

FINANCE COMMITTEE

SEPTEMBER 21, 2016

7:00 PM

Aldermanic Chamber

ROLL CALL

PUBLIC COMMENT

COMMUNICATIONS

From: John Griffin, Chief Financial Officer/Comptroller

Re: Notification of Entry into Contract with a 3rd Party Supplier for Natural Gas Supply

From: Dan Kooken, Purchasing Manager

Re: Purchase of Nashua Police Department Bulletproof Vests (Value: \$26,950)

Department: 150 Police; Fund: 50% from 2015 Bulletproof Vest Partnership Grant and 50% from NPD Protective Clothing

From: Dan Kooken, Purchasing Manager

Re: Purchase of One (1) 2017 Ford Police Interceptor Utility Vehicle (Value: \$35,244)

Department: 150 Police; Fund: CERF

From: Dan Kooken, Purchasing Manager

Re: Purchase of Extrication Equipment Upgrade/Replacement (Value: \$77,792)

Department: 152 Fire; Fund: Department of Homeland Security Assistance to Firefighters Grant

From: Dan Kooken, Purchasing Manager

Re: Purchase of Three (3) Bard Air Conditioning Units (Value: \$11,114)

Department: 157 Citywide Communications; Fund: Citywide Communications Capital Projects Account

From: Dan Kooken, Purchasing Manager

Re: Purchase of One (1) 10' X 12' Concrete Building to House a 50 KW Generator (Value: \$38,645)

Department: 157 Citywide Communications; Fund: Citywide Communications Capital Projects Account

From: Dan Kooken, Purchasing Manager

Re: Heritage Rail Trail Electrical Installation (Value: Not To Exceed \$67,000)

Department: 177 Parks & Recreation; Fund: Capital; Activity: Rail Trail Lighting

UNFINISHED BUSINESS – None

NEW BUSINESS - None

TABLED IN COMMITTEE

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

- Tabled 8/3/16

DISCUSSION

RECORD OF EXPENDITURES

PUBLIC COMMENT

NON-PUBLIC SESSION

ADJOURNMENT



City of Nashua
Financial Services Division
229 Main Street - Nashua, NH 03060

(603) 589-3171
Fax (603) 589-3209

September 14, 2016

TO: Mayor Donchess
Finance Committee

FROM: John Griffin, Chief Financial Officer/Comptroller

SUBJECT: Notification of entry into contract with a 3rd party supplier for natural gas supply.

On Thursday, September 9th, 2016, Financial Services, in conjunction with the Nashua School District, competitively solicited and entered into an agreement with a 3rd party energy supplier for the tariff-controlled supply portion of its natural gas utility bills. Pursuant to the communication approved at the September 7th, 2016 Finance Committee meeting, please find attached the executed contract ("Exhibit A"), as well as the Commodity Master Agreement ("Exhibit B"), which is referred to within the executed contract.

Contract Terms:

Fixed Price: \$5.280 per dekatherm

Fixed Term: 36 months beginning June 1, 2017

EXHIBIT A

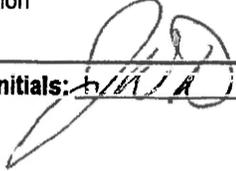


NEW HAMPSHIRE CUSTOMER DISCLOSURE STATEMENT

To the Commodity Master Agreement between
 Direct Energy Business Marketing, LLC d/b/a Direct Energy Business
 and
 Nashua, City of A/F Multiple customers as set forth on Exhibit A

Competitive Natural Gas Supplier ("CNGS") Information	Direct Energy Business Marketing, LLC d/b/a Direct Energy Business, One Hess Plaza, Woodbridge, NJ 07095. Phone: 1-800-437-7872; Website: business.directenergy.com
Commission Information	For general inquiries related to your rights and responsibilities, contact the New Hampshire Public Utility Commission, Consumer Affairs Division, 21 South Fruit Street, Suite 10, Concord, N.H. 03301-2429; (800) 852-3793.
Fixed or Variable Price	The "Purchase Price" is individually tailored and negotiated. For the exact price, please see the "Purchase Price" Section in the attached Transaction Confirmation.
Billing, Payment Date and Amount of Late Payment Fee	"Section 4. Billing and Payment" sets forth the billing terms, payment due date, the Interest Rate for late payments and the calculation of any costs incurred in collecting payment.
Length of the agreement and end date	The Agreement may only terminate upon notice (provided that notice is not required in a Bankruptcy situation). The "Delivery Period" is individually tailored and negotiated. For the exact length of the Transaction and end date, please see the "Delivery Period" Section and/or the "Special Provisions" Section in the attached Transaction Confirmation. The Customer may change its CNGS, upon the requisite notice at the end of the "Delivery Period," as stated the "Delivery Period" Section and/or the "Special Provisions" Section in the attached Transaction Confirmation. However, there are no contractual rights to rescind during the Delivery Term without penalty or without calculation of a Liquidation Value or Net Settlement Amount.
Amount of Early Termination Fee and method of Calculation	In "Section 12. Remedies" of the Agreement the non-defaulting Party has the right to terminate and liquidate all Transactions, calculate a settlement amount by calculating the Liquidation Value for each Transaction and aggregate all amounts owing between the parties under this Agreement or any other energy-related agreements between the Parties and their affiliates. For the specific text contained in this provision, please see Section 12 of the Agreement.
Dispute Resolution	"Section 6. Disputes" of the Agreement provides for the dispute resolution procedure available under the Agreement.
Deposit Requirements	Deposit requirements are individually tailored and negotiated. For specific information regarding deposits, please see the "Special Provisions" Section in the attached Transaction Confirmation and/or "Section 10. Financial Responsibility" of the Agreement.

Confidential Customer Information	Direct Energy will not release confidential information about Buyer without Buyer's written consent. Please see the "Special Provisions" Section in the attached Transaction Confirmation for type of information Direct Energy will not disclose.
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Buyer's Initials:  Direct Energy Business Marketing, LLC d/b/a Direct Energy Busi


Mark Tardino
VP, Direct Sales, NA Business
Direct Energy Business, LLC

2016.09.12
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Direct Energy Business Marketing, LLC
d/b/a Direct Energy Business
 194 Wood Avenue South, Second Floor, Iselin, NJ 08830
 Phone: 1-888-925-9115
business.directenergy.com

Marketer Name Mark Gliday | Date 9/8/2016 | Time 3:01:16 PM

CUSTOMER INFORMATION

Customer Name Nashua, City of A/F Multiple Customers as set forth on Exhibit A | Billing Contact
 Contact Name | Billing Address
 Address
 Telephone | Fax | Telephone | Fax

NATURAL GAS TRANSACTION CONFIRMATION

This Transaction Confirmation confirms the terms of the Gas Transaction entered into between Direct Energy Business Marketing, LLC d/b/a Direct Energy Business ("Seller"), and the customer above ("Buyer" or "Customer") pursuant to the terms of the Commodity Master Agreement ("CMA") between Buyer and Seller dated March 08, 2012 as may be amended. The Purchase Price excludes Utility distribution charges and Taxes that are or may be the responsibility of Buyer. Gas volumes will be adjusted for Utility line loss, where applicable. The prices listed below are based on market conditions as of the time, stated above, that this Transaction Confirmation was issued and may be adjusted by Seller to reflect market conditions as of the date it is executed and returned by Buyer. THIS TRANSACTION CONFIRMATION WILL NOT BE EFFECTIVE UNTIL SIGNED BY BOTH PARTIES.

Service Locations (Additional pages may be attached if necessary)	Service Address	Utility Acct Number	Rate
	See attached Exhibit A for details.		

Delivery Period
 Begin: Thursday, June 01, 2017 End: Sunday, May 31, 2020
 The service start date hereunder will be the date that the Utility enrolls Customer for Seller's service. Seller will request the Utility to enroll Customer on the first meter read date within the Delivery Period.
 Upon the expiration of the Delivery Period, this Transaction shall continue for successive one month terms (collectively the "Renewal Term") until either Party notifies the other Party in writing of its intention to terminate, at least 15 days prior to the end of the Delivery Period or 15 days prior to the end of each successive month Renewal Term. The termination date shall be the next effective drop date permitted by the Utility. All terms of the Agreement will remain in effect through the termination date as set by the applicable Utility. During the Renewal Term, the Purchase Price for each successive month Renewal Term will be the then Market Price for delivery to the Delivery Point, unless otherwise agreed to in writing by the Parties.

Delivery Point
 Energy North/ENER TGP DAILY

Contract Quantity (Dth)
 Buyer and Seller agree that the Contract Quantity purchased and received means a positive volume up to or greater than the estimated quantities listed below, provided, that for purposes of determining whether a Material Usage Deviation has occurred and for purposes of calculating Contract Quantities remaining to be delivered under Section 12 of the Agreement, Contract Quantity shall be determined by reference to the applicable estimated quantity(ies) listed below.
 ___ Daily ___X___ Monthly
 See Attached

Tax Exemption Status
 Non-Exempt Exempt If exempt, must attach certificate.

Purchase Price
 Fixed Price: \$5.280/Dth

Special Provisions
 Change in Utility Account Numbers:
 The account number for a Service Location shall be the Utility Account Number set forth in the Service Locations section above or as attached, as applicable, or any replacement account number issued by the Utility from time to time.

In case of emergencies or leaks please contact your local Utility directly. For inquiries related to your purchase please contact Seller at the address above. For general inquiries related to your rights and responsibilities, contact the New Hampshire Public Utility Commission, Consumer Affairs Division, 21 South Fruit Street, Suite 10, Concord, N.H. 03301-2429; (800) 852-3793.

Upon any discontinuance of service by Seller and upon at least thirty (30) days prior notice, Seller will return the Buyer to full Utility service by the next Utility permitted drop date, provided that the Utility has not disconnected delivery service. If the Utility disconnects delivery of the service then effective immediately, Seller will not be responsible to provide Gas or any service under the Transaction. Buyer has the right to change Competitive Natural Gas Suppliers, subject to the terms of this Agreement.

Seller will not release confidential information about Buyer without Buyer's written consent, except as provided in the Agreement. For purposes of this Transaction, confidential information includes: (1) Buyer's name, address and telephone number; (2) usage data; and (3) Buyer's payment information.

Fixed Price: The Purchase Price for the Contract Quantity, unless otherwise specified in this Transaction Confirmation is \$5.280 /Dth.

Buyer acknowledges that it is acting for its own account, and that it has made its own independent decisions with respect to this Transaction Confirmation and that Seller is not acting as a fiduciary, financial, investment or commodity trading advisor for it in connection with the negotiation and execution of this Transaction.

Full Plant Requirement - No GSA

PLEASE SIGN AND RETURN THIS CONFIRMATION LETTER BY FACSIMILE TO 866-743-1038

BUYER: Nashua, City of AF
Multiple Customers as set forth on Exhibit A

By: [Signature]
Print Name: James W. Donahue
Title: Mayor
Date: 9/18/16

SELLER: Direct Energy Business Marketing, LLC

d/b/a Direct Energy Business
By: [Signature]
Print Name: Mark Taddeo
Title: VP, Direct Sales, NA Business
Direct Energy Business, LLC
Date: _____

2016.09.12
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Direct Energy Business Marketing, LLC d/b/a Direct Energy Business

194 Wood Avenue South, Second Floor

Iselin, NJ 08830

Phone: 1-888-625-8115

business.directenergy.com

This Exhibit A lists the Customers to the Commodity Master Agreement ("CMA") between Neshua, City of AP Multiple Customers as set forth on Exhibit A dated March 08, 2012. For the avoidance of doubt, the Commodity Master Agreement ("CMA") constitutes a separate agreement between Direct Energy Business Marketing, LLC d/b/a Direct Energy Business and each party listed below, as if each party had executed a separate Commodity Master Agreement ("CMA") on its own behalf and assuming only itself as the buyer or Customer.

Name	Service Location	Svc. Loc'n ID	Account No.	SAP Sold To Id	Utility	Pool Point	Term Start: 6/1/2017 Term End: 5/31/2020											
							Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
	0 Merril Par	206472144542333-44168736		617062	Energy North	ENER TGP DCQ	80	70	70	80	140	210	360	486	410	244	131	110
	0 Campton St	206473144546361-44176196			Energy North	ENER TGP DCQ												
	0 Sawmill Rd	206474144547825-44178280			Energy North	ENER TGP DCQ												
	0 Sawmill Rd	206475144547823-44178278			Energy North	ENER TGP DCQ												
	38 Lake St	20644414453770-44155076		617062	Energy North	ENER TGP DCQ	429	373	373	666	1501	3500	5350	6491	6324	5100	2482	859
	14 Court St	206445144534294-44158077			Energy North	ENER TGP DCQ												
	2 Court St	206446144534689-44158715			Energy North	ENER TGP DCQ												
	70 E Hoise St	206447144536472-44159897			Energy North	ENER TGP DCQ												
	0 Panther Dr	206448144537008-44160687			Energy North	ENER TGP DCQ												
	11 Riverside St	206449144537011-44160691			Energy North	ENER TGP DCQ												
	11 Riverside St	206450144537037-44160721			Energy North	ENER TGP DCQ												
	177 Lake St	206451144537430-44161329			Energy North	ENER TGP DCQ												
	15 Riverside St	206452144537626-44161621			Energy North	ENER TGP DCQ												
	2 Conant Rd	206453144537847-44161948			Energy North	ENER TGP DCQ												
	101 Pine Hill Rd	206454144538683-44163127			Energy North	ENER TGP DCQ												
	0 Rancourt St	206457144547357-44177639			Energy North	ENER TGP DCQ												
	0 Sawmill Rd	206458144547820-44178276			Energy North	ENER TGP DCQ												
	0 Sawmill Rd	206459144547822-44178277			Energy North	ENER TGP DCQ												
	0 Sawmill Rd	206460144547824-44178279			Energy North	ENER TGP DCQ												
	0 Sawmill Rd	206461144547826-44178281			Energy North	ENER TGP DCQ												
	0 Sawmill Rd	206462144547852-44178315			Energy North	ENER TGP DCQ												
	11 Railroad Sq	206463144549702-44181533			Energy North	ENER TGP DCQ												
	6 Main St	206464144550026-44182089			Energy North	ENER TGP DCQ												
	5 Sargent Ave	206465144553032-44187026			Energy North	ENER TGP DCQ												
	0 Concord St	206466144553336-44187524			Energy North	ENER TGP DCQ												
	229 Main St	206467144554302-44189096			Energy North	ENER TGP DCQ												
	30 Elm St	206468144555306-44190849			Energy North	ENER TGP DCQ												
	15 Amherst St	206469144555974-44191359			Energy North	ENER TGP DCQ												
	67 Amherst St	206470144555840-44191691			Energy North	ENER TGP DCQ												
	130 Spit Brook Rd	206471144557468-44194713			Energy North	ENER TGP DCQ												
	70 Temple St	207968144534238-44156016			Energy North	ENER TGP DCQ												
	83 Perimeter Rd	214776144538629-44163051			Energy North	ENER TGP DCQ												
	79 Perimeter Rd	214777144538964-44183551			Energy North	ENER TGP DCQ												
	97 Pine Hill Rd	214778144538968-44183559			Energy North	ENER TGP DCQ												
	50 Arlington St	204610144528245-44146499		617059	Energy North	ENER TGP DCQ	306	170	170	520	2474	5926	8453	9584	9228	7178	3264	1005
	141 Ledge St	204611144531637-44161137			Energy North	ENER TGP DCQ												
	17 Birch Hill St	204612144536217-44157677			Energy North	ENER TGP DCQ												
	0 Cleveland St	204613144537516-44161465			Energy North	ENER TGP DCQ												
	38 Riverside St	204614144537566-44161533			Energy North	ENER TGP DCQ												
	105 Elm St	204615144538820-44164890			Energy North	ENER TGP DCQ												
	105 Elm St	204616144539852-44164939			Energy North	ENER TGP DCQ												
	105 Elm St	204617144539853-44164940			Energy North	ENER TGP DCQ												
	106 Elm St	204618144539854-44164941			Energy North	ENER TGP DCQ												
	20 Whitford Rd	204619144542097-44168536			Energy North	ENER TGP DCQ												
	1390 Broad St	204620144544782-44173659			Energy North	ENER TGP DCQ												
	207 Manchester St	204621144546054-44175759			Energy North	ENER TGP DCQ												
	71 Amherst St	204622144553204-44187298			Energy North	ENER TGP DCQ												
	10 Manchester St	204623144555956-44191832			Energy North	ENER TGP DCQ												
	48 Charlotte Ave	204624144555957-44191833			Energy North	ENER TGP DCQ												
	39 Shady Ln	204625144556042-44191948			Energy North	ENER TGP DCQ												
	139 Ledge St	204626144558144-44195857			Energy North	ENER TGP DCQ												
	0 Osgood Rd	204627144558156-44195872			Energy North	ENER TGP DCQ												
	37 Blanchard St	204628144558313-44196117			Energy North	ENER TGP DCQ												
	296 E Dunstable Rd	204629144558981-44197030			Energy North	ENER TGP DCQ												
	105 Elm St	204630144539851-44164938			Energy North	ENER TGP DCQ												
	105 Elm St	204608144539469-44164320		617059	Energy North	ENER TGP DAILY	148	106	106	204	1103	3514	5049	6148	5627	4574	1989	455
	38 Riverside St	204609144537015-44160698			Energy North	ENER TGP DAILY												
	10 Nesenkeag Dr	204607144556090-44192015		617059	Energy North	ENER TGP DAILY	125	77	77	181	1024	2445	3350	4165	4036	3516	1505	377
							1,088	796	796	1,663	6,242	15,595	22,562	26,844	25,825	20,611	9,371	2,806

EXHIBIT B



This Commodity Master Agreement ("CMA") among Direct Energy Business, LLC, Direct Energy Business Marketing, LLC d/b/a Direct Energy Business (Collectively "Seller"), each a Delaware limited liability company, and Nashua, City of ("Buyer" or "Customer") (each a "Party" and collectively, the "Parties") is entered into and effective as of 03/08/2012.

1. Transactions: The terms of this CMA apply to all end-use sales of electric power ("Electricity") and/or natural gas ("Gas") as applicable (each a "Commodity" and collectively, the "Commodities") by the applicable Seller party to Buyer (each sale a "Transaction") which will be memorialized in a writing signed by both Parties (each a "Transaction Confirmation"). Each Transaction Confirmation shall set forth the Seller party providing service to Customer for such Transaction. If a conflict arises between the terms of this CMA and a Transaction Confirmation, the Transaction Confirmation will control with respect to that particular Transaction. This CMA, any amendments to this CMA and related Transaction Confirmation(s) (together, a single integrated, "Agreement") is the entire understanding between Parties with respect to the Commodities and supersedes all other communication and prior writings with respect thereto; no oral statements are effective.

2. Performance: The Parties' obligations under this Agreement are firm. Buyer is obligated to purchase and receive, and Seller is obligated to sell and provide, the Contract Quantity of Commodity specified in a Transaction Confirmation in accordance with the terms of this Agreement. Buyer will only use the Commodity at the listed Service Locations in the applicable Transaction Confirmation and will not resell the Commodity or use it at other locations without Seller's prior written consent.

3. Purchase Price: Buyer will pay the Purchase Price stated in each Transaction Confirmation. If the Purchase Price incorporates an index and the index is not announced or published on any day for any reason or if the Seller reasonably determines that a material change in the formula for or the method of determining the Purchase Price has occurred, then the Parties will use a commercially reasonable replacement price that is calculated by the Seller. If Seller concludes that a change in any Law(s) increases Seller's costs, the Purchase Price may be adjusted by Seller to reflect such costs. "Law(s)" mean all tariffs, laws, orders, rules, decisions, taxes, regulations, transmission rates and Utility changes to Buyer's monthly capacity and/or transmission obligations.

4. Billing and Payment: Seller will invoice Buyer for the Actual Quantity of Commodity and for any other amounts incurred by Buyer under this Agreement. Payment is due within fifteen (15) days of the date of the invoice. If an invoice is issued and the Actual Quantity cannot be verified at the time, the invoice will be based on Seller's good faith estimate of the Actual Quantity. Seller will adjust Buyer's account following (i) confirmation of the Actual Quantity, (ii) any Utility discrepancy or adjustment or (iii) any other corrections or adjustments, including adjustments to, or re-calculation of, Taxes. Buyer will pay interest on late payments at 1.5% per month or, if lower, the maximum rate permitted by law ("Interest Rate"). Buyer is also responsible for all costs and fees, including reasonable attorney's fees, incurred in collecting payment. "Actual Quantity" means the actual quantity of Commodity that is either delivered or metered, as applicable, to Buyer's account. "Utility" means a state regulated entity engaged in the distribution of Gas or Electricity.

5. Taxes: Buyer is responsible for paying any Taxes associated with the Actual Quantity of Commodity sold under this Agreement that may become due at and after the Delivery Point. The Purchase Price does not include Taxes that are or may be the responsibility of the Buyer, unless such inclusion is required by Law. Buyer will reimburse Seller for any Taxes that Seller is required to collect and pay on Buyer's behalf and will indemnify, defend and hold Seller harmless from any liability against all Buyer's Taxes. Buyer will furnish Seller with any necessary documentation showing its exemption from Taxes, if applicable, and Buyer will be liable for any Taxes assessed against Seller because of Buyer's failure to timely provide or properly complete any such documentation. "Taxes" means all applicable federal, state and local taxes, including any associated penalties and interest and any new taxes imposed in the future during the term of this Agreement. Liabilities imposed in this Section will survive the termination of this Agreement.

6. Disputes: If either Party in good faith disputes amounts owed under Sections 3, 4, 5 and 8, the disputing Party will contact the non-disputing Party promptly and pay the undisputed amount by the payment due date. The Parties will negotiate in good faith regarding such dispute for a period of not more than fifteen (15) Business Days. In the event the Parties are unable to resolve such dispute, the disputing Party will pay the balance of the original invoice and either Party may exercise any remedy available to it in law or equity pursuant to this Agreement. In the event of a dispute other than for an invoiced amount, the Parties will use their best efforts to resolve the dispute promptly. Actions taken by a Party exercising its contractual rights will not be construed as a dispute for purposes of this Section. "Business Day" means any day on which banks are open for commercial business in New York, New York; any reference to "day(s)" means calendar days.

7. Title and Risk of Loss: Title to, possession of and risk of loss to the Commodity will pass to Buyer at the Delivery Point specified in the applicable Transaction Confirmation.

8. Buyer's Usage Obligations

A. Material Usage Deviation: If there is a Material Usage Deviation, Buyer will be

responsible for the losses and costs, including the costs of obtaining and/or liquidating the applicable volume, based upon the difference between the applicable Contract Quantity and Actual Quantity. Buyer will pay the amount of such losses and costs to Seller within fifteen (15) Business Days of Seller's invoice. "Material Usage Deviation" means any deviation in Actual Quantity at the Service Location(s) stated in the related Transaction Confirmation from Contract Quantity (or, as applicable, estimated Contract Quantities) stated in that Transaction Confirmation of +/- 25% or more, which is not caused by weather.

B. Balancing Charges: For Transactions involving the purchase and sale of Gas only, Buyer will be responsible for Balancing Charges unless Prior Notice of a material variation in usage is provided to Seller and actual usage is consistent with that Prior Notice. "Balancing Charges" means Utility fees, costs or charges and penalties assessed for failure to satisfy the Utility's balancing and/or nomination requirements. "Prior Notice" is defined as forty-eight (48) hours before the start of the Gas Day for which the material variation in usage will apply. "Gas Day" means a period of 24 consecutive hours as defined by the Utility. Buyer will make any payment due pursuant to this Section within five (5) Business Days of the date of Seller's invoice.

C. Curtailments: For Transactions involving the purchase and Sale of Gas only, if Buyer is directed by its Utility to curtail its usage, in whole or in part, Buyer will curtail as directed. If Buyer fails to curtail as directed, Buyer will pay or reimburse Seller for all Balancing Charges assessed by the Utility. Payment by Buyer of any Balancing Charges will be due within five (5) Business Days of the date of Seller's invoice.

9. Force Majeure: A Party claiming Force Majeure will be excused from its obligations under Section 2 as long as it provides prompt notice of the Force Majeure and uses due diligence to remove its cause and resume performance as promptly as reasonably possible. During a Force Majeure, Buyer will not be excused from its responsibility for Balancing Charges nor from its responsibility to pay for Commodity received. "Force Majeure" means a material, unavoidable occurrence beyond a Party's control, and does not include inability to pay, an increase or decrease in Taxes or the cost of Commodity, the economic hardships of a Party, or the full or partial closure of Buyer's facilities, unless such closure itself is due to Force Majeure.

10. Financial Responsibility: Seller's entry into this Agreement and each Transaction is conditioned on Buyer, its parent, any guarantor or any successor maintaining its creditworthiness during the Delivery Period and any Renewal Term. When Seller has reasonable grounds for insecurity regarding Buyer's ability or willingness to perform all of its outstanding obligations under any agreement between the Parties, Seller may require Buyer to provide adequate assurance, which may include, in the Seller's discretion, security in the form of cash deposits, prepayments, letters of credit or other guaranty of payment or performance ("Credit Assurance").

11. Default: "Default" means: (i) failure of either Party to make payment by the applicable due date and the payment is not made within three (3) Business Days of a written demand; (ii) failure of Buyer to provide Credit Assurance within two (2) Business Days of Seller's demand; (iii) either Party, its parent or guarantor, becomes Bankrupt or fails to pay its debts generally as they become due; or (iv) failure of either Party to satisfy any representations and warranties applicable to it contained in Section 13A or 13B and the failure is not cured within fifteen (15) Business Days of a written demand, provided that no cure period or demand for cure applies to a breach of Section 13A(c). "Bankrupt" means an entity (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (b) makes an assignment or any general arrangement for the benefit of creditors, (c) otherwise becomes bankrupt or insolvent, however evidenced, (d) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, (e) has a secured party take possession of all or any substantial portion of its assets or (f) is dissolved or has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger).

12. Remedies: In the event of a Default, the non-defaulting Party may: (i) withhold any payments or suspend performance; (ii) upon written notice, provided that no notice is required with respect to Section 11(iii) or a breach of Section 13A(c), accelerate any or all amounts owing between the Parties and terminate any or all Transactions and/or this Agreement; (iii) calculate a settlement amount by calculating all amounts due to Seller for Actual Quantity and the Close-out Value for each Transaction being terminated; and/or (iv) net or aggregate, as appropriate, all settlement amounts and all other amounts owing between the Parties and their affiliates under this Agreement and other energy-related agreements between them and their affiliates, whether or not then due and whether or not subject to any contingencies, plus costs incurred, into one single amount ("Net Settlement Amount"). Any Net Settlement Amount due from the defaulting Party to the non-defaulting Party will be paid within three (3) Business Days of written notice from the non-defaulting

Party. Interest on any unpaid portion of the Net Settlement Amount will accrue daily at the Interest Rate. "Close-out Value" is the sum of (a) the amount due to the non-defaulting Party regarding the Contract Quantities (or, as applicable, estimated Contract Quantities) remaining to be delivered as stated in the applicable Transaction Confirmation(s) during the Delivery Period or, if applicable, the current Renewal Term, calculated by determining the difference between the Purchase Price and the Market Price for such quantities; and (b) without duplication, any net losses or costs incurred by the non-defaulting Party for terminating the Transaction(s), including costs of obtaining, maintaining and/or liquidating commercially reasonable hedges, Balancing Charges and/or transaction costs. "Market Price" means the price for similar quantities of Commodity at the Delivery Point during the Delivery Period or Renewal Term, as applicable. For purposes of determining Close-out Value, (f) Market Price will be determined by the non-defaulting Party in good faith as of a date and time as close as reasonably practical to the date and time of termination or liquidation of the applicable Transaction(s), and (ii) Market Price may be ascertained through reference to quotations provided by recognized energy brokers or dealers, market indices, bona-fide offers from third-parties, or by reference to commercially reasonable forward pricing valuations. The Parties agree that the Close-out Value constitutes a reasonable approximation of damages, and is not a penalty or punitive in any respect. Seller may, but need not, physically liquidate a Transaction or enter into a replacement transaction to determine Close-out Value or Net Settlement Amount. The defaulting Party is responsible for all costs and fees incurred for collection of Net Settlement Amount, including, reasonable attorney's fees and expert witness fees.

13. Representations and Warranties: Each of the following are deemed to be repeated each time a Transaction is entered into:

A. Each Party represents that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform to this Agreement; (b) the execution of this Agreement is within its powers, has been duly authorized and does not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any law applicable to it; and (c) it is not Bankrupt.

B. Buyer represents and warrants that: (a) it is not a residential customer; (b) it will immediately notify Seller of any change in its ownership; (c) execution of this Agreement initiates enrollment and service for the Delivery Period and any Renewal Term; (d) no communication, written or oral, received from the Seller will be deemed to be an assurance or guarantee as to any results expected from this Agreement; (e) if it is executing this Agreement in its capacity as an agent, such Party represents and warrants that it has the authority to bind the principal to all the provisions contained herein and agrees to provide documentation of such agency relationship, and (f) (i) it will provide, to Seller, information reasonably required to substantiate its usage requirements, including information regarding its business, locations, meter/account numbers, historical/projected usage, time of use, hours of operation, utility rate classes, agreements, schedules, which in substantial part form the basis for the calculation of charges for the transactions hereunder; (ii) acceptance of this Agreement constitutes an authorization for release of such usage information; (iii) it will assist Seller in taking all actions necessary to effectuate Transactions, including, if requested, executing an authorization form permitting Seller to obtain its usage information from third parties; and (iv) the usage information provided is true and accurate as of the date furnished and as of the effective date of the Agreement.

C. Each Party acknowledges that: (a) this Agreement is a forward contract and a master netting agreement as defined in the United States Bankruptcy Code ("Code"); (b) this Agreement shall not be construed as creating an association, trust, partnership, or joint venture in any way between the Parties, nor as creating any relationship between the Parties other than that of independent contractors for the sale and purchase of Commodity; (c) Seller is not a "utility" as defined in the Code; (d) Commodity supply will be provided by Seller under this Agreement, but delivery will be provided by the Buyer's Utility; and (e) Buyer's Utility, and not Seller, is responsible for responding to leaks or emergencies should they occur.

14. Other:

(a) This Agreement, and any dispute arising hereunder, is governed by the law of the state in which the Service Locations are located, without regard to any conflict of rules doctrine. (b) Each Party waives its right to a jury trial regarding any litigation arising from this Agreement. (c) No delay or failure by a Party to exercise any right or remedy to which it may become entitled under this Agreement will constitute a waiver of that right or remedy. (d) Seller warrants that (i) it has good title to Commodity delivered, (ii) it has the right to sell the Commodity, and (iii) the Commodity will be free from all royalties, liens,

encumbrances, and claims. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED. (e) Buyer will be responsible for and indemnify Seller against all losses, costs and expenses, including court costs and reasonable attorney's fees, arising out of claims for personal injury, including death, or property damage from the Commodity or other charges which attach after title passes to Buyer. Seller will be responsible for and indemnify Buyer against any losses, costs and expenses, including court costs and reasonable attorneys' fees, arising out of claims of title, personal injury, including death, or property damage from the Commodity or other charges which attach before title passes to Buyer. (f) NEITHER PARTY WILL BE LIABLE TO THE OTHER UNDER THE AGREEMENT FOR CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES, LOST PROFITS OR SPECIFIC PERFORMANCE, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT. (g) All notices and waivers will be made in writing and may be delivered by hand delivery, first class mail (postage prepaid), overnight courier service or by facsimile and will be effective upon receipt; provided, however, that any termination notice may only be sent by hand or by overnight courier service, and, if sent to Seller, a copy delivered to: Direct Energy Business, Attn: Customer Services Manager, 1001 Liberty Avenue, Pittsburgh, PA 15222; Phone: (888) 925-9115; Fax: (866) 421-0257; Email: CustomerRelations@directenergy.com. (h) If Buyer and Direct Energy Business Marketing, LLC entered into Commodity transactions prior to the execution of this Agreement ("Existing Transactions"), the Parties agree that these Existing Transactions shall be Transactions governed under the terms of this Agreement. This Agreement supersedes and replaces any other agreement that may have applied to the Existing Transactions. Note that this subsection (h) shall not apply to any Commodity transactions or agreements entered into between Buyer and Direct Energy Business, LLC. (i) No amendment to this Agreement will be enforceable unless reduced to writing and executed by both Parties. (j) Seller may assign this Agreement without Buyer's consent. Buyer may not assign this Agreement without Seller's consent; which consent will not be unreasonably withheld. In addition, Seller may pledge, encumber, or assign this Agreement or the accounts, revenues, or proceeds of this Agreement in connection with any financing or other financial arrangements without Buyer's consent; in which case Seller shall not be discharged from its obligations to Buyer under this Agreement. (k) This Agreement may be executed in separate counterparts by the Parties, including by facsimile, each of which when executed and delivered shall be an original, but all of which shall constitute one and the same instrument. (l) Any capitalized terms not defined in this CMA are defined in the Transaction Confirmation or shall have the meaning set forth in the applicable Utility rules, tariffs or other governmental regulations, or if such term is not defined therein then it shall have the well-known and generally accepted technical or trade meanings customarily attributed to it in the natural gas or electricity generation industries, as applicable. (m) The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement. (n) Any executed copy of this Agreement and other related documents may be digitally copied, photocopied, or stored on computer tapes and disks ("Imaged Agreement"). The Imaged Agreement will be admissible in any judicial, arbitration, mediation or administrative proceedings between the Parties in accordance with the applicable rules of evidence; provided that neither Party will object to the admissibility of the Imaged Agreement on the basis that such were not originated or maintained in documentary form. (o) Where multiple parties are Party to this Agreement with Seller and are represented by the same agent, it is agreed that this Agreement will constitute a separate agreement with each such Party, as if each such Party had executed a separate Agreement, and that no such Party shall have any liability under this document for the obligations of any other Parties. (p) This CMA may be terminated by either Party upon at least thirty (30) days' prior written notice; provided, however, that this CMA will remain in effect with respect to Transactions entered into prior to the effective date of the termination until both Parties have fulfilled all of their obligations with respect to the outstanding Transactions. (q) Buyer will not disclose the terms of this Agreement, without prior written consent of the Seller, to any third party, other than Buyer's employees, affiliates, agents, auditors and counsel who are bound by substantially similar confidentiality obligations, trading exchanges, governmental authorities, courts, adjudicatory proceedings, pricing indices, and credit ratings agencies; provided that if Buyer receives a demand for disclosure pursuant to court order or other proceeding, it will first notify Seller, to the extent practicable, before making the disclosure.

IN WITNESS WHEREOF, this CMA is entered into and effective as of the date written above.

BUYER: Nashua, City of

By: *Donna Lee Lozeau*

Name: Donna Lee Lozeau

Title: Mayor

SELLER: Direct Energy Business, LLC
Direct Energy Business Marketing, LLC

By: _____

Name: _____

Title: _____



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

September 15, 2016
Memo #17-048

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: PURCHASE OF NASHUA POLICE DEPARTMENT BULLETPROOF VESTS (VALUE:
\$26,950)
DEPARTMENT: 150 POLICE; FUND: 50% FROM 2015 BULLETPROOF VEST
PARTNERSHIP GRANT AND 50% FROM NPD PROTECTIVE CLOTHING

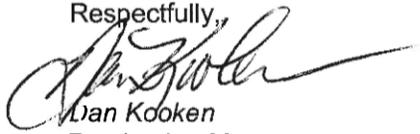
Please see attached communications from Karen A. Smith, Business Manager dated September 6, 2016 for the information related to this purchase.

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

These bulletproof vests are being purchased using the State of New Hampshire contract #8001970.

The Nashua Police Department and the Purchasing Department recommend the purchase of this product from **Atlantic Tactical of New Cumberland, PA** in the amount of **\$26,950**.

Respectfully,


Dan Kooker
Purchasing Manager

Cc: K Smith A Lavoie

NASHUA POLICE
DEPARTMENT

Date: 6 September 2016



Intradepartmental Communication

To: CFO Dan Kooken

From: Karen A. Smith, Business Manager

Subject: Nashua Police Department Bulletproof Vests

The Nashua Police Department (NPD) is requesting to purchase thirty-five (35) second chance SX Level II bulletproof vests as needed during fiscal FY17 budget year. Twenty-five (25) of the vests are part of the five year manufacturer replacement schedule for vest with expiration dates prior to June 30th. The balance of ten (10) vests is anticipated for potential new hire recruits as need for the fiscal year. The current vests are being retained for use during training such as simulations.

The Nashua Police Department recommends purchasing the vest order from Atlantic Tactical of New Cumberland, PA under State of New Hampshire contract #8001970. Funding is available in the 2015 Bulletproof Vest Partnership Grant for a portion of the vest purchase price. The Police Department's required match will be funded from the Department's Protective Clothing account.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen A. Smith".

Karen A. Smith
Business Manager



763 Corporate Circle
 New Cumberland, PA 17070
 Phone (603) 340-0176

Quote Request

StateBid #

Delivery Type	Date

jg2887@comcast.net

DATE: 8/5/16		CUSTOMER ORDER #:		
TO:	Adam Andreson	SHIP TO:		
COMPANY	Nashua Police Dept	Nashua Police Dept		
STREET:	0 Panther Dr	0 Panther Dr		
CITY:	Nashua, NH	Nashua, NH 03061		
ZIP	03061	SALES PERSON:	TAX EXEMPT NO:	
PHONE NO:		Jim Berry		
STOCK NO:	DESCRIPTION:	QUANTITY	UNIT PRICE	TOTAL
	SX Level II, A7 - Male-SBA-SX02-II-M	35	\$600.00	\$21,000.00
	Soft Trauma Plate, 5" X 8"-SBA-STP-5X8	35	\$20.00	\$700.00
	P1 Concealable Carrier-SBA-P1-Navy	35	\$75.00	\$2,625.00
	IMPAC HT 7x9 Plate	35	\$75.00	\$2,625.00
			\$0.00	\$0.00
			\$0.00	\$0.00
			\$0.00	\$0.00
			\$0.00	\$0.00
			\$0.00	\$0.00
			\$0.00	\$0.00
All prices Quoted, Valid for 30 days unless otherwise specified			TOTAL	\$26,950.00

COVERT CARRIERS



SPECS:

- Lightweight four way stretch ripstop shell fabric
- Hidden accessory front loading pockets for personal items
- High performance Luxicool™ cooling spacer mesh liner
- Complementary lightweight spacer mesh liner for improved airflow
- Removable and reversible contoured ergonomic straps with controlled stretch
- Front and back plate pockets
- Zip out front and back panels for easy accessibility
- Strategically located ergonomic Velcro® channels for easy fastening and removal
- High profile Velcro® fasteners for extra strength and durability
- Designed with Velcro® closures to allow body contouring for maximum comfort, reducing weight and bulk

800.347.1200

SAFARILAND.COM/BODYARMOR



TECHNICAL SPECIFICATION SX02-II

Test Standard	NIJ Standard: 0101.06
Threat Type	Ballistic Level II
Model	BA-2000S-SX02
Design	
Configuration	Neutral
Armor Material	Honeywell® Spectra®, DuPont™ Kevlar®, SAATI
Armor Panel Covering	Dual Covered, 2 Ply, 70 Denier Textured Nylon Ripstop with TPU Lamination System
Performance	
Areal Density	0.59 lbs/ft ² (2.88 kg/m ²)
Thickness	0.160 in (4.06 mm)
New V50 – 9 mm FMJ RN 124 gr.	1817 ft/s (554 m/s)
Conditioned V50 – 9 mm FMJ RN 124 gr.	1757 ft/s (536 m/s)
New V50 – .357 Mag JSP 158 gr.	1699 ft/s (518 m/s)
Conditioned V50 – .357 Mag JSP 158 gr.	1575 ft/s (480 m/s)
Backface Average – 9 mm	30.40 mm
Backface Average – .357 Mag	34.80 mm

Additional Special Threats

- Meets/Exceeds Requirements of FBI Body Armor Test Protocol
- Winchester Ranger T-Series, 9mm, 127 gr. +P+SXT (RA9TA) – Tested Velocity 1300 ± 30 ft/s
- Winchester Ranger T-Series, .40 S&W 165 gr. SXT (RA40TA) – Tested Velocity 1230 ± 30 ft/s
- Speer .357 Sig, 125 gr. GDHP (23918) – Tested Velocity 1465 ± 30 ft/s
- Federal 9mm, 124 gr. +P HST (P9HST3) – Tested Velocity 1300 ± 30 ft/s
- FN 5.7x28mm, 40 gr. SS197 Sporting Round, Blue Tip Hornady V-Max Bullet – Tested Velocity 1750 ± 50 ft/s

Special threats tested at an independent certified NIJ laboratory in accordance with Modified / Abbreviated NIJ 0101.06 Standard IAW Sec. 7.8.1 unless otherwise specified.

STATE OF NEW HAMPSHIRE
Dept. of Administrative Services
Div. of Procurement and Support Services
Bureau of Purchase and Property
State House Annex
Concord, New Hampshire 03301

Date: February 19, 2016

NOTICE OF CONTRACT

COMMODITY: SAFARILAND™ BODY ARMOR
CONTRACT NO.: 8001970
NIGP: 680-0815
VENDOR: Atlantic Tactical Inc VENDOR #: VC #254684 B001
763 Corporate Circle
New Cumberland PA 17070

CONTACT PERSON(s): Jim Berry, Regional Account Manager
Mobile: (603) 361-1932 / Toll Free: (800) 781-2677
Fax: (717)-774-4463
E-Mail: Jim.Berry@atlantictactical.com

Thomas Caruso
Tel. No.: #800-781-2677 X1142 or 717-774-3339 X1142
Fax No.: #717-774-4463
E-Mail: tom.caruso@atlantictactical.com

EFFECTIVE FROM: March 1, 2016 through February 28, 2019

PAYMENT & TERMS: Payments shall be made via Procurement Card (P-Card –Visa Credit Card).
Orders charged upon delivery/shipment.

The resulting contract has mandatory Procurement Card usage for agencies enrolled in the State P-Card Program.

PRICE DISCOUNTS: Discounts off Safariland published price for tactical soft armor, tactical hard armor, concealable & accessories:

ABA	50% off list
Second Chance	50% off list
Protech	50% off list
Duty Gear and Equipment	40% off list

PRICE LISTS: Price lists shall also be provided to agencies upon request. Other discount manufacturing also available upon request.

DELIVERY TERMS: F.O.B. Destination to any location within the State of New Hampshire

QUESTIONS: Direct any questions to Loretta Razin, 603-271-0579 or Loretta.Razin@NH.Gov.

ORDERING:

State agencies will place their orders by electronic order entry, by e-mail, by FAX, or they may establish a standard delivery order. Eligible participants will utilize their own individually established ordering procedures.

MINIMUM ORDERS:

There is no minimum order required under this contract. Delivery is to be accomplished within 45 working days from the date the order is placed.

BACKORDERS:

The Contractor must immediately notify the state agency if any item is not available for delivery in the required time frame, and must indicate the anticipated delivery date of that item. Contractor will complete delivery of all other items on the order and will deliver backordered items as soon they become available. Invoice shall indicate 'partial shipment'.

OTHER ELIGIBLE PARTICIPANTS:

Political sub-divisions (counties, cities, towns, school district or precinct, or other governmental organization, or any nonprofit agency under the provisions of section 501c of the federal internal revenue code, shall be eligible to participate under this contract if they so choose; (RSA 21-I:17). Eligible participants will negotiate their own payment methods with awarded contractor.

BALANCE OF PRODUCT LINE ITEMS

During the term of contract, the state may purchase other items in relation to the Safariland™ Body Armor from the successful Contractor's Balance of Product Line. All items ordered will include all shipping/charges.

MINIMUM SPECIFICATIONS AND STANDARDS:

SAFARILAND™ Manufacturing body armor:

- A. National Institute of Justice (NIJ) Ballistic Resistance of Armor Standard 0101.06 and (NIJ) Stab Resistance of Armor Standard 01115.00, unless and until new IJ Standards are published and made effective.
- B. Body armor offered must be identified and listed according to the applicable NIJ threat levels on the attached pricing sheets. These levels are:
 1. Ballistic Resistant Body Armor NIJ 0101.06
 - a. Level IIA
 - b. Level II
 - c. Level IIIA
 2. Stab Resistant Body Armor NIJ 0115.00 (includes spike & edged blade)
 - a. Protection Class Spike Level 1, 2, 3 and Protection Class Edged Blade Level 1, 2, 3
 3. Dual-Purpose Ballistic and Spike (and or edged blade)
 - a. All vests offered as dual purpose must have passed NIJ CTP testing under each product type, provide documentation and be published on both appropriate Compliant Products List (CPL) to be responsive.
 4. Additional NIJ-0101.06 Certified Body Armor Products (include CPL Model #)
 - a. Level III-Hard armor or plate inserts, or Flexible armor
 - b. Level IV-Harm armor or plate inserts or Flexible armor
 - c. Tactical Ballistic Body Armor model offered shall include CTP test results and identify the model description number associated to the CPL.
- C. ISO 9001 Quality Assurance Certification (if pending, requires supporting documentation).

- D. All body armor models including ballistic, concealable, tactical, ballistic/stab resistant and any other type of body armor that include the option of additional trauma or hard armor plate protection shall have the plate pocket permanently secured to the body armor carrier on three sides (both sides and the bottom).

Vests shall provide front, back and side protection per specifications below and must be available in both male and female configuration for all sizes. Workmanship and construction details, cutting, stitching, and finishing shall be in all cases in accordance with first-class commercial textile standard practices for the intended purposes. All equipment must or exceed the following requirements.

- Federal Standard NIJ-STD 0101.06 or any subsequent revision
- Federal Standard No. 751, Stitches, Seams and Stitching
- Six Point Adjustable Straps
- Ballistic Panel Covers. Waterproof, permanently covered with semi-permeable material which allows gases and heat to pass through, but prevents liquids and moisture from penetrating; moisture-vapor barrier, prevents fuels, body oils or repellents from contaminating the ballistic panel and will not cause negative impact on waterproof properties of the cover
- All suspension and fastening straps must be removable on both male and female vests
- Trauma plates 5" x 8"; soft
- Vests shall be adjustable with removable suspension and fastening straps and shall provide front, back and side protection and available in male & female sizes.
- All sizing, measurements and final fitting shall be done at no expense to the State.

VEST CONFIGURATION

This section shall describe the general configuration desired by the State of New Hampshire.

- Vest type is slip-over style, covering most of upper torso; four neoprene or elastic straps with hook and pile fasteners for adjustable positioning and comfort
- Front ballistic panel is contoured, with scoop neck, to cover chest area approximately to collarbone area; chest/bicep region cut with sufficient space to prevent irritation and restriction during routine duties.
- Rear ballistic panel shall cover torso back (in a standing position), to within 4"(\pm) of top of duty belt; and in a sitting position to within 2"(\pm) of top of duty belt
- Panels shall be removable by zipper or Velcro opening

VEST FIT

A factory-trained representative, distributor/dealer, or a designated State Agency employee who has been trained in the proper fitting of the vests, shall take individual measurements. Measurements must take into account proper fit, special fitting considerations for duty gear and in MIJ standards or guidance.

Modification and adjustments to any garment that has been issued to an officer for which it was originally constructed, that does not fit properly, shall be returned for modification to the manufacturer within 30-days days of delivery. All such required modifications shall be completed and returned to the requesting agency within fourteen (14) calendar days without any additional cost unless mutually agreed upon by the state and the contractor.

CARRIER

Material shall be constructed of a breathable fabric with zippered or Velcro opening for insertion of ballistic panel. Straps shall be adjustable and removable; made from neoprene material or high quality elastic cut squarely from a rolled stock with anchor stitching.

COLOR

The State will determine the color. Coloring shall be permanent and not "bleed" onto other garments. In the event the garment bleeds, contractor may be held liable for any damages on personal clothing and/or equipment.

All fasteners, hooks, pile, snaps, webbing, release buckles, & zippers shall be high quality and of a color similar to garment.

WARRANTY:

Manufacturer shall provide a five (5) year warranty from date of issue, that vest will meet the ballistic-resistant and deformation requirements as per Federal NIJ-STD 0101.06 velocities and test methods. Concealable covers shall have a minimum 12-month warranty from the date the items are received, inspected and accepted by the State of New Hampshire. The warranty shall cover 100% of all parts, shipping, labor, travel, lodging and expenses.

WARRANTY REPLACEMENTS:

All armor panels requiring warranty work shall be returned to the using agency within fourteen (14) days. In the event of ballistic or sharp instrument confrontation, said vest will be replaced with a new, unused identical styled unit. Delivery shall be fourteen (14) days upon formal notification unless mutually agreed upon between the using agency and the contractor.

VEST LABELS

Each vest shall be labeled to include the following: name of manufacturer and location armor was manufactured, threat level, NIJ-STD 0101.06, date of manufacture, size, serial number, lot number, style designation and officer's name. The manufacturer may, at its option, include a catalog number for supplier or distributor convenience, provided that such number is properly identified and totally separate from the model/style designation line. Labels shall remain readable throughout the warranty period.

CARE INSTRUCTIONS:

The manufacturer shall offer instruction or provide presentations as requested by State regarding the care, instruction, usage and limitation of bullet-resistant and stab-resistant armor. Briefings to training classes regarding proper fit, care and maintenance during the fitting and measurement visits may also be required.

RECALL NOTICES:

Manufacturer will be responsible for notifying the State of recall notices, warranty replacements, safety notices or any applicable notice regarding the products being sold. Manufacturer must notify the State of all recalls, warranty replacements, safety notices, etc. in writing within 30 calendar days. Failure to notify the State may result in the immediate cancellation of award.



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

September 15, 2016
Memo #17-049

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: PURCHASE OF ONE (1) 2017 FORD POLICE INTERCEPTOR UTILITY VEHICLE
(VALUE: \$35,244)
DEPARTMENT: 150 POLICE; FUND: CERF

Please see the attached communication from Karen A. Smith, Business Manager dated September 6, 2016 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.

The Nashua Police Department and the Purchasing Department recommend the purchase of this vehicle in the amount of **\$35,244** from **M-H-Q Municipal Vehicles of Marlborough, MA.**

Respectfully,

Dan Kooker
Purchasing Manager

Cc: K Smith A Lavoie

NASHUA POLICE
DEPARTMENT



Date: 6 September 2016

Intradepartmental Communication

To: Dan Kookan, Purchasing Manger

From: Karen A. Smith, Business Manager

The Nashua Police Department is requesting to replace one (1) vehicle with a 2017 Ford Police Interceptor Utility vehicle. The vehicle will replace the following vehicle (unit 3) which is on the FY2016 CERF replacement schedule and was recently totaled in a car accident. A portion of this purchase will be funded through the Risk Management Automobile Claims account.

YEAR	UNIT#	PLATE #	MAKE/MODEL	VIN#	MILEAGE
2011	3	MP6463	Crown Victoria	2FABP7BV9BX176318	78,964

Pursuant to NRO 5-84 (A) (3), the replacement vehicle will be purchased through the State of Massachusetts Greater Boston Police Council Vehicle Procurement Contract #GBPC2016.

A quote from MHQ is attached for your review showcasing the features and options of the new vehicle and the associated costs.

The Nashua Police Department and Fleet Supervisor recommend the purchase in the amount of \$35,244 from **M-H-Q Municipal Vehicles, Marlborough, MA.**

Sincerely,

A handwritten signature in black ink, appearing to read "KAS", written over a horizontal line.

Karen A. Smith
Business Manager

cc: David Fredette



QUOTE

CUSTOMER

Contact Name: Brian Sokja
 Company/Dept: NASHUA POLICE DEPARTMENT
 Street Address: 0 Panther Dr
 City, State, Zip: Nashua, NH 03062
 Phone: (603) 594-3500
Supervisor - Ford Utility

Date: 9/6/2016
 Valid for: 60 Days*
 Customer #: 12753
 Contract: GBPC
 Sales Rep: K.Wright

Please find below a budget quote for A Ford Police Interceptor Utility FWD per the Greater Boston Police Council Contract RFP # GBPC 2016 - Law Enforcement Equipment Ford

CONTRACT LINE REFERENCE	LINE DESCRIPTION	UNIT PRICE	QTY.	EXTENDED PRICE
K8A	2017 Utility Police Interceptor - INCLUDES: 3.7L V6 TI-VCT FFV AWD - 304 Horsepower @ 6259 rpm - 6 Speed Automatic Transmission - Driver's Side Six Way Power Seat - Heavy Duty 18" Steel Wheels with Small Chrome Center Caps (6SL) - All Wheel Drive - 75 MPH Rear Crash Tested - Cloth Bucket Front and Vinyl Rear Seats (9W) - Heavy Duty Vinyl Flooring - Power Adjustable Pedals - Advance Trac Stability Control System - Display Rear Camera in Rear View Mirror Instead of Center Stack (87R) -	\$ 26,550.00	1	\$ 26,550.00
43D	Dark Car Feature	\$ 19.00	1	\$ 19.00
549	Heated Side View Mirrors	\$ 57.00	1	\$ 57.00
51R	Spot Lamp - Driver only (Unity LED Bulb)	\$ 375.25	1	\$ 375.25
53M	SYNC Basic - Voice-Activated Communication System	\$ 280.25	1	\$ 280.25
59B	Keyed Alike -- 1284x	\$ 47.50	1	\$ 47.50
76R	Reverse Sensing	\$ 261.25	1	\$ 261.25
60R	Noise Suppression Bonds (Ground Straps)	\$ 95.00	1	\$ 95.00
LK	Dark Blue Paint	Included	1	\$ -
86P	Front Headlamp Predrilled for Side Marker in Headlights	Included	1	\$ -
158	License Plate Bracket -- Front	Included	1	\$ -
8.21	Setina Model # 12VS Cargo Area Partition with vinyl coated expanded metal (Utility) model # PK0123ITU122ND	\$455.00	1	\$ 455.00
P-90	Paint complete with out jambs - Two Tone per Nashua PD Specs	\$ 1,995.00	1	\$ 1,995.00
GP	Nashua Graphics Package & Installed Customer Supplied Shields	\$ 295.00	1	\$ 295.00
6.07	Whelen model # SA315P 123DB speaker, composite with mounting bracket	\$195.00	1	\$ 195.00
LP 6	Code 3 Coordinated Emergency Lighting System (CELS) Package #6 to include: Multi color citadel rear wing light, CELS control box with harness - All Modules Blue/Amber (With Traffic Advisor Capability)	\$ 1,280.00	1	\$ 1,280.00

2.26	Whelen Super LED ION series lights, one pair model # IONC - White - Mounted in Headlights	\$ 355.00	1	\$ 355.00
2.26	Whelen Super LED ION series lights, one pair model # IONB - Blue - Mounted on Bottom of Liftgate	\$ 355.00	1	\$ 355.00
2.26	Whelen (2) Micron Series Super-LED Surface Mount Lighthouse Model # MCRNS* - Clear - Mounted on Grille Knockouts	\$ 355.00	1	\$ 355.00
3.11	Whelen (2) LED Vertex hideaway system, model # VTX609-2 - Red - Mounted in Tail Lights	\$ 225.00	1	\$ 225.00
11.18	Havis Vehicle Specific Console Ford Interceptor Utility 21" Console model # C-VS-1308-INUT-1, 2-C-MCB and 2 C-MC	\$ 405.00	1	\$ 405.00
11.25	Havis Armrest, console top mount flip up style model # C-ARM-103	\$100.00	1	\$ 100.00
11.56	Dual internal cup holder model # C-CUP2-I	\$42.00	1	\$ 42.00
15.01	Pro-Gard AOI Airbag switch, for Ford Utility / Sedan Interceptor, front passenger model # AOI0001	\$405.00	1	\$ 405.00
CMP 129	Havis Premium fold up cargo plate for Interceptor Utility # C-TTP-INUT-1	\$450.00	1	\$ 450.00
STPKT83	Whelen Light Bar Strap Kit for 2013+ Ford Utility	\$61.75	1	\$ 61.75
16.06	Transfer Light bar and switching	\$160.00	1	\$ 160.00
16.01	Transfer 2-way radio and front mount antenna	\$175.00	1	\$ 175.00
16.03	Transfer Second 2-way radio	\$175.00	1	\$ 175.00
16.36	Transfer GPS system	\$75.00	1	\$ 75.00
				\$ -
				TAX:
				TOTAL: \$35,244.00

TERMS AND CONDITIONS

*This quote is valid for 60 days from the date of quote. Any purchase orders or approved quotes received outside of the 60 day quote period will be subject to price adjustments. By signing this quote, the customer is agreeing to pay, in full, for all items listed above. Any requests for changes, modifications, replacements, removals or additional items may be subject to additional fees and/or adjusted delivery dates.

M.G.L. c 30B applies to the procurement of all commodities quoted. Greater Boston Police Council contract items have been collectively purchased pursuant to M.G.L. c 30B sec. 1c and M.G.L. c.7 sec. 22B. The governmental body is responsible to determine the applicability of M.G.L. c 30B to off contract items, including, but not limited to off contract items that have already been properly procured under M.G.L. c 30B sec. 1c and M.G.L. c. 7 sec. 22A (purchases from a vendor on a contract with the Commonwealth), other contracts procured under M.G.L. c 30B sec 1c and M.G.L. c.7 sec 22B, or any M.G.L. c 30B contract between the vendor and the jurisdiction. All off contract items must be procured under M.G.L. c. 30B.

The terms and conditions stated herein and the provisions of any agreement between MHQ and Buyer, if applicable, shall constitute the complete and only terms and conditions applicable to any and all purchases by Buyer from MHQ. Any additional and/or different terms and/or conditions printed anywhere including on, or with, Buyer's order shall be inapplicable in regard to any purchase by Buyer from MHQ.

ORDER ACKNOWLEDGEMENT

By signing this document you are agreeing to the above terms and conditions of this order from MHQ, Inc.

*

PRINT NAME

*

TITLE

*



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

September 15, 2016
Memo #17-052

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: PURCHASE OF EXTRICATION EQUIPMENT UPGRADE/REPLACEMENT (VALUE:
\$77,792)
DEPARTMENT: 152 FIRE; FUND: DEPARTMENT OF HOMELAND SECURITY
ASSISTANCE TO FIREFIGHTERS GRANT

Please see the attached communication from Deputy Fire Chief Kevin F. Kerrigan to Brian Rhodes, Assistant Chief of Nashua Fire Rescue dated September 13, 2016 for information related to this request.

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 governmental jurisdictions and (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.

Nashua Fire Rescue and the Purchasing Department recommend the purchase of these products from **Fire Tech and Safety, Inc. of Tyngsborough, MA** in the amount of **\$77,792**.

Respectfully,

Dan Kooker
Purchasing Manager

Cc: S. Galipeau B. Rhodes K. Kerrigan J. Graziano



Nashua Fire Rescue
Administrative Office
70 East Hollis Street, Nashua, NH 03060
www.nashuafire.com

Kevin F. Kerrigan
Deputy Fire Chief
(603) 594-3645
FAX (603) 594-3654
KerriganK@NashuaNH.gov

To: Assistant Chief Rhodes
Date: September 13, 2016
RE: 2015 Assistance to Firefighters Grant (AFG)

Chief,

Nashua Fire was awarded a grant from the Department of Homeland Security Assistance to Firefighters Grant, to replace two complete 20 year old extrication equipment systems, carried on Ladder 1 and Ladder 3. These two new state of the art systems will be identical to the extrication equipment that we purchased with our newest ladder truck, making all 3 ladders uniform.

Enclosed is a letter from the Equipment Committee, an updated quote, and a sole source letter from the local authorized dealer, Fire Tech and Safety, this equipment pricing is also listed on Mass State Bid Pricing Fir-04. I would like to recommend moving forward with purchasing this much needed equipment in the amount of \$77,792.00, contingent upon the Board of Alderman approval of resolution R-16-064

Respectfully Submitted

Kevin F. Kerrigan
Deputy Fire Chief

FIRE TECH & SAFETY OF NEW ENGLAND, INC.
 90 Progress Avenue
 Tyngsborough, MA 01879
 1-800-256-8700 Fax (978) 649-6833



Quote

Date	Quote #
8/8/2016	2681

Name / Address
NASHUA, CITY OF-NH (FD) ATTN.: ACCOUNTS PAYABLE P.O. BOX 2019 NASHUA, NH 03061-2019



Project	Terms	Rep
	Net 30	MW

Qty	Description	Unit Price	Total
2	AMKUS EXTRICATION RESCUE KIT COMPLETE , INCLUDES 1- SIMO PUMP ,2-REELS, 2- 30 FOOT HOSES AND FITTINGS. 1- 30 CRT SPREADER, 1 -AMK 22 CUTTER, 2 -RAMS	38,896.00	77,792.00
1	SHIPPING AND HANDLING INCLUDED IN PRICE	0.00	0.00
Total			\$77,792.00



2016 - 2017 Sole Source Letter

January 1, 2016

To: Whom it may concern,

This letter confirms that **Fire Tech and Safety, Inc.** is the only authorized Amkus Rescue Systems distribution center for sales and service for the follow territories:

All Counties within the States of:
Massachusetts, Rhode Island, Maine

The following Counties within the State of New Hampshire:
Hillsborough, Rockingham, Merrimack, Strafford

Due to the nature of the service in which these products are used, they must be maintained and serviced by factory authorized service personnel only. This will assure that the latest information and service techniques have been shared by the factory with the Amkus factory authorized individuals working on and selling/delivering the equipment.

Fire Tech and Safety, Inc. has undergone extensive factory training, which is required to be renewed every three (3) years and stands ready to provide sales, service, and training.

Thank you for your interest in the Amkus Rescue Systems product lines.

Thank you for the opportunity to be of service.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Linster".

Bob Linster
Northeast Regional Sales Manager



Nashua Fire Rescue
Station Two
177 Lake Street, Nashua, NH 03060
www.nashuafire.com

Captain Steve Buxton
Engine Company Two
Nashua Fire Rescue
(603) 594-3636
BuxtonS@nashuanh.gov

Nashua Fire Rescue- Equipment Committee Evaluation

Deputy Kerrigan,

Two years ago after completing hands on evaluation of Amkus extrication tools, the equipment committee recommended purchasing the Amkus Extrication equipment with the new ladder 2.

We have been using the new tools with much success in the field, and would like to again recommend moving forward with purchasing the same Amkus extrication tools for both ladder 1 and ladder 3. This will keep our extrication tools uniform with the latest technology.

We will also be compatible with our mutual aid depts. that are also using Amkus, such as Manchester Fire, Merrimack Fire, Hudson Fire and both Tyngsboro and Dunstable Fire.

If you have any questions or concerns please feel free to contact me.

Respectfully,

Captain Steve Buxton
Equipment Committee Chairman



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

September 15, 2016
Memo #17-050

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: PURCHASE OF THREE (3) BARD AIR CONDITIONING UNITS (VALUE: \$11,114)
DEPARTMENT: 157 CITYWIDE COMMUNICATIONS; FUND: CITYWIDE
COMMUNICATIONS CAPITAL PROJECTS ACCOUNT

Please see the attached communication dated September 7, 2016 from William Mansfield, Radio Systems Manager 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 Radio Systems Manager and the Purchasing Department recommend awarding this purchase in an amount of **\$11,114** to **AAA Energy Service of Auburn, NH**.

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

September 7, 2016

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

Mr. Kooken,

Dear Mr. Kooken,

On September 1, 2016, bids were received from prospective vendors to replace three (3) Bard Heating and Air Conditioning units at the City's radio communications sites. The bids received were from:

AAA Energy Service (Auburn, NH)	\$11,114.00
J. Lawrence Hall (Nashua, NH)	NO BID (Late Submission)

The only true bid received for this project was from AAA Energy Service in the amount of \$11,114.00. This bid appears to meet all of the specifications listed in IFB0015-090116. Each of these units comes with a 5 Year warranty on the compressor, sealed system parts and all functional parts. The lead time for the units is 4 weeks.

I recommend awarding this bid to AAA Energy Service of Auburn, NH in the amount of \$11,114.00. This award will include the removal and installation of three heating and air conditioning units and the proper disposal of the units being removed. Funding is available in account 57.1010 71440 (HVAC Equipment).

Sincerely,

William Mansfield
Radio Systems Manager
City of Nashua



Scarborough, ME (207) 883-1473 | Pittsfield, ME (207) 487-3706 | Auburn, NH (603) 626-4884

September 1 2016

The City of Nashua, NH

Dan Kooken
Purchasing Manager

Attention: Mr. Kooken

Reference: Bid IFB0015-090116 Replacement Heating and Air Conditioning Units at 3 different Communication sites.

We are pleased to submit for your consideration our price for the above referenced project. Included in this quote is the following.

- Remove 3 existing Bard 36,000 BTU wall hung Heating and Air Conditioning units as specified on page 4 on specifications Page
- Install 3 New Bard 36,000 BTU wall Hung Heating and Air Conditioning units w/ 5 KW Electric Heater Strip / and Low Ambient Controls
- Provide controls for lead / lag capability
- Trucking of new and new units
- Power Wiring
- Control wiring
- Permit
- Start and test proper operation of new units
- Reclaim R-22 Gas from old units

Our price for the above referenced project is \$11,114.00 (eleven thousand one hundred and fourteen dollars)

If you have any questions or concerns please don't hesitate to call.

Respectfully Submitted,
AAA Energy Service Co.

Stephen Bertrand
Construction Manager

Cell (603) 235 - 6225 Office (603) 626 - 4224

Providing HVAC/R Services Since 1948

The City of Nashua, NH

Replacement Heating and Air Conditioning Units

New Units are Bard Wall Mount

Model Number of new Bard units W36A2-XXXXXE

(3) 3 Ton A/C 208 /230 /1 PH 5KW Electric Heat, Low Ambient Controls

Duration of Warranty

5 years on the compressor

5 years on sealed system parts

5 years on all functional parts

No Heat Exchanger

The lead time is currently 4 weeks and one week over the road

Our time frame for installation would be two weeks

We currently service and maintain many Time Warner Head / End / Hub Sites here are a few of them.

Time Warner

104 New Athol Road

Orange, MA.

Time Warner

177 Cates Hill Road

Berlin, NH

Time Warner

548 Eastman Road

Center, Conway NH

We currently perform service on Bard Wall Mounted Units for Time Warner Head/Hub for many years see below for a list of sites.

177 Cates Hill Road

Berlin, NH

9 Owl Street

Campton, NH

104 New Athol Road

Orange MA

418 Chapman Road

Keene, NH

192 Wakefield Road

Wakefield, NH

We have installed bard units where we had cut our holes for the inside grills. Installed thermostats and lead lag controls Gas and electric models with economizers and low ambient control

AT & T Cell Sites

Eagles Nest

Gray, ME.

Hillside Road

Brunswick, ME

Hackers Hill Road

Casco, ME

Diamond Hill Road

Candia, NH

Diamond Hill Road

Candia, NH

Doug Chick Time Warner

Email douglas.chick@charter.com

Ted Bartlett

Jacobs Telecommunications

P/O Box 6794

Edison, NJ 08818-6797



THE CITY OF NASHUA

Financial Services
Purchasing Department

"The Gate City"

September 15, 2016
Memo #17-053

TO: MAYOR DONCHESS
FINANCE COMMITTEE

SUBJECT: PURCHASE OF ONE (1) 10' x 12' CONCRETE BUILDING TO HOUSE A 50 KW
GENERATOR (VALUE: \$38,645)
DEPARTMENT: 157 CITYWIDE COMMUNICATIONS; FUND: CITYWIDE
COMMUNICATIONS CAPITAL PROJECTS ACCOUNT

Please see the attached communication dated September 7, 2016 from William Mansfield, Radio Systems Manager 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 Radio Systems Manager and the Purchasing Department recommend awarding this purchase in an amount of **\$38,645** to **VFP, Inc. of Salem, VA.**

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

September 7, 2016

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

Mr. Kooken,

Dear Mr. Kooken,

On September 1, 2016, Request for Proposals were received and opened from prospective vendors to purchase a concrete shelter that will house the new generator at the Shakespeare Road communications site. (RFP0259-090116) The proposals were requested to construct a 10' x 12' Concrete Shelter, install the newly purchased generator, deliver the building and generator and set up on site.

Proposals received were from:

CMS Concrete Modular Systems St Petersburg, FL \$49,995.09 (complete)

CELLSITE Solutions LLC Cedar Rapids, IA Used 12x16 \$44,430.00 (complete)

Thermobond Buildings Elk Point, SD \$44,608 (no offload or set-up pricing)

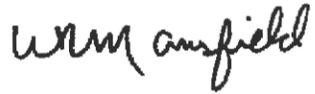
Fibrebond Minden, LA \$53,125 (complete)

VFP, Inc Salem, VA \$38,645.00 (complete)

Some of the proposals included complete pricing for the entire project and others listed some of the pricing as options for transportation, crane rental and field set-up. The totals above include all costs associated with the respective proposals. After careful review it was determined that the lowest price was received from VFP, Inc of Salem, VA. Contact was made with VFP inc. and we requested additional pricing for Field Setup, and updated pricing to Change the lighting to LED and adding a motion sensor. Attached is the pricing with these additions and adjustments. The price above reflects the total price including these items. This Building also comes with a 10 Year Warranty, See attached.

The Communications Division and the Radio Committee recommends awarding the contract to VFP, Inc. of Salem, VA in the amount of \$38,645.00. This proposal appears to meet all of the specifications listed in RFP0259-090116. Funding is available in 57.5050 81300 2008.57.15.01 81300 Capital Improvements Machinery and Equipment.

Sincerely,

A handwritten signature in black ink that reads "William Mansfield". The signature is written in a cursive, slightly slanted style.

William Mansfield
Radio Systems Manager
City of Nashua

VFP, Inc.

1701 Midland Road | Salem, Virginia 24153 | Phone 540.977.0500 | Fax 540.977.5555 | www.vfpinc.com

Mr. William Mansfield
Radio Systems Manager
Communications Division
PO Box 785
Nashua, New Hampshire 03061-0785

September 12, 2016

Quote Number: NASHUA-1

Ref: Call for adder pricing items

Bill,

Additional pricing options for Nashua, NH 10x12 generator room shelter

Per your request, we have provided some additional adder pricing for a few optional items as discussed over the phone. The field services shelter setup price would cover VFP installation at site of items removed for shipment and shelter tie down to the customer provided foundation.

<u>Currently proposed NASHUA-1 Shelter Quote</u>	<u>\$26,939.00</u>
Transportation	\$4,368.00 as per quote
110 Crane for Off-Load	\$3,772.00 as per quote
adder options:	
VFP Field Services Setup	\$3,000.00
Interior Motion Sensor	\$ 190.00
Interior LED lighting	\$ 376.00
TOTAL:	\$38,645.00

I appreciate your time, and if you have any questions or would like additional information on our products, I can be reached at 540-977-0500 or via email bcox@vfpinc.com. Please feel free to visit our website at www.vfpinc.com.

Sincerely,

Bryan Cox
Business Development Manager



VFP, Inc.

Limited Ten Year Warranty

VFP, Inc. warrants to the original purchaser of VFP's lightweight metal or concrete buildings and, except as set forth below, all component parts and systems of those buildings which are manufactured or installed by VFP (for example, air conditioning and heating systems) shall be free from defects in workmanship and materials for a period of **one (1)** year from the date of delivery of building to the original purchaser. "Date of Delivery" is deemed, for all purposes, to be the date of the final invoice from VFP to the original purchaser upon completion of the manufacture of the building (not to include field service or transportation).

Additionally, VFP warrants the building from structural defects in workmanship and materials for a period of **ten (10)** years from the date of completion as defined herein. This extended portion of the warranty applies only to the building's structure and does not apply to any of the building's component parts or systems.

A structural defect is defined as structural damage due to improper workmanship or methodology resulting in a crack in the exterior finish, a water leak into the building, or latent damage to structural members. However, a crack, water leak or latent damage shall not be deemed a structural defect, and covered by this Warranty if caused in whole or in part by physical damage from any source, abuse, improper use, improper installation of facilities or equipment by anyone other than VFP, fire, or act of God. Conditions caused by, or resulting from, normal wear and tear are not covered by this Warranty.

Date of completion is defined as the date of completed building construction and the building is ready for delivery to the original purchaser. This information is provided on a building data plate located on the interior side of the exterior door. Removal of, or tampering with, this data plate will void any and all warranties.

VFP does not make any warranty with respect to component parts and systems in the building beyond one year from the date of delivery regardless of the actual duration of the warranty made or provided by the manufacturers of the component parts and systems. However, VFP will assign, and by this Warranty it so hereby assigns, to the original purchaser any warranty rights of VFP for the manufacturers of the component parts and systems.

This limited Warranty shall not apply, and no warranty whatsoever is made with respect, to any component parts or systems installed by anyone to other than VFP or to any component parts or systems supplied directly or indirectly by the original purchaser, whether or not actually installed VFP. VFP makes no warranty with respect to component parts and systems specially ordered and/or sent by original purchaser to VFP for installation in the customization of any building for the purchaser.

VFP shall not be liable for any consequential damages resulting from the breach of any warranties. In no event will VFP be liable for any damages caused by original purchaser's improper use, handling or maintenance of the building or any of its components parts or systems, or for any lost profits or for damage to property and good stored within the building or for any other consequential damages, regardless of the form of action, whether in contract or in tort, including negligence, even if VFP has been advised of the possibility of such damages, or for any claim against the original purchaser by any other party. VFP's shall be limited to repair or replacement, at or option, of the warranted building, component parts or system. Purchasers, repair of warranty item without prior authorization for VFP will void this warranty.

The customer shall adhere to VFP's standard building start-up procedures which are provided with each building. The customer shall also perform periodic maintenance and inspection of each building in accordance with recommended procedures and shall maintain written logs of all maintenance and inspections.

VFP, Inc.
Warranty
Page 2 of 2

Written logs shall include notification as to any modifications to the building that could affect the structure or building integrity. Such modifications would include, but not limited to, any penetration of exterior walls, ceiling, floor, or protective exterior coatings.

In no event shall VFP be liable for any damage caused by the purchaser's improper handling, maintenance or other modification of the building or component parts or systems as outlined in this limited warranty.

Maintenance, inspection, and modification logs may be required to be available during normal business hours for review if needed by VFP personnel or its designated representative.

NON-WARRANTY

THERE ARE NO OTHER WARRANTIES OTHER THAN THOSE SPECIALLY SET FORTH HEREIN AND THERE ARE NO WARRANTIES TO ANYONE OTHER THAN THE ORIGINAL PURCHASER. TO THE EXTENT ALLOWED BY LAW, THIS WARRANTY IS IN PLACE OF ALL OTHER WARRANTIES (WHETHER EXPRESSED, IMPLIED, OR STATUTORY) INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.



THE CITY OF NASHUA

Financial Services

Purchasing Department

"The Gate City"

September 15, 2016
Memo #17-054

TO: MAYOR DONCHESS
FINANCE COMMITTEE

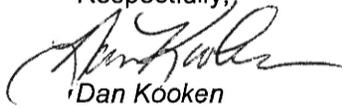
SUBJECT: HERITAGE RAIL TRAIL ELECTRICAL INSTALLATION (VALUE: NOT TO EXCEED
\$67,000)
DEPARTMENT: 177 PARKS & RECREATION; FUND: CAPITAL
ACTIVITY: RAIL TRAIL LIGHTING

Please see the attached communication from Stephen Dookran, P.E., City Engineer, dated August 25, 2016 for the 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. (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 City Engineer, Board of Public Works (8/25/2016 meeting) and the Purchasing Department recommend this contract award in an amount not to exceed **\$67,000** to **Johnson's Electric Supply, Inc.** of **Nashua, NH**.

Respectfully,


Dan Kookan
Purchasing Manager

Cc: S Dookran L Fauteux

City of Nashua, Public Works Division

To: Board of Public Works Meeting Date: August 25, 2016
From: Stephen Dookran, P.E., City Engineer
Engineering Department
Re: Heritage Rail Trail Electrical Installation

B. Motion: To approve to the construction contract for electrical services to Johnson's Electric Supply, Inc. of Nashua in an amount not to exceed \$67,000. Funding will be through: Department 177 Parks & Recreation; Fund: Capital; Activity: Rail Trail Lighting

Discussion: The City is replacing 32 solar-powered lights on the Nashua Heritage Rail Trail between Main St and Eaton St. with pole-mounted LED luminaries wired overhead. Johnson's Electric Supply, Inc. has been solicited to provide electrical services that include installation of the concrete poles and meter poles, and wiring and connecting the King Luminaire LED luminaires including assembling the lighting, arm and poles and weather heads.

Engineering is continuing to negotiate final cost with Johnson's, who has submitted a proposal for \$67,000 to complete this work. This is a "sole-source" award recommendation for the following reasons:

- The City was satisfied with Johnson's Electric Supply's performance for the Main Street Sidewalk Improvement project
- They have worked with the exact luminaires on Main St.
- They have consistently been lowest bidder on City projects.
- They demonstrated their willingness to work cooperatively with the City.
- They were selected for the on-call/electrical repair services for the Main Street Improvements project.
- They are flexible.



**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: Johnson's Electric
and its successors, transferees and assignees
(together "CONTRACTOR")**

For the following Project: **Rail Trail Lighting Installation**

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;
3. Insurance Certificate;
4. Written change orders for minor changes in the Work issued after execution of this Agreement; and
5. 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 – DATE OF COMMENCEMENT

The date of commencement shall be the date of the Notice to Proceed.

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:

_____ Dollars (\$ _____)
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: Sonia Shahnaj**

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)

James Donchess, Mayor
(Printed Name and Title)

Date

Johnson's Electric (signature)

(Printed Name and Title)

Date

DRAFT