



71 *JML*

STATE OF NEW HAMPSHIRE  
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT  
OFFICE OF THE COMMISSIONER

172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856

*Retroactive  
Sole Source*

October 16, 2012

His Excellency Governor John H Lynch  
And the Honorable Executive Council  
State House  
Concord, NH 03301

**REQUESTED ACTION**

Authorize the Department of Resources and Economic Development, Office of Workforce Opportunity to **RETROACTIVELY** amend a **sole source** contract with Safety & Health of Northern New England (VC#167104), Concord, NH in the amount of \$74,368.00 for the delivery of training to meet the federal Mine Safety and Health Administration (MSHA) safety training requirements in New Hampshire by extending the end date from September 30, 2012 to September 30, 2013. **100% federally funded.**

**EXPLANATION**

This is a **sole source** contract, awarded on the basis of Safety & Health's extensive expertise in delivering quality safety training programs for the State of New Hampshire, and the only known entity to employ MSHA certified instructors. An accredited chapter of the National Safety Council, Safety and Health of New England has been delivering quality training programs in New Hampshire since 1970. With over 700 member companies; they provide training to over 2,500 people each year. In addition, Safety & Health instructors have attended the mandatory MSHA instructors training in Virginia.

These funds are made available through U.S Department of Labor (USDOL), Mine Safety and Health Administration (MSHA) to provide the required MSHA safety training to Metal/Non-Metal Surface Mine employees in New Hampshire, and shall be used in accordance with all applicable USDOL MSHA rules and regulations, including program requirements contained in the Mine Safety and Health Administration Grant Program Operator's Manual dated May 1995, and other USDOL implementing regulations contained in 29 CFR Parts 31, 32, 93, 97 and 98. This contract is **retroactive** based on the federal granting process. MSHA FY Grants are awarded between October 1<sup>st</sup> and September 30<sup>th</sup> of each year. Regardless of when funds are awarded they are available retroactive to the October 1st grant cycle starting period. This granting cycle allows states to pay for reasonable, allocable and allowable pre-award costs incurred by the program.

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

Respectfully submitted, *mm*

*George M. Bald*  
George M. Bald  
Commissioner

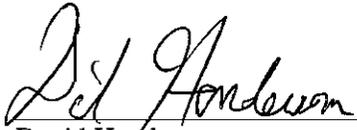


MODIFICATION OF CONTRACT WITH RESPECT TO THE IMPLEMENTATION OF SAFETY & HEALTH OF NORTHERN NEW ENGLAND MSHA SAFETY TRAINING

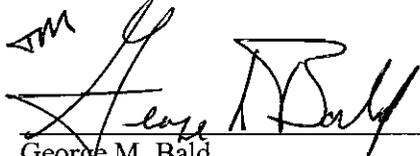
The Department of Resources and Economic Development, Office of Workforce Opportunity and Safety & Health of Northern New England, Concord, NH (VC#167104) hereby mutually agree to amend their contract (#1014490) for the delivery of Mine Safety and Health Administration safety training, which was originally approved by the Governor and Executive Council on March 16, 2011 (Item #59), with an end date of September 30, 2012. This modification of an existing agreement is hereby incorporated by reference to the existing agreement by the parties and must be attached to the said agreement.

1. Extend the contract end date from September 30, 2012 to September 30, 2013.
2. All other terms and conditions of this contract shall remain the same in full force and effect as originally set forth; and
3. This amendment is subject to approval by the Governor and Executive Council.

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

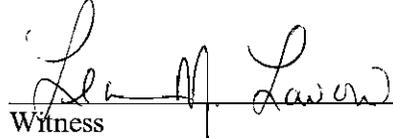
  
\_\_\_\_\_  
David Henderson,  
Executive Director

10/16/12  
Date

  
\_\_\_\_\_  
George M. Bald,  
DRED Commissioner

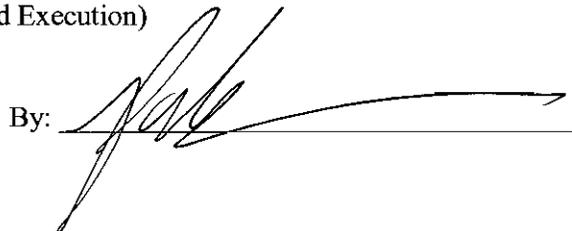
10/18/12  
Date

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Witness

Approved by the Attorney General (Form, Substance and Execution)

Date: 10/13/12

By: 

Approved by Governor and Executive Council

Date: \_\_\_\_\_

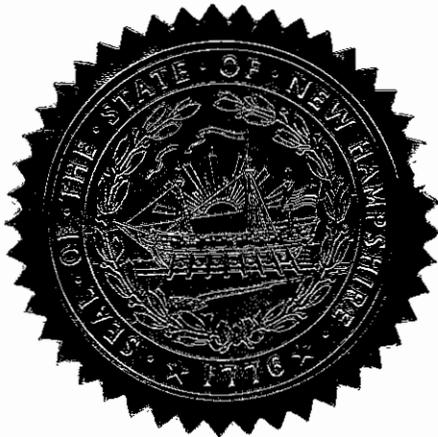
Item \_\_\_\_\_



# 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 Safety & Health Council of Northern New England, Inc. is a New Hampshire nonprofit corporation formed December 30, 1970. I further certify that it is in good standing as far as this office is concerned, having filed the return(s) and paid the fees required by law.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 16<sup>th</sup> day of October A.D. 2012

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State





*Safety & Health Council of Northern New England  
57 Regional Drive, #6  
Concord, NH 03301  
(800) 834-6472*

**AUTHORIZATION TO ENTER AN AGREEMENT**

This letter acknowledges that David C. Henderson, Executive Director of the Safety and Health Council of Northern New England, is authorized to sign and enter all agreements on behalf of the SHCNNE Board of Directors. David is our contracted employee and legal representative.

Signed: Douglas MacDonald, Chairman of the Board,  
Safety & Health Council of Northern New England

Signature: 

Date: 10/16/2012



Client#: 22114

SAFET

**ACORD**<sup>TM</sup>

**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)  
10/16/2012

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

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

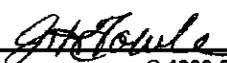
<b>PRODUCER</b> Davis Towle Morrill & Everett 115 Airport Road P O Box 1260 Concord, NH 03302-1260	<b>CONTACT NAME:</b> Jennifer Good <b>PHONE (A/C, No, Ext):</b> 603 225-6611 <b>E-MAIL ADDRESS:</b> JGood@Davistowle.com	<b>FAX (A/C, No):</b> 603-225-7935
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> Safety & Health Council of Northern New England, Inc. 57 Regional Drive, B1 Concord, NH 03301	<b>INSURER A :</b> The Hartford Insurance	
	<b>INSURER B :</b>	
	<b>INSURER C :</b>	
	<b>INSURER D :</b>	
	<b>INSURER E :</b>	
	<b>INSURER F :</b>	

**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	GENERAL LIABILITY			04SBANK4581	07/11/2012	07/11/2013	EACH OCCURRENCE	\$2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$500,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person)	\$10,000
							PERSONAL & ADV INJURY	\$2,000,000
							GENERAL AGGREGATE	\$4,000,000
							PRODUCTS - COMP/OP AGG	\$4,000,000
								\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident)	\$
								\$
	UMBRELLA LIAB						EACH OCCURRENCE	\$
	EXCESS LIAB						AGGREGATE	\$
	DED							\$
	RETENTION \$							\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			04WECGQ5209	09/29/2012	09/29/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	<input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	N/A				E.L. EACH ACCIDENT	\$500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$500,000
							E.L. DISEASE - POLICY LIMIT	\$500,000

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

<b>CERTIFICATE HOLDER</b> Workforce Opportunity Council 64 Old Suncook Road Concord, NH 03301	<b>CANCELLATION</b> 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 



mtg 3/16/11  
#59

STATE OF NEW HAMPSHIRE  
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT  
OFFICE OF THE COMMISSIONER

172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856



PO # 1014490

February 9, 2011

His Excellency Governor John H Lynch  
And the Honorable Executive Council  
State House  
Concord, NH 03301

**REQUESTED ACTION**

Authorize the Department of Resources and Economic Development, Office of Workforce Opportunity to enter into a **sole source** contract with Safety & Health of Northern New England (VC#167104), Concord, NH in the amount of \$74,368.00 for the delivery of training to meet the federal Mine Safety and Health Administration (MSHA) safety training requirements in New Hampshire. This contract period is **RETROACTIVE** to October 1, 2010 and terminating on September 30, 2012. **100% federally funded.**

Funding is available in account titled Workforce Opportunity as follows:

03-35-35-350010-53360000-102-500731  
Contracts for Program Services:

FY11  
\$37,183.00

FY12  
\$37,183.00

**EXPLANATION**

This is a **sole source** contract, awarded on the basis of Safety & Health's extensive expertise in delivering quality safety training programs for the State of New Hampshire, and the only known entity to employ MSHA certified instructors. An accredited chapter of the National Safety Council, Safety and Health of New England has been delivering quality training programs in New Hampshire since 1970. With over 700 member companies; they provide training to over 2,500 people each year. In addition, Safety & Health instructors have attended the mandatory MSHA instructors training in Virginia.

These funds are made available through U.S Department of Labor (USDOL), Mine Safety and Health Administration (MSHA) to provide the required MSHA safety training to Metal/Non-Metal Surface Mine employees in New Hampshire, and shall be used in accordance with all applicable USDOL MSHA rules and regulations, including program requirements contained in the Mine Safety and Health Administration Grant Program Operator's Manual dated May 1995, and other USDOL implementing regulations contained in 29 CFR Parts 31, 32, 93, 97 and 98. This contract is **retroactive** based on the federal granting process. MSHA FY Grants are awarded between October 1<sup>st</sup> and September 30<sup>th</sup> of each year. Regardless of when funds are awarded they are available retroactive to the October 1st grant cycle starting period. This granting cycle allows states to pay for reasonable, allocable and allowable pre-award costs incurred by the program.

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George M. Bald".

George M. Bald, Commissioner



Subject: NH Mine & Safety Health Administration Training Grant Contract for Services FORM NUMBER P-37 ( version 1/09)

**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 Resources & Economic Development, Office		1.2 State Agency Address 172 Pembroke Road, Concord, NH 03302	
1.3 Contractor Name Safety & Health Council of Northern New England		1.4 Contractor Address 57 Regional Drive, Concord NH 03301	
1.5 Contractor Phone Number (603) 229-3393	1.6 Account Number 53360000-102-500731	1.7 Completion Date September 30, 2012	1.8 Price Limitation \$74,368.00
1.9 Contracting Officer for State Agency George M. Bald, Commissioner DRED		1.10 State Agency Telephone Number (603) 271-2411	
1.11 Contractor Signature <i>Dwight C. Henderson</i>		1.12 Name and Title of Contractor Signatory Dwight C. Henderson, Executive Director	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Merrimack</u> On <u>2/17/11</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal] <i>Denise D. Frezza</i>			
1.13.2 Name and Title of Notary or Justice of the Peace <i>Jury Commission expires 2/2/16</i>			
1.14 State Agency Signature <i>George M. Bald</i>		1.15 Name and Title of State Agency Signatory George M. Bald, Commissioner	
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) By: <i>Anthony C. Blenkinsop</i> On: <i>3/2/2011</i>			
1.18 Approval by the Governor and Executive Council 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, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("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. In addition, the Contractor shall comply with all applicable copyright laws.  
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.  
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**  
7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.  
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.  
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

**8. EVENT OF DEFAULT/REMEDIES.**

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

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

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

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

**9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.**

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

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

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

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

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

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

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written 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 \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

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

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

Contractor Initials 2011  
Date 2/17/11

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) 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.

**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 *DAH*  
Date *2/17/11*

OFFICE OF WORKFORCE OPPORTUNITY  
CONTRACT FOR MINE SAFETY TRAINING SERVICES FY2011

**EXHIBIT A**  
Statement of Work

**PARTIES & PURPOSE**

This cost reimbursement agreement for services between Safety & Health Council of New England and the NH Department of Resources & Economic Development, Office of Workforce Opportunity (OWO) will be for a term beginning on October 1, 2010 and terminating on September 30, 2012. **Total payments under this agreement shall not exceed: \$74,366.00** and shall be expended consistent with Exhibit B of this agreement. These funds are made available through U.S Department of Labor (USDOL), Mine Safety and Health Administration (MSHA) to provide the required MSHA safety training to Metal/Non-Metal Surface Mine employees in New Hampshire and shall be used in accordance with all applicable USDOL MSHA rules and regulations, including program requirements contained in the Mine Safety and Health Administration Grant Program Operator's Manual dated May 1995, and other USDOL implementing regulations contained in 29 CFR Parts 31, 32, 93, 97 and 98.

The purpose of this agreement is to procure the services of the Safety & Health Council of New England (Safety & Health) as the contractor to provide the federally required Mine Safety and Health Administration (MSHA) mine safety training in New Hampshire. This is a sole source contract, awarded on the basis of Safety & Health's extensive expertise in delivering quality safety training programs to over 700 member companies in New Hampshire since 1970 and Safety & Health's ability to utilize MSHA trained instructors, as required by MSHA.

**STATEMENT OF WORK**

As the service provider under this agreement, Safety and Health Council of Northern New England shall:

1. Deliver a minimum of 15 training sessions in each contract year, during the months of February through May, in regions throughout the state, with the majority of the classes held at the Safety and Health Council's training facility in Concord, NH.
2. Deliver additional classes, based on employer/worker demand.

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3. Provide:
  - a. appropriate refreshments (breakfast/lunch items as necessary);
  - b. a safety awareness item for each participant; and
  - c. program materials for each classroom participant as well as for companies who conduct their own training but request same/similar materials used by Safety and Health.
4. Develop and publish a training schedule for each program year under contract through this service agreement. This schedule shall be mailed to all NH mining companies with an available address, using information provided by the NH Department of Labor and other applicable resources.
5. Conduct an instructor orientation session each year to review syllabus and training materials in preparation for the delivering of required training under this agreement. Employer feedback shall be solicited to ensure training consistent with employer needs.
6. Ensure a minimum of two (2) instructors are at each training session, and ensure that the instructors delivering the training are qualified to teach the materials. As part of this responsibility, it is understood that the appropriate individual(s) will attend the MSHA instructor refresher training, as necessary.

In addition, Safety and Health is authorized to charge a fee of \$50 per participant to offset the costs of room rentals, refreshments, safety awareness items, and classroom materials, as well as instructor costs not covered by the grant funding. All revenue produced by this authorized program fee shall be tracked and recorded as program income, and shall be used to meet the non-federal share (match) required by this grant, for each program year. Program income earned during the contract period shall be retained by Safety and Health, added to the contract funds, and used for the purposes and under the conditions applicable to the use of these grant funds.

**Program Performance Goals and Reporting Requirements**

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As the service provider under this agreement, Safety and Health Council of Northern New England shall:

1. Make every effort to provide training to workers consistent with the planned **Estimated Workload Measures** for FY11 and FY12 as follows:
  - a. Total number of coal miners to be trained: 355
  - b. Total number of metal and/or nonmetal miners to be trained: 121
  - c. Total number of contractors working at coal mines, metal mines, and nonmetal mines (including sand and gravel operations): 476
  - d. Total number of "others" to be trained: 0
2. Provide a listing of the trainings provided, and the dates thereof, along with the day's training syllabus and participant sign-in sheet. If any type of testing is conducted as part of the training sessions, Safety and Health shall report, in the aggregate, the results of said testing.
3. Complete a mid-year (October through March) and end-year (October through September) technical report for each year of this contract that includes the following information:
  - a. A comparison of actual accomplishments to the objectives established for the contract period, including per unit cost efficiencies;
  - b. Reasons for objectives not met;
  - c. Description of any significant developments or problems affecting the organization's ability to accomplish the work;
  - d. An evaluation of the impact or results of the program's activities.
4. Assist the Office of Workforce Opportunity with problem resolution for any federal or state audit and/or compliance findings as they relate to this contract.



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**EXHIBIT B**  
**Price and Financial Reporting Requirements**

**PRICE LIMITATION**

The conditions and responsibilities outlined in this agreement are further subject to the availability of grant funds. Any party may, after thirty (30) days written notification, suspend this agreement if funds become unavailable to carry out this agreement or if the Safety & Health Council is no longer willing to carry out the agreement. Upon termination, all allowable expenses incurred and paid by Safety & Health prior to the termination date will be reimbursed.

**Total agreement not to exceed: \$74,366.00**

**FY 2011 expenses not to exceed: \$37,183.00**

**FY 2012 expenses not to exceed: \$37,183.00**

For services performed and equipment, training, and travel expenses related to these services; from October 1, 2010 through September 30, 2011; Safety & Health shall be paid up to Thirty-Seven Thousand, One Hundred Eighty-Three Dollars and 00/100 (\$37,183.00).

For services performed and equipment, training, and travel expenses related to these services; from October 1, 2011 through September 30, 2012; Safety & Health shall be paid up to Thirty-Seven Thousand, One Hundred Eighty-Three Dollars and 00/100 (\$37,183.00). FY2012 funding is contingent upon a FY 12 MSHA grant award to support the continuation of this contract through September 30, 2012. Safety & Health shall submit an updated FY12 training plan for OWO approval prior to any FY12 expenditures.

**TERMS OF PAYMENT**

The maximum allowable reimbursement under this contract is **\$74,366.00**. Upon presentation of an invoice for such services and related expenses, which shall be billed quarterly (at a minimum) the amount of the invoice shall be payable to Safety & Health in accordance with the State 30 day minimum payment schedule.

**Invoices shall be sent to:** Office of Workforce Opportunity, DRED  
Attn: Tammy Moore  
172 Pembroke Rd.  
Concord, NH 03302

OFFICE OF WORKFORCE OPPORTUNITY  
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**Payment shall be made to:** Safety Health Council of Northern New England  
Attn: David Henderson  
57 Regional Drive  
Concord, NH 03301

**FINANCIAL PERFORMANCE AND REPORTING REQUIREMENTS**

1. Three to five (3-5) trained instructors and the costs associated with those staff (taxes, travel, etc.) shall be supported by this contract.
2. Financial reporting by Safety & Health shall consist, at a minimum, of quarterly invoices to the Office of Workforce Opportunity (OWO) for training services provided. Invoices are due by the 30<sup>th</sup> of the month following the quarter end. Safety & Health is encouraged to invoice monthly.
3. Supporting documentation, as mutually agreed to by Safety & Health and the OWO, shall be attached to the invoice to allow OWO to comprehend and track the origins of the amount invoiced. OWO shall endeavor to pay invoices within 30 days of receipt.
4. Safety & Health shall adhere to all federal cash-management requirements, as well as any OWO policies that are more restrictive than the federal requirements.
5. Safety & Health shall track and report all program income generated through training fees on all invoices submitted to the OWO.
6. Should the program fees generated by the training sessions not be sufficient to meet the grant's required annual match of \$10,717, Safety & Health must be prepared to document in-kind match sufficient to meet this threshold for each contract year.

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**EXHIBIT C**  
**Additional Terms**

1. This agreement is funded under the federal Mine Safety and Health Administration (MSHA) through U.S Department of Labor (USDOL), in accordance with all applicable USDOL MSHA rules and regulations, in the event that such funding is reduced, suspended or terminated for any reason, or if MSHA grant terms are significantly changed at the federal level, the OWO or Safety & Health shall have the right to terminate this agreement, to de-obligate funds or to negotiate appropriate modifications to this agreement.
2. Nothing contained in this agreement shall be deemed to constitute a waiver of sovereign immunity of the State of New Hampshire, which immunity is hereby reserved to the State, its agencies and officials.
3. Both parties shall comply with the provisions of:
  - 29 CFR Part 93 Restrictions on Lobbying
  - 29 CFR Part 98 Government-wide Debarment and Suspension, Requirements for a Drug Free Workplace
  - 29 CFR Part 37 Nondiscrimination and Equal Opportunity Requirements
  - OMB Circular A-133 Audits of States, Local Governments and Non-Profit Organizations
  - OMB Circular A-87 Cost Principles for State, Local and Indian Tribal Governments
  - 29 CFR Parts 96 and 99, Audit Requirements
  - The Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611)
  - Hatch Act (5 U.S.C. Subsection 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds

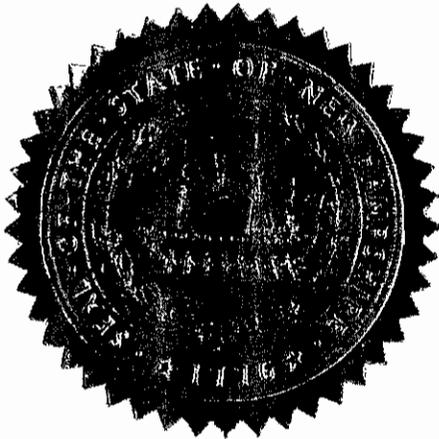
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- Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 as amended (P.L. 91-616) relating to nondiscrimination on the basis of alcoholism
  - Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. Section 794, 29 CFR Part 32) which prohibits discrimination on the basis of handicap
  - Title IX of the Education Amendments Act of 1972, as amended (20 U.S.C. Subsection 1681-1683, and 1685 and 1686) which prohibits discrimination on the basis of sex
  - The Age Discrimination Act of 1975 as amended (42 U.S.C. Section 6101-6107) which prohibits discrimination on the basis of age
  - Title VI of the Civil Rights Act of 1964 (P.L. 88-352/29 CFR Part 31) which prohibits discrimination on the basis of race, color or national origin
  - Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255) as amended relating to nondiscrimination on the basis of drug abuse
4. Form P-37 and Exhibits A, B, and C constitute the entire agreement between the OWO and Safety & Health, and supersedes all prior agreements and understandings.

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 SAFETY & HEALTH COUNCIL OF NORTHERN NEW ENGLAND, INC. is a New Hampshire nonprofit corporation formed December 30, 1970. I further certify that it is in good standing as far as this office is concerned, having filed the return(s) and paid the fees required by law.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 14<sup>th</sup> day of February A.D. 2011

A handwritten signature in cursive script, appearing to read "Wm Gardner".

William M. Gardner  
Secretary of State



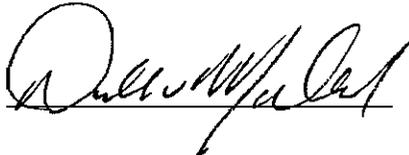


*Safety & Health Council of Northern New England  
57 Regional Drive, #6  
Concord, NH 03301  
(800) 834-6472*

### **AUTHORIZATION TO ENTER AN AGREEMENT**

This letter acknowledges that David C. Henderson, Executive Director of the Safety and Health Council of Northern New England, is authorized to sign and enter all agreements on behalf of the SHCNNE Board of Directors. David is our contracted employee and legal representative.

Signed: Douglas MacDonald, Vice Chairman of the Board,  
Safety & Health Council of Northern New England

Signature: 

Date: 2/15/11



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

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

<b>PRODUCER</b> Davis Towle Morrill & Everett 115 Airport Road P O Box 1260 Concord, NH 03302-1260	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): <b>603 225-6611</b> FAX (A/C, No): <b>603-225-7935</b>	
	<b>E-MAIL ADDRESS:</b> PRODUCER CUSTOMER ID #:	
<b>INSURED</b> Safety & Health Council of Northern New England, Inc. 57 Regional Drive, B1 Concord, NH 03301	<b>INSURER(S) AFFORDING COVERAGE</b> NAIC #	
	INSURER A : <b>Hartford Insurance</b>	
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	

**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	GENERAL LIABILITY			04SBANK4581	07/11/2010	07/11/2011	EACH OCCURRENCE	\$2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$500,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person)	\$10,000
							PERSONAL & ADV INJURY	\$2,000,000
							GENERAL AGGREGATE	\$4,000,000
							PRODUCTS - COMP/OP AGG	\$4,000,000
								\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS							\$
	<input type="checkbox"/> NON-OWNED AUTOS							\$
	UMBRELLA LIAB						EACH OCCURRENCE	\$
	<input type="checkbox"/> EXCESS LIAB						AGGREGATE	\$
	<input type="checkbox"/> DEDUCTIBLE							\$
	<input type="checkbox"/> RETENTION \$							\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			04WECGQ5209	09/29/2010	09/29/2011	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y / N					E.L. EACH ACCIDENT	\$500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below	<input checked="" type="checkbox"/> N	N/A				E.L. DISEASE - EA EMPLOYEE	\$500,000
							E.L. DISEASE - POLICY LIMIT	\$500,000

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

<b>CERTIFICATE HOLDER</b>  State of NH DRED, Office of Work Force Opportunity 57 Reginal Drive 6 Concord, NH 03301	<b>CANCELLATION 10 Days for Non-Payment</b>  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  

STATE OF MISSISSIPPI  
DEPT. OF JUSTICE  
JAN 21 1964