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STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NEW HAMPSHIRE HOSPITAL

Lori A. Shibinette
Commissioner

Heather M. Moquin
Chief Executive Officer

36 CLINTON STREET, CONCORD, NH 03301
603-271-5300 1-800-852-3345 Ext. 5300
Fax: 603-271-5395 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

April 13, 2021

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

REQUESTED ACTION

Authorize the Department of Health and Human Services, New Hampshire Hospital, to enter into a **Sole Source** amendment to an existing contract with Johnson Controls, Inc. (VC#177721), Manchester, New Hampshire, for the application of Belzona coating to condenser tube sheets, end bells and water boxes in two (2) York Chillers to protect against rust buildup, by increasing the price limitation by $51,060 from $100,000 to $151,060 with no change to the contract completion date of June 30, 2021, effective upon Governor and Council approval. 100% General Funds.

The original contract was approved by Governor and Council on April 11, 2018, tabled item #10, and most recently amended with Governor and Council approval on June 19, 2019, item #58.

Funds are available in the following accounts for State Fiscal Year 2021 with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

05-95-94-940010-8410 HEALTH AND SOCIAL SERVICES DEPT OF HEALTH AND HUMAN SVCS, HHS: NEW HAMPSHIRE HOSPITAL, NEW HAMPSHIRE HOSPITAL, NHH FACILITY/PATIENT SUPPORT

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2018	048-500226	Contract Repairs: Bldg & Grnds	94024000	25,000	$0	25,000
2019	048-500226	Contract Repairs: Bldg & Grnds	94024000	25,000	$0	25,000
2020	048-500226	Contract Repairs: Bldg & Grnds	94024000	25,000	$0	25,000
2021	048-500226	Contract Repairs: Bldg & Grnds	94024000	25,000	$0	25,000
			Subtotal	***$100,000***	***$0***	***$100,000***

05-95-094-940030-5267 HEALTH AND SOCIAL SERVICES DEPT OF HEALTH AND HUMAN SVCS, HHS: NEW HAMPSHIRE HOSPITAL, NEW HAMPSHIRE HOSPITAL, CHILLERS & AS 15-220:1-VII-F

State Fiscal Year	Class / Account	Class Title	Job Number	Current Budget	Increased (Decreased) Amount	Revised Budget
2021	034-500162	Capital Projects	94024000	$0	$51,060	$51,060
			Subtotal	***$0***	***$51,060***	***$51,060***
			Total	**$100,000**	**$51,060**	**$151,060**

EXPLANATION

This request is **Sole Source** because MOP 150 requires any amendment resulting in an increase of more than 10% of the original contract amount to be labeled as sole source. The Contractor is the only authorized contractor that is able to perform maintenance without affecting warranty issues. The Contractor holds a 10-year warranty on York Chillers 1 and 2. The Belzona coating option was not exercised by the state during the initial installation of the Chillers. The repairs funded in this request align with the intent of the original installation.

The purpose of this request is to remove significant rust buildup on the tube sheets, end bells and water boxes of York Chillers 1 and 2 and to apply Belzona coating to protect from further rusting.

The vendor will be required to open condensers, drop water boxes and dry tubes; prep surfaces with abrasives and blasting; apply metal glide to tube sheets to bring tube surfaces flush with tube ends; apply two layers of Belzona coating to all prepped surfaces; reinstall water box and end bell; fill condensers and place chillers back in operation. The Belzona coating will have a 5-year warranty.

The Department will inspect the newly coated York Chillers with the Contractor upon completion of the repairs.

Should the Governor and Council not authorize this request the chiller systems may not function properly which could affect the conditioned air that is vital in maintaining the standards for an "Environment of Care" for patients at NH Hospital as required by The Joint Commission.

Area served: New Hampshire Hospital

Source of Funds: 100% General funds

In the event that the Other Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

Heather M Moquin

Heather M. Moquin
Chief Executive Officer M. Moquin

State of New Hampshire
Department of Health and Human Services
Amendment #2

This Amendment to the Chiller Routine Inspections and Preventative Maintenance contract is by and between the State of New Hampshire, Department of Health and Human Services ("State" or "Department") and Johnson Controls, Inc. ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") originally tabled by the Governor and Executive Council on March 21, 2018, (Item #10), and subsequently approved on April 11, 2018 (Tabled Item #10), as amended on June 19, 2019, (Item #58), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract as amended and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 18, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement, increase the price limitation, or modify the scope of services to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Form P-37, General Provisions, Block 1.8, Price Limitation, to read:

   $151,060.

2. Modify Exhibit A, Scope of Services, Section , Scope of Work by adding Subsection 2.8, to read:

   2.8. Repair Services for York YMC2-S1055AAS, Chillers 1 and 2 (herein referred to as Chillers 1 & 2).

   2.8.1. The Contractor shall open condensers, drop water boxes and dry tubes and tube sheets.

   2.8.2. The Contractor shall prepare surfaces with sand blasting and apply metal glide to tube sheets to bring tube surfaces flush with tube ends.

   2.8.3. The Contractor shall apply Belzona coating to all prepared surfaces on condenser tube sheets, end bells and water boxes.

   2.8.4. The Contractor shall reinstall water boxes and end bells after Belzona coating has dried.

   2.8.5. The Contractor shall fill condensers and place Chillers 1 & 2 back in operation.

   2.8.6. The Contractor shall participate in the inspection of the newly coated Chillers with the Department upon completion of the repairs.

3. Modify Exhibit A, Scope of Services, Section , Scope of Work by adding Subsection 2.9, to read:

   2.9. Except as otherwise specified, all repairs and labor must be guaranteed by the Contractor against defects resulting from the use of inferior materials, equipment or workmanship for five (5) years from the date of acceptance of work by the Department.

   2.9.1. If, within any guarantee period, repairs or changes are required in connection with guaranteed work, which in the opinion of the Contract Administrator, is rendered necessary as a result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the resulting contract must, promptly upon receipt of notice from the Department, and at the Contractor's own expense:

2.9.1.1. Place in satisfactory condition in every particular, all such guaranteed work and correct all defects therein.

2.9.1.2. Make good all damage to the building or site, or equipment or contents thereof, which in the opinion of the Contract Administrator, is the result of the use of materials, equipment or workmanship, which are inferior, defective, or not in accordance with the terms of this Agreement.

2.9.1.3. Make good any work or material, or the equipment and contents of said building or site disturbed in fulfilling any such guarantee.

4. Modify Exhibit B, Methods and Conditions Precedent to Payment, Section 2. Subsection 2.1, to read:

2.1. Payment for preventative maintenance, vibration analysis and Eddy Current Testing services shall be reimbursed in accordance with the Exhibit B-1, Budget Rate Sheet.

2.1.1. The Contractor shall submit an invoice on company letterhead that is signed and dated requesting payment for Belzona coating services identified in Subsection 1.8 of Exhibit A, Scope of Services for no more than $51,060.

5. Modify Exhibit B, Methods and Conditions Precedent to Payment, Section 2. Subsection 2.5, to read:

2.5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to NHHFinancialServices@dhhs.nh.gov or invoices may be mailed to:

Department of Health and Human Services
New Hampshire Hospital – Accounts Payable
121 So. Fruit St.
Concord, NH 03301

All terms and conditions of the Contract and prior amendments not modified by this Amendment remain in full force and effect. This Amendment shall be effective upon the date of Governor and Executive Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire
Department of Health and Human Services

4/22/2021
Date

DocuSigned by:
Heather M. Moquin
46AF9C9C73B4D2...
Name: Heather M. Moquin
Title: Chief Executive Officer, New Hampshire Hospital

Johnson Controls, Inc.

4/22/2021
Date

DocuSigned by:
Lance Flagg
8706D323D8D849B...
Name: Lance Flagg
Title: Branch Service Manager

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

5/10/2021

Date

DocuSigned by:
D5CA02D2E32C4AE...

Name: Catherine Pinos
Title: Attorney

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:

DocuSign Envelope ID: 0523A7A8-A2AA-4052-AC53-F14036F1E617

State of New Hampshire

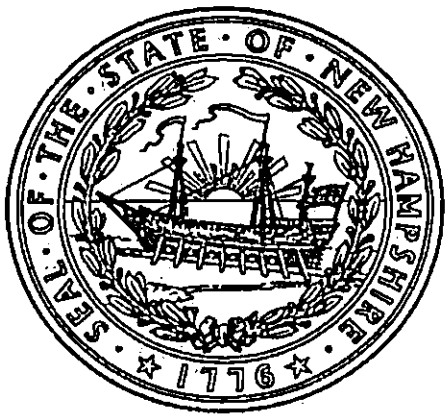
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that JOHNSON CONTROLS, INC. is a Wisconsin Profit Corporation registered to transact business in New Hampshire on January 02, 1958. 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: **2045**

Certificate Number: **0005343983**



IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 8th day of April A.D. 2021.

William M. Gardner
Secretary of State

DocuSign Envelope ID: 0523A7A8-A2AA-4052-AC53-F14036F1E617

Johnson Controls

DELEGATION OF AUTHORITY CERTIFICATE

The undersigned, Nathan D. Manning, Vice President, Field Operations, pursuant to the authority vested in him by: (i) a Sub-Delegation of Authority from the President of **Johnson Controls, Inc.**, a Wisconsin corporation ("JCI"), dated May 14, 2020, (ii) an Incumbency Certificate and Delegation of Authority from the general partner of **Johnson Controls Fire Protection LP**, a Delaware limited partnership ("JCFP"), dated May 14, 2020, and (iii) a Written Consent in Lieu of Special Meeting of the Management Board from **Johnson Controls Security Solutions LLC**, a Delaware limited liability company ("JCSS"), dated April 27, 2020, hereby authorizes:

Lance Flagg
Market Director / HVAC Branch Service Manager

(the "Delegate") to perform, on behalf of each of JCI, JCFP and JCSS, the acts described below:

To execute and deliver any and all contracts for the performance of work, sale of goods, and furnishing of services, and any other instruments in connection therewith and in the ordinary course of business and in accordance with the current Global Approval Authority Matrix.

This authority does not extend to:

a. contracts without a (i) financial cap on liability, (ii) fault-based indemnity, and (iii) waiver of consequential damages, unless approved in accordance with the current Global Approval Authority Matrix;
b. further sub-delegation of the above acts absent necessary approvals in writing;
c. the execution of surety, performance or bid bonds;
d. the signing of any notes, contracts, or any other agreement to borrow money in the name of JCI, JCFP and JCSS, or any form of guaranty for the payment or performance of obligations of any subsidiary, affiliate, or joint venture of JCI, JCFP and JCSS; or
e. the signing, on behalf of JCI, JCFP and JCSS, of any deeds, abstracts, offers to purchase or any other instruments pertaining to the purchase or sale of real property.

Any actions taken by such Delegate within the scope of acts authorized herein taken between the date of expiration of any prior delegation of authority and the date hereof are hereby ratified, confirmed and approved as the acts and deeds of JCI, JCFP and JCSS.

This authority shall remain in full force and effect for one year from the date of issue unless earlier terminated by JCI, JCFP or JCSS or shall automatically terminate upon the end of Delegate's employment with any affiliated company of Johnson Controls International plc.

Signed at Milwaukee, Wisconsin, this 6th day of May, 2021.

Johnson Controls, Inc. Johnson Controls Fire Protection LP, and Johnson Controls Security Solutions LLC

Nathan D. Manning
Vice President, Field Operations

ATTESTS:

Steve W. Keane
Vice President and Assistant Secretary
Johnson Controls, Inc.

Jennifer L. Leong
Vice President and Secretary
Johnson Controls Fire Protection LP

Lee M. Finney
Vice President and Secretary
Johnson Controls Security Solutions LLC

DocuSign Envelope ID: 0523A7A8-A2AA-4052-AC53-F14036F1E617

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 3/4/2021

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

Marsh USA Inc.
540 West Madison Street
Suite 1200
Chicago, IL 60661

CONTACT NAME: Attn: Cert Center
PHONE (A/C, No, Ext): (866) 966-4664 FAX (A/C, No): (212) 948-5167
E-MAIL ADDRESS: JCI.CertRequest@marsh.com

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	OLD REPUBLIC INSURANCE CO	24147
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED

Johnson Controls, Inc.
Tyco International Holding S.a.r.l.
SimplexGrinnell LP
(see attached Acord 101)
5757 North Green Bay Avenue
Milwaukee, WI 53209

COVERAGES CERTIFICATE NUMBER: 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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☒ OCCUR ☒ CONTRACTUAL LIABILITY ☒ XCU Included GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC ☐ OTHER			MWZY 313947 20	10/01/2020	10/01/2021	EACH OCCURENCE	$5,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$5,000,000
							MED EXP (Any one person)	$50,000
							PERSONAL & ADV INJURY	$5,000,000
							GENERAL AGGREGATE	$5,000,000
							PRODUCTS - COMP/OP AGG	INC IN GEN AGG
A A A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			MWTB 313946-20 (Excludes NH) MWTB 313949-20 (Primary NH $250k) MWZX 313950-20 (Excess NH $2.25M) Excess NH Auto is follow form to Primary NH Auto	10/01/2020 10/01/2020 10/01/2020	10/01/2021 10/01/2021 10/01/2021	COMBINED SINGLE LIMIT (Ea Accident)	$2,500,000
							BODILY INJURY (Per person)	
							BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE	
							AGGREGATE	
A A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [N] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		MWC 313943 20 (AOS – See Pg 2) MWXS 313944 20 (OH & WA)	10/01/2020 10/01/2020	10/01/2021 10/01/2021	☒ PER STATUTE ☐ OTHER	
							E.L. EACH ACCIDENT	$1,000,000
							E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000

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

JCI / Tyco Contract Number:
JCI / Tyco Project Name:
Customer PO Number:

CERTIFICATE HOLDER

NEW HAMPSHIRE HOSPITAL
36 CLINTON ST, 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
of Marsh USA Inc.
By Darniece Beck

Darniece Beck

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AGENCY CUSTOMER ID: _____
LOC#: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY		NAMED INSURED
Marsh USA Inc.		Johnson Controls, Inc. Tyco International Holding S.a.r.l. SimplexGrinnell LP 5757 North Green Bay Avenue Milwaukee, WI 53209
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE: 10/01/2019

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 (2016/03) FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

WORKERS COMPENSATION:
Workers Compensation "AOS" Policy includes coverage for employees from the following States WHILE WORKING IN ANY STATE:AK, AL, AR, AZ, CA, CO, CT, DC, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, MT, NC, NE, NH, NJ, NM, NV, NY, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WI, & WV.

PRIMARY COVERAGE:
The General Liability and Automobile Liability policies are primary and not excess of or contributing with other insurance or self-insurance, where required by written lease or written contract. For General Liability, this applies to both ongoing and completed operations.

WAIVER OF SUBROGATION:
The General Liability, Automobile Liability, Workers' Compensation and Employers Liability policies include a Waiver of Subrogation in favor of the certholder and any other person or organization, BUT ONLY to the extent required by written contract.

ADDITIONAL INSURED – AUTOMOBILE LIABILITY:
The Automobile Liability policy, if required by written contract, includes coverage for Additional Insureds as required by such written contract.

ADDITIONAL INSURED – GENERAL LIABILITY:
For General Liability, if required by written contract, the following are included as additional insureds, as required pursuant to a written contract with a named insured, per attached Policy Endorsements A2 and A2A: THE CERTIFICATE HOLDER LISTED ON THIS CERTIFICATE OF LIABILITY INSURANCE, AND EACH OTHER PERSON OR ORGANIZATION REQUIRED TO BE INCLUDED AS AN ADDITIONAL INSURED PURSUANT TO A WRITTEN CONTRACT WITH THE NAMED INSURED.

SCHEDULE FOR POLICY ENDORSEMENTS A2 AND A2A
Name of Additional Insured Person(s) or Organization(s):
If required by contract, the person or organization listed on the certificate of insurance as additional insured, and each other person or organization required to be included as an additional insured pursuant to a contract with a named insured.

Location(s) of Covered Operations:
As required by contract.

POLICY ENDORSEMENT A2
ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – NAMED INSURED'S ACTS OR OMISSIONS ONLY

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused solely by:
   1. Your acts or omissions; or
   2. The acts or omissions of those acting on your behalf;

   in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.
B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:
   The insurance does not apply to "bodily injury" or "property damage" occurring after:
   1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
   2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

POLICY ENDORSEMENT A2A
ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS – NAMED INSURED'S ACTS OR OMISSIONS ONLY
Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused solely by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

ONGOING OPERATIONS AND COMPLETED OPERATIONS INSURANCE
The General Liability Insurance includes insurance for ongoing operations and completed operations.

LIMIT OF LIABILITY:
The Liability Limit that applies is the amount indicated on the face of this Certificate of Liability Insurance, or the minimum Liability limit that is required by the written contract, whichever is less. If there is no contract then the Liability Limit is limited to $1,000,000.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDERS:
Should any of the above described policies be cancelled, other than for non-payment, before the expiration date thereof, 30 days advice of cancellation will be delivered to certificate holders in accordance with the policy endorsements.

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DocuSign Envelope ID: 0523A7A8-A2AA-4052-AC53-F14036F1E617

AGENCY CUSTOMER ID: _____

LOC#: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY Marsh USA Inc.	NAMED INSURED Johnson Controls, Inc. Tyco International Holding S.a.r.l. SimplexGrinnell LP 5757 North Green Bay Avenue Milwaukee, WI 53209
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE: 10/01/2019

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 (2016/03) FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

NAMED INSURED:

Insureds include: Air Distribution Technologies IP, LLC; Air System Components, Inc.; Carter Brothers, LLC; CEM Access Systems, Inc.; Central CPVC Corporation; Central Sprinkler LLC; Chemguard, Inc.; Connect 24 Wireless Communications Inc.; Digital Security Controls, Inc.; Eastern Sheet Metal, Inc.; Elpas, Inc.; Exacq Technologies, Inc.; FBN Transportation, Inc.; Federal Energy Infrastructure Solutions, LLC; Grinnell Fire Protection Solutions LLC; Grinnell LLC; Hart & Cooley Trucking Company; Hart & Cooley, Inc.; Haz-Tank Fabricators, Inc.; IMECO LLC; Integrated Systems and Power, Inc.; Johnson Controls (Suisse) SA; Johnson Controls Air Conditioning and Refrigeration, Inc.; Johnson Controls Building Automation Systems, LLC; Johnson Controls Digital Solutions LLC; Johnson Controls Engineering, LLC; Johnson Controls Federal Systems, Inc.; Johnson Controls Fire Protection LP; Johnson Controls Foundation, Inc.; Johnson Controls Government Systems, LLC; Johnson Controls, Inc.; Johnson Controls Navy Systems, LLC; Johnson Controls PI Project Site Operations LLC; Johnson Controls Security Solutions LLC; Johnson Controls-Hitchi Air Conditoning North America LLC; Koch Filter Corporation; Master Protection, LP dba FireMaster; Qolsys, Inc.; Retail Expert, Inc.; Ruskin Company; Ruskin Rooftop Systems, Inc.; Ruskin Service Company; Selkirk Corporation; Senelco Iberia, Inc.; Sensormatic Asia/Pacific, Inc.; Sensormatic Electronics (Puerto Rico) LLC; Sensormatic Electronics, LLC; ShopperTrak International Investment LLC; ShopperTrak RCT Corporation; Shurjoint America, Inc.; SimplexGrinnell LP; Tyco Fire & Security LLC; Tyco Fire Products LP; Tyco Integrated Security LLC; Tyco International Holding S.a.r.l.; Tyco International Management Company, LLC; Visonic Inc.; WillFire HC, LLC; York International (SA), Inc.; York International Corporation

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Jeffrey A. Meyers
Commissioner

Lori A. Shibinette
Chief Executive Officer

STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NEW HAMPSHIRE HOSPITAL

36 CLINTON STREET, CONCORD, NH 03301
603-271-5300 1-800-852-3345 Ext. 5300
Fax: 603-271-5395 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

May 9, 2019

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

REQUESTED ACTION

Authorize the Department of Health and Human Services, New Hampshire Hospital, to exercise a renewal option to an existing contract with Johnson Controls, Inc., Vendor #177721, 915 Hold Avenue, Manchester, NH 03109, to continue providing routine inspections and preventative maintenance to the New Hampshire Hospital chillers by increasing the price limitation by $50,000 from $50,000 to an amount not to exceed $100,000, and by extending the completion date from June 30, 2019 to June 30, 2021, effective July 1, 2019 upon the date of Governor and Executive Council. 36% General Funds, 64% Other Funds.

The original contract was tabled by the Governor and Executive Council on March 21, 2018 (Item #10), and was subsequently approved on April 11, 2018 (Tabled Item #10).

Funds are anticipated to be available in the following account for State Fiscal Year (SFY) 2020 and SFY 2021, upon the availability and continued appropriation of funds in the future operating budgets, with authority to adjust amounts within the price limitation and adjust encumbrances between State Fiscal Years through the Budget Office if needed and justified.

05-95-94-940010-8410 HEALTH AND SOCIAL SERVICES DEPT OF HEALTH AND HUMAN SVCS, HHS: NEW HAMPSHIRE HOSPITAL, NEW HAMPSHIRE HOSPITAL, NHH FACILITY/PATIENT SUPPORT

State Fiscal Year	Class/Account	Class Title	Job Number	Current Modified Budget	Increased (Decreased) Amount	Revised Modified Budget
2018	048-500226	Contracts Repairs; Bldg & Grnds	94024000	$25,000	$0	$25,000
2019	048-500226	Contracts Repairs; Bldg & Grnds	94024000	$25,000	$0	$25,000
2020	048-500226	Contracts Repairs; Bldg & Grnds	94024000	$0	$25,000	$25,000
2021	048-500226	Contracts Repairs; Bldg & Grnds	94024000	$0	$25,000	$25,000
			Total:	**$50,000**	**$50,000**	**$100,000**

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EXPLANATION

The purpose of this request is to ensure continuation of routine inspections and preventative maintenance for two (2) Johnson Controls York Magnetic Bearing Chillers located at the New Hampshire Hospital Acute Psychiatric Services building.

The Department currently maintains a contract for the provision of extended ten (10) year warranties on both of these chillers, as approved by the Governor and Executive Council on April 5, 2017, Item #9. In order to maintain compliance with, and not to void the warranty, these chillers require that routine inspections and preventative maintenance are provided solely by mechanics certified to work on York YMC2 Chillers.

The Contractor will provide routine operating inspections and preventative maintenance three times per year on two (2) Johnson Controls York Magnetic Bearing Chillers Model # YNCW-S1055AAS located in NH Hospital's Acute Psychiatric Services building. These chillers are state-of-the-art technology requiring service provided by specially trained and licensed technicians. The hospital staff lacks the necessary expertise to perform the required maintenance and repairs.

The Joint Commission requires the New Hampshire Hospital to maintain a proper "Environment of Care" for patients at all times. By using state-of-the-art technology to track and monitor functionality of the chiller plants, these chillers ensure that New Hampshire Hospital maintains the proper climate and temperature. Without these chillers, New Hampshire Hospital in its entirety, including patient care units, support staff areas, and general communal areas, would become extremely hot during warmer temperature months.

As referenced in Exhibit C-1 of this contract, the Department has the option to extend contracted services for up to two (2) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Council. The Department is exercising this renewal option.

The Contractor has successfully fulfilled and achieved the deliverables stated in the original contract.

Should the Governor and Executive Council not authorize this request, the chillers systems may not be maintained in accordance to the warranties, which could affect the conditioned air that is vital in maintaining habitability standards in support of the resident psychiatric patient population and the accompanying treatment staff and support personnel. Should the internal climate of New Hampshire Hospital exceed certain high temperatures New Hampshire Hospital could be found in violation of the Joint Commission's standard for an "Environment of Care."

Area served: New Hampshire Hospital

Source of Funds: 36% General Funds and 64% Other Funds (provider fees)

In the event that Other Funds become no longer available, additional General Funds will not be requested to support this program.

Respectfully submitted,

Jeffrey A. Meyers
Commissioner

State of New Hampshire
Department of Health and Human Services
Amendment #1 to the Name of Contract

This 1st Amendment to the Chiller Routine Inspections and Preventative Maintenance contract (hereinafter referred to as "Amendment #1") is by and between the State of New Hampshire, Department of Health and Human Services (hereinafter referred to as the "State" or "Department") and Johnson Controls, Inc., (hereinafter referred to as "the Contractor"), a corporation with a place of business at 915 Holt Avenue, Manchester, NH 03109.

WHEREAS, pursuant to an agreement (the "Contract") originally tabled by the Governor and Executive Council on March 21, 2018 (Item #10), and subsequently approved on April 11, 2018 (Tabled Item #10) the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract as amended and in consideration of certain sums specified; and

WHEREAS, the State and the Contractor have agreed to make changes to the scope of work, payment schedules and terms and conditions of the contract; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 18 of the Agreement, and pursuant to Exhibit C-1, Revisions to General Provisions Paragraph 3, the State may amend and renew the agreement for up to two (2) years upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement for two (2) years and increase the price limitation to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Form P-37 General Provisions, Block 1.7, Completion Date, to read:

   June 30, 2021.

2. Form P-37, General Provisions, Block 1.8, Price Limitation, to read:

   $100,000.

3. Form P-37, General Provisions, Block 1.9, Contracting Officer for State Agency, to read:

   Nathan White, Director.

4. Form P-37, General Provisions, Block 1.10, State Agency Telephone Number, to read:

   603-271-9631.

New Hampshire Department of Health and Human Services
Chiller Routine Inspections and Preventative Maintenance

This amendment shall be effective upon the date of Governor and Executive Council approval.
IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire
Department of Health and Human Services

5/30/19
Date

Name: Lori A. Shibinette
Title: Chief Executive Officer

Johnson Controls, Inc.

5/21/19
Date

Name: David Hummel
Title: HVAC Svc Mgr

Acknowledgement of Contractor's signature:

State of NH, County of Hillsborough on 5.21.19, before the undersigned officer, personally appeared the person identified directly above, or satisfactorily proven to be the person whose name is signed above, and acknowledged that s/he executed this document in the capacity indicated above.

Signature of Notary Public or Justice of the Peace

Kelley J Bailey COA
Name and Title of Notary or Justice of the Peace

My Commission Expires: 05.01.2024

KELLEY J BAILEY
Notary Public-New Hampshire
My Commission Expires
May 01, 2024

New Hampshire Department of Health and Human Services
Chiller Routine Inspections and Preventative Maintenance

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

June 4, 2019
Date

Name: Jane Christopher Marshall
Title: Assistant Attorney General

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:

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18 mac

Jeffrey A. Meyers
Commissioner

Lori A. Shibinette
Chief Executive Officer

STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NEW HAMPSHIRE HOSPITAL

36 CLINTON STREET, CONCORD, NH 03301
603-271-5300 1-800-852-3345 Ext. 5300
Fax: 603-271-5395 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

February 9, 2018

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

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division for Behavioral Health Services, New Hampshire Hospital, to enter into an agreement with Johnson Controls, Inc., Vendor #177721, 915 Holt Avenue, Manchester, NH 03109, in an amount not to exceed $50,000, to provide Routine Inspections and Preventative Maintenance to the New Hampshire Hospital chillers, effective upon date of Governor and Executive Council approval, through June 30, 2019. 26% Federal Funds, 69% General Funds and 5% Other Funds.

Funds are available in the following account(s) for State Fiscal Year 2018 and State Fiscal Year 2019, with authority to adjust encumbrances between State Fiscal Years through the Budget Office, without further approval from Governor and Executive Council if needed and justified.

05-95-94-940010-8410 HEALTH AND SOCIAL SERVICES DEPT OF HEALTH AND HUMAN SVCS, HHS: NEW HAMPSHIRE HOSPITAL, NEW HAMPSHIRE HOSPITAL, NHH FACILITY/PATIENT SUPPORT

Fiscal Year	Class/Account	Class Title	Job Number	Total Amount
SFY 2018	048-500226	Contracts Repairs; Building & Grounds	94024000	$25,000
SFY 2019	048-500226	Contracts Repairs; Building & Grounds	94024000	$25,000
			Total	**$50,000**

EXPLANATION

The purpose of this request is for the provision of Routine Inspections and Preventative Maintenance for two (2) Johnson Controls York Magnetic Bearing Chillers located at the New Hampshire Hospital Acute Psychiatric Services building. The Department currently maintains a contract for the provision of extended ten (10) year warranties on both of these chillers, as approved by the Governor and Executive Council on April 5, 2017, Item #9. In order to maintain compliance with, and not to void the warranty, these chillers require that routine inspections and preventative maintenance are provided solely by mechanics certified to work on York YMC2 Chillers.

The Joint Commission requires the New Hampshire Hospital to maintain a proper "Environment of Care" for patients at all times. By using state of the art technology in order to track and monitor functionality of the chiller plants these chillers ensure that New Hampshire Hospital maintains the proper climate and temperature. Without these chillers, New Hampshire Hospital in its entirety including patient care units, support staff areas, and general communal areas would become extremely hot in warmer temperature months.

Funds in this agreement will be used to provide routine operating inspections and preventative maintenance to be performed three (3) times per year on the two (2) Johnson Controls York Magnetic Bearing Chillers Model #YNCW-S1055AAS, located in the New Hampshire Hospital's Acute Psychiatric Services building. The preventive maintenance scope of work outlined in the contract will ensure that the ten (10) year extended warranties are not jeopardized.

Johnson Controls, Inc. was selected for this project through a competitive bid process. A Request for Proposals was posted on The Department of Health and Human Services' web site from February 10, 2017 through April 10, 2017. In addition, a mandatory walk through was conducted on March 15, 2017.

The Department received one (1) proposal; the proposal was reviewed and scored by a team of individuals with New Hampshire Hospital maintenance-specific knowledge. The Score Summary is attached.

As referenced in the Request for Proposals and in Exhibit C-1 of this contract, this Agreement has the option to extend for up to two (2) additional years, contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Executive Council.

Should the Governor and Executive Council not approve this request, the chillers systems may not be maintained in accordance to the warranties which could affect the conditioned air that is vital in maintaining habitability standards in support of the resident psychiatric patient population and the accompanying treatment staff and support personnel. Should the internal climate of New Hampshire Hospital exceed certain high temperatures New Hampshire Hospital could be found in violation of the Joint Commission's standard for an "Environment of Care."

Area served: New Hampshire Hospital.

Source of Funds: 69% General Funds, 26% Federal Funds (CFDA 93.778 Disproportionate Share Hospital Program) and 5% Other Funds (provider fees)

In the event that the Federal (or Other) Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

Lori Shibinette
Chief Executive Officer

Approved by:

Jeffrey A. Meyers
Commissioner

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New Hampshire Department of Health and Human Services
Office of Business Operations
Contracts & Procurement Unit
Summary Scoring Sheet

Chiller Routine Inspections and Preventative Maintenance
RFP Name

RFP-2018-NHH-02-CHILL
RFP Number

Reviewer Names

1. Jason Teaster, Plant Maintenance E
2. Robert Lozeau, Maintenance Techn
3. Gerard Fraher, Supervisor V

Bidder Name	Pass/Fail	Maximum Points	Actual Points
1. Johnson Controls		110	99

FORM NUMBER P-37 (version 5/8/15)

Subject: Chiller Routine Inspections and Preventative Maintenance/RFP-2018-NHH-02-CHILL

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 NH Department of Health and Human Services		1.2 State Agency Address 129 Pleasant Street Concord, NH 03301-3857	
1.3 Contractor Name Johnson Controls, Inc.		1.4 Contractor Address Unit 7 915 Holt Avenue Manchester, NH 03109	
1.5 Contractor Phone Number 603-222-2400	1.6 Account Number 05-095-094-940010-8410-048-500226	1.7 Completion Date June 30, 2019	1.8 Price Limitation $50,000
1.9 Contracting Officer for State Agency E. Maria Reinemann, Esq., Director		1.10 State Agency Telephone Number 603-271-9246	
1.11 Contractor Signature		1.12 Name and Title of Contractor Signatory David Plummer Branch Service Manager	

1.13 Acknowledgement: State of New Hampshire County of Hillsborough

On 01/30/2018, 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]

KELLEY J BAILEY
Notary Public, State of New Hampshire
My Commission Expires May 23, 2019

1.13.2 Name and Title of Notary or Justice of the Peace

Kelley J Bailey, Notary

1.14 State Agency Signature Date: 2/15/18	1.15 Name and Title of State Agency Signatory Lori Shibinette CEO-NHH

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: Megan A. Yeager Attorney On: 2/26/18

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

Contractor Initials DP
Date 1/30/19

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 $1,000,000per 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.

Contractor Initials OP
Date 1/30/18

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 DP
Date 1/30/18

Scope of Services

1. Provisions Applicable to All Services

1.1. The Contractor will submit a detailed description of the language assistance services they will provide to persons with limited English proficiency to ensure meaningful access to their programs and/or services within ten (10) days of the contract effective date.

1.2. The Contractor agrees that, to the extent future legislative action by the New Hampshire General Court or federal or state court orders may have an impact on the Services described herein, the State Agency has the right to modify Service priorities and expenditure requirements under this Agreement so as to achieve compliance therewith.

1.3. The Contractor shall ensure staff providing services are trained and certified to work on York YMC2 chillers in order to comply with equipment warranty.

1.4. For purposes of this contract the following shall apply:

1.4.1. Start-Up shall occur March 1st or after every year contingent upon weather and the availability of New Hampshire Hospital (NHH) Facilities staff.

1.4.2. Mid-Season shall occur July 15th through August 1st contingent upon the availability of NHH Facilities staff.

1.4.3. Shut-Down shall occur January 1st through January 31st contingent upon weather and the availability of NHH Facilities staff.

1.5. The Contractor shall adhere to the following safety requirements when conducting all services:

1.5.1. Use appropriate eye protection in work environment;

1.5.2. Use appropriate head protection on worksite;

1.5.3. Use appropriate hand gloves on worksite;

1.5.4. Use and follow the safety policy for fall protection while performing work;

1.5.5. Use and follow the ladder safety processes while performing work;

1.5.6. Use and follow the lock-out tag-out on all electrical machinery;

1.5.7. Use appropriate arc/flash personal protective equipment on voltages over 240 volts; and

1.5.8. Perform all required duties in accordance with the New Hampshire Adult Psychiatric Services Hospital safety policies.

2. Scope of Work

Work Performed-at Each Visit

2.1. The Contractor shall conduct preventive maintenance services, which include, but may not be limited to the following:

- 2.1.1. Report to the New Hampshire Hospital facilities office upon arrival;
- 2.1.2. Check with appropriate customer representative for operational deficiencies;
- 2.1.3. Review control panel for proper operation and recorded fault histories;
- 2.1.4. Conduct refrigerant leak check;
- 2.1.5. Check overall condition of unit;
- 2.1.6. Remove and dispose any debris from any maintenance activity;
- 2.1.7. Document tasks performed during visit and report any observations to appropriate customer representative;
- 2.1.8. Check refrigerant alarm; and
- 2.1.9. Use and follow the ground fault circuit interrupter safety process while working with electrical tool and equipment.

Work Performed – Annually During Start-Up

2.2. The Contractor shall conduct preventive maintenance services, which include, but may not be limited to the following:

- 2.2.1. Lubricate and check capacity control and linkage;
- 2.2.2. Check and tighten electrical connections;
- 2.2.3. Perform preventative procedures to flow proving devices;
- 2.2.4. Perform Variable Speed Drive (VSD) coolant change procedures;
- 2.2.5. Calibrate cooler transducer;
- 2.2.6. Calibrate condenser transducer;
- 2.2.7. Calibrate condenser high pressure cut-out;
- 2.2.8. Calibrate operating controls;
- 2.2.9. Replace liquid line filter drier;
- 2.2.10. Check gauges / indicator lights;
- 2.2.11. Inspect VSD arc shields;
- 2.2.12. Inspect VSD capacitors;
- 2.2.13. Inspect VSD coils & contacts;
- 2.2.14. Inspect VSD fuses and heaters;
- 2.2.15. Inspect VSD linkages;

2.2.16. Inspect VSD resistors;

2.2.17. Inspect VSD transformers;

2.2.18. Inspect VSD wire insulation;

2.2.19. Drain water from condenser water box;

2.2.20. Remove and replace condenser head;

2.2.21. Drain water from cooler water box;

2.2.22. Clean condenser;

2.2.23. Clean and brush condenser tubes;

2.2.24. Restore power;

2.2.25. Cleanup workstations;

2.2.26. Use and follow the safety policy for working with CFCS, HCFCS and HRCS refrigerants;

2.2.27. Use and follow the process for handling and working with used oil;

2.2.28. Check with appropriate customer representative to coordinate the startup of the system;

2.2.29. Remove shutdown tag from unit;

2.2.30. Verify the chilled and condenser water valves are in their proper operating position;

2.2.31. Check for proper condenser and chilled water flow;

2.2.32. Start the chiller;

2.2.33. Review control panel for proper operation and recorded fault histories;

2.2.34. Check system pressures and temperatures;

2.2.35. Check refrigerant levels;

2.2.36. Check capacity control;

2.2.37. Inspect for signs of refrigerant leakage;

2.2.38. Check for unusual noise and vibration;

2.2.39. Check overall condition of unit;

2.2.40. Record and log all operating parameters;

2.2.41. Document tasks performed during visit and report any observations to appropriate customer representative;

2.2.42. Report to facilities office & obtain signature

Work Performed – Annually During Mid-Season

2.3. The Contractor shall conduct preventive maintenance services, which include, but may not be limited to the following:

2.3.1. Check for unusual noise and vibration; and

2.3.2. Review and evaluate log readings.

Work Performed – Annually During Shut-Down

2.4. The Contractor shall conduct preventive maintenance services, which include, but may not be limited to the following:

2.4.1. Use and follow the standard safety policy for working with CFCS, HCFCS and HRCS refrigerants;

2.4.2. Use and follow the standard process for handling and working with used oil;

2.4.3. Check with appropriate customer representative for operational deficiencies;

2.4.4. Review control panel for proper operation and recorded fault histories;

2.4.5. Check refrigerant levels;

2.4.6. Record and log all operating parameters;

2.4.7. Shut down chiller;

2.4.8. Isolate evaporator and condenser bundles;

2.4.9. Conduct refrigerant leak check;

2.4.10. Tag chiller out of service;

2.4.11. Remove and dispose any debris from any maintenance activity; and

2.4.12. Document tasks performed during visit and report any observations to appropriate customer representative

2.5. The Contractor shall conduct condenser tube brushing (removal of one head only), which include, but may not be limited to the following:

2.5.1. Use and follow the ground fault circuit interrupter safety process while working with electrical tool and equipment;

2.5.2. Replace gasket;

2.5.3. Replace head;

2.5.4. Remove and dispose any debris from any maintenance activity; and

2.5.5. Document tasks performed during visit and report any observations to appropriate customer representative.

Work Performed Mid-Season

2.6. The Contractor shall provide the following services for vibration analysis which include, but may not be limited to the following:

2.6.1. Check with appropriate customer representative for operational deficiencies

2.6.2. Record equipment specific information for reference

2.6.3. Start equipment and run at normal operating conditions.

2.6.4. Record vibration data

2.6.5. Submit readings for report generation and deliver to customer with recommendations.

2.6.6. Document tasks performed during visit and report any observations to appropriate customer representative.

Work Performed once between January through March 2018

2.7. The Contractor shall perform Eddy Current Testing on evaporators and condensers to determine a baseline of both chillers for future comparison.

Exhibit B

Method and Conditions Precedent to Payment

1) The State shall pay the contractor an amount not to exceed the Form P-37, Block 1.8, Price Limitation for the services provided by the Contractor pursuant to Exhibit A, Scope of Services.

   1.1. This contract is funded with funds derived from 69% General Funds, 26% Federal Funds (CFDA 93.778) and 5% Agency Funds (provider fees)

   1.2. The Contractor agrees to provide the services in Exhibit A, Scope of Service in compliance with funding requirements. Failure to meet the scope of services may jeopardize the funded contractor's current and/or future funding.

2) Payment for said services shall be made as follows:

   2.1. Payment for services shall be reimbursed in accordance with the Exhibit B-1, Budget Rate Sheet.

   2.2. The Contractor will submit an invoice in a form satisfactory to the State by the twentieth (20th) working day of each month, which identifies and requests reimbursement for authorized expenses incurred in the prior month. The invoice must be completed, signed, dated and returned to the Department in order to initiate payment. The Contractor agrees to keep records of their activities related to Department programs and services.

   2.3. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available. Contractors will keep detailed records of their activities related to DHHS-funded programs and services.

   2.4. The final invoice shall be due to the State no later than forty (40) days after the contract Form P-37, Block 1.7 Completion Date.

   2.5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to NHHFinancialServices@dhhs.nh.gov or invoices may be mailed to:

   Donna Ferland -- Financial Administrator
   Department of Health and Human Services
   New Hampshire Hospital
   36 Clinton St.
   Concord, NH 03301

   2.6. Payments may be withheld pending receipt of documentation as identified in this Exhibit B.

3) Notwithstanding paragraph 18 of the General Provisions P-37, changes limited to adjusting amounts between budget line items, related items, amendments of related budget exhibits within the price limitation, and to adjusting encumbrances between State Fiscal Years, may be made by written agreement of both parties and may be made without obtaining approval of the Governor and Executive Council.

RATE CHART

Maximum Hourly Rates	Total Maximum Cost
$116/hour for regular business hours (7:00 AM – 3:00 PM, Monday through Friday)	Monthly Service Cost - $2,036/per visit
$174/hour for hours outside of business hours, as identified above.	Bi-Annual Service Cost - $12,217

SPECIAL PROVISIONS

Contractors Obligations: The Contractor covenants and agrees that all funds received by the Contractor under the Contract shall be used only as payment to the Contractor for services provided to eligible individuals and, in the furtherance of the aforesaid covenants, the Contractor hereby covenants and agrees as follows:

1. **Compliance with Federal and State Laws:** If the Contractor is permitted to determine the eligibility of individuals such eligibility determination shall be made in accordance with applicable federal and state laws, regulations, orders, guidelines, policies and procedures.

2. **Time and Manner of Determination:** Eligibility determinations shall be made on forms provided by the Department for that purpose and shall be made and remade at such times as are prescribed by the Department.

3. **Documentation:** In addition to the determination forms required by the Department, the Contractor shall maintain a data file on each recipient of services hereunder, which file shall include all information necessary to support an eligibility determination and such other information as the Department requests. The Contractor shall furnish the Department with all forms and documentation regarding eligibility determinations that the Department may request or require.

4. **Fair Hearings:** The Contractor understands that all applicants for services hereunder, as well as individuals declared ineligible have a right to a fair hearing regarding that determination. The Contractor hereby covenants and agrees that all applicants for services shall be permitted to fill out an application form and that each applicant or re-applicant shall be informed of his/her right to a fair hearing in accordance with Department regulations.

5. **Gratuities or Kickbacks:** The Contractor agrees that it is a breach of this Contract to accept or make a payment, gratuity or offer of employment on behalf of the Contractor, any Sub-Contractor or the State in order to influence the performance of the Scope of Work detailed in Exhibit A of this Contract. The State may terminate this Contract and any sub-contract or sub-agreement if it is determined that payments, gratuities or offers of employment of any kind were offered or received by any officials, officers, employees or agents of the Contractor or Sub-Contractor.

6. **Retroactive Payments:** Notwithstanding anything to the contrary contained in the Contract or in any other document, contract or understanding, it is expressly understood and agreed by the parties hereto, that no payments will be made hereunder to reimburse the Contractor for costs incurred for any purpose or for any services provided to any individual prior to the Effective Date of the Contract and no payments shall be made for expenses incurred by the Contractor for any services provided prior to the date on which the individual applies for services or (except as otherwise provided by the federal regulations) prior to a determination that the individual is eligible for such services.

7. **Conditions of Purchase:** Notwithstanding anything to the contrary contained in the Contract, nothing herein contained shall be deemed to obligate or require the Department to purchase services hereunder at a rate which reimburses the Contractor in excess of the Contractors costs, at a rate which exceeds the amounts reasonable and necessary to assure the quality of such service, or at a rate which exceeds the rate charged by the Contractor to ineligible individuals or other third party funders for such service. If at any time during the term of this Contract or after receipt of the Final Expenditure Report hereunder, the Department shall determine that the Contractor has used payments hereunder to reimburse items of expense other than such costs, or has received payment in excess of such costs or in excess of such rates charged by the Contractor to ineligible individuals or other third party funders, the Department may elect to:
   - 7.1. Renegotiate the rates for payment hereunder, in which event new rates shall be established;
   - 7.2. Deduct from any future payment to the Contractor the amount of any prior reimbursement in excess of costs;

7.3. Demand repayment of the excess payment by the Contractor in which event failure to make such repayment shall constitute an Event of Default hereunder. When the Contractor is permitted to determine the eligibility of individuals for services, the Contractor agrees to reimburse the Department for all funds paid by the Department to the Contractor for services provided to any individual who is found by the Department to be ineligible for such services at any time during the period of retention of records established herein.

RECORDS: MAINTENANCE, RETENTION, AUDIT, DISCLOSURE AND CONFIDENTIALITY:

8. **Maintenance of Records:** In addition to the eligibility records specified above, the Contractor covenants and agrees to maintain the following records during the Contract Period:
   8.1. Fiscal Records: books, records, documents and other data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor during the Contract Period, said records to be maintained in accordance with accounting procedures and practices which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.
   8.2. Statistical Records: Statistical, enrollment, attendance or visit records for each recipient of services during the Contract Period, which records shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.
   8.3. Medical Records: Where appropriate and as prescribed by the Department regulations, the Contractor shall retain medical records on each patient/recipient of services.

9. **Audit:** Contractor shall submit an annual audit to the Department within 60 days after the close of the agency fiscal year. It is recommended that the report be prepared in accordance with the provision of Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non Profit Organizations" and the provisions of Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the US General Accounting Office (GAO standards) as they pertain to financial compliance audits.
   9.1. Audit and Review: During the term of this Contract and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the Contract for purposes of audit, examination, excerpts and transcripts.
   9.2. Audit Liabilities: In addition to and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department, all payments made under the Contract to which exception has been taken or which have been disallowed because of such an exception.

10. **Confidentiality of Records:** All information, reports, and records maintained hereunder or collected in connection with the performance of the services and the Contract shall be confidential and shall not be disclosed by the Contractor, provided however, that pursuant to state laws and the regulations of the Department regarding the use and disclosure of such information, disclosure may be made to public officials requiring such information in connection with their official duties and for purposes directly connected to the administration of the services and the Contract; and provided further, that the use or disclosure by any party of any information concerning a recipient for any purpose not directly connected with the administration of the Department or the Contractor's responsibilities with respect to purchased services hereunder is prohibited except on written consent of the recipient, his attorney or guardian.

Notwithstanding anything to the contrary contained herein the covenants and conditions contained in the Paragraph shall survive the termination of the Contract for any reason whatsoever.

11. **Reports:** Fiscal and Statistical: The Contractor agrees to submit the following reports at the following times if requested by the Department.
    11.1. Interim Financial Reports: Written interim financial reports containing a detailed description of all costs and non-allowable expenses incurred by the Contractor to the date of the report and containing such other information as shall be deemed satisfactory by the Department to justify the rate of payment hereunder. Such Financial Reports shall be submitted on the form designated by the Department or deemed satisfactory by the Department.
    11.2. Final Report: A final report shall be submitted within thirty (30) days after the end of the term of this Contract. The Final Report shall be in a form satisfactory to the Department and shall contain a summary statement of progress toward goals and objectives stated in the Proposal and other information required by the Department.

12. **Completion of Services:** Disallowance of Costs: Upon the purchase by the Department of the maximum number of units provided for in the Contract and upon payment of the price limitation hereunder, the Contract and all the obligations of the parties hereunder (except such obligations as, by the terms of the Contract are to be performed after the end of the term of this Contract and/or survive the termination of the Contract) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the Contractor as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.

13. **Credits:** All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Contract shall include the following statement:
    13.1. The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services.

14. **Prior Approval and Copyright Ownership:** All materials (written, video, audio) produced or purchased under the contract shall have prior approval from DHHS before printing, production, distribution or use. The DHHS will retain copyright ownership for any and all original materials produced, including, but not limited to, brochures, resource directories, protocols or guidelines, posters, or reports. Contractor shall not reproduce any materials produced under the contract without prior written approval from DHHS.

15. **Operation of Facilities: Compliance with Laws and Regulations:** In the operation of any facilities for providing services, the Contractor shall comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which shall impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit shall be required for the operation of the said facility or the performance of the said services, the Contractor will procure said license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the Contractor hereby covenants and agrees that, during the term of this Contract the facilities shall comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and shall be in conformance with local building and zoning codes, by-laws and regulations.

16. **Equal Employment Opportunity Plan (EEOP):** The Contractor will provide an Equal Employment Opportunity Plan (EEOP) to the Office for Civil Rights, Office of Justice Programs (OCR), if it has received a single award of $500,000 or more. If the recipient receives $25,000 or more and has 50 or

more employees, it will maintain a current EEOP on file and submit an EEOP Certification Form to the OCR, certifying that its EEOP is on file. For recipients receiving less than $25,000, or public grantees with fewer than 50 employees, regardless of the amount of the award, the recipient will provide an EEOP Certification Form to the OCR certifying it is not required to submit or maintain an EEOP. Non-profit organizations, Indian Tribes, and medical and educational institutions are exempt from the EEOP requirement, but are required to submit a certification form to the OCR to claim the exemption. EEOP Certification Forms are available at: http://www.ojp.usdoj/about/ocr/pdfs/cert.pdf.

17. **Limited English Proficiency (LEP):** As clarified by Executive Order 13166, Improving Access to Services for persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, Contractors must take reasonable steps to ensure that LEP persons have meaningful access to its programs.

18. **Pilot Program for Enhancement of Contractor Employee Whistleblower Protections:** The following shall apply to all contracts that exceed the Simplified Acquisition Threshold as defined in 48 CFR 2.101 (currently, $150,000)

CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

19. **Subcontractors:** DHHS recognizes that the Contractor may choose to use subcontractors with greater expertise to perform certain health care services or functions for efficiency or convenience, but the Contractor shall retain the responsibility and accountability for the function(s). Prior to subcontracting, the Contractor shall evaluate the subcontractor's ability to perform the delegated function(s). This is accomplished through a written agreement that specifies activities and reporting responsibilities of the subcontractor and provides for revoking the delegation or imposing sanctions if the subcontractor's performance is not adequate. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions.
When the Contractor delegates a function to a subcontractor, the Contractor shall do the following:
    19.1. Evaluate the prospective subcontractor's ability to perform the activities, before delegating the function
    19.2. Have a written agreement with the subcontractor that specifies activities and reporting responsibilities and how sanctions/revocation will be managed if the subcontractor's performance is not adequate
    19.3. Monitor the subcontractor's performance on an ongoing basis

19.4. Provide to DHHS an annual schedule identifying all subcontractors, delegated functions and responsibilities, and when the subcontractor's performance will be reviewed
19.5. DHHS shall, at its discretion, review and approve all subcontracts.

If the Contractor identifies deficiencies or areas for improvement are identified, the Contractor shall take corrective action.

DEFINITIONS
As used in the Contract, the following terms shall have the following meanings:

COSTS: Shall mean those direct and indirect items of expense determined by the Department to be allowable and reimbursable in accordance with cost and accounting principles established in accordance with state and federal laws, regulations, rules and orders.

DEPARTMENT: NH Department of Health and Human Services.

FINANCIAL MANAGEMENT GUIDELINES: Shall mean that section of the Contractor Manual which is entitled "Financial Management Guidelines" and which contains the regulations governing the financial activities of contractor agencies which have contracted with the State of NH to receive funds.

PROPOSAL: If applicable, shall mean the document submitted by the Contractor on a form or forms required by the Department and containing a description of the Services to be provided to eligible individuals by the Contractor in accordance with the terms and conditions of the Contract and setting forth the total cost and sources of revenue for each service to be provided under the Contract.

UNIT: For each service that the Contractor is to provide to eligible individuals hereunder, shall mean that period of time or that specified activity determined by the Department and specified in Exhibit B of the Contract.

FEDERAL/STATE LAW: Wherever federal or state laws, regulations, rules, orders, and policies, etc. are referred to in the Contract, the said reference shall be deemed to mean all such laws, regulations, etc. as they may be amended or revised from the time to time.

CONTRACTOR MANUAL: Shall mean that document prepared by the NH Department of Administrative Services containing a compilation of all regulations promulgated pursuant to the New Hampshire Administrative Procedures Act. NH RSA Ch 541-A, for the purpose of implementing State of NH and federal regulations promulgated thereunder.

SUPPLANTING OTHER FEDERAL FUNDS: The Contractor guarantees that funds provided under this Contract will not supplant any existing federal funds available for these services.

New Hampshire Department of Health and Human Services

Exhibit C-1

REVISIONS TO GENERAL PROVISIONS

1. Subparagraph 4 of the General Provisions of this contract, Conditional Nature of Agreement, is replaced as follows:

   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, in whole or in part, under this Agreement are contingent upon continued appropriation or availability of funds, including any subsequent changes to the appropriation or availability 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 of Services provided in Exhibit A, Scope of Services, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of appropriated or available funds. In the event of a reduction, termination or modification of appropriated or available funds, the State shall have the right to withhold payment until such funds become available, if ever. The State shall have the right to reduce, terminate or modify services under this Agreement immediately upon giving the Contractor notice of such reduction, termination or modification. The State shall not be required to transfer funds from any other source or account into the Account(s) identified in block 1.6 of the General Provisions, Account Number, or any other account, in the event funds are reduced or unavailable.

2. Subparagraph 10 of the General Provisions of this contract, Termination, is amended by adding the following language;

   10.1 The State may terminate the Agreement at any time for any reason, at the sole discretion of the State, 30 days after giving the Contractor written notice that the State is exercising its option to terminate the Agreement.

   10.2 In the event of early termination, 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, including but not limited to, identifying the present and future needs of clients receiving services under the Agreement and establishes a process to meet those needs.

   10.3 The Contractor shall fully cooperate with the State and shall promptly provide detailed information to support the Transition Plan including, but not limited to, any information or data requested by the State related to the termination of the Agreement and Transition Plan and shall provide ongoing communication and revisions of the Transition Plan to the State as requested.

   10.4 In the event that services under the Agreement, including but not limited to clients receiving services under the Agreement are transitioned to having services delivered by another entity including contracted providers or the State, the Contractor shall provide a process for uninterrupted delivery of services in the Transition Plan.

   10.5 The Contractor shall establish a method of notifying clients and other affected individuals about the transition. The Contractor shall include the proposed communications in its Transition Plan submitted to the State as described above.

3. The Department reserves the right to renew the Contract for up to two (2) additional years, subject to the continued availability of funds, satisfactory performance of services and approval by the Governor and Executive Council.

New Hampshire Department of Health and Human Services
Exhibit D

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a grantee (and by inference, sub-grantees and sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Contractors using this form should send it to:

Commissioner
NH Department of Health and Human Services
129 Pleasant Street,
Concord, NH 03301-6505

1. The grantee certifies that it will or will continue to provide a drug-free workplace by:
   - 1.1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
   - 1.2. Establishing an ongoing drug-free awareness program to inform employees about
     - 1.2.1. The dangers of drug abuse in the workplace;
     - 1.2.2. The grantee's policy of maintaining a drug-free workplace;
     - 1.2.3. Any available drug counseling, rehabilitation, and employee assistance programs; and
     - 1.2.4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
   - 1.3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
   - 1.4. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will
     - 1.4.1. Abide by the terms of the statement; and
     - 1.4.2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
   - 1.5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 1.4.2 from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency

has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

1.6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 1.4.2, with respect to any employee who is so convicted

1.6.1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

1.6.2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

1.7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6.

2. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

Place of Performance (street address, city, county, state, zip code) (list each location)

Check ☐ if there are workplaces on file that are not identified here.

Contractor Name: Johnson Controls Inc

1/30/18
Date

Name: David Plumer
Title: Branch Service Manager

Contractor Initials DP
Date 1/30/18

New Hampshire Department of Health and Human Services
Exhibit E

CERTIFICATION REGARDING LOBBYING

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

Programs (indicate applicable program covered):
*Temporary Assistance to Needy Families under Title IV-A
*Child Support Enforcement Program under Title IV-D
*Social Services Block Grant Program under Title XX
*Medicaid Program under Title XIX
*Community Services Block Grant under Title VI
*Child Care Development Block Grant under Title IV

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, (Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-I.)

3. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Contractor Name: Johnson Controls

1/30/18
Date

Name: Dave Plumer
Title: Branch Service Manager

New Hampshire Department of Health and Human Services
Exhibit F

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Executive Office of the President, Executive Order 12549 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal (contract), the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the NH Department of Health and Human Services' (DHHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when DHHS determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, DHHS may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the DHHS agency to whom this proposal (contract) is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76. See the attached definitions.

6. The prospective primary participant agrees by submitting this proposal (contract) that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DHHS.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by DHHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties).

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and

Contractor Initials DP
Date 1/30/18

information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, DHHS may terminate this transaction for cause or default.

PRIMARY COVERED TRANSACTIONS

11. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
    - 11.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    - 11.2. have not within a three-year period preceding this proposal (contract) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
    - 11.3. are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (I)(b) of this certification; and
    - 11.4. have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

12. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

LOWER TIER COVERED TRANSACTIONS

13. By signing and submitting this lower tier proposal (contract), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:
    - 13.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
    - 13.2. where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (contract).

14. The prospective lower tier participant further agrees by submitting this proposal (contract) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Contractor Name: Johnson Controls

1/30/18
Date

Name: David Plumer
Title: BSM

Contractor Initials PP
Date 1/30/18

CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS PERTAINING TO FEDERAL NONDISCRIMINATION, EQUAL TREATMENT OF FAITH-BASED ORGANIZATIONS AND WHISTLEBLOWER PROTECTIONS

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

Contractor will comply, and will require any subgrantees or subcontractors to comply, with any applicable federal nondiscrimination requirements, which may include:

- the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. Section 3789d) which prohibits recipients of federal funding under this statute from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act requires certain recipients to produce an Equal Employment Opportunity Plan;

- the Juvenile Justice Delinquency Prevention Act of 2002 (42 U.S.C. Section 5672(b)) which adopts by reference, the civil rights obligations of the Safe Streets Act. Recipients of federal funding under this statute are prohibited from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act includes Equal Employment Opportunity Plan requirements;

- the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, which prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in any program or activity);

- the Rehabilitation Act of 1973 (29 U.S.C. Section 794), which prohibits recipients of Federal financial assistance from discriminating on the basis of disability, in regard to employment and the delivery of services or benefits, in any program or activity;

- the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12131-34), which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation;

- the Education Amendments of 1972 (20 U.S.C. Sections 1681, 1683, 1685-86), which prohibits discrimination on the basis of sex in federally assisted education programs;

- the Age Discrimination Act of 1975 (42 U.S.C. Sections 6106-07), which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It does not include employment discrimination;

- 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Executive Order No. 13279 (equal protection of the laws for faith-based and community organizations); Executive Order No. 13559, which provide fundamental principles and policy-making criteria for partnerships with faith-based and neighborhood organizations;

- 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations); and Whistleblower protections 41 U.S.C. §4712 and The National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) the Pilot Program for Enhancement of Contract Employee Whistleblower Protections, which protects employees against reprisal for certain whistle blowing activities in connection with federal grants and contracts.

The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

New Hampshire Department of Health and Human Services
Exhibit G

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, to the applicable contracting agency or division within the Department of Health and Human Services, and to the Department of Health and Human Services Office of the Ombudsman.

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this proposal (contract) the Contractor agrees to comply with the provisions indicated above.

Contractor Name: JCI

1/30/18
Date

Name: David Perrault
Title: BSM

New Hampshire Department of Health and Human Services
Exhibit H

CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

The Contractor identified in Section 1.3 of the General Provisions agrees, by signature of the Contractor's representative as identified in Section 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this contract, the Contractor agrees to make reasonable efforts to comply with all applicable provisions of Public Law 103-227, Part C, known as the Pro-Children Act of 1994.

Contractor Name: JCI

1/30/18
Date

Name: David Plummer
Title: BSM

HEALTH INSURANCE PORTABLITY ACT
BUSINESS ASSOCIATE AGREEMENT

The Contractor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 applicable to business associates. As defined herein, "Business Associate" shall mean the Contractor and subcontractors and agents of the Contractor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the State of New Hampshire, Department of Health and Human Services.

(1) **Definitions**.

a. "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.

b. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.

c. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.

d. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.

e. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.

f. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.

g. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, TitleXIII, Subtitle D, Part 1 & 2 of the American Recovery and Reinvestment Act of 2009.

h. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162 and 164 and amendments thereto.

i. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).

j. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.

k. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

l. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.

m. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.

n. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.

o. "Unsecured Protected Health Information" means protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

p. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH
Act.

(2) **Business Associate Use and Disclosure of Protected Health Information.**

a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate, including but not limited to all its directors, officers, employees and agents, shall not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.

b. Business Associate may use or disclose PHI:
   I. For the proper management and administration of the Business Associate;
   II. As required by law, pursuant to the terms set forth in paragraph d. below; or
   III. For data aggregation purposes for the health care operations of Covered Entity.

c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with the HIPAA Privacy, Security, and Breach Notification Rules of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.

d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business

Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.

e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

(3) **Obligations and Activities of Business Associate.**

a. The Business Associate shall notify the Covered Entity's Privacy Officer immediately after the Business Associate becomes aware of any use or disclosure of protected health information not provided for by the Agreement including breaches of unsecured protected health information and/or any security incident that may have an impact on the protected health information of the Covered Entity.

b. The Business Associate shall immediately perform a risk assessment when it becomes aware of any of the above situations. The risk assessment shall include, but not be limited to:

- The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
- The unauthorized person used the protected health information or to whom the disclosure was made;
- Whether the protected health information was actually acquired or viewed
- The extent to which the risk to the protected health information has been mitigated.

The Business Associate shall complete the risk assessment within 48 hours of the breach and immediately report the findings of the risk assessment in writing to the Covered Entity.

c. The Business Associate shall comply with all sections of the Privacy, Security, and Breach Notification Rule.

d. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.

e. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section 3 (l). The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI

pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard Paragraph #13 of the standard contract provisions (P-37) of this Agreement for the purpose of use and disclosure of protected health information.

f. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.

g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.

h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.

i. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.

j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.

k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.

l. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business

Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) Obligations of Covered Entity

a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.

b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.

c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(5) Termination for Cause

In addition to Paragraph 10 of the standard terms and conditions (P-37) of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) Miscellaneous

a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.

b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.

c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.

d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule.

e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.

f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section (3) l, the defense and indemnification provisions of section (3) e and Paragraph 13 of the standard terms and conditions (P-37), shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

Department of Health and Human Services	Johnson Controls Inc
The State	Name of the Contractor
Lori Shibinette	
Signature of Authorized Representative	Signature of Authorized Representative
Lori Shibinette	David Plummer
Name of Authorized Representative	Name of Authorized Representative
CEO-NHH	Branch Service Manager
Title of Authorized Representative	Title of Authorized Representative
2/16/18	1/30/18
Date	Date

New Hampshire Department of Health and Human Services
Exhibit J

CERTIFICATION REGARDING THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) COMPLIANCE

The Federal Funding Accountability and Transparency Act (FFATA) requires prime awardees of individual Federal grants equal to or greater than $25,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier sub-grants of $25,000 or more. If the initial award is below $25,000 but subsequent grant modifications result in a total award equal to or over $25,000, the award is subject to the FFATA reporting requirements, as of the date of the award.
In accordance with 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), the Department of Health and Human Services (DHHS) must report the following information for any subaward or contract award subject to the FFATA reporting requirements:

1. Name of entity
2. Amount of award
3. Funding agency
4. NAICS code for contracts / CFDA program number for grants
5. Program source
6. Award title descriptive of the purpose of the funding action
7. Location of the entity
8. Principle place of performance
9. Unique identifier of the entity (DUNS #)
10. Total compensation and names of the top five executives if:
    - 10.1. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than $25M annually and
    - 10.2. Compensation information is not already available through reporting to the SEC.

Prime grant recipients must submit FFATA required data by the end of the month, plus 30 days, in which the award or award amendment is made.
The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of The Federal Funding Accountability and Transparency Act, Public Law 109-282 and Public Law 110-252, and 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:
The below named Contractor agrees to provide needed information as outlined above to the NH Department of Health and Human Services and to comply with all applicable provisions of the Federal Financial Accountability and Transparency Act.

Contractor Name: JCI

1/30/18
Date

Name: Dave Plummer
Title: BSM

Contractor Initials DP
Date 1/30/18

New Hampshire Department of Health and Human Services
Exhibit J

FORM A

As the Contractor identified in Section 1.3 of the General Provisions, I certify that the responses to the below listed questions are true and accurate.

1. The DUNS number for your entity is: _____

2. In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) $25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

   X NO _____ YES

   If the answer to #2 above is NO, stop here

   If the answer to #2 above is YES, please answer the following:

3. Does the public have access to information about the compensation of the executives in your business or organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

   _____ NO _____ YES

   If the answer to #3 above is YES, stop here

   If the answer to #3 above is NO, please answer the following:

4. The names and compensation of the five most highly compensated officers in your business or organization are as follows:

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____

   Name: _____ Amount: _____

DHHS INFORMATION SECURITY REQUIREMENTS

1. Confidential Information: In addition to Paragraph #9 of the General Provisions (P-37) for the purpose of this RFP, the Department's Confidential information includes any and all information owned or managed by the State of NH - created, received from or on behalf of the Department of Health and Human Services (DHHS) or accessed in the course of performing contracted services - of which collection, disclosure, protection, and disposition is governed by state or federal law or regulation. This information includes, but is not limited to Personal Health Information (PHI), Personally Identifiable Information (PII), Federal Tax Information (FTI), Social Security Numbers (SSN), Payment Card Industry (PCI), and or other sensitive and confidential information.

2. The vendor will maintain proper security controls to protect Department confidential information collected, processed, managed, and/or stored in the delivery of contracted services. Minimum expectations include:

   2.1. Maintain policies and procedures to protect Department confidential information throughout the information lifecycle, where applicable, (from creation, transformation, use, storage and secure destruction) regardless of the media used to store the data (i.e., tape, disk, paper, etc.).

   2.2. Maintain appropriate authentication and access controls to contractor systems that collect, transmit, or store Department confidential information where applicable.

   2.3. Encrypt, at a minimum, any Department confidential data stored on portable media, e.g., laptops, USB drives, as well as when transmitted over public networks like the Internet using current industry standards and best practices for strong encryption.

   2.4. Ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.

   2.5. Provide security awareness and education for its employees, contractors and sub-contractors in support of protecting Department confidential information

   2.6. Maintain a documented breach notification and incident response process. The vendor will contact the Department within twenty-four 24 hours to the Department's contract manager, and additional email addresses provided in this section, of a confidential information breach, computer security incident, or suspected breach which affects or includes any State of New Hampshire systems that connect to the State of New Hampshire network.

      2.6.1. "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations. "Computer Security Incident" shall have the same meaning "Computer Security Incident" in section two (2) of NIST Publication 800-61, Computer Security Incident Handling Guide, National Institute of Standards and Technology, U.S. Department of Commerce.

      Breach notifications will be sent to the following email addresses:

      2.6.1.1. DHHSChiefInformationOfficer@dhhs.nh.gov

      2.6.1.2. DHHSInformationSecurityOffice@dhhs.nh.gov

   2.7. If the vendor will maintain any Confidential Information on its systems (or its sub-contractor systems), the vendor will maintain a documented process for securely disposing of such data upon request or contract termination; and will obtain written certification for any State of New Hampshire data destroyed by the vendor or any subcontractors as a part of ongoing, emergency, and or disaster recovery operations. When no longer in use, electronic media containing State of New Hampshire data shall be rendered unrecoverable via a secure wipe program in accordance with industry-accepted standards for secure

deletion, or otherwise physically destroying the media (for example, degaussing). The vendor will document and certify in writing at time of the data destruction, and will provide written certification to the Department upon request. The written certification will include all details necessary to demonstrate data has been properly destroyed and validated. Where applicable, regulatory and professional standards for retention requirements will be jointly evaluated by the State and vendor prior to destruction.

2.8. If the vendor will be sub-contracting any core functions of the engagement supporting the services for State of New Hampshire, the vendor will maintain a program of an internal process or processes that defines specific security expectations, and monitoring compliance to security requirements that at a minimum match those for the vendor, including breach notification requirements.

3. The vendor will work with the Department to sign and comply with all applicable State of New Hampshire and Department system access and authorization policies and procedures, systems access forms, and computer use agreements as part of obtaining and maintaining access to any Department system(s). Agreements will be completed and signed by the vendor and any applicable sub-contractors prior to system access being authorized.

4. If the Department determines the vendor is a Business Associate pursuant to 45 CFR 160.103, the vendor will work with the Department to sign and execute a HIPAA Business Associate Agreement (BAA) with the Department and is responsible for maintaining compliance with the agreement.

5. The vendor will work with the Department at its request to complete a survey. The purpose of the survey is to enable the Department and vendor to monitor for any changes in risks, threats, and vulnerabilities that may occur over the life of the vendor engagement. The survey will be completed annually, or an alternate time frame at the Departments discretion with agreement by the vendor, or the Department may request the survey be completed when the scope of the engagement between the Department and the vendor changes. The vendor will not store, knowingly or unknowingly, any State of New Hampshire or Department data offshore or outside the boundaries of the United States unless prior express written consent is obtained from the appropriate authorized data owner or leadership member within the Department.