fees annually.



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

June 30, 2016
Memo #17-011

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: CodeRED CONTRACT (VALUE: \$22,000)
DEPARTMENT: 156 EMERGENCY MANAGEMENT; FUND: GENERAL
ACCOUNTING CATEGORY: 54 PROPERTY SERVICES

Please see the attached communication from Justin Kates, Director of Emergency Management, for information related to this purchase.

Pursuant to **§ 5-84. Special purchase procedures**. A. The competitive bidding process shall not apply to the following special purchase. (3) Purchases which can be procured through cooperative intergovernmental purchase agreements with other government jurisdictions.

This is a three (3) year contract and all three (3) years will be funded as a budgeted item in Department 156 Emergency Management.

The Director of Emergency Management and the Purchasing Department recommend awarding this purchase in an amount of **\$22,000** to **Emergency Communications Network of Ormond Beach, FL**.

Respectfully,

Dan Kooker

Purchasing Manager

Cc: J. Kates J. Graziano



City of Nashua
Office of Emergency Management
229 Main Street
Nashua, New Hampshire 03060

Justin Kates, Director
603.722.0288
katesj@nashuanh.gov

June 22, 2016

TO: DAN KOOKEN
PURCHASING MANAGER

SUBJECT: CONTRACT AWARD FOR EMERGENCY NOTIFICATION SYSTEM
(VALUE: \$66,000)
DEPARTMENT: 156 EMERGENCY MANAGEMENT; FUND: GENERAL
ACCOUNTING CATEGORY: 54 PROPERTY SERVICES

The City has a need to provide notification services to citizens and businesses during emergency and non-emergency situations. Notification by phone, text message, e-mail, and social media can be widely utilized across all departments in the City. Experience during the past few emergencies in Nashua have demonstrated the need for this capability.

An Emergency Notification Committee, including representatives of Emergency Management, Police, Fire, Public Works, Public Health, Community Development, School District, Information Technology, GIS, and Pennichuck Water met frequently throughout 2016 to review the City's existing service for emergency and non-emergency notifications, provided by CodeRED. After comparing many vendors in the field of notification systems and recognizing the value of retaining our existing caller database that has grown over the past three years, the committee determined the CodeRED notification system by Emergency Communications Network, LLC provided the best value, and best service for an unlimited access contract. The contract has been reviewed by our Legal Department.

Pursuant to NRO § 5-84 (A)(3), the new service will contain pricing and be purchased based on co-operative General Services Administration (GSA) Contract Schedule 70, Contract #GS-35F-0253W, Special Item Number 132-32. Additionally, other supplier pricing was investigated prior to determining this to be best value for the city. The Emergency Management Director was able to negotiate the standard GSA pricing down over 65 percent to a final cost of \$22,000 per year for a three year net contract totaling \$66,000. In addition, we were able to include unlimited service for Pennichuck Water for their entire service area.

Pursuant to NRO § 5-74 (B) which states that a contract that extends from the current fiscal year into succeeding fiscal year(s) in which no funds have been appropriated nor otherwise designated for this purpose shall be approved by the full Board of Aldermen before the contract shall become binding on the City.

All three years will be funded by as a budgeted item in Department 156 Emergency Management.

Two additional contract addendums are included to provide local access to FEMA's Integrated Public Alert & Warning System (IPAWS) and CodeRED's Weather Warning functionality at no cost for as long as the State of NH retains a contract for these features as part of their NH Alerts service. These are some of the many benefits to

having a fully interoperable notification service with both the State of NH and the City of Nashua, both utilizing the CodeRED infrastructure.

The Emergency Management Director and the Emergency Notification Committee recommend awarding the contract in the amount of **\$66,000** to **Emergency Communications Network, Ormond Beach, FL**.

Thank You,

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

Justin Kates

CC: J. Griffin J. Graziano

AUTHORIZED
INFORMATION TECHNOLOGY SCHEDULE PRICELIST
GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY
EQUIPMENT, SOFTWARE AND SERVICES

The web-based CodeRED® service, from Emergency Communications Network LLC (ECN), was designed specifically to enable local government officials to record, send and track personalized voice, email and text messages to thousands of citizens in minutes, as well as to staff members, students or other internal notification uses. The proprietary mapping technology and patented delivery methods employed by ECN add to the value of this affordable, high-speed notification system that has been in operation since 1998 and is currently used every day by clients from coast to coast.

SPECIAL ITEM NUMBER 132-32 - TERM SOFTWARE LICENSES

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that are included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

FSC CLASS 7030 - INFORMATION TECHNOLOGY SOFTWARE

Large Scale Computers

- Operating System Software
- Application Software
- Electronic Commerce (EC) Software
- Utility Software
- Communications Software
- Core Financial Management Software
- Ancillary Financial Systems Software
- Special Physical, Visual, Speech, and Hearing Aid Software

Microcomputers

- Operating System Software
- Application Software
- Electronic Commerce (EC) Software
- Utility Software
- Communications Software
- Core Financial Management Software
- Ancillary Financial Systems Software
- Special Physical, Visual, Speech, and Hearing Aid Software

General Services Administration
Federal Acquisition Service

Pricelist current through Modification # _____, dated _____.

Products and ordering information in this Authorized FSS Information Technology Schedule Pricelist are also available on the GSA Advantage! System (<http://www.gsaadvantage.gov>).

Emergency Communications Network, LLC
780 West Granada Blvd
Ormond Beach, FL 32174
866-939-0911
ECNetwork.com

Contract Number: _____ GS-35F-0253W _____

Period Covered by Contract: _____ 2/17/2010 – 2/16/2020 _____

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**INFORMATION FOR ORDERING ACTIVITIES
APPLICABLE TO ALL SPECIAL ITEM NUMBERS**

SPECIAL NOTICE TO AGENCIES: Small Business Participation

SBA strongly supports the participation of small business concerns in the Federal Acquisition Service. To enhance Small Business Participation SBA policy allows agencies to include in their procurement base and goals, the dollar value of orders expected to be placed against the Federal Supply Schedules, and to report accomplishments against these goals.

For orders exceeding the micropurchase threshold, FAR 8.404 requires agencies to consider the catalogs/pricelists of at least three schedule contractors or consider reasonably available information by using the GSA Advantage!™ on-line shopping service (www.gsaadvantage.gov). The catalogs/pricelists, GSA Advantage!™ and the Federal Acquisition Service Home Page (www.fss.gsa.gov) contain information on a broad array of products and services offered by small business concerns.

This information should be used as a tool to assist ordering activities in meeting or exceeding established small business goals. It should also be used as a tool to assist in including small, small disadvantaged, and women-owned small businesses among those considered when selecting pricelists for a best value determination.

For orders exceeding the micropurchase threshold, customers are to give preference to small business concerns when two or more items at the same delivered price will satisfy their requirement.

1. GEOGRAPHIC SCOPE OF CONTRACT:

Domestic delivery is delivery within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. Territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities.

Overseas delivery is delivery to points outside of the 48 contiguous states, Washington, DC, Alaska, Hawaii, Puerto Rico, and U.S. Territories.

Offerors are requested to check one of the following boxes:

- The Geographic Scope of Contract will be domestic and overseas delivery.
- The Geographic Scope of Contract will be overseas delivery only.
- The Geographic Scope of Contract will be domestic delivery only.

2. CONTRACTOR'S ORDERING ADDRESS AND PAYMENT INFORMATION:

**Emergency Communications Network, LLC
780 West Granada Blvd
Ormond Beach, FL 32174
866-939-0911
ECNetwork.com**

Contractor must accept the credit card for payments equal to or less than the micro-purchase for oral or written orders under this contract. The Contractor and the ordering agency will use the credit card for dollar amounts over the micro-purchase threshold (See GSAR 552.232-79 Payment by Credit Card). In addition, bank account information for wire transfer payments will be shown on the invoice.

The following telephone number(s) can be used by ordering activities to obtain technical and/or ordering assistance:

866 939 0911

3. LIABILITY FOR INJURY OR DAMAGE

The Contractor shall not be liable for any injury to ordering activity personnel or damage to ordering activity property arising from the use of equipment maintained by the Contractor, unless such injury or damage is due to the fault or negligence of the Contractor.

4. **STATISTICAL DATA FOR GOVERNMENT ORDERING OFFICE COMPLETION OF STANDARD FORM 279:**

Block 9: G. Order/Modification Under Federal Schedule

Block 16: Data Universal Numbering System (DUNS) Number: 80-123-7293

Block 30: Type of Contractor – B: Other Small Business

Block 31: Woman-Owned Small Business - NO

Block 36: Contractor's Taxpayer Identification Number (TIN): 59-3579383

4a. CAGE Code: 4TVW4

4b. Contractor has registered with the Central Contractor Registration Database.

5. **FOB: DESTINATION**

6. **DELIVERY SCHEDULE**

a. **TIME OF DELIVERY:** The Contractor shall deliver to destination within the number of calendar days after receipt of order (ARO), as set forth below:

SPECIAL ITEM NUMBER	DELIVERY TIME (Days ARO)
132-32	30 Days

b. **URGENT REQUIREMENTS:** When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, ordering activities are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the ordering activity, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

7. **DISCOUNTS:** Prices shown are NET Prices; Basic Discounts have been deducted.

- a. Prompt Payment: 0% - 30 days from receipt of invoice or date of acceptance, whichever is later.
- b. Quantity 10% additional discount for quantities in excess of 5 licenses
- c. Dollar Volume None
- d. Government Educational Institutions Government Educational Institutions are offered the same discounts as all other Government customers.*
- e. Other. None

8. **TRADE AGREEMENTS ACT OF 1979, as amended:**

All items are U.S. made end products, designated country end products, Caribbean Basin country end products, Canadian end products, or Mexican end products as defined in the Trade Agreements Act of 1979, as amended.

9. **STATEMENT CONCERNING AVAILABILITY OF EXPORT PACKING: None**

10. **Small Requirements:** The minimum dollar value of orders to be issued is \$100.

11. **MAXIMUM ORDER (All dollar amounts are exclusive of any discount for prompt payment.)**

a. The Maximum Order value for the following Special Item Numbers (SINs) is \$500,000:

Special Item Number 132-32 - Term Software Licenses

12. ORDERING PROCEDURES FOR FEDERAL SUPPLY SCHEDULE CONTRACTS

Ordering activities shall use the ordering procedures of Federal Acquisition Regulation (FAR) 8.405 when placing an order or establishing a BPA for supplies or services. These procedures apply to all schedules.

- a. FAR 8.405-1 Ordering procedures for supplies, and services not requiring a statement of work.
- b. FAR 8.405-2 Ordering procedures for services requiring a statement of work.

13. FEDERAL INFORMATION TECHNOLOGY/TELECOMMUNICATION STANDARDS REQUIREMENTS: ordering activities acquiring products from this Schedule must comply with the provisions of the Federal Standards Program, as appropriate (reference: NIST Federal Standards Index). Inquiries to determine whether or not specific products listed herein comply with Federal Information Processing Standards (FIPS) or Federal Telecommunication Standards (FED-STDS), which are cited by ordering activities, shall be responded to promptly by the Contractor.

13.1 FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATIONS (FIPS PUBS): Information Technology products under this Schedule that do not conform to Federal Information Processing Standards (FIPS) should not be acquired unless a waiver has been granted in accordance with the applicable "FIPS Publication." Federal Information Processing Standards Publications (FIPS PUBS) are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Information concerning their availability and applicability should be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. FIPS PUBS include voluntary standards when these are adopted for Federal use. Individual orders for FIPS PUBS should be referred to the NTIS Sales Office, and orders for subscription service should be referred to the NTIS Subscription Officer, both at the above address, or telephone number (703) 487-4650.

13.2 FEDERAL TELECOMMUNICATION STANDARDS (FED-STDS): Telecommunication products under this Schedule that do not conform to Federal Telecommunication Standards (FED-STDS) should not be acquired unless a waiver has been granted in accordance with the applicable "FED-STD." Federal Telecommunication Standards are issued by the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), pursuant to National Security Act. Ordering information and information concerning the availability of FED-STDS should be obtained from the GSA, Federal Acquisition Service, Specification Section, 470 East L'Enfant Plaza, Suite 8100, SW, Washington, DC 20407, telephone number (202)619-8925. Please include a self-addressed mailing label when requesting information by mail. Information concerning their applicability can be obtained by writing or calling the U.S. Department of Commerce, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone number (301)975-2833.

14. CONTRACTOR TASKS / SPECIAL REQUIREMENTS (C-FSS-370) (NOV 2003)

- (a) Security Clearances: The Contractor may be required to obtain/possess varying levels of security clearances in the performance of orders issued under this contract. All costs associated with obtaining/possessing such security clearances should be factored into the price offered under the Multiple Award Schedule.
- (b) Travel: The Contractor may be required to travel in performance of orders issued under this contract. Allowable travel and per diem charges are governed by Pub .L. 99-234 and FAR Part 31, and are reimbursable by the ordering agency or can be priced as a fixed price item on orders placed under the Multiple Award Schedule. Travel in performance of a task order will only be reimbursable to the extent authorized by the ordering agency. The Industrial Funding Fee does NOT apply to travel and per diem charges.
- (c) Certifications, Licenses and Accreditations: As a commercial practice, the Contractor may be required to obtain/possess any variety of certifications, licenses and accreditations for specific FSC/service code classifications offered. All costs associated with obtaining/ possessing such certifications, licenses and accreditations should be factored into the price offered under the Multiple Award Schedule program.
- (d) Insurance: As a commercial practice, the Contractor may be required to obtain/possess insurance coverage for specific FSC/service code classifications offered. All costs associated with obtaining/possessing such insurance should be factored into the price offered under the Multiple Award Schedule program.
- (e) Personnel: The Contractor may be required to provide key personnel, resumes or skill category descriptions in the performance of orders issued under this contract. Ordering activities may require agency approval of additions or replacements to key personnel.

- (f) Organizational Conflicts of Interest: Where there may be an organizational conflict of interest as determined by the ordering agency, the Contractor's participation in such order may be restricted in accordance with FAR Part 9.5.
- (g) Documentation/Standards: The Contractor may be requested to provide products or services in accordance with rules, regulations, OMB orders, standards and documentation as specified by the agency's order.
- (h) Data/Deliverable Requirements: Any required data/deliverables at the ordering level will be as specified or negotiated in the agency's order.
- (i) Government-Furnished Property: As specified by the agency's order, the Government may provide property, equipment, materials or resources as necessary.
- (j) Availability of Funds: Many Government agencies' operating funds are appropriated for a specific fiscal year. Funds may not be presently available for any orders placed under the contract or any option year. The Government's obligation on orders placed under this contract is contingent upon the availability of appropriated funds from which payment for ordering purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are available to the ordering Contracting Officer.
- (k) Overtime: For professional services, the labor rates in the Schedule should not vary by virtue of the Contractor having worked overtime. For services applicable to the Service Contract Act (as identified in the Schedule), the labor rates in the Schedule will vary as governed by labor laws (usually assessed a time and a half of the labor rate).

15. CONTRACT ADMINISTRATION FOR ORDERING ACTIVITIES: Any ordering activity, with respect to any one or more delivery orders placed by it under this contract, may exercise the same rights of termination as might the GSA Contracting Officer under provisions of FAR 52.212-4, paragraphs (l) Termination for the ordering activity's convenience, and (m) Termination for Cause (See 52.212-4)

16. GSA ADVANTAGE!

GSA Advantage! is an on-line, interactive electronic information and ordering system that provides on-line access to vendors' schedule prices with ordering information. GSA Advantage! will allow the user to perform various searches across all contracts including, but not limited to:

- (1) Manufacturer;
- (2) Manufacturer's Part Number; and
- (3) Product categories.

Agencies can browse GSA Advantage! by accessing the Internet World Wide Web utilizing a browser (ex.: NetScape). The Internet address is <http://www.gsaadvantage.gov>

17. PURCHASE OF OPEN MARKET ITEMS

NOTE: Open Market Items are also known as incidental items, noncontract items, non-Schedule items, and items not on a Federal Supply Schedule contract. ODCs (Other Direct Costs) are not part of this contract and should be treated as open market purchases. Ordering Activities procuring open market items must follow FAR 8.402(f).

For administrative convenience, an ordering activity contracting officer may add items not on the Federal Supply Multiple Award Schedule (MAS) -- referred to as open market items -- to a Federal Supply Schedule blanket purchase agreement (BPA) or an individual task or delivery order, **only if-**

- (1) All applicable acquisition regulations pertaining to the purchase of the items not on the Federal Supply Schedule have been followed (e.g., publicizing (Part 5), competition requirements (Part 6), acquisition of commercial items (Part 12), contracting methods (Parts 13, 14, and 15), and small business programs (Part 19));
- (2) The ordering activity contracting officer has determined the price for the items not on the Federal Supply Schedule is fair and reasonable;
- (3) The items are clearly labeled on the order as items not on the Federal Supply Schedule; and
- (4) All clauses applicable to items not on the Federal Supply Schedule are included in the order.

18. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

a. For the purpose of this contract, commitments, warranties and representations include, in addition to those agreed to for the entire schedule contract:

- (1) Time of delivery/installation quotations for individual orders;
- (2) Technical representations and/or warranties of products concerning performance, total system performance and/or configuration, physical, design and/or functional characteristics and capabilities of a product/equipment/service/software package submitted in response to requirements which result in orders under this schedule contract.
- (3) Any representations and/or warranties concerning the products made in any literature, description, drawings and/or specifications furnished by the Contractor.

b. The above is not intended to encompass items not currently covered by the GSA Schedule contract.

19. OVERSEAS ACTIVITIES

The terms and conditions of this contract shall apply to all orders for installation, maintenance and repair of equipment in areas listed in the pricelist outside the 48 contiguous states and the District of Columbia, except as indicated below:

None

Upon request of the Contractor, the ordering activity may provide the Contractor with logistics support, as available, in accordance with all applicable ordering activity regulations. Such ordering activity support will be provided on a reimbursable basis, and will only be provided to the Contractor's technical personnel whose services are exclusively required for the fulfillment of the terms and conditions of this contract.

20. BLANKET PURCHASE AGREEMENTS (BPAs)

The use of BPAs under any schedule contract to fill repetitive needs for supplies or services is allowable. BPAs may be established with one or more schedule contractors. The number of BPAs to be established is within the discretion of the ordering activity establishing the BPA and should be based on a strategy that is expected to maximize the effectiveness of the BPA(s). Ordering activities shall follow FAR 8.405-3 when creating and implementing BPA(s).

21. CONTRACTOR TEAM ARRANGEMENTS

Contractors participating in contractor team arrangements must abide by all terms and conditions of their respective contracts. This includes compliance with Clauses 552.238-74, Industrial Funding Fee and Sales Reporting, i.e., each contractor-(team member) must report sales and remit the IFF for all products and services provided under its individual contract.

22. INSTALLATION, DEINSTALLATION, REINSTALLATION

The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works with the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall received less than the prevailing wage rates as determined by the Secretary of Labor. The requirements of the Davis-Bacon Act do not apply if the construction work is incidental to the furnishing of supplies, equipment, or services. For example, the requirements do not apply to simple installation or alteration of a public building or public work that is incidental to furnishing supplies or equipment under a supply contract. However, if the construction, alteration or repair is segregable and exceeds \$2,000, then the requirements of the Davis-Bacon Act applies.

The ordering activity issuing the task order against this contract will be responsible for proper administration and enforcement of the Federal labor standards covered by the Davis-Bacon Act. The proper Davis-Bacon wage determination will be issued by the ordering activity at the time a request for quotations is made for applicable construction classified installation, deinstallation, and reinstallation services under SIN 132-8 or 132-9.

23. SECTION 508 COMPLIANCE.

If applicable, Section 508 compliance information on the supplies and services in this contract are available in Electronic and Information Technology (EIT) at the following:

<http://www.ECNetwork.com/>

The EIT standard can be found at: www.Section508.gov/.

24. PRIME CONTRACTOR ORDERING FROM FEDERAL SUPPLY SCHEDULES.

Prime Contractors (on cost reimbursement contracts) placing orders under Federal Supply Schedules, on behalf of an ordering activity, shall follow the terms of the applicable schedule and authorization and include with each order –

(a) A copy of the authorization from the ordering activity with whom the contractor has the prime contract (unless a copy was previously furnished to the Federal Supply Schedule contractor); and

(b) The following statement:

This order is placed under written authorization from _____ dated _____. In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the latter will govern.

25. INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)(FAR 52.228-5)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

26. SOFTWARE INTEROPERABILITY.

Offerors are encouraged to identify within their software items any component interfaces that support open standard interoperability. An item's interface may be identified as interoperable on the basis of participation in a Government agency-sponsored program or in an independent organization program. Interfaces may be identified by reference to an interface registered in the component registry located at <http://www.core.gov>.

27. ADVANCE PAYMENTS

A payment under this contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered. Advance or pre-payment is not authorized or allowed under this contract. (31 U.S.C. 3324)

TERMS AND CONDITIONS APPLICABLE TO TERM SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-32), PERPETUAL SOFTWARE LICENSES (SPECIAL ITEM NUMBER 132-33) AND MAINTENANCE AS A SERVICE (SPECIAL ITEM NUMBER 132-34) OF GENERAL PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE

1. INSPECTION/ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The ordering activity reserves the right to inspect or test any software that has been tendered for acceptance. The ordering activity may require repair or replacement of nonconforming software at no increase in contract price. The ordering activity must exercise its postacceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the software, unless the change is due to the defect in the software.

2. GUARANTEE/WARRANTY

a. Unless specified otherwise in this contract, the Contractor's standard commercial guarantee/warranty as stated in the contract's commercial pricelist will apply to this contract.

Emergency Communications Network, LLC, warrants and implies that the services provided hereunder are merchantable and fit for use for the particular purpose described in this contract. (note: as a web based solution 7X24X365 service and support is included in the license pricing)

b. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

c. Limitation of Liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the ordering activity for consequential damages resulting from any defect or deficiencies in accepted items.

3. TECHNICAL SERVICES

The Contractor, without additional charge to the ordering activity, shall provide a hot line technical support number (866) 939-0911 for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available from 9 AM to 6PM M-F Eastern Time, excluding holidays.

The Contractor, without additional charge to the ordering activity, shall provide a hot line technical support number (800) 336-3410 for the purpose of providing user assistance and guidance in the implementation of the software. The technical support number is available hours other than 9 AM to 6PM, M-F Eastern Time excluding holidays

4. SOFTWARE MAINTENANCE

a. Software maintenance as it is defined: (select software maintenance type) :

 X 1. Software Maintenance as a Product (SIN 132-32 or SIN 132-33)

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that are included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self diagnostics.

Emergency Communications Network, LLC includes software maintenance with license.

Software maintenance as a product does **NOT** include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

_____ 2. Software Maintenance as a Service (SIN 132-34)

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

b. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

5. PERIODS OF TERM LICENSES (SIN 132-32) AND MAINTENANCE (SIN 132-34)

a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.

b. Term licenses may be discontinued by the ordering activity on thirty (30) calendar days written notice to the Contractor.

c. Annual Funding. When annually appropriated funds are cited on an order for term licenses, the period of the term licenses shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses orders citing the new appropriation shall be required, if the term licenses is to be continued during any remainder of the contract period.

d. Cross-Year Funding Within Contract Period. Where an ordering activity's specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the ordering activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.

e. Ordering activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if the term licenses is to be terminated at that time. Orders for the continuation of term licenses will be required if the term licenses and/or maintenance is to be continued during the subsequent period.

6. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE - NOT APPLICABLE. Emergency Communications Network, LLC does not offer a Perpetual License.

a. The ordering activity may convert term licenses to perpetual licenses for any or all software at any time following acceptance of software. At the request of the ordering activity the Contractor shall furnish, within ten (10) calendar days, for each software product that is contemplated for conversion, the total amount of conversion credits which have accrued while the software was on a term license and the date of the last update or enhancement.

b. Conversion credits which are provided shall, within the limits specified, continue to accrue from one contract period to the next, provided the software remains on a term license within the ordering activity.

c. The term license for each software product shall be discontinued on the day immediately preceding the effective date of conversion from a term license to a perpetual license.

d. The price the ordering activity shall pay will be the perpetual license price that prevailed at the time such software was initially ordered under a term license, or the perpetual license price prevailing at the time of conversion from a term license to a perpetual license, whichever is the less, minus an amount equal to _____% of all term license payments during the period that the software was under a term license within the ordering activity.

7. TERM LICENSE CESSATION NOT APPLICABLE. Emergency Communications Network, LLC does not offer a Perpetual License.

a. After a software product has been on a continuous term license for a period of _____ * months, a fully paid-up, non-exclusive, perpetual license for the software product shall automatically accrue to the ordering activity. The period of continuous term license for automatic accrual of a fully paid-up perpetual license does not have to be achieved during a particular fiscal year; it is a written Contractor commitment which continues to be available for software that is initially ordered under this contract, until a fully paid-up perpetual license accrues to the ordering activity. However, should the term license of the software

be discontinued before the specified period of the continuous term license has been satisfied, the perpetual license accrual shall be forfeited.

b. The Contractor agrees to provide updates and maintenance service for the software after a perpetual license has accrued, at the prices and terms of Special Item Number 132-34, if the licensee elects to order such services. Title to the software shall remain with the Contractor.

8. UTILIZATION LIMITATIONS - (SIN 132-32, SIN 132-33, AND SIN 132-34)

a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.

b. When acquired by the ordering activity, commercial computer software and related documentation so legend shall be subject to the following:

(1) Title to and ownership of the software and documentation shall remain with the Contractor, unless otherwise specified.

(2) Software licenses are by site and by ordering activity. An ordering activity is defined as a cabinet level or independent ordering activity. The software may be used by any subdivision of the ordering activity (service, bureau, division, command, etc.) that has access to the site the software is placed at, even if the subdivision did not participate in the acquisition of the software. Further, the software may be used on a sharing basis where multiple agencies have joint projects that can be satisfied by the use of the software placed at one ordering activity's site. This would allow other agencies access to one ordering activity's database. For ordering activity public domain databases, user agencies and third parties may use the computer program to enter, retrieve, analyze and present data. The user ordering activity will take appropriate action by instruction, agreement, or otherwise, to protect the Contractor's proprietary property with any third parties that are permitted access to the computer programs and documentation in connection with the user ordering activity's permitted use of the computer programs and documentation. For purposes of this section, all such permitted third parties shall be deemed agents of the user ordering activity.

(3) Except as is provided in paragraph 8.b(2) above, the ordering activity shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the ordering activity who have the ordering activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the ordering activity to use software, documentation, or information therein, which the ordering activity may already have or obtains without restrictions.

(4) The ordering activity shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of Disaster Recovery, the ordering activity has the right to transfer the software to another site if the ordering activity site for which it is acquired is deemed to be unsafe for ordering activity personnel; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; to transfer a copy of the software to another site for purposes of benchmarking new hardware and/or software; and to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.

(5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.

9. SOFTWARE CONVERSIONS - (SIN 132-32 AND SIN 132-33)

Full monetary credit will be allowed to the ordering activity when conversion from one version of the software to another is made as the result of a change in operating system, or from one computer system to another. Under a perpetual license (132-33), the purchase price of the new software shall be reduced by the amount that was paid to purchase the earlier version. Under a term license (132-32), conversion credits which accrued while the earlier version was under a term license shall carry forward and remain available as conversion credits which may be applied towards the perpetual license price of the new version.

10. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY

The Contractor shall include, in the schedule pricelist, a complete description of each software product and a list of equipment on which the software can be used. Also, included shall be a brief, introductory explanation of the modules and documentation which are offered.

11. RIGHT-TO-COPY PRICING

The Contractor shall insert the discounted pricing for right-to-copy licenses. NOT APPLICABLE. Emergency Communications Network, LLC does not offer right-to-copy licenses.

**USA COMMITMENT TO PROMOTE
SMALL BUSINESS PARTICIPATION
PROCUREMENT PROGRAMS**

PREAMBLE

EMERGENCY COMMUNICATIONS NETWORK, LLC provides commercial products and services to ordering activities. We are committed to promoting participation of small, small disadvantaged and women-owned small businesses in our contracts. We pledge to provide opportunities to the small business community through reselling opportunities, mentor-protégé programs, joint ventures, teaming arrangements, and subcontracting.

COMMITMENT

To actively seek and partner with small businesses.

To identify, qualify, mentor and develop small, small disadvantaged and women-owned small businesses by purchasing from these businesses whenever practical.

To develop and promote company policy initiatives that demonstrate our support for awarding contracts and subcontracts to small business concerns.

To undertake significant efforts to determine the potential of small, small disadvantaged and women-owned small business to supply products and services to our company.

To insure procurement opportunities are designed to permit the maximum possible participation of small, small disadvantaged, and women-owned small businesses.

To attend business opportunity workshops, minority business enterprise seminars, trade fairs, procurement conferences, etc., to identify and increase small businesses with whom to partner.

To publicize in our marketing publications our interest in meeting small businesses that may be interested in subcontracting opportunities.

We signify our commitment to work in partnership with small, small disadvantaged and women-owned small businesses to promote and increase their participation in ordering activity contracts. To accelerate potential opportunities please contact (Michael Staley, 866 939 0911, mstaley@ECNetwork.com, fax 386-676-1127.)

Population	Standard License Pricing
0-999	\$2,380.22
1000-4999	\$4,760.44
5000-7499	\$7,140.66
7500-9999	\$7,140.66
10000-12499	\$7,140.66
12500-15000	\$7,140.66
15000-17500	\$7,140.66
17500-19999	\$9,520.88
20000 - 22499	\$9,520.88
22500 - 24999	\$11,901.09
25000 - 27499	\$11,901.09
27500 - 29999	\$14,281.31
30000 - 32499	\$14,281.31
32500 - 34499	\$14,281.31
35000 - 37499	\$14,281.31
37500 - 39999	\$16,661.53
40000 - 42499	\$16,661.53
42500 - 44999	\$16,661.53
45000 - 47499	\$16,661.53
47500 - 49999	\$16,661.53
50000 - 52499	\$19,041.75
52500 - 54999	\$19,041.75
55000 - 57499	\$19,041.75
57500 - 59999	\$19,041.75
60000 - 62499	\$19,041.75
62500 - 64999	\$21,421.97
65000 - 67499	\$21,421.97
67500 - 69999	\$21,421.97
70000 - 72499	\$21,421.97
72500 - 74999	\$21,421.97
75000 - 77499	\$23,802.19

<i>Population</i>	Standard License Pricing
77500 - 79999	\$23,802.19
80000 - 82499	\$23,802.19
82500 - 84999	\$23,802.19
85000 - 87499	\$23,802.19
87500 - 89999	\$26,182.41
90000 - 92499	\$26,182.41
92500 - 94999	\$26,182.41
95000 - 97499	\$26,182.41
97500 - 99999	\$26,182.41
100000 - 104999	\$29,752.73
105000 - 109999	\$29,752.73
110000 - 114999	\$29,752.73
115000 - 119999	\$32,728.01
120000 - 124999	\$32,728.01
125000 - 129999	\$35,703.28
130000 - 134999	\$35,703.28
135000 - 139999	\$35,703.28
140000 - 144999	\$35,703.28
145000 - 149999	\$35,703.28
150000 - 199999	\$35,703.28
200000-249999	\$40,463.72

<i>Population</i>	Unlimited Emergency Usage License Pricing
0-999	\$2,380.22
1000-4999	\$2,380.22
5000-7499	\$2,380.22
7500-9999	\$2,380.22
10000-12499	\$2,380.22
12500-15000	\$2,380.22
15000-17500	\$2,380.22
17500-19999	\$2,380.22
20000 - 22499	\$2,380.22
22500 - 24999	\$2,380.22
25000 - 27499	\$2,380.22

**Unlimited Emergency
Usage License Pricing**

<i>Population</i>	
27500 - 29999	\$17,089.97
30000 - 32499	\$17,994.45
32500 - 34499	\$18,898.94
35000 - 37499	\$19,803.42
37500 - 39999	\$21,898.01
40000 - 42499	\$22,802.50
42500 - 44999	\$23,706.98
45000 - 47499	\$24,611.46
47500 - 49999	\$25,515.95
50000 - 52499	\$27,610.54
52500 - 54999	\$28,515.02
55000 - 57499	\$29,419.50
57500 - 59999	\$30,323.99
60000 - 62499	\$31,228.47
62500 - 64999	\$33,323.06
65000 - 67499	\$34,227.55
67500 - 69999	\$35,132.03
70000 - 72499	\$36,036.51
72500 - 74999	\$36,941.00
75000 - 77499	\$39,035.59
77500 - 79999	\$39,940.07
80000 - 82499	\$40,844.55
82500 - 84999	\$41,749.04
85000 - 87499	\$42,653.52
87500 - 89999	\$44,748.11
90000 - 92499	\$45,652.60
92500 - 94999	\$46,557.08
95000 - 97499	\$47,461.56
97500 - 99999	\$48,366.05
100000 - 104999	\$51,055.69
105000 - 109999	\$52,864.66
110000 - 114999	\$54,673.62
115000 - 119999	\$57,970.23
120000 - 124999	\$59,779.19
125000 - 129999	\$63,075.80
130000 - 134999	\$64,884.76
135000 - 139999	\$66,693.73
140000 - 144999	\$71,406.56
145000 - 149999	\$71,406.56
150000 - 199999	\$71,406.56
200000-249999	\$80,927.44

Unlimited Usage License

Population	Pricing
0-999	\$4,760.44
1000-4999	\$7,140.66
5000-7499	\$7,140.66
7500-9999	\$7,140.66
10000-12499	\$7,235.87
12500-15000	\$9,044.83
15000-17500	\$10,853.80
17500-19999	\$12,662.76
20000 - 22499	\$14,471.73
22500 - 24999	\$16,280.70
25000 - 27499	\$18,089.66
27500 - 29999	\$19,898.63
30000 - 32499	\$21,707.60
32500 - 34499	\$23,516.56
35000 - 37499	\$25,325.53
37500 - 39999	\$27,134.49
40000 - 42499	\$28,943.46
42500 - 44999	\$30,752.43
45000 - 47499	\$32,561.39
47500 - 49999	\$34,370.36
50000 - 52499	\$36,179.33
52500 - 54999	\$37,988.29
55000 - 57499	\$39,797.26
57500 - 59999	\$41,606.22
60000 - 62499	\$43,415.19
62500 - 64999	\$45,224.16
65000 - 67499	\$47,033.12
67500 - 69999	\$48,842.09
70000 - 72499	\$50,651.06
72500 - 74999	\$52,460.02
75000 - 77499	\$54,268.99

Unlimited Usage License**Population Pricing**

77500 - 79999	\$56,077.95
80000 - 82499	\$57,886.92
82500 - 84999	\$59,695.89
85000 - 87499	\$61,504.85
87500 - 89999	\$63,313.82
90000 - 92499	\$65,122.79
92500 - 94999	\$66,931.75
95000 - 97499	\$68,740.72
97500 - 99999	\$70,549.68
100000 - 104999	\$72,358.65
105000 - 109999	\$75,976.58
110000 - 114999	\$79,594.52
115000 - 119999	\$83,212.45
120000 - 124999	\$86,830.38
125000 - 129999	\$90,448.31
130000 - 134999	\$94,066.25
135000 - 139999	\$97,684.18
140000 - 144999	\$101,302.11
145000 - 149999	\$104,920.04
150000 - 199999	\$107,109.84
200000-249999	\$121,391.16

**CodeRED
Internal/ student /staff
Internal/ staff/school
only usage license**

0 - 999	\$6,187.14
1000 - 1999	\$7,615.27
2000 - 2999	\$9,043.40
3000 - 3999	\$10,471.53
4000 - 4999	\$11,899.67
5000 - 5999	\$13,327.80
6000 - 6999	\$14,755.93
7000 - 7999	\$16,184.06
8000 - 8999	\$17,612.19

*Internal/ student /staff
Population*

*Internal/staff/school
only usage license*

9000 - 9999	\$19,040.32
10000 - 10999	\$20,468.45
11000 - 11999	\$21,896.58
12000 - 12999	\$23,324.72
13000 - 13999	\$24,752.85
14000 - 14999	\$26,180.98
15000 - 15999	\$27,609.11
16000 - 16999	\$29,037.24
17000 - 17999	\$30,465.37
18000 - 18999	\$31,893.50
19000 - 19999	\$33,321.63
20000 - 20999	\$34,749.77
21000 - 21999	\$36,177.90
22000 - 22999	\$37,606.03
23000 - 23999	\$39,034.16
24000 - 24999	\$40,462.29
25000 - 25999	\$41,890.42
26000 - 26999	\$43,318.55
27000 - 27999	\$44,746.68
28000 - 28999	\$46,174.82
29000 - 29999	\$47,602.95
30000 - 30999	\$49,031.08
31000 - 31999	\$50,459.21
32000 - 32999	\$51,887.34
33000 - 33999	\$53,315.47
34000 - 34999	\$54,743.60
35000 - 35999	\$56,171.73
36000 - 36999	\$57,599.87
37000 - 37999	\$59,028.00
38000 - 38999	\$60,456.13
39000 - 39999	\$61,884.26
40000 - 40999	\$63,312.39
41000 - 41999	\$64,740.52
42000 - 42999	\$66,168.65
43000 - 43999	\$67,596.78
44000 - 44999	\$69,024.92
45000 - 45999	\$70,453.05
46000 - 46999	\$71,881.18
47000 - 47999	\$73,309.31
48000 - 48999	\$74,737.44
49000 - 49999	\$76,165.57

CodeRED Weather Warning® Service Addendum
Non-GSA Contract Item

This is an addendum (the "Addendum") to that certain CodeRED® NEXT Services Agreement effective July 1, 2016 (the "Agreement") entered into by and between the City of Nashua (hereinafter "Licensee"), a body politic and corporate of the State of New Hampshire located at 229 Main Street, Nashua, NH 03061, and Emergency Communications Network, LLC (hereinafter "Licensor"). This Addendum shall be effective as of the Effective Date of the Agreement.

1. Terms used herein which are not otherwise defined shall have the meanings given to them in the Agreement. The following terms shall be added to the Agreement:

CodeRED Weather Warning® Service: Licensor's CodeRED Weather Warning® Service ("CRWW") expands the benefits of the Service to include the automatic launching of prerecorded CRWW notifications to members of Licensee's Calling Area who opt-in to CRWW (each a "Subscriber" and collectively, the "Subscribers"). These automated notifications are initiated by the issuance of severe weather alerts by the National Weather Service ("NWS"), with no intervention on the part of Licensee or Licensor. Subscribers to be notified are determined by matching the geographic location associated with each Subscriber against the geographic polygon(s) associated with severe weather alerts issued by NWS. CRWW is available only as an add-on module for the Service. CRWW will not be provided under the terms of this Addendum unless the Agreement is in effect.

Subscribers: Severe weather events can occur at any time of day or night. Accordingly, CRWW notifications will automatically be launched in response to the issuance of NWS severe weather alerts at any time, 24 hours/day. CRWW will notify ONLY those Subscribers that have CHOSEN to participate through the opt-in process. CRWW will be limited to Subscribers located within the City of Nashua, New Hampshire who have added their name and geographic location to the CRWW Subscriber database via the Licensee's community notification enrollment site. This site is hosted by Licensor for the purpose of allowing Subscribers to add their contact information to both the CodeRED® database and the CRWW database via the Internet. Subscribers shall be subject to the terms and conditions for CRWW, which can be reviewed at: <http://ecnetwork.com/privacy-policy>. ONLY THOSE SUBSCRIBERS WHO OPT-IN TO CRWW WILL BE ELIGIBLE TO RECEIVE CRWW NOTIFICATIONS. LICENSEE MAY BE REQUIRED TO APPROVE SUBSCRIBER ENTRIES PRIOR TO THE SUBSCRIBERS BEING ACTIVATED AND ENTERED INTO THE DATABASE.

CodeRED® System Minutes: Notifications placed automatically via CRWW have no effect on the System Minutes associated with the Service.

Term: Based upon Licensor's current Emergency Notification Service Contract effective as of September 3, 2014 (the "NH Agreement") with the New Hampshire Department of Safety-Homeland Security and Emergency Management ("NH"), Licensor will include CRWW at NO COST for the initial term of this Addendum, which shall commence as of the Effective Date and terminate at 12:01 a.m. on August 1, 2017, unless earlier terminated by NH, Licensor or Licensee, or otherwise extended by NH under the NH Agreement.

Termination: Upon termination of the NH Agreement or the Agreement, access to CRWW will terminate and Licensor shall terminate all individual Subscriber accounts. In the event NH elects to terminate the NH Agreement, while the Agreement is still in effect, Licensee may purchase CRWW via separate, written addendum or agreement. Licensor, in its sole discretion, may also terminate this Addendum immediately, and without further notice, as a result of Licensee's breach of the Agreement or this Addendum, and in such case, no fees (if any) paid hereunder shall be refunded.

2. This Addendum shall not modify any terms and conditions of the Agreement, except as set forth herein.

Licensee:
City of Nashua, New Hampshire

Licensor:
Emergency Communications Network, LLC

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



**GSA
Federal
Acquisition
Service**

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- [eBuy - quotes](#)
- [GSA Advantage - online shopping](#)
- [Help](#)

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Contractor Information

(Vendors) How to change your company information

<p>Contract #: GS-35F-0253W Contractor: EMERGENCY COMMUNICATIONS NETWORK, LLC Address: 780 W GRANADA BLVD STE 200 ORMOND BEACH, FL 32174-2300 Phone: (386)676-0294 E-Mail: mstaley@ecnetwork.com Web Address: http://www.ecnetwork.com DUNS: 801237293 NAICS: 541519</p>	<p>Socio-Economic : Small business EPLS : Contractor not found on the Excluded Parties List System Govt. Point of Contact: Tamika Larson Phone: 202-253-2365 E-Mail: tamika.larson@gsa.gov</p> <p>Contract Clauses/Exceptions: View the specifics for this contract</p>
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Source	Title	Contract Number	Contractor T&Cs /Pricelist	Contract End Date	Category	View Catalog
70	GENERAL PURPOSE INFORMATION TECHNOLOGY SOFTWARE, AND SERVICES	COMMERCIAL EQUIPMENT, GS-35F-0253W		Feb 16, 2020	132 32	

IPAWS Addendum
Non-GSA Contract Item

This is an addendum (the "Addendum") to that certain CodeRED® NEXT Services Agreement, effective July 1, 2016 (the "Agreement") entered into by and between the City of Nashua (hereinafter "Licensee") a body politic and corporate of the State of New Hampshire located at 229 Main Street, Nashua, NH 03061 and Emergency Communications Network, LLC (hereinafter "Licensor"). This Addendum shall be effective as of the Effective Date of the Agreement.

1. Terms used herein which are not otherwise defined shall have the meanings given to them in the Agreement. The following terms shall be added to the Agreement:

Integrated Public Alert Warning System ("IPAWS"): IPAWS is a public alert and warning system developed and maintained by the Federal Emergency Management Agency ("FEMA"), and is designed to provide integrated services and capabilities to local, state and federal authorities for the purpose of enabling them to alert and warn their respective communities via multiple communication methods. The Service has the ability to permit authorized IPAWS users to deliver messages to IPAWS through the Service using an IPAWS add-on module (the "IPAWS Submission App").

Authorization: Licensee represents and warrants to Licensor that Licensee, and any employees, agents, or representatives of Licensee that access the IPAWS Submission App (each a "User" and collectively the "Users"), are authorized by FEMA to use IPAWS and have completed IPAWS training as required by FEMA. Licensee shall contact Licensor immediately upon any change in Licensee's, or any User's, right to access IPAWS, including but not limited to any change in any User's employment status which may otherwise result in such User no longer being authorized to have access to IPAWS.

Licensee shall notify Licensor to designate which pass codes for the Service shall have the ability to view the IPAWS Submission App. Licensee understands and agrees that the IPAWS Submission App may only be accessed by Users with pass codes for the Service. Licensee further understands and agrees that access to the IPAWS Submission App shall require a separate pass code from that used to access the Service, that such pass code shall be established solely by the User, and that Licensor shall not have access to such pass code. Licensee shall assume full responsibility for maintaining the confidentiality of all pass codes used to access the IPAWS Submission App.

Digital Signature: Licensee represents and warrants that it has been granted a digital signature to access IPAWS (the "Signature") from FEMA. In order to use the IPAWS Submission App, Licensee agrees to provide Licensor with a copy of the Signature, Licensee's Application for IPAWS Public Alerting Authority, Licensee's keystore and pass codes for the Signature, along with any other information reasonably requested by Licensor to demonstrate Licensee's compliance with FEMA and right to access IPAWS through the IPAWS Submission App. Licensee agrees that the Signature shall be submitted separately from any information disclosing its associated keystore and pass codes. The Signature may be sent to Licensor in hard copy and/or electronic format on CD or USB Drive, by mailing such information to Licensor, via certified mail or other nationally recognized overnight delivery carrier, delivery confirmation requested, at Emergency Communications Network, Attn: Director of Software Development, 780 W. Granada Boulevard, Suite 200, Ormond Beach, FL 32174. All remaining items, including without limitation, Licensee's Application for IPAWS Public Alerting Authority, and Licensee's keystore and pass codes for the Signature, may be emailed to a designee of Licensor separately from the Signature. Licensee specifically authorizes Licensor to use and keep such information on Licensor's servers, including but not limited to the Signature, for the purpose of allowing Licensee and Licensor to access, use and test IPAWS through the IPAWS Submission App. Licensor and Licensee acknowledge and agree that, upon termination of this Addendum or the Agreement, the Signature shall be removed from the IPAWS Submission App. Licensee further agrees that Licensor shall in no way be liable for any transmission, copying, or security issues which arise from Licensee's transmission of confidential IPAWS information through non-secure means, including without limitation email. Licensee shall take steps to ensure that the transmission of such information is completed with best practices. Licensor shall not be deemed to be in receipt of any information absent delivery confirmation of same; Licensee shall be solely responsible for arranging, including but not limited to paying any costs associated with, delivery confirmation.

Functionality: Licensee acknowledges and agrees that: (a) the IPAWS Submission App permits Licensee to submit messages to IPAWS, however, the dissemination of messages through IPAWS, including but not limited to delivery through the Emergency Alert System ("EAS") or the Commercial Mobile Alert System ("CMAS"), is not guaranteed nor controlled by Licensor, and is the sole responsibility of FEMA and its associated agencies,

and Licensor shall not be responsible or liable for the failure of messages to be disseminated through IPAWS; (b) IPAWS may include additional features which are not supported through the IPAWS Submission App, including without limitation the receipt of messages, and Licensor shall not be required to provide such additional features to Licensee; and (c) Licensee shall be solely responsible for the content of all messages delivered to IPAWS through the IPAWS Submission App and for any and all claims, whether raised by FEMA or a third party, regarding messages sent by Licensee, or using Licensee's pass codes, through the IPAWS Submission App.

Integration into Service: All use of the IPAWS Submission App, including but not limited to unauthorized use or access to IPAWS through Licensee's account, shall be considered use of the Service and governed under the terms of the Agreement. The IPAWS Submission App is available only as an add-on module for the Service. The IPAWS Submission App will not be provided under the terms of this Addendum unless the Agreement is in effect.

Security: Licensor will use commercially reasonable practices and standards to secure and encrypt data transmissions sent using the IPAWS Submission App. Licensee understands and acknowledges that Licensor is providing the IPAWS Submission App on the World Wide Web through an "upstream" third party Internet Service Provider, utilizing public utility services which may not be secure. Licensee agrees that Licensor shall not be liable to Licensee for any compromise to, or interceptions of, messages sent through the IPAWS Submission App.

Term: Based upon Licensor's current CodeRED NEXT Master Services Agreement for IPAWS effective as of May 14, 2014 (the "NH IPAWS Agreement") with the New Hampshire Department of Safety-Division of Emergency Services ("NH"), Licensor will include the IPAWS Submission App at **NO COST** for the initial term of this Addendum, which shall **commence as of the Effective Date and terminate at 12:01 a.m. on May 14, 2017**, unless earlier terminated by NH, Licensor or Licensee, or otherwise extended by NH under the NH IPAWS Agreement. Licensee understands and agrees that access to the IPAWS Submission App shall be made available upon Licensor's receipt of all IPAWS information requested hereunder, and that the date of such receipt shall not otherwise affect the commencement of the term of this Addendum as of the Effective Date.

Termination: Upon termination of the NH IPAWS Agreement or the Agreement, access to the IPAWS Submission App will terminate. In the event NH elects to terminate the NH IPAWS Agreement, while the Agreement is still in effect, Licensee may purchase access to the IPAWS Submission App via separate, written addendum or agreement. In the event, the Agreement is terminated while the NH IPAWS Agreement is still in effect, Licensee may be provided with access to the IPAWS Submission App by signing a separate, written addendum or agreement to the NH IPAWS Agreement. Licensor, in its sole discretion, may also terminate this Addendum immediately, and without further notice, as a result of Licensee's breach of the Agreement or this Addendum or changes to IPAWS caused through no fault of Licensee or Licensor, and in such case, no fees (if any) paid hereunder shall be refunded. Licensee further understands and agrees that, in the event Licensor is required to remove the IPAWS Submission App as a result of Licensee's failure to comply with any IPAWS or FEMA regulations, Licensee shall forfeit all fees (if any) paid hereunder to Licensor.

2. This Addendum shall not modify any terms and conditions of the Agreement, except as set forth herein.

Licensee:
City of Nashua, New Hampshire

Licensor:
Emergency Communications Network, LLC

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

July 14, 2016
Memo #17-014

TO: MAYOR JIM DONCHESS
FINANCE COMMITTEE

SUBJECT: PURCHASE OF TWO (2) 2016 FORD FUSION SE HYBRIDS (VALUE: \$50,160)
DEPARTMENT: 173 ENVIRONMENTAL HEALTH;
ACCOUNT DESCRIPTION: 2016 CERF-VEHICLES & 2017 CERF-VEHICLES

Please see attached communication from Bobbie Bagley, Community Services Division Director dated July 5, 2016 for the information related to this contract award.

Pursuant to **§ 5-84 Special purchase procedures A. (3)** Purchases which can be procured through cooperative intergovernmental purchase agreements with other governmental jurisdictions.

These vehicles are being purchased from MHQ under the MA State Contract.

The Community Services Health Division Director and the Purchasing Department recommend this purchase from **MHQ of Marlborough, MA** in the amount of **\$50,160**.

Respectfully,

Dan Kooker
Purchasing Manager

Cc: B Bagley J Graziano



THE CITY OF NASHUA

*Division of Public Health and Community Services
Office of the Director*

"The Gate City"

TO: Daniel Kooken, Purchasing Manager
FROM: Bobbie D. Bagley, Director of Division of Public Health & Community Services
SUBJECT: Purchase of replacement vehicles for Environmental Health
DATE: July 14, 2016

We are requesting approval for two 2016 Ford Fusion vehicles at \$25,080 each for a total of \$50,160. These vehicles are to replace the two vehicles currently used by staff in the Environmental Health Department. Staff use these vehicles for routine department duties including inspections, site visits, sample collection and transportation of samples to the State of NH Public Health Laboratory.

The two current vehicles; a 2002 Ford Taurus wagon and 2002 Chevy Malibu are past their useful life with concerns regarding reliability and safety.

The 2002 Ford Taurus will not pass state inspection without costly repairs to correct extensive rust damage as well as other mechanical problems. This vehicle is not considered road worthy beyond local travel. It has over 80,000 miles but is not worth the anticipated repair costs.

The 2002 Chevy Malibu sedan passed state inspection, but will need new brakes and tires prior to winter. It has 74,000 miles and is starting to rust. This car has had some major repairs, it's also 14 years old, no longer reliable, and also is not used outside of Nashua. Repeated breakdowns of this vehicle are very inconvenient and always expensive.

Replacement of these vehicles have been included on the City's CERF schedule for FY16; \$24,519; and FY17 \$25,745. Both 2002 vehicles will be put up for auction.

Pursuant to NRO Section 5-84 (A)(3), these vehicles will be purchased from **MHQ of Marlborough, MA**, under the Plymouth County Commissioners Contract 2015 in the amount of **\$50,160**.

Cc John Griffin Janet Graziano Heidi Peek



Quotation

MHQ-Headquarters
401 Elm Street
Marlborough, MA 01752
508-573-2600

Customer: 13715

NASHUA, CITY OF
CITY HALL 229 MAIN ST
NASHUA, NH 03061

Sales Contact:

MICHAEL CURTIN
603-325-0995
MCURTIN@MHQ.COM

Estimate: QM00002169
Cust PO: FUSION HYBRID
Quote Date: 2016-07-01
Expiration: 2016-09-29

Contract Name	Line Ref	Line Desc	Unit Price	Qty	Extended Price
PCC2015	15-05	2016 Ford Fusion - Standard Equipment	\$ 17,984.00	1.00	\$ 17,984.00
PCC2015	UX	Ingot Silver Metallic	\$ 0.00	1.00	\$ 0.00
PCC2015	15-05-006	POL Upgrade to SE trim level FWD Hybrid 500A pack	\$ 7,096.00	1.00	\$ 7,096.00
Total					\$ 25,080



DPW FLEET MAINTENANCE CITY OF NASHUA, NH WORK ORDER

WO Number 00002-0004275

CLOSED

Vehicle # 00002-G00367

SHOP	00002	1
CITY OF NASHUA 9 STADIUM NASHUA, NH 03062		
(603) 589-4714		
Vendor Number		
Vendor Name		
PO Number		

CUSTOMER: 00002	Heath Dept	Health
Health Dept. 18 Mulberry Street Nashua NH 03060 603 589-4535		

Odometer:	66895.0	Start	03/26/2014 13:07
Make	Chevrolet	Close	04/14/2014 14:35
Year Model	2002 Malibu	Priority	2 VEHICLE DOWN
Serial #	1G1ND52J02M648598	Reason	4 DRIVERS REPORT
Plate #	G00367	Shop ID	All

LINE	TYPE	COMPLETED	VMRS CODE	MECHANIC/PART NUMBER	DESCRIPTION - OUT PO NUMBER	JOB	HRS / QTY	PRICE / WAGE	TOTAL COST
1	LABOR	03/31/2014	066-002-000	0000000019 DAVE	PM B INSPECTION	RPR	3.00	24.880	74.64
	PART	03/26/2014		51040	OIL FILTER		1.00	2.390	2.39
		03/26/2014		33311	FUEL FILTER		1.00	5.860	5.86
		03/26/2014		5/30	ENGINE OIL		5.00	2.660	13.30
		03/26/2014			LUBE JOB 2		1.00	9.500	9.50
		03/26/2014			37-180	WIPER BLADES		2.00	7.610
2	LABOR	03/31/2014	123-000-000	0000000019 DAVE	STATE INSPECTION	CHK	2.00	24.880	49.76
3	LABOR	07/27/2016	002-028-000	0000000019 DAVE	CAB FLOOR PAN	RPR	35.00	26.730	935.55
	PART	07/27/2016		MISC	MISC		6.00	15.000	90.00

Notes:

Labor Hours	40.00	
LABOR		\$1,059.95
PARTS		\$136.27
TIRES		\$0.00
WRNTY		\$0.00
OUTSIDE PARTS	\$0.00	
OUTSIDE TIRES	\$0.00	
OUTSIDE LABOR	\$0.00	
OUTSIDE		\$0.00
SHOP		\$0.00
TAX		\$0.00
MISC		\$0.00
TOTAL		\$1,196.22

AUTHORIZED BY

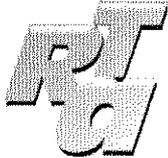
Date: 07/27/2016 02:37 p.m.

SIGNATURE

Report ID: 3-414/WLV

DATE

Page: 1



DPW FLEET MAINTENANCE CITY OF NASHUA, NH WORK ORDER

WO Number 00002-0005190

CLOSED

Vehicle # 00002-G00367

SHOP	00002	1
CITY OF NASHUA 9 STADIUM NASHUA, NH 03062		
(603) 589-4714		
Vendor Number		
Vendor Name		
PO Number		

CUSTOMER: 00002	Heath Dept	Health
Health Dept. 18 Mulberry Street Nashua NH 03060 603 589-4535		

Odometer	70827.0	Start	12/12/2014 12:01
Make	Chevrolet	Close	12/12/2014 13:31
Year Model	2002 Malibu	Priority	2 VEHICLE DOWN
Serial #	1G1ND52J02M648598	Reason	4 DRIVERS REPORT
Plate #	G00367	Shop ID	All

LINE	TYPE	COMPLETED	VMRS CODE	MECHANIC/PART NUMBER	DESCRIPTION - OUT PO NUMBER	JOB	HRS / QTY	PRICE / WAGE	TOTAL COST
1	LABOR	12/12/2014	066-002-000	0000002016 GUS	PM B INSPECTION	PM	1.50	24.980	37.47
	PART	12/12/2014		51040	OIL FILTER		1.00	2.390	2.39
		12/12/2014		46035	AIR FILTER		1.00	4.920	4.92
		12/12/2014		5/30	ENGINE OIL		5.00	2.020	10.10
		12/12/2014		LUBE JOB	LUBE JOB 2		1.00	20.000	20.00
2	LABOR	12/12/2014	123-000-000	0000002016 GUS	STATE INSPECTION	CHK	1.00	24.980	24.98
3	LABOR	12/12/2014	034-017-000	0000002016 GUS	BRAKE LIGHTS	CHK	0.50	24.980	12.49

Notes:

Labor Hours	3.00	
LABOR		\$74.94
PARTS		\$37.41
TIRES		\$0.00
WRNTY		\$0.00
OUTSIDE PARTS	\$0.00	
OUTSIDE TIRES	\$0.00	
OUTSIDE LABOR	\$0.00	
OUTSIDE		\$0.00
SHOP		\$0.00
TAX		\$0.00
MISC		\$0.00
TOTAL		\$112.35

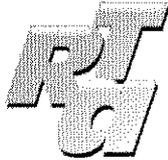
AUTHORIZED BY

Date: 07/27/2016 02:37 p.m.

SIGNATURE

Report ID: 3-414/WLV

DATE



DPW FLEET MAINTENANCE CITY OF NASHUA, NH WORK ORDER

WO Number 00002-0005732

CLOSED

Vehicle # 00002-G00367

SHOP	00002	1
CITY OF NASHUA 9 STADIUM NASHUA, NH 03062		
(603) 589-4714		
Vendor Number		
Vendor Name		
PO Number		

CUSTOMER: 00002	Heath Dept	Health
Health Dept. 18 Mulberry Street Nashua NH 03060 603 589-4535		

Odometer:	70827.0	Start	06/12/2015 14:53
Make:	Chevrolet	Close	06/12/2015 14:53
Year Model:	2002 Malibu	Priority	2 VEHICLE DOWN
Serial #:	1G1ND52J02M648598	Reason	4 DRIVERS REPORT
Plate #:	G00367	Shop ID	All

LINE	TYPE	COMPLETED	VMRS CODE	MECHANIC/PART NUMBER	DESCRIPTION - OUT PO NUMBER	JOB	HRS / QTY	PRICE / WAGE	TOTAL COST
1	LABOR	06/12/2015	034-005-000	0000002016 GUS	TURN SIGNALS	CHK	4.00	25.670	102.68
2	LABOR	06/12/2015	033-001-000	0000002016 GUS	IGNITION SWITCH	RPL	5.00	25.670	128.35

Notes:

Labor Hours	9.00	
LABOR		\$231.03
PARTS		\$0.00
TIRES		\$0.00
WRNTY		\$0.00
OUTSIDE PARTS	\$0.00	
OUTSIDE TIRES	\$0.00	
OUTSIDE LABOR	\$0.00	
OUTSIDE		\$0.00
SHOP		\$0.00
TAX		\$0.00
MISC		\$0.00
TOTAL		\$231.03

AUTHORIZED BY _____

Date: 07/27/2016 02:37 p.m.

SIGNATURE _____

Report ID: 3-414/WLV

DATE _____



DPW FLEET MAINTENANCE CITY OF NASHUA, NH WORK ORDER

WO Number 00002-0006165

CLOSED

Vehicle # 00002-G00367

SHOP	00002	1
CITY OF NASHUA 9 STADIUM NASHUA, NH 03062		
(603) 589-4714		
Vendor Number		
Vendor Name		
PO Number		

CUSTOMER: 00002	Heath Dept	Health
Health Dept. 18 Mulberry Street Nashua NH 03060 603 589-4535		

Odometer	74401.0	Start	09/17/2015 09:49
Make	Chevrolet	Close	09/17/2015 14:36
Year Model	2002 Malibu	Priority	2 VEHICLE DOWN
Serial #	1G1ND52J02M648598	Reason	4 DRIVERS REPORT
Plate #	G00367	Shop ID	All

LINE	TYPE	COMPLETED	VMRS CODE	MECHANIC/PART NUMBER	DESCRIPTION - OUT PO NUMBER	JOB	HRS / QTY	PRICE / WAGE	TOTAL COST
1	LABOR	09/17/2015	066-002-000	0000000086 TOML	PM B INSPECTION	PM	2.50	23.360	58.40
	PART	09/17/2015		51040	OIL FILTER		1.00	2.222	2.22
		09/17/2015		5/30	ENGINE OIL		5.00	2.020	10.10
		09/17/2015		LUBE JOB 1	LUBE JOB 1		1.00	10.000	10.00
2	LABOR	09/17/2015	123-000-000	0000000086 TOML	STATE INSPECTION	CHK	2.50	23.360	58.40

Notes:

Labor Hours	5.00	
LABOR		\$116.80
PARTS		\$22.32
TIRES		\$0.00
WRNTY		\$0.00
OUTSIDE PARTS	\$0.00	
OUTSIDE TIRES	\$0.00	
OUTSIDE LABOR	\$0.00	
OUTSIDE		\$0.00
SHOP		\$0.00
TAX		\$0.00
MISC		\$0.00
TOTAL		\$139.12

AUTHORIZED BY

Date: 07/27/2016 02:37 p.m.

SIGNATURE

Report ID: 3-414/WLV

DATE

Page: 1



DPW FLEET MAINTENANCE CITY OF NASHUA, NH WORK ORDER

WO Number 00002-0006237

CLOSED

Vehicle # 00002-G00367

SHOP	00002	1
CITY OF NASHUA 9 STADIUM NASHUA, NH 03062		
(603) 589-4714		
Vendor Number		
Vendor Name		
PO Number		

CUSTOMER: 00002	Heath Dept	Health
Health Dept. 18 Mulberry Street Nashua NH 03060 603 589-4535		

Odometer	74401.0	Start	10/19/2015 07:57
Make	Chevrolet	Close	10/19/2015 08:11
Year Model	2002 Malibu	Priority	2 VEHICLE DOWN
Serial #	1G1ND52J02M648598	Reason	4 DRIVERS REPORT
Plate #	G00367	Shop ID	All

LINE	TYPE	COMPLETED	VMRS CODE	MECHANIC/PART NUMBER	DESCRIPTION - OUT PO NUMBER	JOB	HRS / QTY	PRICE / WAGE	TOTAL COST
1	LABOR	10/19/2015	033-005-000	0000000019 DAVE	SPARK PLUGS	RPL	8.00	25.570	204.56
	PART	10/19/2015		41-101	SPARK PLUGS (NAPA)		6.00	5.990	35.94
		10/19/2015		700345	WIRE SET (NAPA)		1.00	30.750	30.75
2	LABOR	10/19/2015	034-017-000	0000008484 DAN	BRAKE LIGHTS	RPR	2.00	23.360	46.72

Notes:

Labor Hours	10.00	
LABOR		\$251.28
PARTS		\$66.69
TIRES		\$0.00
WRNTY		\$0.00
OUTSIDE PARTS	\$0.00	
OUTSIDE TIRES	\$0.00	
OUTSIDE LABOR	\$0.00	
OUTSIDE		\$0.00
SHOP		\$0.00
TAX		\$0.00
MISC		\$0.00
TOTAL		\$317.97

AUTHORIZED BY _____

Date: 07/27/2016 02:37 p.m.

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Report ID: 3-414/WLV

DATE _____



DPW FLEET MAINTENANCE CITY OF NASHUA, NH WORK ORDER

WO Number 00002-0007110

CLOSED

Vehicle # 00002-G00367

SHOP	00002	1
CITY OF NASHUA 9 STADIUM NASHUA, NH 03062		
(603) 589-4714		
Vendor Number		
Vendor Name		
PO Number		

CUSTOMER: 00002	Heath Dept	Health
Health Dept. 18 Mulberry Street Nashua NH 03060 603 589-4535		

Odometer	75825.0	Start	06/28/2016 08:05
Make	Chevrolet	Close	06/28/2016 08:06
Year Model	2002 Malibu	Priority	2 VEHICLE DOWN
Serial #	1G1ND52J02M648598	Reason	4 DRIVERS REPORT
Plate #	G00367	Shop ID	

LINE	TYPE	COMPLETED	VMRS CODE	MECHANIC/PART NUMBER	DESCRIPTION - OUT PO NUMBER	JOB	HRS / QTY	PRICE / WAGE	TOTAL COST
1	LABOR	06/28/2016	123-000-000	0000008484 DAN	STATE INSPECTION	SI	1.50	23.710	35.57

Notes:

Labor Hours	1.50	
LABOR		\$35.57
PARTS		\$0.00
TIRES		\$0.00
WRNTY		\$0.00
OUTSIDE PARTS	\$0.00	
OUTSIDE TIRES	\$0.00	
OUTSIDE LABOR	\$0.00	
OUTSIDE		\$0.00
SHOP		\$0.00
TAX		\$0.00
MISC		\$0.00
TOTAL		\$35.57

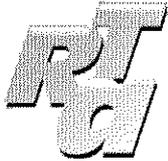
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DATE



DPW FLEET MAINTENANCE CITY OF NASHUA, NH WO TRANSACTIONS - TOTALS

Vehicle **G00367** Facility: **00002**
 Dates **FIRST** thru **LAST** WO Status: **ALL**

Number of Work orders		6
Total LABOR Hours		68.50
Total LABOR cost		\$ 1,769.57
Total PARTS cost		\$ 262.69
Total TIRES cost		\$ 0.00
Wrnty-Labor	0.00	
Wrnty-Parts	0.00	
Wrnty-Tires	0.00	
Total WARRANTY credits		\$ 0.00
Outside-Labor	0.00	
Outside-Parts	0.00	
Outside-Tires	0.00	
Total OUTSIDE Repairs		\$ 0.00
Total SHOP		\$ 0.00
Total TAX		\$ 0.00
Total MISC cost		\$ 0.00
VEHICLE TOTAL		\$ 2,032.26









