

106 ABM



State of New Hampshire
DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
25 Capitol Street – Room 120
Concord, New Hampshire 03301

CHARLES M. ARLINGHAUS
Commissioner
(603)-271-3201

JOSEPH B. BOUCHARD
Assistant Commissioner
(603)-271-3204

March 19, 2018

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Retroactive/sole source

REQUESTED ACTION

Authorize the Department of Administrative Services to enter into a **retroactive sole source** contract with Powerhouse Equipment & Engineering Co., Inc., (vc# 277569) Delanco, NJ for a total price not to exceed \$499,430 to rent portable steam boiler systems. Upon Governor and Council approval, the contract will be effective from April 1, 2018 through April 30, 2019.

The cost for the contract shall be paid monthly with \$49,920 being paid in FY 2018 and the balance of \$449,510 in FY 19, contingent upon availability and continued appropriations through various individual Department of Administrative Services budgeted utility line expenditures.

EXPLANATION

This contract is **sole source** because we need to stay with the same company that is currently providing the rental boilers. The temporary steam boilers are connected to the utility infrastructure and the cost to disconnect, modify and reconnect the related infrastructure would be cost prohibitive. This request is **retroactive** because we were waiting to determine the bid results and proposed schedule for the permanent heating schedule for the State House Complex which will be underway shortly.

This contract is required to provide temporary heating for 14 state owned facilities located in Concord, NH that previously obtained steam from Concord Steam. Concord Steam closed on May 31, 2017. The State entered into an agreement with Liberty Utilities (EnergyNorth Natural Gas) Corp, approved by Governor and Council on May 17, 2017, Item #79 to install temporary steam boiler systems to provide temporary heat to state facilities to give the Department of Administrative Services time to design, bid and contract to install permanent heating systems for 26 state owned facilities. Liberty Utilities entered into a contract on behalf of the Department of Administrative Services with Powerhouse Equipment and Engineering Co., Inc., to provide four temporary steam boilers. Two boilers are located at the State Office Park South and two boilers are located at the Department of Justice parking lot.

The term of one of the steam boilers located at the Department of Justice parking lot ends on March 31, 2018. The remaining three boilers contract terminates on October 28, 2018. This contract is required to continue to rent these same boilers until March 31, 2019. At that time we anticipate that all the permanent heating systems will be installed and functional.

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
March 19, 2018
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The Department of Administrative Services requests the approval of this contract.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles M. Arlinghaus". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Charles M. Arlinghaus
Commissioner

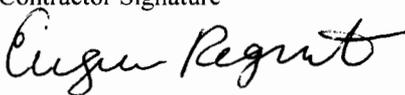
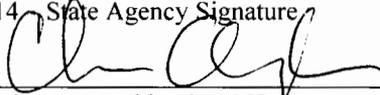
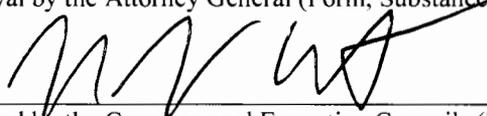
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Administrative Services		1.2 State Agency Address 25 Capitol Street, Room 120 Concord, NH 03301	
1.3 Contractor Name Powerhouse Equipment & Engineering Co., Inc.		1.4 Contractor Address 240 Creek Road Delanco, NJ 08075	
1.5 Contractor Phone Number 856-764-3333	1.6 Account Number Various	1.7 Completion Date April 30, 2019	1.8 Price Limitation \$499,430
1.9 Contracting Officer for State Agency Michael Connor		1.10 State Agency Telephone Number (603) 271-6899	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Eugene Regruto, Chief Financial Officer	
1.13 Acknowledgement: State of <u>NJ</u> , County of <u>Camden</u> On <u>3/16/18</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]		<div style="border: 2px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <p>MITCHELL P ZAMRIN ID # 50040454 NOTARY PUBLIC STATE OF NEW JERSEY My Commission Expires June 21, 2021</p> </div>	
1.13.2 Name and Title of Notary or Justice of the Peace <u>Mitchell Zamrin, Notary Public</u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory <u>Charles Arlinghaus, Commissioner</u> Date: <u>3/20/18</u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>3/22/18</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, 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 as indicated in block 1.18, 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 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

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

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

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

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

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

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

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

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

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

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

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

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

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

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

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

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

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

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

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

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

14. INSURANCE.

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

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

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

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

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

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

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

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

such approval is required under the circumstances pursuant to State law, rule or policy.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

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

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

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

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

Contractor Initials EK
Date 3/16/18

EXHIBIT "A"

SCOPE OF SERVICES

1. The Contractor shall provide "temporary steam boiler rental services" for four steam boilers as follows:

Dept. of Justice, 33 Capitol Street

- 1 - 500 hp. Steam boiler 4/1/2018 – 3/31/2019
- 1 - 500 hp. Steam boiler 10/29/2018 – 3/31/2019

State Office Park South, 123 Pleasant Street

- 2 - 800 hp. Steam boilers 10/29/2018 – 3/31/2019

2. The term of this contract shall begin upon NH Governor and Council approval and end on April 30, 2019.

3. The term, "temporary steam boiler rental services", as used above shall include providing all supervision, materials, equipment, labor and transportation necessary to provide the required level of services as described herein.

4. The "temporary steam boilers rental services" includes a transportable steam boiler system including a chassis with leveling jacks. All the major components are installed and prepiped within the enclosure including: packaged boiler with natural or gas fired burner, flame safeguard, combustion control system, feedwater treatment, pre-heat and storage, "Equipment".

The Equipment is as follows:

1 - 500 hp boiler RH 500-3	Stipulated Equipment Loss Value	\$700,000
1 - 500 hp boiler RH 500-1	Stipulated Equipment Loss Value	\$700,000
1 - 800 hp boiler RH 800-12	Stipulated Equipment Loss Value	\$1,000,000
1 - 800 hp boiler RH 800-3	Stipulated Equipment Loss Value	\$1,000,000

5. The Contractor shall transport all the rental steam boiler units from Concord, NH to Delanco, N.J. at the end of the contract period.

6. The State shall maintain sufficient and adequate boiler feed water treatment and chemical control to prevent the formation of waterside scale and corrosion to Equipment. The Contractor must approve such treatment and control methods in writing and / or receive a water sample. The Contractor shall have the right to inspect the Equipment for scale and/ or corrosion during the term of this Agreement. The Contractor shall inspect the Equipment prior to removing

Contractor Initials ER
Date 3/14/18

them from the property and notify the State in writing if any removal/ treatment is necessary. Any such removal/ treatment shall be completed by the State at the sole cost of the State. Rent for the Equipment shall continue to be payable notwithstanding the Contractor's exercise of its rights hereunder.

7. The State shall at all times cause the Equipment to be operated strictly in accordance with the manufacturer's and Contractor's instructions and manuals provided to the State at the time of delivery and standard industry practice, by competent, qualified personnel and in strict compliance with all governmental requirements. The State shall be responsible for ascertaining that the Equipment is installed and operated in accordance with all code requirements and other applicable laws, rules, regulations and ordinances. The State shall keep the Equipment in good repair and operating condition, allowing only for reasonable wear and tear. The State shall pay all expenses of operating, maintaining and repairing the Equipment. In the event that the Equipment is stored outdoors, the State shall provide adequate protection from the elements. The State assumes all risks of all nature associated with the use and operation of the Equipment during the term of the Agreement.

8. The State agrees on expiration of the rental Agreement to completely drain and disconnect the Equipment. The State agrees to relinquish the Equipment in good condition less normal wear and tear at the end of the Agreement.

9. Title to the Equipment shall remain with the Contractor at all times during the term of this Agreement. The State shall not remove from the Equipment any serial number, model, name or other indicia of ownership. The State shall give the Contractor immediate written notice of any claim, levy, lien or other legal process issued against the Equipment.

10. The Contractor has marked and identified the Equipment as property of the Contractor. The State shall not remove such marking and shall not permit the name of any person, association or corporation other than the Contractor to be placed on the Equipment as a designation that might be interpreted as a claim of ownership or security interest.

11. The State shall not permit the Equipment to become attached or affixed to real property or otherwise to become a fixture. Even if the Equipment shall become attached or affixed to real property in violation of this Agreement, the parties intend that the Equipment shall at all times be deemed to be personal property.

12. Once the Equipment is delivered by the Contractor to the State, risk of loss of, damage to, or destruction of the Equipment or any part thereof at all times during the period of this Agreement shall be on the State and no such loss, damage or destruction will release the State from its obligations under the Agreement.

13. If the State damages the Equipment during the term of the Agreement, the State shall remain liable as direct damages from rent after the term of this Agreement at the daily rate under the Agreement for each day that the Equipment is undergoing repair and is unavailable

for rental by the Contractor at the termination of this Agreement. In the event that the Equipment is destroyed during the term of the Agreement, the State shall be liable for its Stipulated Equipment Loss Value. In the event of any damage or loss to the Equipment, or any part thereof, and irrespective of payment from an insurance coverage maintained by the State, but applying full credit thereof, the State shall at the option of the Contractor (a) place the Equipment in as good repair, condition and working order as when received by the State or (b) pay the Stipulated Equipment Loss Value to the Contractor if the cost to place the Equipment in as good repair, condition and working order as when received by the State exceeds one-half of the amount allocated in the Agreement to the boiler.

14. Upon written notification to the State, the Contractor shall have the right at any time during the term of the Agreement to enter the premises occupied by the Equipment and shall be given free access to the premises and afforded necessary facilities for the purposes of inspection.

15. The State shall not remove the Equipment from the State's place of business or permit it to be removed from the State's possession without receiving written consent from the Contractor.

16. The State shall keep the Equipment free of all taxes, claims, liens and encumbrances.

17. All Contractor correspondence and submittals shall be sent to:

State of New Hampshire
Department of Administrative Services
Michael Connor
25 Capitol Street, Room 212
Concord, N.H. 03301

EXHIBIT "B"

PAYMENT TERMS

1. The Contractor hereby agrees to provide "temporary steam boiler rental services; for a not to exceed price of **\$499,430** for the period commencing upon Governor and Council approval through April 30, 2019 (herein after referred to as the contract price) in return for the services described in Exhibit "A."
- 2 The steam boiler rental rates are as follows:

Dept. of Justice, 33 Capitol Street

1 – 500 hp boiler	4/1/2018 – 3/31/2019	\$16,640 per month	\$199,680
1 – 500 hp boiler	10/29/2018 – 3/31/2019	\$16,640 per month	\$83,200

State Office Park South, 123 Pleasant Street

2 – 800 hp boilers	10/29/2018 – 3/31/2019	\$21,655 per month per unit	<u>\$216,550</u>
Total Cost			\$499,430

Subject to Governor and Council approval, the State reserves the right to extend the contract term on a month to month basis for a period up to twelve (12) months from the Agreement end date for one or more of the above mentioned rental steam boilers at the same rates listed above, provided they provide a minimum of 30 days' notice to the Contractor.

3. Transportation of the steam boiler rental units at the end of this agreement is included in the rates above.
4. Rental payments are due in advance on a monthly basis during the term of the Agreement. The Contractor shall invoice the State in advance monthly.
5. Payment will be made within thirty (30) days following receipt of invoice and acceptance of the work to the State's satisfaction. Said payment shall be made electronically.

Exhibit C

Special Provisions

1. Amend Paragraph 8 Event of Default/Remedies and add the following:

8.2 Default by the State. The occurrence of any of the following shall constitute a default under the Agreement: (a) State fails to pay when due any obligation under this Agreement, by acceleration or otherwise, or otherwise breaches any provision in the Agreement and that failure or breach continues for ten (10) days; (b) State fails to secure or maintain insurance as required by Contractor and this Agreement or fails to repair or replace any Equipment that suffers any uninsured damage, loss, theft or destruction; (c) State fails to maintain or operate the Equipment as provided by the Agreement; (d) State fails to discharge its obligations under any assignment of this Agreement by Contractor; (e) State fails to observe or perform any other covenant, condition or agreement to be performed or observed by it hereunder and such failure continues for ten (10) days; (f) Any warranty or representation of State contained in the Agreement proves to be false or incorrect at any time; (g) State becomes insolvent, ceases to do business or becomes unable to pay its debts generally as they become due; or a petition for relief under bankruptcy or insolvency law or for reorganization is filed by or against State; or State makes an assignment for benefit of creditors or a receiver or liquidator is appointed for State, or any court of competent jurisdiction orders that winding up or liquidation of the affairs of State; (h) The Equipment is encumbered, leveled upon, confiscated, condemned, seized or attached.

8.3 Remedies Upon occurrence of any default and at any time thereafter, Contractor with or without cancelling this Agreement, in its sole discretion, do any one or more of the following: (a) give the State a written notice specifying the Event of Default and requiring it to be remedied within in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the State notice of termination; (b) Contractor may declare to be immediately due and payable to Contractor as direct damages, and not as a penalty, all rents due and to become due under the Agreement plus all other amounts due under the Agreement. (c) Lessor may enter the premises where the Equipment is located and take immediate possession of and remove the Equipment; all without liability to Contractor, whether for the restoration of damage to any property caused by the taking or otherwise, for or by reason of the entry or taking of possession or otherwise. (d) Contractor may require State at State's sole expense to assemble the Equipment and to return it immediately.

(e) Contractor is further entitled to pursue any other remedy which may be available to it under the Uniform Commercial Code (UCC) or any other applicable law or any combination of remedies legally or equitably, available.

8.4 Termination of Lease by Default When Contractor takes possession of the Equipment pursuant to the provision of default, this Agreement shall terminate without prejudice to any right or claim for arrears of rent, if any, or on account of any preceding breach or breaches of this Agreement.

2. Amend Paragraph 12 Assignment and add the following:

12.1 Without Contractor's prior written consent, State shall not transfer, assign or otherwise dispose of the Agreement or any interest created by the Agreement or transfer, sublet or otherwise dispose of the Equipment or any interest in the Equipment, or permit the Equipment to be used by anyone other than the State, or make any material change or modification to the Equipment, or make any addition to the Equipment. Contractor at its sole discretion shall have the right to demand adequate assurances of financial ability to perform from State, its assigns, (should Contractor consent to an assignment) or its successors in interest. Any assignment of State's rights or delegation of State's duties under this Agreement shall be void unless prior written consent is given by Contractor.

3. Delete Paragraph 14 Insurance and replace it in its entirety with the following:

14. Insurance.

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

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

14.1.2 Commercial Automobile Liability covering all motor vehicles including owned, hired, borrowed, and auto-owned vehicles.

Limits of Liability:

\$1,000,000 Each Occurrence

\$1,000,000 Aggregate

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsement 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 Contactor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

14.4 The State shall obtain and maintain at all times on the Equipment liability insurance (including, without limitation, bodily injury and property) including coverage to replace Equipment in the event of loss or damage while in State's care, custody or control. Insurance policy shall name Contractor as loss payee as its interest may appear and shall name Contractor as an additional insured. The minimum coverage required is:

- Inland Marine Coverage – Amount equal to the Total Stipulated Loss value of All Equipment stated in the Agreement
- Commercial General Liability - \$1M/\$2M aggregate
- Automobile Liability - \$1M/\$2M aggregate
- Umbrella Liability - \$5M
- Worker's compensation - Statutory workers' compensation covering all state and local requirements
- Employer's Liability - \$1M

Each of the above policies of insurance shall be primary to any liability insurance carried by Contractor, which insurance shall be excess and not-contributory for claims and losses arising out to the performance of this Agreement.

4. Amend Paragraph 16 Waiver of Breach and add the following:

16.2 No delay or omission to exercise any right, power or remedy of Contractor on any breach or default by State shall impair any such right, power or remedy of Contractor, nor shall it be construed to be a waiver of an such breach or default. No waiver by Contractor of a single breach or default by State shall be deemed to be a waiver of any other breach or default of any other provision of this Agreement. Any waiver, consent of approval of Contractor of any breach or default or any waiver on the part of Contractor of any term or condition of this Agreement must be in writing and shall be effective only to the extent set forth in the writing. All remedies either under the Agreement or by law or equity, or

otherwise provided to Contractor, shall be cumulative and not alternative.

5. Add the following section:

25. Waiver of Consequential Damages; Limitation of Liability:

In no event shall Contractor be liable to State or any third party for an incidental, consequential, liquidated or special damages, including, without limitation, loss of use, loss of sales, loss of production, loss of profits or revenues, loss of business opportunity, interest charges, or cost of capital. .

6. There are no other special provisions of this Agreement.

CERTIFICATE OF VOTE
(Corporation without Seal)

I, John W. Ash, do hereby certify that:

1. I am a duly elected Clerk of Powerhouse Equipment and Engineering Co, Inc.
2. The following are true copies of two resolutions duly adopted at a meeting of the Board of Directors of the Corporation duly held on March 12, 2018:

RESOLVED: That this Corporation enter into a contract with the State of New Hampshire, acting through its Department of Administrative Services, for the provision of Boiler Rental Services.

RESOLVED: That the Chief Financial Officer, is hereby authorized on behalf of this Corporation to enter into the said contract with the State and to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, as he/she may deem necessary, desirable or appropriate.

3. The forgoing resolutions have not been amended or revoked and remain in full force and effect as of the 16th day of March 2018.

4. Eugene Regruto is the duly elected Chief Financial Officer of the Corporation.

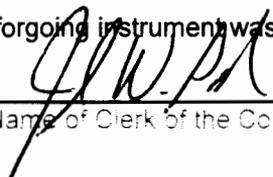


(Signature of Clerk of the Corporation)

STATE OF NEW JERSEY

County of Camden

The forgoing instrument was acknowledged before me this 16th day of March, 2018.

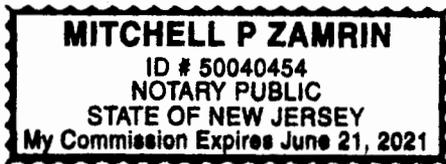
By 

(Name of Clerk of the Corporation)



(Notary Public/Justice of the Peace)

Commission Expires: 6/21/21



State of New Hampshire

Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that POWERHOUSE EQUIPMENT & ENGINEERING CO., INC. is a New Jersey Profit Corporation registered to do business in New Hampshire as POWERHOUSE EQUIPMENT on March 07, 2017. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 765746

Certificate Number : 0004043557



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 19th day of March A.D. 2018.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

State of New Hampshire

Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that POWERHOUSE EQUIPMENT is a New Hampshire cooperative association formed under RSA 301 and is registered to transact business in New Hampshire on March 07, 2017. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 765749

Certificate Number : 0004043530



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 19th day of March A.D. 2018.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

Business Name: POWERHOUSE EQUIPMENT

Business ID: 765746

Business Type: Foreign Profit Corporation

Business Status: Good Standing

Business Creation
Date: 03/07/2017

Name in State
of
Incorporation: POWERHOUSE EQUIPMENT
& ENGINEERING CO., INC.

Date of Formation in
Jurisdiction: 01/01/1983

Principal Office Address: 240 Creek Road, Delanco,
NJ, 08075, USA

Mailing Address: 240 Creek Road, Delanco, NJ,
08075, USA

Print Principal Office
Address:

Print Mailing
Address:

Citizenship / State of
Incorporation: Foreign/New Jersey

Last Annual
Report Year: 2018

Next Report
Year: 2019

Duration: Perpetual

Business Email: mzamrin@powerhouse.com

Phone #: 856-764-3333

Notification Email: mzamrin@powerhouse.com

Fiscal Year End
Date: NONE

Blank Report



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
3/9/2018

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

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

PRODUCER Insurance Agency Management 230 High Street P.O. Box 158 Burlington NJ 08016	CONTACT NAME: Denise Mackintosh PHONE (A/C No. Ext): (609) 953-2282 E-MAIL ADDRESS: dmackintosh@tcirons.com		FAX (A/C No.): (609) 953-7719													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: Twin City Fire Insurance Co</td> <td>29459</td> </tr> <tr> <td>INSURER B: Selective Ins Company of Ameri</td> <td>12572</td> </tr> <tr> <td>INSURER C: Admiral Insurance Company</td> <td>12537</td> </tr> <tr> <td>INSURER D: Insurance Company of the West</td> <td>27847</td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>			INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Twin City Fire Insurance Co	29459	INSURER B: Selective Ins Company of Ameri	12572	INSURER C: Admiral Insurance Company	12537	INSURER D: Insurance Company of the West	27847	INSURER E:		INSURER F:
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COVERAGES **CERTIFICATE NUMBER:** CL1710429780 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			13CESOF6322	10/4/2017	10/4/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			S2181749	10/4/2017	10/4/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			BEX0960289200	10/4/2017	10/4/2018	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) if yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WNJ503793400	10/4/2017	10/4/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	INLAND MARINE COVERAGE			S2181749	10/4/2017	10/4/2018	LEASED/RENTED EQUIP \$800,000
B	CRIME COVERAGE			S2181749	10/4/2017	10/4/2018	LIMIT \$25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
30 Day notice of cancellation and Waiver of Subrogation applies as per a written contract.

CERTIFICATE HOLDER State of New Hampshire Department of Administrative Services Charles Arlinghaus or designee 25 Capitol Street Room 120 Concord, NH 03301	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Timothy Irons/KAREN
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