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Frank Edelblut
Commissioner

Christine M. Brennan
Deputy Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
25 Hall Street
Concord, NH 03301
TEL. (603) 271-3495
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February 18, 2022

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

REQUESTED ACTION

Authorize the NH Department of Education to enter into a **Sole Source** contract with the Waterford Institute, Inc. (vendor code 391757) West Jordan, UT in the amount not to exceed $1,000,000 to provide their online UPSTART programming for NH children entering kindergarten effective upon Governor and Council approval through June 30, 2023. 100% Federal Funds.

Funds to support this request are available in the account titled ESSER III – ARP 2021 for FY22, and FY23, with the authority to adjust encumbrances amongst Fiscal Years within the price limitation through the budget office, without further Governor and Council approval if needed and justified.

	FY22	FY23
06-56-56-562010-24370000-102-500731 (Contracts for Program Services)	$400,000	$600,000

EXPLANATION

This request is **Sole Source** because the Waterford Institute is the exclusive provider of the UPSTART Program. For 45 years, the nonprofit Waterford Institute has worked with government, education, and philanthropic organizations to create innovative, impactful intervention programs for preschool children. Focused on serving the world's youngest and most vulnerable learners, Waterford has pioneered blended early learning models, always leveraging the latest technology to personalize learning for every child along with support for teachers and parents. Millions of children have benefited from the ongoing research,

development, and enhancement of the Waterford.org curriculum in schools, homes, and learning centers around the world. By developing, optimizing, and scaling cost-effective early learning programs, Waterford relentlessly works towards the mission of inspiring a great start for every child.

Building from a rigorous evidence base, Waterford is now working with state and local educational agencies to begin serving underserved communities across the nation, conducting programs in more than 30 states and with the Navajo Nation. With a strong evidence-base, the UPSTART program hurdles the well-documented preschool access gap, providing proven school readiness supports for children most at risk of school failure because of poverty, PreK access barriers, language differences, and social inequity. In addition, it does so with a remarkably high level of parent satisfaction as measured at the end of the program.

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

Respectfully submitted,

Frank Edelblut
Commissioner of Education

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 Department of Education		1.2 State Agency Address 25 Hall St, Concord, NH 03301	
1.3 Contractor Name Waterford Institute, Inc.		1.4 Contractor Address PO Box 250 West Jordan, UT 84084-0250	
1.5 Contractor Phone Number (801) 349-2218	1.6 Account Number See Exhibit C	1.7 Completion Date June 30, 2023	1.8 Price Limitation $1,000,000.00
1.9 Contracting Officer for State Agency Stacey MacStravic		1.10 State Agency Telephone Number 603-271-3293	
1.11 Contractor Signature Date: 2/17/2022		1.12 Name and Title of Contractor Signatory Thomas Ness, Chief Financial Officer	
1.13 State Agency Signature Date: 2/23/2022		1.14 Name and Title of State Agency Signatory Frank Edelblut, Commissioner of Education	
1.15 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)* By: Director, On:			
1.16 Approval by the Attorney General (Form, Substance and Execution) *(if applicable)* By: Christopher Bond, Attorney On: 2/23/2022			
1.17 Approval by the Governor and Executive Council *(if applicable)* G&C Item number: G&C Meeting Date:			

Contractor Initials TN
Date 2/17/22

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

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.17, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

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

4. CONDITIONAL NATURE OF AGREEMENT.

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

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

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

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

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

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

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

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

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

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

7. PERSONNEL.

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

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

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

Contractor Initials TN
Date 2/17/22

8. EVENT OF DEFAULT/REMEDIES.

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

8.1.1 failure to perform the Services satisfactorily or on schedule;

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

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

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

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

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

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

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

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

9. TERMINATION.

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

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT B. In addition, at the State's discretion, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement.

10. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.

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

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

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

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

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice, which shall be provided to the State at least fifteen (15) days prior to the assignment, and a written consent of the State. For purposes of this paragraph, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.2 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State. The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. Unless otherwise exempted by law, the Contractor shall indemnify and hold harmless the State, its officers and employees, from and against any and all claims, liabilities and costs for any personal injury or property damages, patent or copyright infringement, or other claims asserted against the State, its officers or employees, which arise out of (or which may be claimed to arise out of) the acts or omission of the

Contractor Initials

Date 2/17/22

Contractor, or subcontractors, including but not limited to the negligence, reckless or intentional conduct. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

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

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

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

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

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

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

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

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

18. CHOICE OF LAW AND FORUM. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. Any actions arising out of this Agreement shall be brought and maintained in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.

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

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

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

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

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

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

Contractor Initials TV
Date 2/17/22

EXHIBIT A

Special Provisions

Additional Exhibits D-G

Federal Certification 2 CFR 200.415

Required certifications include: (a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

Contractor Initials TW
Date 2/17/22

EXHIBIT B
SCOPE OF SERVICE

1. The Waterford Institute Inc., (Waterford) Upstart Program ("Program") is an early learning at home program for pre-kindergarten children to build school readiness skills in literacy and numeracy.

2. The Program will serve New Hampshire children entering kindergarten in 2022 and 2023, and their families, to be provided by Waterford as "Contractor", which includes the following upon contract approval by Governor and Council:
   - 2.1. Implement a statewide recruitment and campaign, to include, but not to be limited to flyers, social media, recruitment events, earned media, etc., to recruit children to participate in the Waterford UPSTART program.
   - 2.2. Conduct Waterford UPSTART registration on a rolling enrollment basis for eligible participants using a defined online and telephone call registration process from the Waterford call center to collect agreed upon demographic information and get approval for information sharing.
   - 2.3. Identify language needs of participating families and arrange for training to be delivered in the families' home languages when reasonably possible and/or provide appropriate interpretation and translation supports at the trainings.
   - 2.4. Provide eligible participating families with materials and supplies required for the Program, including alternative language support where needed.
   - 2.5. Provide parents with online training opportunities and resources to do the Waterford Assessment of Core Skills (WACS) assessments of their children at home prior to beginning the Upstart program.
   - 2.6. Provide ongoing technical support for participating families throughout the term of this agreement to ensure they can participate fully in the Program.
   - 2.7. Assign each family a dedicated coach and conduct Welcome Calls with all participating families in the two weeks after the initial training.
   - 2.8. Monitor weekly usage for all participants and provide customized levels of support and motivational strategies based on usage patterns, providing higher touch strategies to struggling participants.
   - 2.9. Provide weekly emails to the Department of Education showing non-identifiable anonymized information on each child/children's weekly usage graph, along with curricular and motivational resources for both children and parents.
   - 2.10. Provide resources to encourage parent interaction with children's learning online and offline, including the Mentor app.
   - 2.11. Conduct Graduation events at the end of the program to celebrate progress and complete year-end WACS assessment or provide online graduations and assessment should COVID or other health concerns continue.
   - 2.12. Offer assessments to all participating children and encourage parents to share assessments with pediatricians and schools.
   - 2.13. Conduct a pre-program and post-program survey of parents/guardians to determine program value to parents and related changes in parent attitudes toward early education and provide feedback for future program improvements.
   - 2.14. Create both an interim and year-end report for the New Hampshire Department of Education summarizing usage based on computerized records, growth based on software placement,

Contractor Initials TW
Date 1/19/22

pre/post test results and comparisons, achievement based on subgroup outcomes, and parent/guardian satisfaction based on survey results.

2.15. Share individual final WACS results with parents and outcomes in the aggregate to stakeholders.

2.16. Create final project report summarizing overall results for interested stakeholders. Such report will include anonymized summary demographic information for participating children and families, including socio-economic status.

3. The Program consists of 3 different options for children entering kindergarten. Pricing based on which option is chosen by a family.
   3.1. Pandemic Recovery Path: 16-week program.
   3.2. Summer Learning Path: 12-week program.
   3.3. Upstart Full Year Program Fiscal Years 2022-2023- 36-week program.
   3.4. Waterford will monitor Program participation and not permit the Program Funds required to exceed $1,000,000 in aggregate or by Program Fund line item.

4. The DOE will advise Waterford on best practices for statewide recruitment.

5. Both parties will appoint a key contact person to maintain frequent communication to facilitate cooperation, develop appropriate timelines for project updates and status reports throughout the project.

Contractor Initials TW
Date 12/17/22

EXHIBIT C
Method of PAYMENT

Funding

The Waterford Institute Inc, (Waterford) shall be paid as follows:

- Pandemic Recovery Path: $400 per child includes software, assessment, technical and curricular support to participating families, and reporting as detailed in the Statement of Work.
- Summer Learning Path: $400 per child includes software, assessment, technical and curricular support to participating families, and reporting as detailed in the Statement of Work.
- Full Waterford Upstart Program: $1,000 per child includes software, assessment, technical and curricular support to participating families, and reporting as detailed in the Statement of Work.

Limitation on Price: Upon mutual agreement between the state contracting officer and Waterford, line items in this budget may be adjusted one to another, but in no case shall the total budget exceed the price limitation of $1,000,000. Waterford will monitor Program participation and not permit the Program Funds required to exceed $1,000,000, in aggregate or by Program Fund line items described herein.
Source of Funding: Funds to support this request are available in the account titled ESSER III – ARP 2021 for FY22 and FY23 with the authority to adjust encumbrances between Fiscal Years through the Budget Office without further Governor and Council approval, if needed and justified.

		FY22	FY23
06-56-56-562010-24370000-102-500731	Contracts for Program Services	$400,000	$600,000

Method of Payment: Waterford will invoice the Department of Education on the last day of each month during the registration period of the program for the registered children recruited during that month. Payment shall be made within thirty (30) days following receipt of invoice and acceptance of the contract items to the satisfaction of the New Hampshire Department of Education. Waterford invoices will be Net30 from date of issuance for 50% of the fee with the remaining payment upon completion of the program due Net30 from the date of 2nd invoice by Waterford to Customer.

For all forms of programming, Waterford will provide matching funding to cover the cost of providing internet access and computers to families that need them based on mutually agreed upon criteria.

The Contractor shall provide monthly itemized invoices for the services to include:
The identity of each item separately described in Exhibit B;
The date(s) each item was provided;
The amount due for each item; and
The cumulative total of all items

Invoice shall be submitted to:
Christine Brennan, Deputy Commissioner of Education
Department of Education
25 Hall St.
Concord NH 03301

Contractor Initials TW
Date 2/17/2

EXHIBIT D.

Contractor Obligations

Contracts in excess of the simplified acquisition threshold (currently set at $250,000) must address **administrative, contractual, or legal remedies** in instances where the contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. Reference:

2 C.F.R. § 200.326 and 2 C.F.R. 200, Appendix II, required contract clauses.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

The Contractor, certifies and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Breach

A breach of the contract clauses above may be grounds for termination of the contract, and fordebarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

Fraud and False Statements

The Contractor understands that, if the project which is the subject of this Contract is financed in whole or in part by federal funds, that if the undersigned, the company that the Contractor represents, or any employee or agent thereof, knowingly makes any false statement, representation, report or claim as to the character, quality, quantity, or cost of material used or to be used, or quantity or quality work performed or to be performed, or makes any false statementor representation of a material fact in any statement, certificate, or report, the Contractor and any company that the Contractor represents may be subject to prosecution under the provision of 18 USC §1001 and §1020.

Environmental Protection

(This clause is applicable if this Contract exceeds $150,000. It applies to Federal-aid contractsonly.)

The Contractor is required to comply with all applicable standards, orders or requirements issuedunder Section 306 of the Clean Air Act (42 U.S.C. 1857 (h), Section 508 of the Clean Water Act (33

U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15) which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the FHWA and to the U.S. EPA Assistant Administrator for Enforcement.

Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act (42 U.S.C. § 6962), State agencies and agencies of a political subdivision of a state that are using appropriated Federal funds for procurement must procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired in the preceding fiscal year exceeded $10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurementprogram for procurement of recovered materials identified in the EPA guidelines.

Contractor Initials [illegible]
Date 7/17/22

Exhibit E

Federal Debarment and Suspension

a. By signature on this Contract, the Contractor certifies its compliance, and the compliance of its Sub-Contractors, present or future, by stating that any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position of authority involving federal funds:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal Agency;

2. Does not have a proposed debarment pending;

3. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal Agency within the past three (3) years; and

4. Has not been indicted, convicted, or had a civil judgment rendered against the firm by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

b. Where the Contractor or its Sub-Contractor is unable to certify to the statement in Section a.1. above, the Contractor or its Sub-Contractor shall be declared ineligible to enter into Contract or participate in the project.

c. Where the Contractor or Sub-Contractor is unable to certify to any of the statements as listed in Sections a.2., a.3., or a.4., above, the Contractor or its Sub-Contractor shall submit a written explanation to the DOE. The certification or explanation shall be considered in connection with the DOE's determination whether to enter into Contract.

d. The Contractor shall provide immediate written notice to the DOE if, at any time, the Contractor or its Sub-Contractor, learn that its Debarment and Suspension certification has become erroneous by reason of changed circumstances.

Contractor Initials AW
Date 2/18/22

Exhibit F

Anti-Lobbying

The Contractor 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 furtheragrees to have the Contractor's representative, execute the following Certification:

The Contractor certifies, by signing and submitting this contract, to the best of his/her knowledge and belief, that:.

a. No federal appropriated funds have been paid or shall be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence any officer or employee of any State or Federal 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, the making of any federal grant, the making of any federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract grant, loan, or cooperative agreement.

b. If any funds other than federally appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any Federal Agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the "Disclosure of Lobbying Activities" form in accordance with its instructions

https://www.gsa.gov/forms-library/disclosure-lobbying-activities

c. 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 and entering into this transaction imposed by Section 1352, Title 31 and 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.

d. The Contractor also agrees, by signing this contract that it shall require that the languageof this certification be included in subcontracts with all Sub-Contractor(s) and lower-tier Sub-Contractors which exceed $100,000 and that all such Sub-Contractors and lower-tier Sub-Contractors shall certify and disclose accordingly.

e. The DOE shall keep the firm's certification on file as part of its original contract. The Contractor shall keep individual certifications from all Sub-Contractors and lower-tier Sub-Contractors on file. Certification shall be retained for three (3) years following completionand acceptance of any given project.

Contractor Initials [signature]
Date 7/17/22

Exhibit G

Rights to Inventions Made Under a Contract, Copy Rights and Confidentiality

Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work

shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the DOE.

Any discovery or invention that arises during the course of the contract shall be reported to the DOE. The Contractor is required to disclose inventions promptly to the contracting officer (within 2 months) after the inventor discloses it in writing to contractor personnel responsible for patent matters. The awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with "Government Patent Policy" and Title 37 C.F.R. § 401.

Confidentiality

All Written and oral information and materials disclosed or provided by the DOE under this agreement constitutes Confidential Information, regardless of whether such information was provided before or after the date on this agreement or how it was provided.

The Contractor and representatives thereof, acknowledge that by making use of, acquiring or adding to information about matters and data related to this agreement, which are confidential to the DOE and its partners, must remain the exclusive property of the DOE.

Confidential information means all data and information related to the business and operation of the DOE, including but not limited to all school and student data contained in NH Title XV, Education, Chapters 186-200.

Confidential Information includes but is not limited to, student and school district data, revenue and cost information, the source code for computer software and hardware products owned in part or in whole by the DOE, financial information, partner information (including the identity of DOE partners), Contractor and supplier information, (including the identity of DOE Contractors and suppliers), and any information that has been marked "confidential" or "proprietary", or with the like designation. During the term of this contract the Contractor agrees to abide by such rules as may be adopted from time to time by the DOE to maintain the security of all confidential information. The Contractor further agrees that it will always regard and preserve as confidential information/data received during the performance of this contract. The Contractor will not use, copy, make notes, or use excerpts of any confidential information, nor will it give, disclose, provide access to, or otherwise make available any confidential information to any person not employed or contracted by the DOE or subcontracted with the Contractor.

Ownership of Intellectual Property

The DOE shall retain ownership of all source data and other intellectual property of the DOE provided to the Contractor in order to complete the services of this agreement. As well the DOE will retain copyright ownership for any and all materials, patents and intellectual property produced, including, but not limited to, brochures, resource directories, protocols, guidelines, posters, or reports. The Contractor shall not reproduce any materials for purposes other than use for the terms under the contract without prior written approval from the DOE.

Initials: JW
Date: 4/13/22

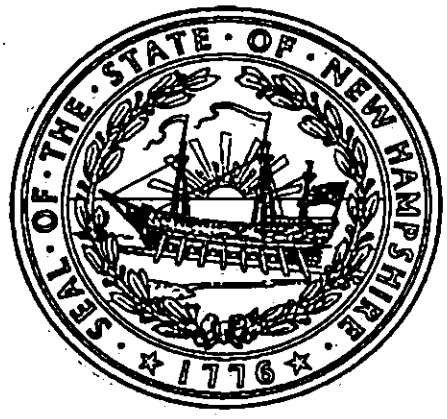
State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that WATERFORD INSTITUTE INC is a Delaware Nonprofit Corporation registered to transact business in New Hampshire on December 22, 2021. 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: **888776**

Certificate Number : **0005483192**



IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this **22nd** day of **December** A.D. **2021.**

William M. Gardner
Secretary of State

Certificate of Attestation

I, David Andrew Myers hereby certify that I am a duly appointed representative of
(Name)

Waterford Institute Inc. I hereby certify that Thomas Ness, CFO, is duly
(Name of Business) (Name & Title of person who signed contract)

authorized to execute contracts on behalf of Waterford Institute Inc. and may bind the
(Name of Business)

organization thereby.

I further certify that it is understood that the State of New Hampshire will rely on this attestation as evidence that the person listed above currently occupies the position indicated and that he/she has full authority to bind the organization.

Dated: 2-18-2022

Attest: _____
(Name & Title)

President & CEO

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 1/13/2022

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
The Buckner Company
6550 S Millrock, Suite #300
Salt Lake City UT 84121

CONTACT NAME: Sandy Reed
PHONE (A/C, No, Ext): 801-937-6753 FAX (A/C, No):
E-MAIL ADDRESS: sreed@buckner.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Great Northern Insurance Company	20303
INSURER B : Federal Insurance Company	20281
INSURER C : The Chubb Corporation	38989
INSURER D :	
INSURER E :	
INSURER F :	

INSURED WATEINS-01
Waterford Institute Inc.
Waterford Research Institute, LLC
PO Box 250
West Jordan UT 84084-0250

COVERAGES CERTIFICATE NUMBER: 523739547 REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X 1,000 GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:			[redacted]	1/1/2022	3/1/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ 1,000,000 $ 500,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY X HIRED AUTOS ONLY SCHEDULED AUTOS X NON-OWNED AUTOS ONLY			[redacted]	1/1/2022	3/1/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 1,000,000 $ $ $ $
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $			[redacted]	1/1/2022	3/1/2023	EACH OCCURRENCE AGGREGATE $	$ 5,000,000 $ 5,000,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		[redacted]	1/1/2022	1/1/2023	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
C	Tech E&O/Cyber Net Business Income			[redacted]	1/1/2022	3/1/2023	$5,000,000 per Occ. $2,000,000 $5,000,000 Agg.	$50,000 Retention 12 Hours

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

CERTIFICATE HOLDER

New Hampshire Department of Education
101 Pleasant Street
Concord NH 03301-3860

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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