

APPENDIX A FORM NUMBER P-37 (version 2/23/2023)

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Click or tap here to enter text.		1.2 State Agency Address	
1.3 Contractor Name		1.4 Contractor Address	
1.5 Contractor Phone Number	1.6 Account Unit and Class	1.7 Completion Date	1.8 Price Limitation
1.9 Contracting Officer for State Agency		1.10 State Agency Telephone Number	
1.11 Contractor Signature <div style="text-align: right;">Date:</div>		1.12 Name and Title of Contractor Signatory	
1.13 State Agency Signature <div style="text-align: right;">Date:</div>		1.14 Name and Title of State Agency Signatory	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (<i>if applicable</i>) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (<i>if applicable</i>) By: _____ On: _____			
1.17 Approval by the Governor and Executive Council (<i>if applicable</i>) G&C Item number: _____ G&C Meeting Date: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 (“Effective Date”).

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State’s liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor’s order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor’s books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State’s point of contact pertaining to this Agreement.

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8. EVENT OF DEFAULT/REMEDIES.

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

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

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

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State’s discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report (“Termination Report”) describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State’s discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

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

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

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. “Change of Control” means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys’ fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State’s sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

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14. INSURANCE.

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

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. THIRD PARTIES. This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. FURTHER ASSURANCES. The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

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Contract Exhibit A Special Provisions

A.1 Amend P-37 Section 2. “Services To Be Performed” by adding the following:

- 2.1 The Contractor may change services only with the prior written agreement of the State and in accordance with applicable Federal Transit Administration (FTA) requirements.

A.2 Amend P-37 Section 5. “Contract Price/Price Limitation/Payment” by adding the following:

- 5.5 At the discretion of the State, failure of the Contractor to reasonably address delays related to the Exhibit B Scope of Services, Tasks may result in payments being withheld until requested actions have been completed to the satisfaction of the State.
- 5.6 The Contractor shall submit a monthly request for reimbursement to the State on a form specified by the State, together with all information to support the request. Such requests for payment shall be properly completed and signed. Requests for payments must be for allowable costs only as defined in 2 CFR Part 200. No requests for advance payment will be accepted by the State.
- 5.7 Upon receipt of of the request for payment, the State shall review the request to determine the allowability of costs. In connection with this review, the State may demand production of (and the Contractor shall produce) and inspect any documents and records supporting the request.
- 5.8 Within thirty (30) days of receipt of the request for payment and other documents and records required by the State, the State shall determine the allowability of costs and the amount due and owing to the Contractor and shall pay said amount, subject to other provisions of this Agreement.
- 5.9 Final Payment. The Contractor’s provision of all reports required under this Agreement is a condition precedent to final payment.

A.3 Amend P-37 Section 9 “Termination” by adding the following:

- 9.3 The Termination Report must be approved by the State and the Federal Transit Administration (FTA) prior to final payment.
- 9.4 Completion of Services; Payment of Price. Excepting those obligations of the Contractor, which by the terms of this Agreement, do not expire on the Completion Date, upon the completion of the Services and upon payment of the Contract Price, this Agreement, and all obligations of the parties hereunder shall cease and neither party shall have further recourse under the Agreement.

A.4 Amend P-37 Section 10. “Property Ownership/Disclosure” by adding the following:

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- 10.4 The following restrictions apply to all subject data first produced in the performance of this agreement:
- 10.4.1 Except for its own internal use, the Contractor may not publish or reproduce such data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of the State, until such time as the FTA may have either released or approved the release of such data to the public.
- 10.4.2 As authorized by 2 CFR 200, the FTA reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish and otherwise use, and to authorize others to use, for Federal purposes, any work developed under a Contract, cooperative agreement, subcontract, or third party Contract, irrespective of whether a copyright has been obtained; and any rights of copyright to which a recipient, sub-recipient, or third party contractor purchases ownership with Federal assistance.
- 10.5 It is FTA's intent to increase the body of mass transportation knowledge. Therefore, the Contractor understands and agrees that in addition to the rights set forth in 10.4 above, FTA may make available to any recipient, contractor, or subcontractor its license in the copyright to the date derived under this Agreement or a copy of the data first produced under this Agreement.
- 10.6 The Contractor shall indemnify, save, and hold harmless the State and United States, their officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation of the proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under this Agreement.
- 10.7 Nothing contained in this clause shall imply a license to the United States under any patent or be construed as affecting the scope of any license or other right otherwise granted to the United States under any patent.
- 10.8 All "property" identified in Section 10.1, including, material furnished to the Contractor by the State or United States and incorporated in the work furnished under the agreement; shall be identified by the Contractor at the time of delivery of such work.
- 10.9 In the event that the project is not completed for any reason, all data developed under the project shall become subject Data as defined in Section 10.1 and shall be delivered as the State or FTA may direct.
- 10.10 Credits and Copyright Ownership
- 10.10.1 All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the

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resulting Contract(s) must include the following statement, “The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Transportation, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Transportation.”

- 10.10.2. All written, video and audio materials produced or purchased under the contract must have prior approval from the Department before printing, production, distribution, or use.
- 10.10.3. The Department will retain copyright ownership for any and all original materials produced, including, but not limited to:
 - 10.10.3.1. Brochures.
 - 10.10.3.2. Resource directories.
 - 10.10.3.3. Protocols.
 - 10.10.3.4. Guidelines.
 - 10.10.3.5. Posters.
 - 10.10.3.6. Reports.
- 10.10.4 The Contractor shall not reproduce any materials produced under the contract without prior written approval from the Department.

A.5 Amend P-37 Section 12. “Assignment/Delegation/Subcontracts” by adding the following:

- 12.5 The Contractor shall cause the provisions of this Contract to be inserted in all subcontracts for any work covered by this Contract so that the provisions will be binding on each subcontractor; provided, however, that the foregoing provisions shall not apply to subcontractors for standard commercial supplies or raw materials. The Contractor shall take such action with respect to any subcontract as the State may direct as a means of enforcing such provisions, including sanctions for noncompliance. The Contractor shall ensure that any subcontractor has obtained all licenses, permits, or approvals required for the performance of Contract services.

A.6 Amend P-37 Section 14. “Insurance” by adding the following:

- 14.4 The Contractor shall obtain and maintain in force automobile and professional liability (error and omission) insurance in the amount of at least one-million dollars for each.

A.7 Amend P-37 Section 18. “Amendment” by adding the following:

- 17.1 At the discretion of the State, the Contract Agreement term may be extended by an additional term of up to five (5) years, subject to the contracting parties’ prior written agreement and Governor and Executive Council approval.

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- 17.1.1 The Contractor shall notify the State no sooner than 12 months before the completion date and no later than 6 months before the completion date that the Contractor wishes to extend the term of the Contract for an additional period for up to five (5) years.
- 17.1.2 Upon receipt of said notice the State may extend the term of the Contract for a maximum of five (5) years.
- 17.1.3 If the Contractor and the State cannot agree up on an extended term of the Contract at least 60 days before the end of the term, the Contractor shall terminate the Contract per Section 1.7 “Completion Date” of the P-37.

A.8 Amend P-37 by adding “Definition” as Section 27:

27 Definitions

Allowable Costs: Costs that are incurred in the performance of the Services described in Exhibit B, Scope of Services, , and which satisfy the requirements of 2 CFR 200.

FTA: U.S. Department of Transportation, Federal Transit Administration

State: The State of New Hampshire, acting through the Department of Transportation, Bureau of Rail and Transit.

A.9 Amend P-37 by adding “Accounting, Bookkeeping, and Reporting Requirements” as Section 28:

28 Accounting, Bookkeeping, and Reporting Requirements

- 28.1 **Maintenance of Records.** The Contractor shall keep and maintain the records, documents, and accounts described herein for a period of three years after the FTA grant is closed. The Contractor shall maintain, and make available to the State and FTA, records relating to complaints and comments received from the public. If the State disputes the Contractor's operations or records as submitted for payment or otherwise, the final resolution shall rest with the State.
- 28.2 **Audits and Inspections.** Between the Effective Date and the Completion Date, and for a period of three (3) years after the FTA grant is closed or the date of the resolution of all matters relating to this Agreement, whichever is later, at any time during the Contractor’s normal business hours, and as often as the State or FTA may demand, the Contractor shall make available to the State and FTA or their designees all records pertaining to matters covered by this Agreement. The Contractor shall permit the State and FTA to audit, examine, and reproduce such records, and to make audits of all contracts, grants, invoices, materials, payrolls, records of personnel, Property (as defined in the P-37 section 10), and other

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information relating to all matters covered by this Contract. As used in this paragraph, "Contractor" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Contractor in 1.3 of the P-37

- 28.3 Independent Audit. The Contractor shall submit one audit done by one Certified Public Accountant (CPA) for the entire project, or, as the State may require, for any part of the project upon demand. In the event the audit reveals that monies are due and owing to the State from the Grantee, for whatever reasons, the Grantee shall pay to the State such sums within thirty (30) days of the audit date.

A.10 Amend P-37 by adding "Patent Rights" as section 29:

29. Patent Rights.

- 29.1 If any invention, improvement, or discovery of the Contractor is conceived or first actually reduced to practice in the course of or under this Contract, which invention, improvement, or discovery may be patentable under the laws of the United States or any foreign country, the Contractor shall immediately notify the State and provide a detailed report. The rights and responsibilities of the Contractor and the State with respect to such invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, policies, and any waiver thereof.

A.11 Amend P-37 by adding "Brokerage Representation" as section 30:

30. Brokerage Representation.

- 30.1 The Contractor warrants that it has not employed or retained any company or person, other than a bona-fide employee working solely for the Contractor, to solicit or secure this Agreement; and that it has not paid or agreed to pay any company or person, other than a bona-fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the State shall have the right to annul this Agreement without liability or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage, brokerage fee, gift, or contingent fee.

A.12 Amend P-37 by Adding "Project Equipment" as Section 31

31. Project Equipment. with a cost in excess of five hundred (\$500) per unit shall be purchased by the Grantee subject to the prior approval of the State. In the event that this Agreement is terminated, all project equipment and property become the property of the State and it is understood and agreed that legal title to such equipment shall be transferred to the State as soon as feasible. Project equipment will be disposed of in accordance with

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FTA Circular 9040.1G and the State Management Plan unless written approval is received from the State.

A.13 Amend P-37 by adding “Equipment Certification” as Section 32

32. Equipment Certification. The Contractor shall maintain a current inventory listing of all project equipment purchased with funding through this contract. The Contractor shall complete and submit to the State. an annual inventory certification in June of each year.

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Exhibit B **Scope of Services**

To be drafted in accordance with the RFP and the selected Vendor's proposal.

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Exhibit C **Payment of Services**

To be drafted in accordance with the selected Vendor's proposal, and as negotiated with the Department through the procurement process.