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STATE OF NEW HAMPSHIRE
 DEPARTMENT of NATURAL and CULTURAL RESOURCES
DIVISION of PARKS and RECREATION
 172 Pembroke Road : Concord, New Hampshire 03301
 Phone: (603) 271-3556 Fax: (603) 271-3553
 Web: www.nhstateparks.org

March 11, 2021

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

REQUESTED ACTION

Pursuant to RSA 21-I:80, I(b), authorize the Department of Natural and Cultural Resources, Division of Parks and Recreation, Cannon Mountain to enter into a **Sole Source** and **Retroactive** amendment to an existing contract (PO #7003020) with Doppelmayr USA, Inc. (VC #169529), Salt Lake City, UT for completion of the Aerial Tramway Carriage Teardown at Cannon Mountain and Franconia Notch State Park by increasing the price limitation by \$43,243 from \$86,990 to \$130,233 and extending the completion date from December 31, 2020 to December 31, 2021 effective upon Governor and Executive Council approval. The original contract was approved by Governor and Executive Council on September 11, 2020, Item #30. 100% Other Funds (Cannon Mountain Capital Improvement Fund).

Funding is available in account, RSA 12-A:29-B Cannon Capital Improvements, as follows:

03-035-035-351510-31320000-034-500162 Capital Projects	<u>FY 2021</u> \$43,243
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EXPLANATION

In September 2020, Cannon Mountain contracted with Doppelmayr USA, Inc. (Doppelmayr) to perform the recommended 10-12 year carriage teardown-reassembly overhaul for the Aerial Tramway at Cannon Mountain Ski Area. During the testing phase following the late November reassembly, the plate steel tabs on the haul rope bollard on Tram Car #1 were bent causing an overloading condition of the end clamp attachments. In order to correct this condition and bring the Aerial Tramway into full operation again, the haul rope bollard for Tram Car #1 will require replacement. Additionally, disassembly and alteration of the contact rubber and attachment cement on the haul rope bollard for Tram Car #2 will be required. The remaining portion of the original services including low voltage controls, brake system testing, and electronic componentry testing, will be performed by Doppelmayr-Frey (located in Switzerland) as soon as COVID-19 protocols allow for Euro-USA travel.

Doppelmayr is the only contractor outfitted and staffed to perform these such services within the United States. This has caused delays due to difficulty confirming a date for them to be onsite to complete both the originally contracted and newly needed services which have come about as a result of what occurred during testing. For these reasons, sole source and retroactive approval is being requested for this amendment.

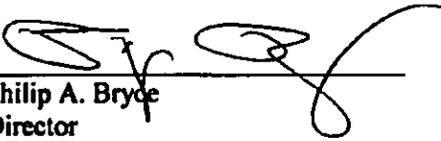
Funding via the Cannon Mountain Capital Improvement Fund for the entirety of this project was recommended by the Cannon Mountain Advisory Commission on April 5 2019. The recommendation was concurred with by the Director of Parks and Recreation and the Commissioner of Natural and Cultural Resources, approved by the Capital Budget Overview Committee on April 22, 2019, and approved by the Governor and Executive Council on June 5, 2019, Item #90-A.

The Attorney General's Office has reviewed and approved this contact amendment as to form, substance and execution.

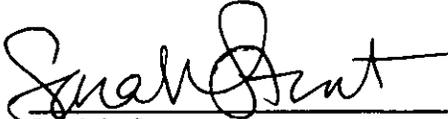
Respectfully submitted,

Concurred,

(MS)



Philip A. Bryce
Director



Sarah L. Stewart
Commissioner

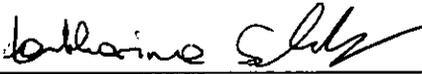
AMENDMENT OF P-37 CONTRACT AGREEMENT

The Department of Natural and Cultural Resources and Doppelmayr USA, Inc. hereby mutually agree to amend the contract for *Aerial Tramway Carriage Teardown at Cannon Mountain and Franconia Notch State Park*, originally approved by the Governor and Executive Council on September 11, 2020, Item #30, with a completion date of December 31, 2020, as follows:

1. Amend Box 1.7, Completion Date, by extending the completion date to December 31, 2021 from the original completion date of December 31, 2020;
 2. Amend Box 1.8, Price Limitation, by increasing the contract total by \$43,243 from \$86,990 to \$130,233;
 3. Amend Exhibit B, Scope of Work, to include replacing the haul rope bollards on carriage one with new components and installing rubber matting to the haul rope bollards on carriage two;
 4. Amend Exhibit C, Contract Price, by increasing the contract total by \$43,243 from \$86,990 to \$130,233;
 5. Amend Exhibit C, Contract Term, by extending the completion date to December 31, 2021 from the original completion date of December 31, 2020;
 6. All other terms and conditions of the contract shall remain the same in full force and effect as originally set forth; and
3. This amendment is subject to approval by the Governor and Executive Council.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year above written.

For Doppelmayr USA, Inc.:


Katharina Schmitz, President

2/22/21
Date

For the Department of Natural and Cultural Resources:


Sarah L. Stewart, Commissioner

3/16/21
Date

Approved as to form, substance, and execution:


Michael Haley, Attorney

3/17/2021
Date

**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 DOPPELMAYR USA, INC. is a Utah Profit Corporation registered to transact business in New Hampshire on April 03, 2002. 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: 400395

Certificate Number: 0004946544



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 2nd day of July A.D. 2020.

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

William M. Gardner
Secretary of State

**SPECIAL MEETING OF THE
BOARD OF DIRECTORS OF
DOPPELMAYR USA, INC.**

CERTIFICATE OF VOTE

Pursuant to Wavier of Notice, a special meeting of the Board of Directors of Doppelmayr USA, Inc. was held on February 22, 2021 via teleconference. Present were all the Directors, namely Mark Bee and André Lamoureux.

BE IT RESOLVED, that the Corporation desires to amend the agreement with the State of New Hampshire for tram tear down at Cannon Mountain.

BE IT FURTHER RESOLVED, that Katharina Schmitz, President of Doppelmayr USA, Inc., is hereby authorized, on behalf of Doppelmayr USA, Inc., to execute all offer documents and to execute all contact documents with the State of New Hampshire, for the above mentioned contract amendment.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of February 22, 2021 and that Katharina Schmitz is the duly elected President of this corporation.

Upon motion duly made and seconded, the resolutions were adopted by the Board of Directors of the Corporation.

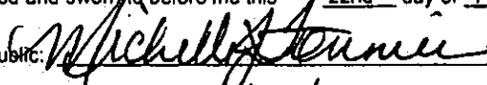
There being no further business to come before the Board of Directors, the meeting was adjourned.

Respectfully Submitted,

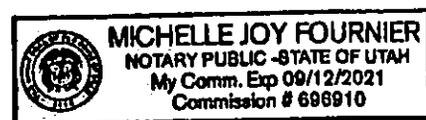


Jared Kaneen, Treasurer

State of: Utah County of: Salt Lake
Subscribed and sworn to before me this 22nd day of February, 2021

Notary Public: 

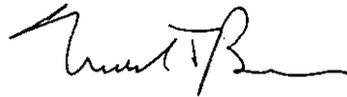
My Commission expires: 09/12/2021



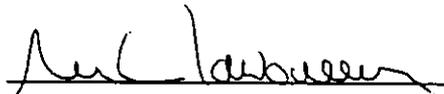
**CONSTENT AND WAIVER OF NOTICE OF
SPECIAL MEETING OF THE
BOARD OF DIRECTORS OF
DOPPELMAYR USA, INC.**

The undersigned being all the Directors of Doppelmayr USA, Inc., do hereby waive notice of the time, place and purpose of the Special Meeting of the Board of Directors and do hereby affix the February 22, 2021 for such meeting.

The undersigned do hereby waive all requirements of the laws of the State of Utah and any requirements that may be set forth in the Bylaws of the Company as to notice of such meeting, and do hereby consent to the transaction thereat, or at any adjournment of adjournments thereof, of any and all business that may come before such meeting.



Mark Bee



Andre Lamoureux



CERTIFICATE OF LIABILITY INSURANCE

4/1/2021

DATE (MM/DD/YYYY)
3/17/2020

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 have ADDITIONAL INSURED provisions or 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 Lockton Companies 8110 E. Union Avenue Suite 700 Denver CO 80237 (303) 414-6000	CONTACT NAME: PHONE (AC, Ho, Ext): E-MAIL: ADDRESS:		FAX (AC, No):													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: XL Insurance America, Inc.</td> <td>24554</td> </tr> <tr> <td>INSURER B: Liberty Mutual Fire Insurance Company</td> <td>23035</td> </tr> <tr> <td>INSURER C: Continental Casualty Company</td> <td>20443</td> </tr> <tr> <td>INSURER D:</td> <td></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: XL Insurance America, Inc.	24554	INSURER B: Liberty Mutual Fire Insurance Company	23035	INSURER C: Continental Casualty Company	20443	INSURER D:		INSURER E:		INSURER F:
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INSURER F:																
INSURED 1302480 Doppelmayr USA, Inc. 3160 West 500 South Salt Lake City, UT 84104																

COVERAGES CERTIFICATE NUMBER: 11145058 REVISION NUMBER: XXXXXXXX

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 (USD)	INSUR (USD)	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 GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	N	N	US00007330L120A	4/1/2020	4/1/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	AS2-Z91-471503-010 Hired/Phys Damage ACV	4/1/2020	4/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	N	N	US00007607L120A	4/1/2020	4/1/2021	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$ XXXXXXXX
B	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	WC2-Z91-471503-020	4/1/2020	4/1/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Contractors Equipment	N	N	4020740879	4/1/2020	4/1/2021	Lsd/Rnid \$525K Max Per Item

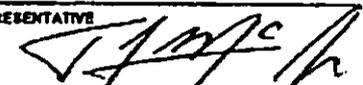
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

11145058
 Cannon Mountain Ski Area
 Franconia State Park
 State of NH Dept of Natural and Cultural Resources
 260 Tramway Drive
 Franconia NH 03580

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



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STATE OF NEW HAMPSHIRE
 DEPARTMENT of NATURAL and CULTURAL RESOURCES
 DIVISION of PARKS and RECREATION
 172 Pembroke Road Concord, New Hampshire 03301
 Phone: (603) 271-3556 Fax: (603) 271-3553
 Web: www.nhstateparks.org

August 24, 2020

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

REQUESTED ACTION

1. Pursuant to RSA 21-I:80, I(b), authorize the Department of Natural and Cultural Resources, Division of Parks and Recreation, Cannon Mountain to enter into a Sole Source contract with Doppelmayr USA, Inc. (VC #169529), Salt Lake City, UT in the amount of \$82,848 to complete the Aerial Tramway carriage tear down at Cannon Mountain and Franconia Notch State Park upon Governor and Executive Council approval through December 31, 2020. 100% Other Funds (Cannon Mountain Capital Improvement Fund).
2. Further authorize a contingency in the amount of \$4,142 for unanticipated expenses bringing the contract total to \$86,990 effective upon Governor and Executive Council approval through December 31, 2020. 100% Other Funds (Cannon Mountain Capital Improvement Fund).

Funding is available in account, RSA 12-A:29-B Cannon Capital Improvements, as follows:

03-035-035-351510-31320000-034-500162 Capital Projects	<u>FY 2021</u> \$86,990
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EXPLANATION

Doppelmayr USA, Inc. (Doppelmayr) is our sole source aerial tramway major system repair contractor, is one of just two primary lift contractors with offices in North America, and runs the only known aerial tramway repair division within all of the Americas. Doppelmayr has built and installed the majority of Cannon's aerial lifts and has performed of the major aerial tramway system work over the last two decades. Additionally, Doppelmayr owns Frey Stan electrical, which comprises all of the Tramway's primary electrical and safety systems. Doppelmayr is very aware of our on-site systems and topography, and works seamlessly with our existing team.

When the Cannon Mountain Aerial Tramway was constructed in 1980, it was advised that a carriage system overhaul be completed every 12 years. The State obtained an updated engineering report from Ross Stevens, P.E. and based upon the results of the report, and the recommendations of Doppelmayr, it was determined that a carriage teardown project be completed every 10 years. The last carriage teardown project was completed in 2009. With the guidance of Doppelmayr and the concurrence of the NH Tramway Safety Board (May 27, 2020), we are instead contracting for the carriage teardown project this fall. A conflict with Doppelmayr's schedule bumped this project from 2019 to 2020.

Utilization of the Cannon Mountain Capital Improvement fund for this project as well as others was recommended by the Cannon Mountain Advisory Commission on April 5 2019, concurred by the

Director of Parks and Recreation and the Commissioner of Natural and Cultural Resources, and approved by the Capital Budget Overview Committee on April 22, 2019 and the Governor and Executive Council on June 5, 2019, Item #90-A.

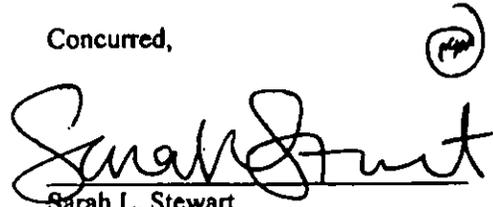
The Attorney General's Office has reviewed and approved this contact as to form, substance and execution.

Respectfully submitted,



Philip A. Bryce
Director

Concurred,



Sarah L. Stewart
Commissioner

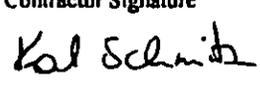
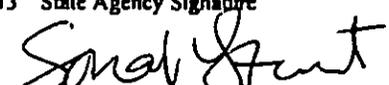
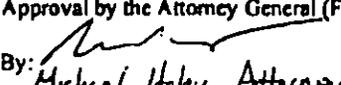
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

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

GENERAL PROVISIONS

I. IDENTIFICATION.

1.1 State Agency Name Department of Natural and Cultural Resources		1.2 State Agency Address 172 Pembroke Road, Concord NH 03301	
1.3 Contractor Name Doppelmayr USA, Inc.		1.4 Contractor Address 3160 W 500 S, Salt Lake City, UT 84107	
1.5 Contractor Phone Number 6801-973-7977	1.6 Account Number 31320000-500162	1.7 Completion Date December 31, 2020	1.8 Price Limitation \$86,990.00
1.9 Contracting Officer for State Agency Sarah L. Stewart, Commissioner		1.10 State Agency Telephone Number 603-271-2411	
1.11 Contractor Signature  Date: 8/24/20		1.12 Name and Title of Contractor Signatory KATHARINA SCHMITZ, PRESIDENT	
1.13 State Agency Signature  Date: 8/26/20		1.14 Name and Title of State Agency Signatory Sarah L. Stewart, Commissioner	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: N/A Director, On:			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  Michael Haley, Attorney On: 8/27/2020			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: G&C Meeting Date:			

Contractor Initials KS
 Date 8/24/20

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 as indicated in block 1.17, 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. 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 affected 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. 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 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 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 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. 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 race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 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 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 cured, 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 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.

8.3. 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.

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) 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) 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 B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and

submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

10.1 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, formulas, 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 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.

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 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, 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.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. 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.** Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. 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 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 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 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 ten (10) days prior to the expiration date of each insurance policy. 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 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. **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.

17. **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.

18. **CHOICE OF LAW AND FORUM.** This Agreement shall be governed, interpreted and 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. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

19. **CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and/or attachments and amendment thereof, the terms of the P-37 (as modified in EXHIBIT A) shall control.

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 or modifying provisions set forth in the attached EXHIBIT A 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 supercedes all prior agreements and understandings with respect to the subject matter hereof.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
DIVISION OF PARKS AND RECREATION**

Aerial Tramway Tear Down

EXHIBIT A

There are no additional or special provisions in this contract.

EXHIBIT B

Scope of Work: The purpose of this Contract is for the Contractor to provide the State with all labor, material and equipment required for the Cannon Aerial Tram carriage tear down at Cannon Mountain, Franconia NH. The Contractor requires receipt of, and the following scope of work:

- a) Rigging of carriages;
- b) Provide rigging and hit trac/blocks equipment and specialized tools;
- c) Supervise completion of carriage 1 and carriage 2 overhauls;
- d) Prepare the cabin support rods for NDT testing;
- e) Complete control inspection and check function test of the main drive control system;
- f) Take measurements and tests of the rope monitoring and communication system;
- g) Complete any necessary repair work to control system;
- h) Complete brake tests;
- i) Provide brake graphs report;
- j) Supply inspection report in English;
- k) Travel expenses.

EXHIBIT C

Contract Price

Base Price:	\$82,848.00
5% Contingency:	\$ 4,142.00

Total contract shall not exceed: \$86,990.00

Method of Payment

Payments shall be made within 30 days after receipt of progress based invoices and inspections by Cannon's project manager.

Term

This contract shall commence upon approval of the Governor and Executive Council with a completion date of December 31, 2020.

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 DOPPELMAYR USA, INC. is a Utah Profit Corporation registered to transact business in New Hampshire on April 03, 2002. 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: 400395

Certificate Number: 0004946544



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 2nd day of July A.D. 2020.

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

William M. Gardner
Secretary of State

**SPECIAL MEETING OF THE
BOARD OF DIRECTORS OF
DOPPELMAYR USA, INC.**

CERTIFICATE OF VOTE

Pursuant to Waiver of Notice, a special meeting of the Board of Directors of Doppelmayr USA, Inc. was held on August 21, 2020 via teleconference. Present were all the Directors, namely Mark Bee and André Lamoureux.

BE IT RESOLVED, that the Corporation desires to amend the agreement with the State of New Hampshire for tram tear down at Cannon Mountain.

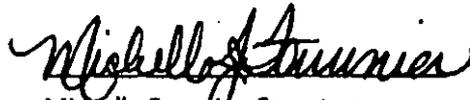
BE IT FURTHER RESOLVED, that Katharina Schmitz, President of Doppelmayr USA, Inc., is hereby authorized, on behalf of Doppelmayr USA, Inc., to execute all offer documents and to execute all contact documents with the State of New Hampshire, for the above mentioned contract amendment.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of August 21, 2020 and that Katharina Schmitz is the duly elected President of this corporation.

Upon motion duly made and seconded, the resolutions were adopted by the Board of Directors of the Corporation.

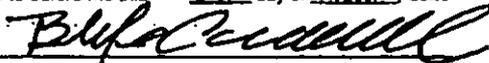
There being no further business to come before the Board of Directors, the meeting was adjourned.

Respectfully Submitted,


Michelle Fournier, Secretary

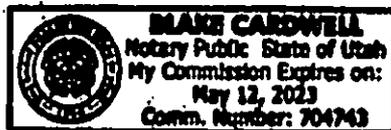
State of: Utah County of: Salt Lake
Subscribed and sworn to before me this 21st day of August, 2020

Notary Public:



My Commission expires:

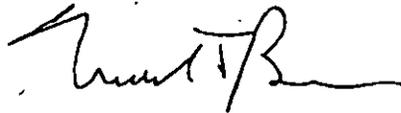
May 12, 2023



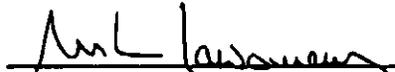
**CONSTENT AND WAIVER OF NOTICE OF
SPECIAL MEETING OF THE
BOARD OF DIRECTORS OF
DOPPELMAYR USA, INC.**

The undersigned being all the Directors of Doppelmayr USA, Inc., do hereby waive notice of the time, place and purpose of the Special Meeting of the Board of Directors and do hereby affix the August 21, 2020 for such meeting.

The undersigned do hereby waive all requirements of the laws of the State of Utah and any requirements that may be set forth in the Bylaws of the Company as to notice of such meeting, and do hereby consent to the transaction thereat, or at any adjournment of adjournments thereof, of any and all business that may come before such meeting.



Mark Bee



Andre Lamoureux



CERTIFICATE OF LIABILITY INSURANCE

4/1/2021

DATE (MM/DD/YYYY)

3/17/2020

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 have ADDITIONAL INSURED provisions or 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).

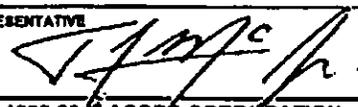
PRODUCER Lockton Companies 8110 E. Union Avenue Suite 700 Denver CO 80237 (303) 414-6000	CONTACT NAME:	
	PHONE (AG. No. Ext.):	FAX (AG. No.):
INSURED 1302480 Doppelmayr USA, Inc. 3160 West 500 South Salt Lake City, UT 84104	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: XL Insurance America, Inc.	NAIC # 24554
	INSURER B: Liberty Mutual Fire Insurance Company	23035
	INSURER C: Continental Casualty Company	20443
	INSURER D: INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: 11145058 REVISION NUMBER: XXXXXXXX

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	ADDITIONAL INSUR	INSUR	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"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER	N	N	US00007330L120A	4/1/2020	4/1/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$ 100,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	AS2-Z91-471503-010 Hired/Phys Damage ACV	4/1/2020	4/1/2021	COMBINED SINGLE LIMIT (EA accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	N	N	US00007607L120A	4/1/2020	4/1/2021	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$ XXXXXXXX
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input checked="" type="checkbox"/> N	N/A	N	WC2-Z91-471503-020	4/1/2020	4/1/2021	<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
C	Contractors Equipment	N	N	4020740879	4/1/2020	4/1/2021	Ltd/Rntd \$525K Max Per Item

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER 11145058 Cannon Mountain Ski Area Franconia State Park State of NH Dept of Natural and Cultural Resources 260 Tramway Drive Franconia NH 03580	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 
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